

111<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# S. 4038

To increase access to community behavioral health services for all Americans and to improve Medicaid reimbursement for community behavioral health services.

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## IN THE SENATE OF THE UNITED STATES

DECEMBER 16, 2010

Ms. STABENOW (for herself and Mr. REED) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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## A BILL

To increase access to community behavioral health services for all Americans and to improve Medicaid reimbursement for community behavioral health services.

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 “Excellence in Mental  
5 Health Act”.

6 **SEC. 2. ESTABLISHING COMMUNITY BEHAVIORAL HEALTH**  
7 **CENTERS.**

8       Section 1913 of the Public Health Service Act (42  
9 U.S.C. 300x–3) is amended—

1           (1) in subsection (a)(2)(A), by striking “com-  
2           munity mental health services” and inserting “be-  
3           havioral health services (of the type offered by feder-  
4           ally-qualified community behavioral health centers  
5           consistent with subsection (c)(3))”;

6           (2) in subsection (b)—

7                   (A) by striking paragraph (1) and insert-  
8           ing the following:

9           “(1) services under the plan will be provided  
10          only through appropriate, qualified community pro-  
11          grams (which may include federally-qualified com-  
12          munity behavioral health centers, child mental  
13          health programs, psychosocial rehabilitation pro-  
14          grams, mental health peer-support programs, and  
15          mental health primary consumer-directed programs);  
16          and”;

17                   (B) in paragraph (2), by striking “commu-  
18          nity mental health centers” and inserting “fed-  
19          erally-qualified community behavioral health  
20          centers”;

21           (3) by striking subsection (c) and inserting the  
22          following:

23          “(c) CRITERIA FOR FEDERALLY-QUALIFIED COMMU-  
24          NITY BEHAVIORAL HEALTH CENTERS.—

1           “(1) IN GENERAL.—The Administrator shall  
2 certify, and recertify at least every 5 years, feder-  
3 ally-qualified community behavioral health centers as  
4 meeting the criteria specified in this subsection.

5           “(2) REGULATIONS.—Not later than 18 months  
6 after the date of the enactment of the Excellence in  
7 Mental Health Act, the Administrator shall issue  
8 final regulations for certifying non-profit or local  
9 government centers as centers under paragraph (1).

10           “(3) CRITERIA.—The criteria referred to in  
11 subsection (b)(2) are that the center performs each  
12 of the following:

13           “(A) Provide services in locations that en-  
14 sure services will be available and accessible  
15 promptly and in a manner which preserves  
16 human dignity and assures continuity of care.

17           “(B) Provide services in a mode of service  
18 delivery appropriate for the target population.

19           “(C) Provide individuals with a choice of  
20 service options where there is more than one ef-  
21 ficacious treatment.

22           “(D) Employ a core staff of clinical staff  
23 that is multidisciplinary and culturally and lin-  
24 guistically competent.

1           “(E) Provide services, within the limits of  
2 the capacities of the center, to any individual  
3 residing or employed in the service area of the  
4 center, regardless of the ability of the individual  
5 to pay.

6           “(F) Provide, directly or through contract,  
7 to the extent covered for adults in the State  
8 Medicaid plan under title XIX of the Social Se-  
9 curity Act and for children in accordance with  
10 section 1905(r) of such Act regarding early and  
11 periodic screening, diagnosis, and treatment,  
12 each of the following services:

13               “(i) Screening, assessment, and diag-  
14 nosis, including risk assessment.

15               “(ii) Person-centered treatment plan-  
16 ning or similar processes, including risk as-  
17 sessment and crisis planning.

18               “(iii) Outpatient clinic mental health  
19 services, including screening, assessment,  
20 diagnosis, psychotherapy, substance abuse  
21 counseling, medication management, and  
22 integrated treatment for mental illness and  
23 substance abuse which shall be evidence-  
24 based (including cognitive behavioral ther-

1           apy and other such therapies which are  
2           evidence-based).

3           “(iv) Outpatient clinic primary care  
4           screening and monitoring of key health in-  
5           dicators and health risk (including screen-  
6           ing for diabetes, hypertension, and cardio-  
7           vascular disease and monitoring of weight,  
8           height, body mass index (BMI), blood pres-  
9           sure, blood glucose or HbA1C, and lipid  
10          profile).

11          “(v) Crisis mental health services, in-  
12          cluding 24-hour mobile crisis teams, emer-  
13          gency crisis intervention services, and cri-  
14          sis stabilization.

