

PUBLIC LAW 114-97—DEC. 11, 2015

IMPROVING ACCESS TO EMERGENCY
PSYCHIATRIC CARE ACT

Public Law 114–97
114th Congress

An Act

Dec. 11, 2015
[S. 599]

To extend and expand the Medicaid emergency psychiatric demonstration project.

Improving Access
to Emergency
Psychiatric Care
Act.
42 USC 1305
note.

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE.

This Act may be cited as the “Improving Access to Emergency
Psychiatric Care Act”.

**SEC. 2. EXTENSION AND EXPANSION OF MEDICAID EMERGENCY PSY-
CHIATRIC DEMONSTRATION PROJECT.**

Time period.

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

“(d) LENGTH OF DEMONSTRATION PROJECT.—

“(1) IN GENERAL.—Except as provided in paragraphs (2)
and (3), the demonstration project established under this section
shall be conducted for a period of 3 consecutive years.

“(2) TEMPORARY EXTENSION OF PARTICIPATION ELIGIBILITY
FOR SELECTED STATES.—

Determination.

“(A) IN GENERAL.—Subject to subparagraph (B) and
paragraph (4), a State selected as an eligible State to
participate in the demonstration project on or prior to
March 13, 2012, shall, upon the request of the State, be
permitted to continue to participate in the demonstration
project through September 30, 2016, if—

Certification.

“(i) the Secretary determines that the continued
participation of the State in the demonstration project
is projected not to increase net program spending under
title XIX of the Social Security Act; and

“(ii) the Chief Actuary of the Centers for Medicare
& Medicaid Services certifies that such extension for
that State is projected not to increase net program
spending under title XIX of the Social Security Act.

“(B) NOTICE OF PROJECTIONS.—The Secretary shall pro-
vide each State selected to participate in the demonstration
project on or prior to March 13, 2012, with notice of the
determination and certification made under subparagraph
(A) for the State.

“(3) EXTENSION AND EXPANSION OF DEMONSTRATION
PROJECT.—

“(A) ADDITIONAL EXTENSION.—Taking into account the
recommendations submitted to Congress under subsection
(f)(3), the Secretary may permit an eligible State partici-
pating in the demonstration project as of the date such
recommendations are submitted to continue to participate

in the project through December 31, 2019, if, with respect to the State—

“(i) the Secretary determines that the continued participation of the State in the demonstration project is projected not to increase net program spending under title XIX of the Social Security Act; and

“(ii) the Chief Actuary of the Centers for Medicare & Medicaid Services certifies that the continued participation of the State in the demonstration project is projected not to increase net program spending under title XIX of the Social Security Act.

“(B) OPTION FOR EXPANSION TO ADDITIONAL STATES.—Taking into account the recommendations submitted to Congress pursuant to subsection (f)(3), the Secretary may expand the number of eligible States participating in the demonstration project through December 31, 2019, if, with respect to any new eligible State—

“(i) the Secretary determines that the participation of the State in the demonstration project is projected not to increase net program spending under title XIX of the Social Security Act; and

“(ii) the Chief Actuary of the Centers for Medicare & Medicaid Services certifies that the participation of the State in the demonstration project is projected not to increase net program spending under title XIX of the Social Security Act.

“(C) NOTICE OF PROJECTIONS.—The Secretary shall provide each State participating in the demonstration project as of the date the Secretary submits recommendations to Congress under subsection (f)(3), and any additional State that applies to be added to the demonstration project, with notice of the determination and certification made for the State under subparagraphs (A) and (B), respectively, and the standards used to make such determination and certification—

“(i) in the case of a State participating in the demonstration project as of the date the Secretary submits recommendations to Congress under subsection (f)(3), not later than August 31, 2016; and

“(ii) in the case of an additional State that applies to be added to the demonstration project, prior to the State making a final election to participate in the project.

“(4) AUTHORITY TO ENSURE BUDGET NEUTRALITY.—The Secretary annually shall review each participating State’s demonstration project expenditures to ensure compliance with the requirements of paragraphs (2)(A)(i), (2)(A)(ii), (3)(A)(i), (3)(A)(ii), (3)(B)(i), and (3)(B)(ii) (as applicable). If the Secretary determines with respect to a State’s participation in the demonstration project that the State’s net program spending under title XIX of the Social Security Act has increased as a result of the State’s participation in the project, the Secretary shall treat the demonstration project excess expenditures of the State as an overpayment under title XIX of the Social Security Act.”.

