

114TH CONGRESS
1ST SESSION

S. 599

To extend and expand the Medicaid emergency psychiatric demonstration project.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 26, 2015

Mr. CARDIN (for himself, Mr. TOOMEY, and Ms. COLLINS) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To extend and expand the Medicaid emergency psychiatric demonstration project.

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 “Improving Access to
5 Emergency Psychiatric Care Act”.

1 **SEC. 2. EXTENSION AND EXPANSION OF MEDICAID EMER-**
 2 **GENCY PSYCHIATRIC DEMONSTRATION**
 3 **PROJECT.**

4 (a) IN GENERAL.—Subsection (d) of section 2707 of
 5 Public Law 111–148 (42 U.S.C. 1396a note) is amended
 6 to read as follows:

7 “(d) LENGTH OF DEMONSTRATION PROJECT.—

8 “(1) IN GENERAL.—Except as provided in para-
 9 graphs (2) and (3), the demonstration project estab-
 10 lished under this section shall be conducted for a pe-
 11 riod of 3 consecutive years.

12 “(2) TEMPORARY EXTENSION OF PARTICIPA-
 13 TION ELIGIBILITY FOR SELECTED STATES.—

14 “(A) IN GENERAL.—Subject to paragraph
 15 (3), a State selected as an eligible State to par-
 16 ticipate in the demonstration project on or prior
 17 to March 13, 2012, shall, upon the request of
 18 the State, be permitted to continue to partici-
 19 pate in the demonstration project through the
 20 date described in subparagraph (B) if—

21 “(i) the Secretary determines that the
 22 continued participation of the State in the
 23 demonstration project is not expected to
 24 increase spending under title XIX of the
 25 Social Security Act; and

1 “(ii) the Chief Actuary of the Centers
 2 for Medicare & Medicaid Services certifies
 3 that such extension for that State is pro-
 4 jected to reduce (or is projected not to re-
 5 sult in any increase in) net program spend-
 6 ing under title XIX of the Social Security
 7 Act.

8 “(B) DATE DESCRIBED.—The date de-
 9 scribed in this subparagraph is the earlier of—

10 “(i) the date on which Secretary sub-
 11 mits the recommendations required under
 12 subsection (f)(3); or

13 “(ii) September 30, 2016.

14 “(3) EXTENSION AND EXPANSION OF DEM-
 15 ONSTRATION PROJECT.—

16 “(A) ADDITIONAL EXTENSION.—Taking
 17 into account the recommendations submitted to
 18 Congress pursuant to subsection (f)(3), the Sec-
 19 retary may, if the Secretary determines that ex-
 20 tension and expansion of the demonstration
 21 project satisfies the criteria for the temporary
 22 extension under subparagraphs (A) and (B) of
 23 paragraph (2)—

24 “(i) extend the demonstration project
 25 through December 31, 2019; and

1 “(ii) permit any eligible State partici-
2 pating in the demonstration project as of
3 the date such recommendations are sub-
4 mitted to continue to participate in the
5 project.

6 “(B) OPTION FOR EXPANSION TO ADDI-
7 TIONAL STATES.—Taking into account the rec-
8 ommendations submitted to Congress pursuant
9 to subsection (f)(3), the Secretary may expand
10 (including on a nationwide basis) the number of
11 eligible States participating in the demonstra-
12 tion project during the extension period estab-
13 lished under subparagraph (A) if, with respect
14 to any new eligible State—

15 “(i) the Secretary determines that the
16 participation of the State in the dem-
17 onstration project is not expected to in-
18 crease spending under title XIX of the So-
19 cial Security Act; and

20 “(ii) the Chief Actuary of the Centers
21 for Medicare & Medicaid Services certifies
22 that the participation of the State in the
23 demonstration project is projected to re-
24 duce (or is projected not to result in any

1 increase in) net program spending under
2 title XIX of the Social Security Act.

3 “(4) AUTHORITY TO ENSURE BUDGET NEU-
4 TRALITY.—The Secretary annually shall review each
5 participating State’s demonstration project expendi-
6 tures to ensure compliance with the requirements of
7 paragraphs (2)(A), (2)(B), (3)(B)(i), and (3)(B)(ii)
8 (as applicable). If the Secretary determines with re-
9 spect to a State’s participation in the demonstration
10 project that the State’s net program spending under
11 title XIX of the Social Security Act has increased as
12 a result of the State’s participation in the project,
13 the Secretary shall treat the demonstration project
14 excess expenditures of the State as an overpayment
15 under title XIX of the Social Security Act.”.