15          “(vi) Targeted case management  
16          (services to assist individuals gaining ac-  
17          cess to needed medical, social, educational,  
18          and other services and applying for income  
19          security and other benefits to which they  
20          may be entitled).

21          “(vii) Psychiatric rehabilitation serv-  
22          ices including skills training, assertive com-  
23          munity treatment, family psychoeducation,  
24          disability self-management, supported em-  
25          ployment, supported housing services,

1 therapeutic foster care services, and such  
2 other evidence-based practices as the Sec-  
3 retary may require.

4 “(viii) Peer support and counselor  
5 services and family supports.

6 “(G) Maintain linkages, and where possible  
7 enter into formal contracts with the following:

8 “(i) Federally qualified health centers.

9 “(ii) Inpatient psychiatric facilities  
10 and substance abuse detoxification and  
11 residential programs.

12 “(iii) Adult and youth peer support  
13 and counselor services.

14 “(iv) Family support services for fam-  
15 ilies of children with serious mental dis-  
16 orders.

17 “(v) Other community or regional  
18 services, supports, and providers, including  
19 schools, child welfare agencies, juvenile and  
20 criminal justice agencies and facilities,  
21 housing agencies and programs, employers,  
22 and other social services.

23 “(vi) Onsite or offsite access to pri-  
24 mary care services.

1 “(vii) Enabling services, including  
2 outreach, transportation, and translation.

3 “(viii) Health and wellness services,  
4 including services for tobacco cessation.

5 “(4) RULE OF CONSTRUCTION.—Nothing in  
6 paragraph (1) shall be construed as prohibiting  
7 States receiving funds appropriated through the  
8 Community Mental Health Services Block Grant  
9 under subpart I of part B of this title from financ-  
10 ing qualified community programs.”.

11 **SEC. 3. MEDICAID COVERAGE AND PAYMENT FOR COMMU-**  
12 **NITY BEHAVIORAL HEALTH CENTER SERV-**  
13 **ICES.**

14 (a) PAYMENT FOR SERVICES PROVIDED BY FEDER-  
15 ALLY-QUALIFIED COMMUNITY BEHAVIORAL HEALTH  
16 CENTERS.—Section 1902(bb) of the Social Security Act  
17 (42 U.S.C. 1396a(bb)) is amended—

18 (1) in the heading, by striking “AND RURAL  
19 HEALTH CLINICS” and inserting “, FEDERALLY-  
20 QUALIFIED COMMUNITY BEHAVIORAL HEALTH  
21 CENTERS, AND RURAL HEALTH CLINICS”;

22 (2) in paragraph (1), by inserting “(and begin-  
23 ning with fiscal year 2011 with respect to services  
24 furnished on or after January 1, 2011, and each  
25 succeeding fiscal year, for services described in sec-

1       tion 1905(a)(2)(D) furnished by a federally-qualified  
2       community behavioral health center)” after “by a  
3       rural health clinic”;

4               (3) in paragraph (2)—

5                       (A) by striking the heading and inserting  
6                       “INITIAL FISCAL YEAR”;

7                       (B) by inserting “(or, in the case of serv-  
8                       ices described in section 1905(a)(2)(D) fur-  
9                       nished by a federally-qualified community be-  
10                      havioral health center, for services furnished on  
11                      and after January 1, 2011, during fiscal year  
12                      2011)” after “January 1, 2001, during fiscal  
13                      year 2001”;

14                      (C) by inserting “(or, in the case of serv-  
15                      ices described in section 1905(a)(2)(D) fur-  
16                      nished by a federally-qualified community be-  
17                      havioral health center, during fiscal years 2009  
18                      and 2010)” after “1999 and 2000”; and

19                      (D) by inserting “(or, in the case of serv-  
20                      ices described in section 1905(a)(2)(D) fur-  
21                      nished by a federally-qualified community be-  
22                      havioral health center, during fiscal year  
23                      2011)” before the period;

24               (4) in paragraph (3)—



1 (A) in the heading, by striking “FISCAL  
2 YEAR 2002 AND SUCCEEDING” and inserting  
3 “SUCCEEDING”; and

4 (B) by inserting “(or, in the case of serv-  
5 ices described in section 1905(a)(2)(D) fur-  
6 nished by a federally-qualified community be-  
7 havioral health center, for services furnished  
8 during fiscal year 2012 or a succeeding fiscal  
9 year)” after “2002 or a succeeding fiscal year”;  
10 (5) in paragraph (4)—

11 (A) by inserting “(or as a federally-quali-  
12 fied community behavioral health center after  
13 fiscal year 2010)” after “or rural health clinic  
14 after fiscal year 2000”;

