To reauthorize the Money Follows the Person Demonstration Program.

IN THE SENATE OF THE UNITED STATES

DECEMBER 13, 2017

Mr. PORTMAN (for himself and Ms. CANTWELL) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To reauthorize the Money Follows the Person Demonstration Program.

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 “Ensuring Medicaid Provides Opportunities for Widespread Equity, Resources, and Care Act” or the “EMPOWER Care Act”.

SEC. 2. EXTENSION OF DEMONSTRATION.

(a) FUNDING.—Section 6071(h) of the Deficit Reduction Act of 2005 (42 U.S.C. 1396a note) is amended—
(A) in subparagraph (D), by striking “and” after the semicolon;

(B) in subparagraph (E), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

“(F) $450,000,000 for each of fiscal years 2018 through 2022.”; and

(2) in paragraph (2), by striking “2016” and inserting “2022”.

(b) RESEARCH AND EVALUATION.—Section 6071(g) of the Deficit Reduction Act of 2005 (42 U.S.C. 1396a note) is amended—

(1) in paragraph (2), by striking “2016” and inserting “2022”; and

(2) in paragraph (3), by inserting “and for each of fiscal years 2018 through 2022,” after “2016,”.

SEC. 3. CHANGES TO INSTITUTIONAL RESIDENCY PERIOD REQUIREMENT.

Section 6071(b)(2) of the Deficit Reduction Act of 2005 (42 U.S.C. 1396a note) is amended—

(1) in subparagraph (A)(i), by striking “90” and inserting “60”; and

(2) by striking the flush sentence after subparagraph (B).
SEC. 4. UPDATES TO STATE APPLICATION REQUIREMENTS.

Section 6071(c) of the Deficit Reduction Act of 2005 (42 U.S.C. 1396a note) is amended—

(1) in paragraph (3), by striking “which shall include” and all that follows through “2007”;

(2) in paragraph (7)—

(A) in the paragraph heading, by striking “REBALANCING” and inserting “EXPENDITURES”; and

(B) in subparagraph (B)—

(i) in clause (i), by striking “and” after the semicolon;

(ii) in clause (ii), by striking the period at the end and inserting a semicolon; and

(iii) by adding at the end the following:

“(iii) include a work plan that describes for each Federal fiscal year that occurs during the proposed MFP demonstration project—

“(I) the use of grant funds for each proposed initiative that is designed to accomplish the objective described in subsection (a)(1), including a funding source for each activity that is part of each such proposed initiative;
“(II) an evaluation plan that identifies expected results for each such proposed initiative; and

“(III) a sustainability plan for components of such proposed initiatives that are intended to improve transitions, which shall be updated with actual expenditure information for each Federal fiscal year that occurs during the MFP demonstration project; and

“(iv) contain assurances that grant funds used to accomplish the objective described in subsection (a)(1) shall be obligated not later than 24 months after the date on which the funds are awarded and shall be expended not later than 60 months after the date on which the funds are awarded (unless the Secretary approves a waiver of either such requirement).”;

and

(3) in paragraph (13)—

(A) in subparagraph (A), by striking ‘‘; and’’ and inserting ‘‘, and in such manner as will meet the reporting requirements set forth for the Transformed Medicaid Statistical Management Information System (T-MSIS);’’;
(B) by redesignating subparagraph (B) as subparagraph (D); and

(C) by inserting after subparagraph (A) the following:

“(B) the State shall report on a quarterly basis on the use of grant funds by distinct activity, as described in the approved work plan, and by specific population as targeted by the State;

“(C) if the State fails to report the information required under subparagraph (B), fails to report such information on a quarterly basis, or fails to make progress under the approved work plan, the State shall implement a corrective action plan and any lack of progress under the approved work plan may result in withholding of grant funds made available to the State; and”.

SEC. 5. FUNDING FOR QUALITY ASSURANCE AND IMPROVEMENT; TECHNICAL ASSISTANCE; OVERSIGHT.

Section 6071(f) of the Deficit Reduction Act of 2005 (42 U.S.C. 1396a note) is amended by striking paragraph (2) and inserting the following:

“(2) FUNDING.—From the amounts appropriated under subsection (h)(1)(F) for each of fiscal
years 2018 through 2022, $1,000,000 shall be avail-
able to the Secretary for each such fiscal year to
carry out this subsection.”.

SEC. 6. BEST PRACTICES EVALUATION.