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

(1) in the subsection heading, by striking “LIMITATIONS ON FEDERAL”;

(2) in paragraph (2)—

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

and

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

(3) by striking paragraph (3);

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

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

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

(A) in the first sentence—

(i) by inserting “(other than a State deemed to be an eligible State through the application of subsection (c)(4))” after “eligible State”; and

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

(B) by inserting after the first sentence the following:

“In addition to any payments made to an eligible State under the preceding sentence, the Secretary shall, during any period in effect under paragraph (2) or (3) of subsection (d), or during any period in which a law described in subsection (f)(4)(C) is in effect, pay each eligible State (including any State deemed to be an eligible State through the application of subsection (c)(4)), an amount each quarter equal to the Federal medical assistance percentage of expenditures in the quarter during such period for medical assistance described in subsection (a). Payments made to a State for emergency psychiatric demonstration services under this section during the extension period shall be treated as medical assistance under the State plan for purposes of section 1903(a)(1) of the Social Security Act (42 U.S.C. 1396b(a)(1)).”.

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

“(3) RECOMMENDATION TO CONGRESS REGARDING EXTENSION AND EXPANSION OF PROJECT.—Not later than September 30, 2016, the Secretary shall submit to Congress and make available to the public recommendations based on an evaluation of the demonstration project, including the use of appropriate quality measures, regarding—

“(A) whether the demonstration project should be continued after September 30, 2016; and

“(B) whether the demonstration project should be expanded to additional States.

“(4) RECOMMENDATION TO CONGRESS REGARDING PERMANENT EXTENSION AND NATIONWIDE EXPANSION.—

“(A) IN GENERAL.—Not later than April 1, 2019, the Secretary shall submit to Congress and make available to the public recommendations based on an evaluation of the demonstration project, including the use of appropriate quality measures, regarding—

Deadline.
Public
information.

Deadline.
Public
information.

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

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

“(B) REQUIREMENTS.—Any recommendation submitted under subparagraph (A) to permanently continue the project in a State, or to expand the project to 1 or more other States (including on a nationwide basis) shall include a certification from the Chief Actuary of the Centers for Medicare & Medicaid Services that permanently continuing the project in a particular State, or expanding the project to a particular State (or all States) is projected not to increase net program spending under title XIX of the Social Security Act. Certification.

“(C) CONGRESSIONAL APPROVAL REQUIRED.—The Secretary shall not permanently continue the demonstration project in any State after December 31, 2019, or expand the demonstration project to any additional State after December 31, 2019, unless Congress enacts a law approving either or both such actions and the law includes provisions that—

“(i) ensure that each State’s participation in the project complies with budget neutrality requirements; and

“(ii) require the Secretary to treat any expenditures of a State participating in the demonstration project that are excess of the expenditures projected under the budget neutrality standard for the State as an overpayment under title XIX of the Social Security Act.

“(5) FUNDING.—Of the unobligated balances of amounts available in the Centers for Medicare & Medicaid Services Program Management account, \$100,000 shall be available to carry out this subsection and shall remain available until expended.”

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

(1) in subsection (a), in the matter before paragraph (1), by inserting “publicly or” after “institution for mental diseases that is”;

(2) in subsection (c)—

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

(B) in paragraph (3), by striking “A State shall” and inserting “Except as otherwise provided in paragraph (4), a State shall”; and

(C) by adding at the end the following:

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

42 USC 1396a
note.

(3) in the heading for subsection (f), by striking “AND REPORT” and inserting “, REPORT, AND RECOMMENDATIONS”.
(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

Approved December 11, 2015.

LEGISLATIVE HISTORY—S. 599:

SENATE REPORTS: No. 114–101 (Comm. on Finance).

CONGRESSIONAL RECORD, Vol. 161 (2015):

Sept. 28, considered and passed Senate.

Nov. 16, considered and passed House, amended.

Nov. 19, Senate concurred in House amendment.