15 (B) by striking “furnished by the center  
16 or” and inserting “furnished by the federally  
17 qualified health center, services described in  
18 section 1905(a)(2)(D) furnished by the feder-  
19 ally-qualified community behavioral health cen-  
20 ter, or”;

21 (C) in the second sentence, by striking “or  
22 rural health clinic” and inserting “, federally-  
23 qualified community behavioral health center,  
24 or rural health clinic”;

1           (6) in paragraph (5), in each of subparagraphs  
 2           (A) and (B), by striking “or rural health clinic” and  
 3           inserting “, federally-qualified community behavioral  
 4           health center, or rural health clinic”; and

5           (7) in paragraph (6), by striking “or to a rural  
 6           health clinic” and inserting “, to a federally-qualified  
 7           community behavioral health center for services de-  
 8           scribed in section 1905(a)(2)(D), or to a rural  
 9           health clinic”.

10          (b) INCLUSION OF COMMUNITY BEHAVIORAL  
 11 HEALTH CENTER SERVICES IN THE TERM MEDICAL AS-  
 12 SISTANCE.—Section 1905(a)(2) of the Social Security Act  
 13 (42 U.S.C. 1396d(a)(2)) is amended—

14           (1) by striking “and” before “(C)”; and

15           (2) by inserting before the semicolon at the end  
 16           the following: “, and (D) federally-qualified commu-  
 17           nity behavioral health center services (as defined in  
 18           subsection (l)(4))”.

19          (c) DEFINITION OF FEDERALLY-QUALIFIED COMMU-  
 20 NITY BEHAVIORAL HEALTH CENTER SERVICES.—Section  
 21 1905(l) of the Social Security Act (42 U.S.C. 1396d(l))  
 22 is amended by adding at the end the following paragraph:

23           “(4)(A) The term ‘community behavioral health  
 24           center services’ means services furnished to an indi-

1       vidual at a federally-qualified community behavioral  
2       health center (as defined by subparagraph (B)).

3               “(B) The term ‘federally qualified community  
4       behavioral health center’ means an entity that is cer-  
5       tified under section 1913(c) of the Public Health  
6       Service Act as meeting the criteria described in  
7       paragraph (3) of such section.”.

8       **SEC. 4. HEALTH INFORMATION TECHNOLOGY.**

9       (a) HEALTH CARE PROVIDER.—Section 3000(3) of  
10      the Public Health Service Act (42 U.S.C. 300jj(3)) is  
11      amended by inserting before “and any other category” the  
12      following: “a federally-qualified community behavioral  
13      health center described in section 1905(a)(2)(D) of the  
14      Social Security Act,”.

15      (b) HEALTH INFORMATION TECHNOLOGY REGIONAL  
16      EXTENSION CENTERS.—Section 3012(c)(4) of the Public  
17      Health Service Act (42 U.S.C. 300jj–32(c)(4)) is amended  
18      by adding at the end the following:

19               “(F) Federally-qualified community behav-  
20              ioral health centers described in section  
21              1905(a)(2)(D) of the Social Security Act.”.

22      (c) MEDICAID PROVIDERS.—Section 1903(t)(2)(B)  
23      of the Social Security Act (42 U.S.C. 1396b(t)(2)(B)) is  
24      amended—

1 (1) in clause (i), by striking “or” and inserting  
2 a semicolon;

3 (2) in clause (ii), by striking the period and in-  
4 serting “; or”; and

5 (3) by inserting after clause (ii) the following:

6 “(iii) a federally-qualified community be-  
7 havioral health center described in section  
8 1905(a)(2)(D).”.

9 **SEC. 5. COMMUNITY-BASED MENTAL HEALTH INFRASTRUC-**  
10 **TURE IMPROVEMENT.**

11 Title V of the Public Health Service Act (42 U.S.C.  
12 280g et seq.) is amended by adding at the end the fol-  
13 lowing:

14 **“PART H—COMMUNITY-BASED MENTAL HEALTH**  
15 **INFRASTRUCTURE IMPROVEMENTS**

16 **“SEC. 560. GRANTS FOR COMMUNITY-BASED MENTAL**  
17 **HEALTH INFRASTRUCTURE IMPROVEMENTS.**

18 “(a) GRANTS AUTHORIZED.—The Secretary may  
19 award grants to eligible entities to expend funds for the  
20 construction or modernization of facilities used to provide  
21 mental health and substance abuse services to individuals.

