115TH CONGRESS
2D SESSION
H. R. 5797

IN THE SENATE OF THE UNITED STATES
JUNE 21, 2018
Received; read twice and referred to the Committee on Finance

AN ACT
To amend title XIX of the Social Security Act to allow States to provide under Medicaid services for certain individuals with opioid use disorders in institutions for mental diseases.

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 “Individuals in Medicaid Deserve Care that is Appropriate and Responsible in its Execution Act” or the “IMD CARE Act”.

SEC. 2. MEDICAID STATE PLAN OPTION TO PROVIDE SERVICES FOR CERTAIN INDIVIDUALS WITH TARGETED SUDS IN INSTITUTIONS FOR MENTAL DISEASES.

Section 1915 of the Social Security Act (42 U.S.C. 1396n) is amended by adding at the end the following new subsection:

“(l) State Plan Option To Provide Services for Certain Individuals in Institutions for Mental Diseases.—

“(1) In general.—With respect to calendar quarters beginning during the period beginning January 1, 2019, and ending December 31, 2023, a State may elect, through a State plan amendment, to, notwithstanding section 1905(a), provide medical assistance for services furnished in institutions for mental diseases and for other medically necessary services furnished to eligible individuals with targeted SUDs, in accordance with the requirements of this subsection.

“(2) Payments.—
“(A) In General.—Amounts expended under a State plan amendment under paragraph (1) for services described in such paragraph furnished, with respect to a 12-month period, to an eligible individual with a targeted SUD who is a patient in an institution for mental diseases shall be treated as medical assistance for which payment is made under section 1903(a) but only to the extent that such services are furnished for not more than a period of 30 days (whether or not consecutive) during such 12-month period.

“(B) Clarification.—Payment made under this paragraph for expenditures under a State plan amendment under this subsection with respect to services described in paragraph (1) furnished to an eligible individual with a targeted SUD shall not affect payment that would otherwise be made under section 1903(a) for expenditures under the State plan (or waiver of such plan) for medical assistance for such individual.

“(3) Information Required in State Plan Amendment.—
“(A) IN GENERAL.—A State electing to provide medical assistance pursuant to this subsection shall include with the submission of the State plan amendment under paragraph (1) to the Secretary—

“(i) a plan on how the State will improve access to outpatient care during the period of the State plan amendment, including a description of—

“(I) the process by which eligible individuals with targeted SUDs will make the transition from receiving inpatient services in an institution for mental diseases to appropriate outpatient care; and

“(II) the process the State will undertake to ensure eligible individuals with targeted SUDs are provided care in the most integrated setting appropriate to the needs of the individuals; and

“(ii) a description of how the State plan amendment ensures an appropriate clinical screening of eligible individuals with targeted SUDs, including assessments
to determine level of care and length of stay recommendations based upon the multidimensional assessment criteria of the American Society of Addiction Medicine and to determine the appropriate setting for such care.

“(B) REPORT.—Not later than the sooner of December 31, 2024, or 1 year after the date of the termination of a State plan amendment under this subsection, the State shall submit to the Secretary a report that includes at least—

“(i) the number of eligible individuals with targeted SUDs who received services pursuant to such State plan amendment;

“(ii) the length of the stay of each such individual in an institution for mental diseases;

“(iii) the type of outpatient treatment, including medication-assisted treatment, each such individual received after being discharged from such institution;

“(iv) the number of eligible individuals with any co-occurring disorders who received services pursuant to such State plan
amendment and the co-occurring disorders from which they suffer; and

“(v) information regarding the effects of a State plan amendment on access to community care for individuals suffering from a mental disease other than substance use disorder.

“(4) DEFINITIONS.—In this subsection:

“(A) ELIGIBLE INDIVIDUAL WITH A TARGETED SUD.—The term ‘eligible individual with a targeted SUD’ means an individual who—

“(i) with respect to a State, is enrolled for medical assistance under the State plan (or a waiver of such plan);

“(ii) is at least 21 years of age;

“(iii) has not attained 65 years of age; and

“(iv) has been diagnosed with at least one targeted SUD.

“(B) INSTITUTION FOR MENTAL DISEASES.—The term ‘institution for mental diseases’ has the meaning given such term in section 1905(i).