16 (b) FUNDING.—Subsection (e) of section 2707 of
17 such Act (42 U.S.C. 1396a note) is amended—

18 (1) in the subsection heading, by striking “LIM-
19 ITATIONS ON FEDERAL”;

20 (2) in paragraph (2)—

21 (A) in the paragraph heading, by striking
22 “5-YEAR”; and

23 (B) by striking “through December 31,
24 2015” and inserting “until expended”;

25 (3) by striking paragraph (3);

1 (4) by redesignating paragraphs (4) and (5) as
2 paragraphs (3) and (4), respectively;

3 (5) in paragraph (3) (as so redesignated), by
4 striking “and the availability of funds” and inserting
5 “(other than States deemed to be eligible States
6 through the application of subsection (c)(4))”; and

7 (6) in paragraph (4) (as so redesignated)—

8 (A) in the first sentence—

9 (i) by inserting “(other than a State
10 deemed to be an eligible State through the
11 application of subsection (c)(4))” after “el-
12 ible State”; and

13 (ii) by striking “paragraph (4)” and
14 inserting “paragraph (3)”; and

15 (B) by inserting after the first sentence
16 the following “In addition to any payments
17 made to an eligible State under the preceding
18 sentence, the Secretary shall, during any period
19 in effect under paragraph (2) or (3) of sub-
20 section (d), or during any period in which a law
21 described in subsection (f)(4)(C) is in effect,
22 pay each eligible State (including any State
23 deemed to be an eligible State through the ap-
24 plication of subsection (c)(4)), an amount each
25 quarter equal to the Federal medical assistance

1 percentage of expenditures in the quarter dur-
2 ing such period for medical assistance described
3 in subsection (a). Payments made to States
4 under this paragraph shall be considered to
5 have been made under, and are subject to, the
6 requirements of section 1903 of the Social Se-
7 curity Act (42 U.S.C. 1396b).”.

8 (c) RECOMMENDATIONS TO CONGRESS.—Subsection
9 (f) of section 2707 of such Act (42 U.S.C. 1396a note)
10 is amended by adding at the end the following:

11 “(3) RECOMMENDATION TO CONGRESS REGARD-
12 ING EXTENSION AND EXPANSION OF PROJECT.—Not
13 later than September 30, 2016, the Secretary shall
14 submit to Congress and make available to the public
15 recommendations based on an evaluation of the dem-
16 onstration project, including the use of appropriate
17 quality measures, regarding—

18 “(A) whether the demonstration project
19 should be continued after December 31, 2016;
20 and

21 “(B) whether the demonstration project
22 should be expanded (including on a nationwide
23 basis).

1 “(4) RECOMMENDATION TO CONGRESS REGARD-
2 ING PERMANENT EXTENSION AND NATIONWIDE EX-
3 PANSION.—

4 “(A) IN GENERAL.—Not later than April
5 1, 2019, the Secretary shall submit to Congress
6 and make available to the public recommenda-
7 tions based on an evaluation of the demonstra-
8 tion project, including the use of appropriate
9 quality measures, regarding—

10 “(i) whether the demonstration
11 project should be permanently continued
12 after December 31, 2019, in 1 or more
13 States; and

14 “(ii) whether the demonstration
15 project should be expanded (including on a
16 nationwide basis).

17 “(B) REQUIREMENTS.—Any recommenda-
18 tion submitted under subparagraph (A) to per-
19 manently continue the project in a State, or to
20 expand the project to 1 or more other States
21 (including on a nationwide basis) shall include
22 a certification from the Chief Actuary of the
23 Centers for Medicare & Medicaid Services that
24 permanently continuing the project in a par-
25 ticular State, or expanding the project to a par-

1 ticular State (or all States) is projected to re-
2 duce (or is projected not to result in any in-
3 crease in) net program spending under title
4 XIX of the Social Security Act. If the Secretary
5 determines with respect to a State’s participa-
6 tion in the demonstration project that net pro-
7 gram spending under title XIX of such Act has
8 increased as a result of the project, the Sec-
9 retary shall treat the demonstration project ex-
10 cess expenditures of the State as an overpay-
11 ment under title XIX of the Social Security
12 Act.

13 “(C) CONGRESSIONAL APPROVAL RE-
14 QUIRED.—The Secretary shall not permanently
15 continue the demonstration project in any State
16 after December 31, 2019, or expand the dem-
17 onstration project to any additional State after
18 December 31, 2019, unless Congress enacts a
19 law approving either or both such actions.

20 “(5) FUNDING.—Out of any funds in the
21 Treasury not otherwise appropriated, there is appro-
22 priated to the Centers for Medicare & Medicaid
23 Services Program Management Account to carry out
24 this subsection, \$100,000 for fiscal year 2015, to re-
25 main available until expended.”.

1 (d) CONFORMING AMENDMENTS.—Section 2707 of
2 such Act (42 U.S.C. 1396a note) is amended—

3 (1) in subsection (c)—

4 (A) in paragraph (1), by striking “An eli-
5 gible State” and inserting “Except as otherwise
6 provided in paragraph (4), an eligible State”;

7 (B) in paragraph (3), by striking “A State
8 shall” and inserting “Except as otherwise pro-
9 vided in paragraph (4), a State shall”; and

10 (C) by adding at the end the following:

11 “(4) NATIONWIDE AVAILABILITY.—In the event
12 that the Secretary makes a recommendation pursu-
13 ant to subsection (f)(4) that the demonstration
14 project be expanded on a national basis, any State
15 that has submitted or submits an application pursu-
16 ant to paragraph (2) shall be deemed to have been
17 selected to be an eligible State to participate in the
18 demonstration project.”; and

19 (2) in the heading for subsection (f), by striking
20 “AND REPORT” and inserting “, REPORT, AND REC-
21 OMMENDATIONS”.

22 (e) EFFECTIVE DATE.—The amendments made by
23 this section shall take effect on the date of the enactment
24 of this Act.

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