22 “(b) ELIGIBLE ENTITY.—In this section, the term  
23 ‘eligible entity’ means—

24 “(1) a State that is the recipient of a Commu-  
25 nity Mental Health Services Block Grant under sub-

1 part I of part B of title XIX and a Substance Abuse  
2 Prevention and Treatment Block Grant under sub-  
3 part II of such part; or

4 “(2) an Indian tribe or a tribal organization (as  
5 such terms are defined in sections 4(b) and 4(c) of  
6 the Indian Self-Determination and Education Assist-  
7 ance Act).

8 “(c) APPLICATION.—A eligible entity desiring a grant  
9 under this section shall submit to the Secretary an appli-  
10 cation at such time, in such manner, and containing—

11 “(1) a plan for the construction or moderniza-  
12 tion of facilities used to provide mental health and  
13 substance abuse services to individuals that—

14 “(A) designates a single State or tribal  
15 agency as the sole agency for the supervision  
16 and administration of the grant;

17 “(B) contains satisfactory evidence that  
18 such agency so designated will have the author-  
19 ity to carry out the plan;

20 “(C) provides for the designation of an ad-  
21 visory council, which shall include representa-  
22 tives of nongovernmental organizations or  
23 groups, and of the relevant State or tribal agen-  
24 cies, that aided in the development of the plan

1 and that will implement and monitor any grant  
2 awarded to the eligible entity under this section;

3 “(D) in the case of an eligible entity that  
4 is a State, includes a copy of the State plan  
5 under section 1912(b) and section 1932(b);

6 “(E)(i) includes a listing of the projects to  
7 be funded by the grant; and

8 “(ii) in the case of an eligible entity that  
9 is a State, explains how each listed project  
10 helps the State in accomplishing its goals and  
11 objectives under the Community Mental Health  
12 Services Block Grant under subpart I of part B  
13 of title XIX and the Substance Abuse Preven-  
14 tion and Treatment Block Grant under subpart  
15 II of such part;

16 “(F) includes assurances that the facilities  
17 will be used for a period of not less than 10  
18 years for the provision of community-based  
19 mental health or substance abuse services for  
20 those who cannot pay for such services, subject  
21 to subsection (e); and

22 “(G) in the case of a facility that is not a  
23 public facility, includes the name and executive  
24 director of the entity who will provide services  
25 in the facility; and

1           “(2) with respect to each construction or mod-  
2           ernization project described in the application—

3                   “(A) a description of the site for the  
4                   project;

5                   “(B) plans and specifications for the  
6                   project and State or tribal approval for the  
7                   plans and specifications;

8                   “(C) assurance that the title for the site is  
9                   or will be vested with either the public entity or  
10                  private nonprofit entity who will provide the  
11                  services in the facility;

12                  “(D) assurance that adequate financial re-  
13                  sources will be available for the construction or  
14                  major rehabilitation of the project and for the  
15                  maintenance and operation of the facility;

16                  “(E) estimates of the cost of the project;  
17                  and

18                  “(F) the estimated length of time for com-  
19                  pletion of the project.

20           “(d) SUBGRANTS BY STATES.—

21                   “(1) IN GENERAL.—A State that receives a  
22                   grant under this section may award a subgrant to  
23                   a qualified community program (as such term is  
24                   used in section 1913(b)(1)).

1           “(2) USE OF FUNDS.—Subgrants awarded pur-  
2           suant to paragraph (1) may be used for activities  
3           such as—

4                   “(A) the construction, expansion, and mod-  
5                   ernization of facilities used to provide mental  
6                   health and substance abuse services to individ-  
7                   uals;

8                   “(B) acquiring and leasing facilities and  
9                   equipment (including paying the costs of amor-  
10                  tizing the principal of, and paying the interest  
11                  on, loans for such facilities and equipment) to  
12                  support or further the operation of the sub-  
13                  grantee;

14                  “(C) the construction and structural modi-  
15                  fication (including equipment acquisition) of fa-  
16                  cilities to permit the integrated delivery of be-  
17                  havioral health and primary care of specialty  
18                  medical services to individuals with co-occurring  
19                  mental illnesses and chronic medical or surgical  
20                  diseases at a single service site; and

21                  “(D) acquiring information technology re-  
22                  quired to accommodate the clinical needs of pri-  
23                  mary and specialty care professionals.



1           “(3) LIMITATION.—Not to exceed 15 percent of  
2           grant funds may be used for activities described in  
3           paragraph (2)(D).

4           “(e) REQUEST TO TRANSFER OBLIGATION.—An eli-  
5           gible entity that receives a grant under this section may  
6           submit a request to the Secretary for permission to trans-  
7           fer the 10-year obligation of facility use, as described in  
8           subsection (e)(1)(F), to another facility.

