111TH CONGRESS 1ST SESSION H.R. 1415

To provide for a demonstration project regarding Medicaid reimbursements for stabilization of emergency medical conditions by non-publicly owned or operated institutions for mental diseases.

IN THE HOUSE OF REPRESENTATIVES

March 10, 2009

Mr. GORDON of Tennessee introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

- To provide for a demonstration project regarding Medicaid reimbursements for stabilization of emergency medical conditions by non-publicly owned or operated institutions for mental diseases.
 - 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 "Medicaid Emergency
- 5 Psychiatric Care Demonstration Project Act of 2009".

1SEC. 2. DEMONSTRATION PROJECT REGARDING MEDICAID2REIMBURSEMENTS FOR STABILIZATION OF3EMERGENCY MEDICAL CONDITIONS BY NON-4PUBLICLY OWNED OR OPERATED INSTITU-5TIONS FOR MENTAL DISEASES.

6 (a) AUTHORITY TO CONDUCT DEMONSTRATION 7 **PROJECT.**—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall estab-8 9 lish a demonstration project under which an eligible State (as described in subsection (c)) shall provide reimburse-10 11 ment under the State Medicaid plan under title XIX of 12 the Social Security Act to an institution for mental dis-13 eases that is not publicly owned or operated and that is subject to the requirements of section 1867 of the Social 14 Security Act (42 U.S.C. 1395dd) for the provision of med-15 16 ical assistance available under such plan to an individual who----17

- 18 (1) has attained age 21, but has not attained19 age 65;
- 20 (2) is eligible for medical assistance under such21 plan; and
- 22 (3) requires such medical assistance to stabilize23 an emergency medical condition.

(b) IN-STAY REVIEW.—The Secretary shall establish
a mechanism for in-stay review to determine whether or
not the patient has been stabilized (as defined in subHR 1415 IH

section (h)(5)). This mechanism shall commence before
 the third day of the inpatient stay. States participating
 in the demonstration project may manage the provision
 of these benefits under the project through utilization re view, authorization, or management practices, or the ap plication of medical necessity and appropriateness criteria
 applicable to behavioral health.

8 (c) ELIGIBLE STATE DEFINED.—

9 (1) APPLICATION.—Upon approval of an appli-10 cation submitted by a State described in paragraph 11 (2), the State shall be an eligible State for purposes 12 of conducting a demonstration project under this 13 section.

14 (2) STATE DESCRIBED.—States shall be se15 lected by the Secretary in a manner so as to provide
16 geographic diversity on the basis of the application
17 to conduct a demonstration project under this sec18 tion submitted by such States.

(d) LENGTH OF DEMONSTRATION PROJECT.—The
20 demonstration project established under this section shall
21 be conducted for a period of 3 consecutive years.

22 (e) Limitations on Federal Funding.—

23 (1) APPROPRIATION.—

24 (A) IN GENERAL.—Out of any funds in the
25 Treasury not otherwise appropriated, there is

1	appropriated to carry out this section,
2	\$75,000,000 for fiscal year 2010.
3	(B) BUDGET AUTHORITY.—Subparagraph
4	(A) constitutes budget authority in advance of
5	appropriations Act and represents the obliga-
6	tion of the Federal Government to provide for
7	the payment of the amounts appropriated under
8	that subparagraph.
9	(2) 3-YEAR AVAILABILITY.—Funds appro-
10	priated under paragraph (1) shall remain available
11	for obligation through December 31, 2012.
12	(3) LIMITATION ON PAYMENTS.—In no case
13	may—
14	(A) the aggregate amount of payments
15	made by the Secretary to eligible States under
16	this section exceed \$75,000,000; or
17	(B) payments be provided by the Secretary
18	under this section after December 31, 2012.
19	(4) Funds allocated to states.—The Sec-
20	retary shall allocate funds to eligible States based on
21	their applications and the availability of funds.
22	(5) PAYMENTS TO STATES.—The Secretary
23	shall pay to each eligible State, from its allocation
24	under paragraph (4), an amount each quarter equal
25	to the Federal medical assistance percentage of ex-

penditures in the quarter for medical assistance de scribed in subsection (a).

