

116TH CONGRESS  
2D SESSION

# H. R. 6906

To provide reimbursements for certain costs of health care items and services, including prescription drugs, furnished during the public health emergency declared with respect to COVID–19.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 15, 2020

Ms. JAYAPAL (for herself, Ms. BASS, Ms. BONAMICI, Mr. DEFazio, Mrs. DINGELL, Mr. ESPAILLAT, Mr. GARCÍA of Illinois, Mr. KENNEDY, Mr. KHANNA, Ms. MENG, Ms. NORTON, Ms. OCASIO-CORTEZ, Ms. OMAR, Mr. POCAN, Ms. PRESSLEY, Mr. RASKIN, Ms. TLAIB, Mr. COHEN, and Mr. BLUMENAUER) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means, Veterans' Affairs, Armed Services, Oversight and Reform, and Natural Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To provide reimbursements for certain costs of health care items and services, including prescription drugs, furnished during the public health emergency declared with respect to COVID–19.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Health Care Emer-  
3 gency Guarantee Act”.

4 **SEC. 2. REIMBURSEMENTS FOR CERTAIN COSTS OF**  
5 **HEALTH CARE ITEMS AND SERVICES INCLUD-**  
6 **ING PRESCRIPTION DRUGS FURNISHED DUR-**  
7 **ING PUBLIC HEALTH EMERGENCY.**

8 (a) IN GENERAL.—During the period beginning on  
9 the date of enactment of this Act and ending on the date  
10 the Secretary certifies to Congress that a vaccine approved  
11 by the Food and Drug Administration for COVID–19 is  
12 widely available to the public, the Secretary shall make  
13 payments to qualified providers with respect to applicable  
14 health care items and services as defined in subsection (b)  
15 that are furnished to an applicable individual an amount  
16 equal to—

17 (1) in the case of any portion of such period in  
18 which an applicable individual is enrolled in a public  
19 or private health insurance plan, the amount of any  
20 cost-sharing, including any deductibles, copayments,  
21 coinsurance or similar charges, that would otherwise  
22 be applicable under such plan, including with respect  
23 to prescription drug coverage under the plan; and

24 (2) in the case of any portion of such period in  
25 which an applicable individual is uninsured, an  
26 amount equal to the amount that would be paid to

1 the qualified provider for the same or equivalent  
2 items or services, including with respect to any inpa-  
3 tient or physician-administered drugs (and excluding  
4 outpatient prescription drugs or biologicals with re-  
5 spect to which coverage is provided under subsection  
6 (e)), under the Medicare program under title XVIII  
7 of the Social Security Act (42 U.S.C. 1395 et seq.).

8 (b) APPLICABLE HEALTH CARE ITEMS AND SERV-  
9 ICES; APPLICABLE INDIVIDUAL DEFINED.—In this sec-  
10 tion:

11 (1) APPLICABLE HEALTH CARE ITEMS AND  
12 SERVICES.—The term “applicable health care items  
13 and services” means, with respect to an applicable  
14 individual, any health care items and services that  
15 are medically necessary or appropriate for the main-  
16 tenance of health or for the diagnosis, treatment, or  
17 rehabilitation of a health condition of the applicable  
18 individual, including—

19 (A) any testing services and treatments for  
20 COVID–19 or related complications, including  
21 vaccines, diagnostic tests, drugs and biologicals,  
22 and therapies; and

23 (B) in the case of an applicable individual  
24 who is enrolled in a public or private health in-  
25 surance plan, any health care items and serv-

1           ices covered by such plan as of March 1, 2020,  
2           or in the case of an applicable individual who  
3           enrolls in such plan after the date, any health  
4           care items and services covered by such plan as  
5           of the date of such enrollment.

6           (2) APPLICABLE INDIVIDUAL.—The term “ap-  
7           plicable individual” means an individual who is a  
8           resident of the United States.

