

[DISCUSSION DRAFT]

115TH CONGRESS
2^D SESSION

H. R. _____

To amend title XI of the Social Security Act to direct the Secretary of Health and Human Services to establish a public-private partnership for purposes of identifying health care waste, fraud, and abuse.

IN THE HOUSE OF REPRESENTATIVES

M. _____ introduced the following bill; which was referred to the
Committee on _____

A BILL

To amend title XI of the Social Security Act to direct the Secretary of Health and Human Services to establish a public-private partnership for purposes of identifying health care waste, fraud, and abuse.

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 “Strengthening the
5 Health Care Fraud Prevention Task Force Act of 2018”.

1 **SEC. 2. PUBLIC-PRIVATE PARTNERSHIP FOR HEALTH CARE**
2 **WASTE, FRAUD, AND ABUSE DETECTION.**

3 (a) IN GENERAL.—Section 1128C(a) of the Social
4 Security Act (42 U.S.C. 1320a–7c(a)) is amended by add-
5 ing at the end the following new paragraph:

6 “(6) PUBLIC-PRIVATE PARTNERSHIP FOR
7 WASTE, FRAUD, AND ABUSE DETECTION.—

8 “(A) IN GENERAL.—Under the program
9 described in paragraph (1), there is established
10 a public-private partnership (in this paragraph
11 referred to as the ‘partnership’) of health plans
12 for purposes of detecting and preventing waste,
13 fraud, and abuse with respect to such plans.

14 “(B) CONTRACT WITH TRUSTED THIRD
15 PARTY.—

16 “(i) IN GENERAL.—In carrying out
17 the partnership, the Secretary shall enter
18 into a contract with a trusted third party
19 for purposes of carrying out the duties of
20 the partnership described in subparagraph
21 (C).

22 “(ii) LENGTH OF CONTRACT.—A con-
23 tract with a trusted third party described
24 in clause (i) shall be for **【a period of 4**
25 **years】**. Such contract with such party may

1 be renewed as determined appropriate by
2 the Secretary.

3 “(C) DUTIES OF PARTNERSHIP.—The
4 partnership shall—

5 “(i) provide technical and operational
6 support to facilitate data sharing between
7 health plans in the partnership;

8 “(ii) analyze data so shared to iden-
9 tify fraudulent and aberrant billing pat-
10 terns;

11 “(iii) conduct aggregate analyses of
12 health care data so shared across Federal,
13 State, and private health plans for pur-
14 poses of detecting fraud, waste, and abuse
15 schemes;

16 “(iv) identify outlier trends and poten-
17 tial vulnerabilities of health plans in the
18 partnership;

19 “(v) refer specific cases of potential
20 criminal conduct to appropriate law en-
21 forcement entities;

22 “(vi) convene, not less than annually,
23 meetings with health plans in the partner-
24 ship for purposes of providing updates on
25 the partnership’s work;

1 “(vii) enter into data sharing and
2 data use agreements with health plans in
3 the partnership in such a manner so as to
4 ensure the partnership has access to data
5 necessary to identify waste, fraud, and
6 abuse while maintaining the confidentiality
7 and integrity of such data;

8 “(viii) provide health plans in the
9 partnership with plan-specific, confidential
10 feedback on any aberrant billing patterns
11 or potential fraud identified by the part-
12 nership with respect to such plan;

13 “(ix) establish a process by which
14 health plans may enter the partnership
15 and requirements health plans must meet
16 to enter the partnership;

17 “(x) provide appropriate training, out-
18 reach, and education to health plans based
19 on the results of data analyses described in
20 clauses (ii) and (iii); and

21 “(xi) perform such other duties as the
22 Secretary determines appropriate.

23 In carrying out the duties specified in the pre-
24 ceding clauses, the partnership (including the
25 executive board of the partnership or any com-

1 mittee of the partnership) shall not, as a group,
2 provide advice to the Federal Government, any
3 Federal official, or any Federal agency.

4 “(D) SUBSTANCE USE DISORDER TREAT-
5 MENT ANALYSIS.—Not later than 2 years after
6 the date of the enactment of the Strengthening
7 the Health Care Fraud Prevention Task Force
8 Act of 2018, the trusted third party with a con-
9 tract in effect under subparagraph (B) shall
10 perform an analysis of aberrant or fraudulent
11 billing patterns and trends with respect to pro-
12 viders and suppliers of substance use disorder
13 treatments from data shared with the partner-
14 ship.

15 “(E) EXECUTIVE BOARD.—

16 “(i) EXECUTIVE BOARD COMPOSI-
17 TION.—

18 “(I) IN GENERAL.—There shall
19 be an executive board of the partner-
20 ship comprised of representatives of
21 the Federal Government described in
22 subclause (III) and representatives of
23 the private sector described in sub-
24 clause (IV).

1 “(II) CHAIRS.—The executive
2 board shall be co-chaired by one Fed-
3 eral Government official and one rep-
4 resentative from the private sector.

5 “(III) FEDERAL GOVERNMENT
6 REPRESENTATIVES.—

7 “(aa) REQUIRED MEM-
8 BERS.—The executive board shall
9 consist of the following members
10 **[(or designees of the following)]**
11 from the Federal Government:

12 “(AA) The Adminis-
13 trator of the Centers for
14 Medicare & Medicaid Serv-
15 ices.

16 “(BB) The Deputy At-
17 torney General for the De-
18 partment of Justice.

19 “(CC) The Deputy Sec-
20 retary of the Department of
21 Health and Human Services.

