

115TH CONGRESS
2D SESSION

S. _____

To amend the Public Health Service Act to establish limitations on cost-sharing for out-of-network services, to prohibit balance billing for such services, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mrs. SHAHEEN (for herself, Mrs. McCASKILL, Ms. BALDWIN, and Ms. HASSAN) introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To amend the Public Health Service Act to establish limitations on cost-sharing for out-of-network services, to prohibit balance billing for such services, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Reducing Costs for
5 Out-of-Network Services Act of 2018”.

1 **SEC. 2. LIMITATIONS ON COST-SHARING FOR OUT-OF-NET-**
2 **WORK SERVICES.**

3 (a) IN GENERAL.—Subpart II of part A of title
4 XXVII of the Public Health Service Act (42 U.S.C.
5 300gg–11 et seq.) is amended by adding at the end the
6 following:

7 **“SEC. 2729. LIMITATIONS ON COST-SHARING FOR OUT-OF-**
8 **NETWORK SERVICES.**

9 “(a) HEALTH INSURANCE ISSUER REQUIREMENT.—
10 A health insurance issuer offering individual health insur-
11 ance coverage that offers benefits with respect to a health
12 care service provided in a State by a participating provider
13 shall ensure that the cost-sharing requirement with re-
14 spect to such service provided in the State by a nonpartici-
15 pating provider does not exceed the rate selected by the
16 applicable State authority under subsection (c)(1) for such
17 service.

18 “(b) LIMITATION ON CHARGES BY HEALTH CARE
19 PROVIDERS.—

20 “(1) IN GENERAL.—A health care provider may
21 not charge a patient for health care services in ex-
22 cess of the following:

23 “(A) In the case of a patient who is en-
24 rolled in individual health insurance coverage
25 that does not provide out-of-network benefits
26 for a given service, the health care provider may

1 charge such patient no more than the rate se-
2 lected by the applicable State authority under
3 subsection (c)(1).

4 “(B) In the case of a patient enrolled in
5 individual health insurance coverage that pro-
6 vides out-of-network benefits for a given service,
7 the health care provider may charge such pa-
8 tient no more than—

9 “(i) the rate selected by the applicable
10 State authority under subsection (c)(1);
11 minus

12 “(ii) the sum of—

13 “(I) the payment made to the
14 health care provider pursuant to such
15 coverage; and

16 “(II) the out-of-network cost-
17 sharing amount required under such
18 coverage.

19 “(C) In the case of an uninsured indi-
20 vidual, the health care provider may charge
21 such patient no more than the lower of—

22 “(i) the rate selected by the applicable
23 State authority under subsection (c)(2); or

1 “(ii) the rate otherwise allowed to be
2 charged to such an individual for such a
3 service under State law.

4 “(2) ENFORCEMENT.—A health care provider
5 that violates the requirement under paragraph (1)
6 shall be subject to the same civil monetary penalties
7 described in paragraph (1) of section 922(f), includ-
8 ing the provisions described in paragraph (2) of such
9 section, as a person who commits a violation de-
10 scribed in paragraph (1) of such section.

11 “(c) RATE.—

12 “(1) INDIVIDUALS ENROLLED IN INDIVIDUAL
13 HEALTH INSURANCE COVERAGE.—An applicable
14 State authority shall select for the State as applica-
15 ble for purposes of subsection (a) and subpara-
16 graphs (A) and (B) of subsection (b)(1) one of the
17 following as a maximum rate for health care services
18 for individuals enrolled in individual health insur-
19 ance coverage:

20 “(A) 125 percent (or, in a case described
21 in paragraph (3) and at the discretion of the
22 applicable State authority, 200 percent) of the
23 allowed charges determined for the item or
24 service under the original Medicare fee-for-serv-

1 ice program under parts A and B of title XVIII
2 of the Social Security Act.

3 “(B) 80 percent of the usual, customary,
4 and reasonable charge for the service, as deter-
5 mined by a database of usual, customary, and
6 reasonable charges chosen by the applicable
7 State authority and approved as appropriate by
8 the Secretary.

9 “(C) 100 percent of the allowed charges
10 for the service if the service were provided by
11 a participating provider, which shall be deter-
12 mined based upon the actual allowed rate under
13 the coverage.

14 “(2) UNINSURED INDIVIDUALS.—An applicable
15 State authority shall select for the State as applica-
16 ble for purposes of subsection (b)(1)(C) one of the
17 following as a maximum rate for health care services
18 for uninsured individuals:

19 “(A) The rate described in subparagraph
20 (A) of paragraph (1).

21 “(B) The rate described in subparagraph
22 (B) of paragraph (1).

23 “(3) SERVICES PROVIDED IN RURAL AREAS.—
24 A case described in this paragraph is a case in which
25 the item or service is furnished by a provider of

1 services (as defined in subsection (u) of section 1861
2 of the Social Security Act) or supplier (as defined in
3 subsection (d) of such section) in a rural area (as
4 defined in section 1886(d)(2)(D) of such Act).

5 “(4) DEFAULT RATE.—In the case in which an
6 applicable State authority does not select a rate
7 under paragraph (1) or (2) for a service, the max-
8 imum rate applicable in the State for the service for
9 purposes of subsections (a) and (b) shall—

10 “(A) be the rate described in subparagraph
11 (A) of paragraph (1), if the service is covered
12 under the original Medicare fee-for-service pro-
13 gram under parts A and B of title XVIII of the
14 Social Security Act; or

15 “(B) be a rate established by the Sec-
16 retary, if the service is not covered under such
17 program.

18 “(5) CLARIFICATION.—In selecting a rate under
19 paragraph (1) or (2) for a health care service, the
20 applicable State may select a rate that differs from
21 the rate selected under such paragraph for a dif-
22 ferent health care service.

23 “(d) DEFINITIONS.—For purposes of this section:

24 “(1) HEALTH CARE PROVIDER.—The term
25 ‘health care provider’ includes a hospital (as defined

1 in section 1861(e) of the Social Security Act), a crit-
2 ical access hospital (as defined in section 1861(mm)
3 of such Act), a physician (as defined in section
4 1861(r) of such Act), and other providers as deter-
5 mined by the Secretary.

6 “(2) UNINSURED INDIVIDUAL.—The term ‘un-
7 insured individual’, with respect to an individual re-
8 ceiving a health care service, means an individual
9 who, at the time at which the service was furnished,
10 was not enrolled in a plan that provides medical care
11 benefits, including any Federal health benefit pro-
12 gram, as determined by the Secretary.”.

13 (b) EFFECTIVE DATE.—Section 2729 of the Public
14 Health Service Act, as added by subsection (a), shall take
15 effect on January 1, 2020.

16 **SEC. 3. GRANTS FOR GROUP MARKET.**

17 (a) IN GENERAL.—The Secretary of Health and
18 Human Services shall award grants to States for the pur-
19 pose of studying the potential for imposing limitations on
20 charges for health care services provided to individuals en-
21 rolled in group health plans or group health insurance cov-
22 erage offered by a health insurance issuer that are similar
23 to the limitations that apply under section 2729 of the
24 Public Health Service Act, as added by section 2.

1 (b) AUTHORIZATION OF APPROPRIATIONS.—There
2 are authorized to be appropriated such sums as may be
3 necessary to carry out this section.

4 (c) DEFINITIONS.—In this section, the terms “group
5 health plan”, “group health insurance coverage”, and
6 “health insurance issuer” have the meanings given such
7 terms in section 2791 of the Public Health Service Act
8 (42 U.S.C. 300gg–91).