9           (c) REQUIREMENTS.—

10           (1) NO EFFECT ON APPLICABLE COST-SHARING  
11           REQUIREMENTS.—Nothing in this section shall af-  
12           fect the application of any requirements applicable  
13           under Federal or State law with respect to coverage  
14           of health care items and services without any cost-  
15           sharing.

16           (2) MAINTENANCE OF EFFORT.—

17           (A) IN GENERAL.—During the period de-  
18           scribed in subsection (a), a public or private  
19           health plan shall not increase cost-sharing, de-  
20           crease benefits, or otherwise make coverage less  
21           generous than the benefits offered on the date  
22           of enactment of this Act.

23           (B) NEW ITEMS AND SERVICES.—During  
24           such period, a public or private health plan  
25           shall provide coverage of new items and serv-

1           ices, including those related to COVID–19, as  
2           appropriate, at a minimum, at a level consistent  
3           with the prior coverage practices and  
4           formularies of the plan.

5           (3) LIMITATION ON OUT-OF-POCKET EX-  
6           PENSES.—During such period, in order to be eligible  
7           to receive payments under this section, a qualified  
8           provider shall agree not to impose on an applicable  
9           individual any charge for applicable health care  
10          items and services furnished to the applicable indi-  
11          vidual.

12          (4) PERMISSIBLE BILLING OF PLANS; LIMITA-  
13          TION ON BALANCE BILLING.—During such period, in  
14          order to be eligible to receive payments under this  
15          section, a qualified provider shall agree, with respect  
16          to applicable health care items and services fur-  
17          nished to an applicable individual when such indi-  
18          vidual is enrolled in a public or private health insur-  
19          ance plan—

20                  (A) not to impose any charge on the plan  
21                  for such items and services beyond the amount  
22                  otherwise payable by the plan; and

23                  (B) not to bill the applicable individual for  
24                  any amounts in excess of the amount described  
25                  in subparagraph (A).

1           (5) MEDICAL DEBT COLLECTION.—A qualified  
2 provider shall agree—

3           (A) to immediately halt all medical debt  
4 collection, including collection activities carried  
5 out by third parties, during such period and  
6 shall not collect medical debt or have third par-  
7 ties collect medical debt for applicable health  
8 care items and services furnished during such  
9 period; and

10          (B) to refrain from pursuing medical debt  
11 collection, including collection activities carried  
12 out by third parties, after such period with re-  
13 spect to items and services related to the diag-  
14 nosis or treatment of COVID–19 (regardless of  
15 whether such services were furnished before,  
16 during, or after such period) and shall not col-  
17 lect medical debt or have third parties collect  
18 medical debt for such items or services after  
19 such period.

20          (6) SUBMISSION OF BILLS AND DOCUMENTA-  
21 TION.—A qualified provider shall agree to submit  
22 bills and any required supporting documentation re-  
23 lating to the provision of applicable health care  
24 items and services within 30 days after the date of

1 providing such services, in such manner as the Sec-  
2 retary determines appropriate.

3 (d) WAIVER OF LATE ENROLLMENT PENALTIES  
4 UNDER MEDICARE.—During the period described in sub-  
5 section (a), no increase in the monthly premium of an indi-  
6 vidual pursuant to section 1818(c), 1839(b), or 1860D-  
7 13 of the Social Security Act (42 U.S.C. 1395i-2(c),  
8 1395r(b), 1395w-113) shall be effected in the case of any  
9 individual who enrolls for benefits under title XVIII of  
10 such Act with respect to any period prior to the date of  
11 such enrollment.