3 (f) Reports.—

4 (1) ANNUAL PROGRESS REPORTS.—The Sec5 retary shall submit annual reports to Congress on
6 the progress of the demonstration project conducted
7 under this section.

8 (2) FINAL REPORT AND RECOMMENDATION. 9 An evaluation should be conducted of the demonstra-10 tion project's impact on the functioning of the health 11 and mental health service system and on individuals 12 enrolled in the Medicaid program. This evaluation 13 should include collection of baseline data for one-14 vear prior to the initiation of the demonstration 15 project as well as collection of data from matched 16 comparison states not participating in the dem-17 onstration. The evaluation measures shall include 18 the following:

(A) A determination, by State, as to
whether the demonstration project resulted in
increased access to inpatient mental health
services under the Medicaid program and
whether average length of stays were longer (or
shorter) for individuals admitted under the

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1	demonstration project compared with individ-
2	uals otherwise admitted in comparison sites.
3	(B) An analysis by State, regarding wheth-
4	er the demonstration project produced a signifi-
5	cant reduction in emergency room visits for in-
6	dividuals eligible for assistance under the Med-
7	icaid program or in the duration of emergency
8	room lengths of stay.
9	(C) An assessment of discharge planning
10	by participating hospitals that ensures access to
11	further (non-emergency) inpatient or residential
12	care as well as continuity of care for those dis-
13	charged to outpatient care.
14	(D) An assessment of the impact of the
15	demonstration project on the costs of the full
16	range of mental health services (including inpa-
17	tient, emergency and ambulatory care) under
18	the plan as contrasted with the comparison
19	areas.
20	(E) Data on the percentage of consumers
21	with Medicaid coverage who are admitted to in-
22	patient facilities as a result of the demonstra-
23	tion project as compared to those admitted to
24	these same facilities through other means.

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1	(F) A recommendation regarding whether
2	the demonstration project should be continued
3	after December 31, 2012, and expanded on a
4	national basis.
5	(g) WAIVER AUTHORITY.—
6	(1) IN GENERAL.—The Secretary shall waive
7	the limitation of subdivision (B) following paragraph
8	(28) of section 1905(a) of the Social Security Act
9	(42 U.S.C. 1396d(a)) (relating to limitations on pay-
10	ments for care or services for individuals under 65
11	years of age who are patients in an institution for
12	mental diseases) for purposes of carrying out the
13	demonstration project under this section.
14	(2) Limited other waiver authority.—The
15	Secretary may waive other requirements of titles XI
16	and XIX of the Social Security Act (including the
17	requirements of sections $1902(a)(1)$ (relating to
18	statewideness) and $1902(1)(10)(B)$ (relating to com-
19	parability)) only to extent necessary to carry out the

20 demonstration project under this section.

21 (h) DEFINITIONS.—In this section:

(1) EMERGENCY MEDICAL CONDITION.—The
term "emergency medical condition" means, with respect to an individual, an individual who expresses

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1	suicidal or homicidal thoughts or gestures, if deter-
2	mined dangerous to self or others.
3	(2) FEDERAL MEDICAL ASSISTANCE PERCENT-
4	AGE.—The term "Federal medical assistance per-
5	centage" has the meaning given that term with re-
6	spect to a State under section 1905(b) of the Social
7	Security Act (42 U.S.C. 1396d(b)).
8	(3) INSTITUTION FOR MENTAL DISEASES.—The
9	term "institution for mental diseases" has the mean-
10	ing given to that term in section 1905(i) of the So-
11	cial Security Act (42 U.S.C. 1396d(i)).
12	(4) Medical assistance.—The term "medical
13	assistance" has the meaning given to that term in
14	section 1905(a) of the Social Security Act (42
15	U.S.C. 1396d(a)).
16	(5) STABILIZED.—The term "stabilized"
17	means, with respect to an individual, that the emer-
18	gency medical condition no longer exists with respect
19	to the individual and the individual is no longer dan-
20	gerous to self or others.
21	(6) STATE.—The term "State" has the mean-
22	ing given that term for purposes of title XIX of the
23	Social Security Act (42 U.S.C. 1396 et seq.).

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