9           “(f) AGREEMENT TO FEDERAL SHARE.—As a condi-  
10          tion of receipt of a grant under this section, an eligible  
11          entity shall agree, with respect to the costs to be incurred  
12          by the entity in carrying out the activities for which such  
13          grant is awarded, that the entity will make available non-  
14          Federal contributions (which may include State or local  
15          funds, or funds from the qualified community program)  
16          in an amount equal to not less than \$1 for every \$1 of  
17          Federal funds provided under the grant.

18          “(g) REPORTING.—

19                 “(1) REPORTING BY STATES.—During the 10-  
20                 year period referred to in subsection (e)(1)(F), the  
21                 Secretary shall require that a State that receives a  
22                 grant under this section submit, as part of the re-  
23                 port of the State required under the Community  
24                 Mental Health Services Block Grant under subpart  
25                 I of part B of title XIX and the Substance Abuse

1 Prevention and Treatment Block Grant under sub-  
2 part II of such part, a description of the progress  
3 on—

4 “(A) the projects carried out pursuant to  
5 the grant under this section; and

6 “(B) the assurances that the facilities in-  
7 volved continue to be used for the purpose for  
8 which they were funded under such grant dur-  
9 ing such 10-year period.

10 “(2) REPORTING BY INDIAN TRIBES AND TRIB-  
11 AL ORGANIZATIONS.—The Secretary shall establish  
12 reporting requirements for Indian tribes and tribal  
13 organizations that receive a grant under this section.  
14 Such reporting requirements shall include that such  
15 Indian tribe or tribal organization provide a descrip-  
16 tion of the progress on—

17 “(A) the projects carried out pursuant to  
18 the grant under this section; and

19 “(B) the assurances that the facilities in-  
20 volved continue to be used for the purpose for  
21 which they were funded under such grant dur-  
22 ing the 10-year period referred to in subsection  
23 (c)(1)(F).

24 “(h) FAILURE TO MEET OBLIGATIONS.—

1           “(1) IN GENERAL.—If an eligible entity that re-  
2           ceives a grant under this section fails to meet any  
3           of the obligations of the entity required under this  
4           section, the Secretary shall take appropriate steps,  
5           which may include—

6                   “(A) requiring that the entity return the  
7                   unused portion of the funds awarded under this  
8                   section for the projects that are incomplete; and

9                   “(B) extending the length of time that the  
10                  entity must ensure that the facility involved is  
11                  used for the purposes for which it is intended,  
12                  as described in subsection (c)(1)(F).

13           “(2) HEARING.—Prior to requesting the return  
14           of the funds under paragraph (1)(B), the Secretary  
15           shall provide the entity notice and opportunity for a  
16           hearing.

17           “(i) COLLABORATION.—The Secretary may establish  
18           intergovernmental and interdepartmental memorandums  
19           of agreement as necessary to carry out this section.

20           “(j) AUTHORIZATION OF APPROPRIATIONS.—There  
21           is authorized to be appropriated to carry out this section  
22           \$20,000,000 for fiscal year 2010 and such sums as may  
23           be necessary for each of fiscal years 2011 through 2013.”.

1 **SEC. 6. EXPANDED PARTICIPATION IN 340B PROGRAM.**

2 Section 340B(a)(4) of the Public Health Service Act  
3 (42 U.S.C. 256b(a)(4)) is amended by adding at the end  
4 the following:

5 “(P) An entity receiving funds under sub-  
6 part I of part B of title XIX of this Act for the  
7 provision of community mental health services.

8 “(Q) An entity receiving funds under sub-  
9 part II of part B of title XIX of this Act for  
10 the provision of treatment services for sub-  
11 stance abuse.”.

12 **SEC. 7. ADDING FEDERALLY-QUALIFIED COMMUNITY BE-**  
13 **HAVIORAL HEALTH CENTER AS ORIGINATING**  
14 **SITES FOR PAYMENT OF MEDICARE TELE-**  
15 **HEALTH SERVICES.**

16 (a) IN GENERAL.—Section 1834(m)(4)(C)(ii) of the  
17 Social Security Act (42 U.S.C. 1395m(m)(4)(C)(ii)) is  
18 amended by adding at the end the following new sub-  
19 clause:

20 “(IX) A federally-qualified com-  
21 munity behavioral health center under  
22 section 1913 of the Public Health  
23 Service Act.”.

1           (b) EFFECTIVE DATE.—The amendment made by  
2 subsection (a) shall apply to services furnished after the  
3 date of enactment of this Act.

○