“(C) OPIOID PRESCRIPTION PAIN RELIEVER.—The term ‘opioid prescription pain re-
liever’ includes hydrocodone products, oxycodone products, tramadol products, codeine products, morphine products, fentanyl products, buprenorphine products, oxymorphone products, meperidine products, hydromorphone products, methadone, and any other prescription pain reliever identified by the Assistant Secretary for Mental Health and Substance Use.

“(D) OTHER MEDICALLY NECESSARY SERVICES.—The term ‘other medically necessary services’ means, with respect to an eligible individual with a targeted SUD who is a patient in an institution for mental diseases, items and services that are provided to such individual outside of such institution to the extent that such items and services would be treated as medical assistance for such individual if such individual were not a patient in such institution.

“(E) TARGETED SUD.—

“(i) IN GENERAL.—The term ‘targeted SUD’ means an opioid use disorder or a cocaine use disorder.

“(ii) COCAINE USE DISORDER.—The term ‘cocaine use disorder’ means a dis-
order that meets the criteria of the Diagnostic and Statistical Manual of Mental Disorders, 4th Edition (or a successor edition), for either dependence or abuse for cocaine, including cocaine base (commonly referred to as ‘crack cocaine’).

“(iii) OPIOID USE DISORDER.—The term ‘opioid use disorder’ means a disorder that meets the criteria of the Diagnostic and Statistical Manual of Mental Disorders, 4th Edition (or a successor edition), for heroin use disorder or pain reliever use disorder (including with respect to opioid prescription pain relievers).”.

SEC. 3. PROMOTING VALUE IN MEDICAID MANAGED CARE.

Section 1903(m) of the Social Security Act (42 U.S.C. 1396b(m)) is amended by adding at the end the following new paragraph:

“(7)(A) With respect to expenditures described in subparagraph (B) that are incurred by a State for any fiscal year after fiscal year 2020 (and before fiscal year 2024), in determining the pro rata share to which the United States is equitably entitled under subsection (d)(3), the Secretary shall substitute the Federal medical assistance percentage that applies for such fiscal year to
the State under section 1905(b) (without regard to any
adjustments to such percentage applicable under such sec-
tion or any other provision of law) for the percentage that
applies to such expenditures under section 1905(y).

“(B) Expenditures described in this subparagraph,
with respect to a fiscal year to which subparagraph (A)
applies, are expenditures incurred by a State for payment
for medical assistance provided to individuals described in
subclause (VIII) of section 1902(a)(10)(A)(i) by a man-
aged care entity, or other specified entity (as defined in
subparagraph (D)(iii)), that are treated as remittances be-
cause the State—

“(i) has satisfied the requirement of section
438.8 of title 42, Code of Federal Regulations (or
any successor regulation), by electing—

“(I) in the case of a State described in
subparagraph (C), to apply a minimum medical
loss ratio (as defined in subparagraph (D)(ii))
that is at least 85 percent but not greater than
the minimum medical loss ratio (as so defined)
that such State applied as of May 31, 2018; or

“(II) in the case of a State not described
in subparagraph (C), to apply a minimum med-
ical loss ratio that is equal to 85 percent; and
“(ii) recovered all or a portion of the expenditures as a result of the entity’s failure to meet such ratio.

“(C) For purposes of subparagraph (B), a State described in this subparagraph is a State that as of May 31, 2018, applied a minimum medical loss ratio (as calculated under subsection (d) of section 438.8 of title 42, Code of Federal Regulations (as in effect on June 1, 2018)) for payment for services provided by entities described in such subparagraph under the State plan under this title (or a waiver of the plan) that is equal to or greater than 85 percent.

“(D) For purposes of this paragraph:

“(i) The term ‘managed care entity’ means a medicaid managed care organization described in section 1932(a)(1)(B)(i).

“(ii) The term ‘minimum medical loss ratio’ means, with respect to a State, a minimum medical loss ratio (as calculated under subsection (d) of section 438.8 of title 42, Code of Federal Regulations (as in effect on June 1, 2018)) for payment for services provided by entities described in subparagraph (B) under the State plan under this title (or a waiver of the plan).

“(iii) The term ‘other specified entity’ means—
“(I) a prepaid inpatient health plan, as defined in section 438.2 of title 42, Code of Federal Regulations (or any successor regulation);

and

“(II) a prepaid ambulatory health plan, as defined in such section (or any successor regulation).”.

Passed the House of Representatives June 20, 2018.

Attest: KAREN L. HAAS,

Clerk.