CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

October 24, 2018

H.R. 3891
A bill to amend title XIX of the Social Security Act to clarify the authority of state Medicaid fraud and abuse control units to investigate and prosecute cases of Medicaid patient abuse and neglect in any setting, and for other purposes

As ordered reported by the House Committee on Energy and Commerce on September 13, 2018

SUMMARY

H.R. 3891 would allow states to use federal Medicaid funds to investigate and prosecute abuse and neglect of Medicaid beneficiaries in non-institutional settings. CBO estimates that enacting H.R. 3891 would increase direct spending by $117 million over the 2019-2028 period.

Enacting H.R. 3891 would affect direct spending; therefore, pay-as-you-go procedures apply. Enacting the bill would not affect revenues.

CBO estimates that enacting H.R. 3891 would not increase net direct spending or on-budget deficits by more than $5 billion in any of the four consecutive 10-year periods beginning in 2029.

H.R. 3891 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA).

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary effect of H.R. 3891 is shown in the following table. The costs of the legislation fall within budget function 550 (health).

	By Fiscal Year, in Millions of Dollars											
	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2019-2023	2019-2028
INCREASES IN DIRECT SPENDING												
Estimated Budget Authority	4	6	9	10	11	12	14	15	17	19	40	117
Estimated Outlays	4	6	9	10	11	12	14	15	17	19	40	117
Memorandum												
Non-scoreable effects	-2	-4	-8	-12	-14	-17	-18	-20	-23	-25	-40	-143

Non-scoreable savings are discussed in Basis of Estimate.

BASIS OF ESTIMATE

For this estimate, CBO assumes that H.R. 3891 will be enacted late in 2018 and that estimated outlays follow historical patterns for similar activities.

Under current law, states can receive a grant equal to 75 percent of total expenditures to operate Medicaid Fraud Control Units (MFCUs). In fiscal year 2017, MFCUs received $207 million in federal grants. Those funds were used to investigate and prosecute health care providers for fraud that occurred in any care setting. In addition, MFCUs investigate and prosecute cases of patient abuse or neglect that occurred either in health care facilities that are funded by Medicaid or in board and care facilities.

In general, MFCUs are not allowed to receive federal funds to investigate and prosecute beneficiary abuse or neglect that might be occurring in a home or community-based setting. H.R. 3891 would allow MFCUs to carry out such investigations and prosecutions. In 2017, the Office of the Inspector General of the U.S. Department of Health and Human Services reported that over the 2012-2015 period MFCUs referred more than 800 cases of suspected beneficiary abuse or neglect to other agencies (primarily local law enforcement) because of the MFCUs' limited authority to receive federal funds to investigate and prosecute those cases. On that basis, CBO expects that under H.R. 3891, MFCUs would increase staffing in order to investigate and prosecute such cases, and estimates that the bill would increase direct spending by $117 million over the 2019-2028 period. (Because very few referrals are made to other federal agencies under current law, enacting this provision would not result in significant offsetting savings.)

CBO expects that the increased spending on fraud prevention activities would decrease spending for Medicaid benefits. However, under Congressional scorekeeping rules, the estimated reduction in spending for benefits cannot be used to offset the increased spending on enforcement, although the reduction in spending for benefits would reduce future budget deficits.[1] CBO estimates that the "non-scoreable" savings from this subtitle would total about $143 million over the 2019-2028 period.

UNCERTAINTY

CBO aims to produce cost estimates that generally reflect the middle of a range of the most likely budgetary outcomes that would result if the legislation was enacted. In estimating the effects of H.R. 3891, CBO had to account for two major sources of uncertainty that affected that range. The number of staff that MFCUs would hire could be more or less than CBO has estimated, which would affect whether grant awards to those units increase. The extent of future investigations and prosecutions of beneficiary abuse or neglect that occurs in a home or community-based setting could also differ from CBO's estimates. Because of those uncertainties, the budgetary effects of enacting H.R. 3891 could differ from those provided in CBO's analysis.

PAY-AS-YOU-GO CONSIDERATIONS

The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in outlays are shown in the following table.

CBO Estimate of Pay-As-You-Go Effects for H.R. 3891 as ordered reported by the House Committee on Energy and Commerce on September 13, 2018

	By Fiscal Year, in Millions of Dollars											
	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2019-2023	2019-2028
					NET INCREASE IN THE DEFICIT							
Statutory Pay-As-You-Go Effect	4	6	9	10	11	12	14	15	17	19	40	117

1. The Conference Report to the Balanced Budget Act of 1997 (P.L. 105-33) established a series of scorekeeping rules. Rule 14 states that "no increase in receipts or decrease in direct spending will be scored as a result of provisions of a law that provides direct spending for administrative or program management activities."

INCREASE IN LONG-TERM DIRECT SPENDING AND DEFICITS

CBO estimates that enacting H.R. 3891 would not increase net direct spending by more than $5 billion or on-budget deficits by more than $5 billion in any of the four consecutive 10-year periods beginning in 2029.

MANDATES

H.R. 3891 contains no intergovernmental or private-sector mandates as defined in UMRA.

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