Section 6071 of the Deficit Reduction Act of 2005
(42 U.S.C. 1396a note) is amended by adding at the end
the following:

“(i) BEST PRACTICES.—

“(1) REPORT.—The Secretary, directly or
through grant or contract, shall submit a report to
the President and Congress not later than Sep-
tember 30, 2020, that contains findings and conclu-
sions on best practices from the State MFP dem-
onstration projects carried out with grants made
under this section. The report shall include inform-
ation and analyses with respect to the following:

“(A) The most effective State strategies
for transitioning beneficiaries from institutional
to qualified community settings carried out
under the State MFP demonstration projects
and how such strategies may vary for different
types of beneficiaries, such as beneficiaries who
are aged, physically disabled, intellectually or
developmentally disabled, or individuals with se-
rious mental illnesses, and other targeted waiver beneficiary populations.

“(B) The most common and the most effective State uses of grant funds carried out under the State MFP demonstration projects for transitioning beneficiaries from institutional to qualified community settings and improving health outcomes, including differentiating funding for current initiatives that are designed for such purpose and funding for proposed initiatives that are designed for such purpose.

“(C) The most effective State approaches carried out under State MFP demonstration projects for improving person-centered care and planning.

“(D) Identification of program, financing, and other flexibilities available under the State MFP demonstration projects, that are not available under the traditional Medicaid program, and which directly contributed to successful transitions and improved health outcomes under the State MFP demonstration projects.

“(E) State strategies and financing mechanisms for effective coordination of housing fi-
nanced or supported under State MFP demonstration projects with local housing authorities and other resources.

“(F) Effective State approaches for delivering Money Follows the Person transition services through managed care entities.

“(G) Other best practices and effective transition strategies demonstrated by States with approved MFP demonstration projects, as determined by the Secretary.

“(H) Identification and analyses of opportunities and challenges to integrating effective Money Follows the Person practices and State strategies into the traditional Medicaid program.

“(2) COLLABORATION.—In preparing the report required under this subsection, the Secretary shall collect and incorporate information from States with approved MFP demonstration projects and beneficiaries participating in such projects, and providers participating in such projects.

“(3) FUNDING.—From the amounts appropriated under subsection (h)(1) for each of fiscal years 2017 through 2019, not more than $300,000
shall be available to the Secretary for each such fiscal year to carry out this subsection.”.

SEC. 7. MACPAC REPORT ON QUALIFIED SETTINGS CRITERIA.

Section 6071 of the Deficit Reduction Act of 2005 (42 U.S.C. 1396a note), as amended by section 6, is amended by adding at the end the following:

“(j) MACPAC REPORT.—Prior to the final implementation date established by the Secretary for the criteria established for home and community-based settings in section 441.301(c)(4) of title 42, Code of Federal Regulations, as part of final implementation of the Home and Community Based Services (HCBS) Final Rule published on January 16, 2014 (79 Fed. Reg. 2947)) (referred to in this subsection as the ‘HCBS final rule’), the Medicaid and CHIP Payment and Access Commission (MACPAC) shall submit to Congress a report that—

“(1) identifies the types of home and community-based settings and associated services that are available to eligible individuals in both the MFP demonstration program and sites in compliance with the HCBS final rule, including regional variation in the type and accessibility of such settings; and

“(2) recommends policies to align the criteria for a qualified residence under subsection (b)(6) (as
in effect on October 1, 2017) with the criteria in the
HCBS final rule.”.

SEC. 8. TECHNICAL AMENDMENT.

Section 6071(b) of the Deficit Reduction Act of 2005
(42 U.S.C. 1396a note) is amended by adding at the end
the following:

“(10) Secretary.—The term ‘Secretary’
means the Secretary of Health and Human Serv-
ices.”.

SEC. 9. EFFECTIVE DATES; APPLICATION TO CURRENT
PROJECTS.

(a) Effective Dates.—

(1) In general.—Except as provided in para-
graph (2), the amendments made by this Act shall
take effect as if enacted on October 1, 2017.

(2) Changes to institutional residency
period requirement.—The amendments made by
section 3 shall take effect on the date that is 30
days after the date of enactment of this Act.

(b) Application to current projects.—Not
later than 1 year after the date of enactment of this Act,
any State with an approved MFP demonstration project
under section 6071 of the Deficit Reduction Act of 2005
(42 U.S.C. 1396a note) on the date of enactment of this
Act shall submit a revised application to the Secretary
that contains the same information and assurances as are required for any new State applicant under the amendments made by this Act.