12 (e) COVERAGE WITH RESPECT TO OUTPATIENT PRE-  
13 SCRIPTION DRUGS.—

14 (1) IN GENERAL.—During the period described  
15 in subsection (a), with respect to outpatient pre-  
16 scription drugs or biologicals described in subsection  
17 (b)(1)(A) that are dispensed to uninsured individ-  
18 uals, the Secretary shall establish procedures under  
19 which—

20 (A) such drugs or biologicals are dispensed  
21 at no cost to such individuals;

22 (B) pharmacies that dispense such drugs  
23 or biologicals—

24 (i) are reimbursed by the Secretary  
25 for such drugs or biologicals dispensed to

1           such individuals at an amount equal to the  
2           price paid by the Secretary of Veterans Af-  
3           fairs to procure the drug or biological  
4           under the laws administered by the Sec-  
5           retary of Veterans Affairs; and

6                   (ii) agree not to charge such individ-  
7           uals for any difference between the amount  
8           reimbursed under clause (i) and the cost to  
9           the pharmacy for the drug; and

10                   (C) manufacturers of such drugs or  
11           biologicals reimburse pharmacies for any dif-  
12           ference described in subparagraph (B)(ii) with  
13           respect to drugs or biologicals of the manufac-  
14           turer that are dispensed to such individuals.

15           (2) CONDITION OF COVERAGE UNDER MEDI-  
16           CARE.—During the period described in subsection  
17           (a), no coverage may be provided under part B or  
18           D of title XVIII of the Social Security Act (42  
19           U.S.C. 1395j et seq., 1395w–101 et seq.) with re-  
20           spect to a drug or biological of a manufacturer if the  
21           manufacturer does not enter into an agreement with  
22           the Secretary to carry out the requirements applica-  
23           ble with respect to such manufacturers under this  
24           subsection.



1           (3) REQUIREMENT FOR PARTICIPATING PHAR-  
2           MACIES.—During the period described in subsection  
3           (a), a prescription drug plan under part D of title  
4           XVIII of the Social Security Act (42 U.S.C. 1395w–  
5           101 et seq.) may not contract with a pharmacy if  
6           the pharmacy does not enter into an agreement with  
7           the Secretary to carry out the requirements applica-  
8           ble with respect to pharmacies under this subsection.

9           (f) OTHER DEFINITIONS.—

10           (1) PUBLIC OR PRIVATE HEALTH INSURANCE  
11           PLAN.—

12           (A) IN GENERAL.—The term “public or  
13           private health insurance plan” means any of  
14           the following:

15           (i) A group health plan, or group  
16           health insurance coverage, as such terms  
17           are defined in section 2791 of the Public  
18           Health Service Act (42 U.S.C. 300gg–91).

19           (ii) A qualified health plan, as defined  
20           in section 1301 of the Patient Protection  
21           and Affordable Care Act (42 U.S.C.  
22           18021).

23           (iii) Subject to subparagraph (B), any  
24           health insurance coverage (other than a  
25           plan described in clause (ii)) offered in the

1 individual market, as such terms are de-  
2 fined in section 2791 of the Public Health  
3 Service Act, including any short-term lim-  
4 ited duration insurance.

5 (iv) A health plan offered under chap-  
6 ter 89 of title 5, United States Code.

7 (v) A Federal health care program (as  
8 defined under section 1128B(f) of the So-  
9 cial Security Act (42 U.S.C. 1320a-7b(f)),  
10 including—

11 (I) health benefits furnished  
12 under the TRICARE program (as de-  
13 fined in section 1072 of title 10,  
14 United States Code);

15 (II) health benefits furnished to  
16 veterans under the laws administered  
17 by the Secretary of Veterans Affairs;  
18 and

19 (III) health benefits furnished to  
20 Indians (as defined in section 4 of the  
21 Indian Health Care Improvement Act  
22 (25 U.S.C. 1603)) receiving health  
23 services through the Indian Health  
24 Service, including through an Urban  
25 Indian Organization, regardless of

1                   whether such benefits are for items or  
2                   services that have been authorized  
3                   under the purchased/referred care sys-  
4                   tem funded by the Indian Health  
5                   Service or are covered as a health  
6                   service of the Indian Health Service.

