

115TH CONGRESS  
1ST SESSION

# S. 1357

To amend title XIX of the Social Security Act to provide a standard definition of therapeutic family care services in Medicaid.

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## IN THE SENATE OF THE UNITED STATES

JUNE 14, 2017

Ms. BALDWIN (for herself, Mr. PORTMAN, Ms. STABENOW, and Mr. BLUNT) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend title XIX of the Social Security Act to provide a standard definition of therapeutic family care services in Medicaid.

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 “Family-Based Care  
5 Services Act”.

6 **SEC. 2. INCLUSION OF THERAPEUTIC FAMILY CARE AS**  
7 **MEDICAL ASSISTANCE.**

8 (a) IN GENERAL.—Section 1905 of the Social Secu-  
9 rity Act (42 U.S.C. 1396d) is amended—

1 (1) in subsection (a)—

2 (A) in paragraph (28), by striking “and”  
3 at the end;

4 (B) by redesignating paragraph (29) as  
5 paragraph (30); and

6 (C) by inserting after paragraph (28) the  
7 following new paragraph:

8 “(29) therapeutic family care services (to the  
9 extent allowed and as defined in subsection (ee));  
10 and”; and

11 (2) by adding at the end the following new sub-  
12 section:

13 “(ee)(1) For purposes of subsection (a)(29), subject  
14 to the succeeding paragraphs of this subsection, the term  
15 ‘therapeutic family care services’ means services provided  
16 for children who have not attained age 21, and who, as  
17 a result of mental illness, other emotional or behavioral  
18 disorders, medically fragile conditions, or developmental  
19 disabilities, need the level of care provided in an institution  
20 (including a psychiatric residential treatment facility) or  
21 nursing facility the cost of which could be reimbursed  
22 under the State plan but who can be cared for or main-  
23 tained in a community placement, through a qualified  
24 therapeutic family care program described in paragraph  
25 (2).

1       “(2) A qualified therapeutic family care program de-  
2 scribed in this paragraph is a program that—

3               “(A) not later than 3 years after the date of en-  
4 actment of this subsection, is licensed by the State  
5 and accredited by the Joint Commission on Accredi-  
6 tation of Healthcare Organizations, the Commission  
7 on Accreditation of Rehabilitation Facilities, the  
8 Council on Accreditation, or by any other inde-  
9 pendent, not-for-profit accrediting organization ap-  
10 proved by the Secretary;

11              “(B) provides structured daily activities, includ-  
12 ing the development, improvement, monitoring, and  
13 reinforcement of age-appropriate social, communica-  
14 tion and behavioral skills, trauma-informed and gen-  
15 der-responsive services, crisis intervention and crisis  
16 support services, medication monitoring, counseling,  
17 and case management, and may furnish other inten-  
18 sive community services; and

19              “(C) provides biological parents, relative and  
20 kinship caregivers, adoptive parents, foster parents  
21 and, as appropriate, other members of such parents  
22 or caregivers homes with specialized training and  
23 consultation in the management of children with  
24 mental illness, other emotional or behavioral dis-  
25 orders, medically fragile conditions, developmental

1 disabilities, the impact of trauma on child and care-  
2 giver, including trauma from substance abuse by a  
3 child or caregiver, and specific additional training on  
4 the needs of each child provided such services.

5 “(3) In making coverage determinations in accord-  
6 ance with paragraph (1), a State may employ medical ne-  
7 cessity criteria that are similar to the medical necessity  
8 criteria applied to coverage determinations for other serv-  
9 ices and supports under this title.

10 “(4) For purposes of subsection (a)(29) and this sub-  
11 section, therapeutic family care services shall not include  
12 reimbursement for any training referred to in paragraph  
13 (2)(C).”.

14 (b) EFFECTIVE DATE.—The amendments made by  
15 subsection (a) shall apply to medical assistance furnished  
16 in calendar quarters beginning on or after the date of en-  
17 actment of this Act.

18 (c) GAO STUDY AND REPORT.—Not later than 1  
19 year after the date of enactment of this Act, the Comp-  
20 troller General of the United States shall conduct a study  
21 and submit a report to Congress evaluating State efforts  
22 to ensure foster parents and other caregivers who are eligi-  
23 ble for training described in paragraph (2)(C) of section  
24 1905(ee) of the Social Security Act (42 U.S.C. 1396d(ee))  
25 (as added by subsection (a)(2)) through a qualified thera-

1 peutic family care program described in such section and  
2 for which Federal payments are available under part E  
3 of title IV of the Social Security Act (42 U.S.C. 670 et  
4 seq.) are provided with such training as is necessary and  
5 appropriate to meet the individual needs of children placed  
6 in their care, consistent with the requirements of sections  
7 471(a)(24) and 477(b)(3)(D) of the Social Security Act  
8 (42 U.S.C. 671(a)(24), 677(b)(3)(D)). The report shall  
9 include an analysis of, and recommendations to improve,  
10 State review, approval and oversight of all such training  
11 (whether provided directly by the State or under contract  
12 with a public or private agency responsible for finding,  
13 placing, or monitoring the placement of children in foster  
14 family homes).

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