22 “(DD) The Inspector
23 General for the Department
24 of Health and Human Serv-
25 ices.

1 “(EE) The Director of
2 the Federal Bureau of In-
3 vestigation.

4 “(bb) PERMISSIVE ADDI-
5 TIONAL MEMBERS.—If deter-
6 mined by unanimous consent of
7 the members of the executive
8 board, the board may include
9 other Federal or State Govern-
10 ment representation as appro-
11 priate, including senior-level rep-
12 resentation from the TRICARE
13 Management Activity, the De-
14 partment of Veterans Affairs, the
15 Office of Personnel Management,
16 State Medicaid agencies, and
17 State medicaid fraud control
18 units.

19 “(IV) PRIVATE SECTOR MEMBER-
20 SHIP.—

21 “(aa) IN GENERAL.—The
22 executive board shall consist of at
23 least three senior-level represent-
24 atives from various private sector
25 health care related associations,

1 including any national association
2 focusing on Medicaid fraud at
3 the State level. The private
4 health sector associations shall be
5 national professional associations
6 or trade groups that are focused
7 on health care insurance, anti-
8 fraud, or both.

9 “(bb) SELECTION.—The
10 members of the board from pri-
11 vate sector health care related as-
12 sociations shall be jointly selected
13 by the Federal Government mem-
14 bers **【described in subclause**
15 **(III)【(aa)】】**, after outreach to
16 **【all】** known relevant private sec-
17 tor health care related associa-
18 tions with a national scope. After
19 considering any appropriate indi-
20 vidual input from private-sector
21 partners, the Secretary and At-
22 torney General (or their des-
23 ignees) shall make **【all final exec-**
24 **utive decisions】**. In the case that
25 the executive board expands the

1 number of members from the
2 Federal Government pursuant to
3 subelause (III)(bb), the number
4 of members of the executive
5 board from the private health
6 sector **[may]/[shall]** also in-
7 crease by the same number of
8 representatives**],** through the
9 same process as described in this
10 item for purposes of selection of
11 members from the private sec-
12 tor**].**

13 “(ii) MEETINGS.—The executive
14 board of the Partnership shall meet at
15 least twice per year.

16 “(iii) EXECUTIVE BOARD DUTIES.—
17 The duties of the executive board shall in-
18 clude the following:

19 “(I) Providing strategic direction
20 for the partnership, including mem-
21 bership criteria and a mission state-
22 ment.

23 “(II) Communicating with the
24 leadership of the Department of
25 Health and Human Services and the

1 Department of Justice and the var-
2 ious private health sector associations.

3 “(III) Sharing topics for studies
4 and analysis.

5 【“(F) REPORTS.—Not later than Sep-
6 tember 30, 2021, and every 2 years thereafter,
7 the Secretary shall submit to Congress and
8 make available on the public website of the
9 Centers for Medicare & Medicaid Services a re-
10 port containing—】

11 【“(i) a review of activities conducted
12 by the partnership over the 2-year period
13 ending on the date of the submission of
14 such report, including any progress to any
15 objectives established by the partnership;】

16 【“(ii) any savings voluntarily reported
17 by health plans participating in the part-
18 nership attributable to the partnership
19 during such period;】

20 【“(iii) any savings to the Federal gov-
21 ernment attributable to the partnership
22 during such period;】

23 【“(iv) any other savings attributable
24 to the partnership, as determined by the
25 Secretary, during such period; and】

1 【“(v) a strategic plan for the 2-year
2 period beginning on the day after the date
3 of the submission of such report, including
4 a description of any emerging fraud and
5 abuse schemes, trends, or practices that
6 the partnership intends to study during
7 such period.】

8 “(G) FUNDING.—The partnership shall be
9 funded by amounts otherwise made available to
10 the Secretary 【for carrying out the program de-
11 scribed in paragraph (1)】.

12 “(H) TRANSITIONAL PROVISIONS.—To the
13 extent consistent with this subsection, all func-
14 tions, personnel, assets, liabilities, and adminis-
15 trative actions applicable on the date before the
16 date of the enactment of this paragraph to the
17 National Fraud Prevention Partnership estab-
18 lished 【on September 10, 2012】 by charter of
19 the Secretary shall be transferred to the part-
20 nership established under subparagraph (A) as
21 of the date of the enactment of this paragraph.

22 “(I) DEFINITION.—For purposes of this
23 paragraph, the term ‘trusted third party’ means
24 an entity that—

1 “(i) demonstrates the capability to
2 carry out the duties of the partnership de-
3 scribed in subparagraph (C);

4 “(ii) complies with such conflict of in-
5 terest standards determined appropriate by
6 the Secretary; and

7 “(iii) meets such other requirements
8 as the Secretary may prescribe.”.

9 (b) POTENTIAL EXPANSION OF PUBLIC-PRIVATE
10 PARTNERSHIP ANALYSES.—Not later than 1 year after
11 the date of the enactment of this Act, the Secretary of
12 Health and Human Services shall conduct a study and
13 submit to Congress a report on the feasibility of the part-
14 nership (as described in section 1128C(a)(6) of the Social
15 Security Act, as added by subsection (a)) establishing a
16 system to conduct real-time data analysis to proactively
17 identify ongoing as well as emergent fraud trends for the
18 entities participating in the partnership and provide such
19 entities with real-time feedback on potentially fraudulent
20 claims. Such report shall include the estimated cost of and
21 any potential barriers to the partnership establishing such
22 a system.