7                   (B) LIMITATION ON INDIVIDUAL HEALTH  
8                   INSURANCE COVERAGE.—The term “public or  
9                   private health insurance coverage” includes the  
10                  health insurance coverage described in clause  
11                  (iii) of subparagraph (A) only with respect to  
12                  an individual who is enrolled in such coverage  
13                  on March 1, 2020.

14                 (2) QUALIFIED PROVIDER.—The term “quali-  
15                 fied provider” means a health care provider who is  
16                 a participating provider under the Medicare program  
17                 under title XVIII of the Social Security Act (42  
18                 U.S.C. 1395 et seq.). Such term includes a health  
19                 care provider who is not a participating provider  
20                 under such program if the health care provider  
21                 would meet the criteria for such participation and,  
22                 if the State requires the health care provider to be  
23                 licensed by the State, is licensed by the State in  
24                 which the items or services are furnished.

1           (3) SECRETARY.—The term “Secretary” means  
2           the Secretary of Health and Human Services.

3           (g) IMPLEMENTATION.—

4           (1) IN GENERAL.—The Secretary, in coordina-  
5           tion with the Secretary of the Treasury, the Com-  
6           missioner of Social Security, and the Secretary of  
7           Labor, shall implement the provisions of this section  
8           not later than the date that is 7 days after the date  
9           of the enactment of this Act.

10          (2) ENSURING TIMELY PAYMENT.—The Sec-  
11          retary shall establish a process and issue such guid-  
12          ance as is necessary to ensure a qualified provider  
13          receives payments under this section in a timely  
14          manner.

15          (3) ENSURING COLLECTION OF DATA ON DIS-  
16          PARITIES.—The Secretary shall implement this sec-  
17          tion in a manner and issue such guidance as is nec-  
18          essary to allow for the ongoing, accurate, and timely  
19          collection and analysis of data on disparities in ac-  
20          cordance with subsection (h).

21          (h) COLLECTION OF DATA ON DISPARITIES.—

22          (1) IN GENERAL.—During the period described  
23          in subsection (a), the Secretary shall collect data on  
24          disparities across race, ethnicity, primary language,  
25          gender, sexual orientation, disability status, age, ge-

1 ographic area, insurance status, and socioeconomic  
2 status—

3 (A) in health outcomes and access to health  
4 care related to the COVID–19 outbreak, includ-  
5 ing data on COVID–19 cases, treatment, and  
6 deaths; and

7 (B) in patient access to applicable health  
8 care items and services under this section.

9 (2) PUBLIC AVAILABILITY.—The Secretary  
10 shall—

11 (A) make data collected under this sub-  
12 section publicly available on the internet website  
13 of the Department of Health and Human Serv-  
14 ices as soon as is practicable, but not later than  
15 30 days after the date of enactment of this Act,  
16 in a manner that allows researchers, scholars,  
17 health care providers, and others to access and  
18 analyze such data, without compromising pa-  
19 tient privacy; and

20 (B) update such data on a weekly basis  
21 thereafter for the duration of the period de-  
22 scribed in subsection (a).

23 (i) WEEKLY REPORTS TO CONGRESS.—

1           (1) IN GENERAL.—On a weekly basis during  
2 the period described in subsection (a), the Secretary  
3 shall report to Congress on—

4                   (A) the implementation of this section, in-  
5 cluding information on the amount, type, and  
6 geographic distribution of payments to qualified  
7 providers under this section; and

8                   (B) any disparities in health and access to  
9 health care related to the COVID–19 outbreak  
10 or patient access to applicable health care items  
11 and services under this section, as identified  
12 through the collection and analysis of data col-  
13 lected under subsection (h).

14           (2) PUBLIC AVAILABILITY.—The Secretary  
15 shall make each report submitted under paragraph  
16 (1) publicly available on the internet website of the  
17 Department of Health and Human Services.

18           (j) FUNDING.—There are authorized to be appro-  
19 priated such sums as are necessary to carry out this sec-  
20 tion.

○