

115TH CONGRESS
1ST SESSION

S. 2227

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.

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

7 **SEC. 2. EXTENSION OF DEMONSTRATION.**

8 (a) FUNDING.—Section 6071(h) of the Deficit Re-
9 duction Act of 2005 (42 U.S.C. 1396a note) is amended—
10 (1) in paragraph (1)—

1 (A) in subparagraph (D), by striking
2 “and” after the semicolon;

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

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

6 “(F) \$450,000,000 for each of fiscal years
7 2018 through 2022.”; and

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

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

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

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

17 **SEC. 3. CHANGES TO INSTITUTIONAL RESIDENCY PERIOD**
18 **REQUIREMENT.**

19 Section 6071(b)(2) of the Deficit Reduction Act of
20 2005 (42 U.S.C. 1396a note) is amended—

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

23 (2) by striking the flush sentence after subpara-
24 graph (B).

1 **SEC. 4. UPDATES TO STATE APPLICATION REQUIREMENTS.**

2 Section 6071(c) of the Deficit Reduction Act of 2005
 3 (42 U.S.C. 1396a note) is amended—

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

6 (2) in paragraph (7)—

7 (A) in the paragraph heading, by striking
 8 “REBALANCING” and inserting “EXPENDI-
 9 TURES”; and

10 (B) in subparagraph (B)—

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

13 (ii) in clause (ii), by striking the pe-
 14 riod at the end and inserting a semicolon;
 15 and

16 (iii) by adding at the end the fol-
 17 lowing:

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

21 “(I) the use of grant funds for each
 22 proposed initiative that is designed to ac-
 23 complish the objective described in sub-
 24 section (a)(1), including a funding source
 25 for each activity that is part of each such
 26 proposed initiative;

1 “(II) an evaluation plan that identi-
 2 fies expected results for each such pro-
 3 posed initiative; and

4 “(III) a sustainability plan for compo-
 5 nents of such proposed initiatives that are
 6 intended to improve transitions, which
 7 shall be updated with actual expenditure
 8 information for each Federal fiscal year
 9 that occurs during the MFP demonstration
 10 project; and

11 “(iv) contain assurances that grant funds
 12 used to accomplish the objective described in
 13 subsection (a)(1) shall be obligated not later
 14 than 24 months after the date on which the
 15 funds are awarded and shall be expended not
 16 later than 60 months after the date on which
 17 the funds are awarded (unless the Secretary ap-
 18 proves a waiver of either such requirement).”;
 19 and
 20 (3) in paragraph (13)—

21 (A) in subparagraph (A), by striking “;
 22 and” and inserting “, and in such manner as
 23 will meet the reporting requirements set forth
 24 for the Transformed Medicaid Statistical Man-
 25 agement Information System (T-MSIS);”;

1 (B) by redesignating subparagraph (B) as
 2 subparagraph (D); and

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

5 “(B) the State shall report on a quarterly
 6 basis on the use of grant funds by distinct ac-
 7 tivity, as described in the approved work plan,
 8 and by specific population as targeted by the
 9 State;

10 “(C) if the State fails to report the infor-
 11 mation required under subparagraph (B), fails
 12 to report such information on a quarterly basis,
 13 or fails to make progress under the approved
 14 work plan, the State shall implement a correc-
 15 tive action plan and any lack of progress under
 16 the approved work plan may result in with-
 17 holding of grant funds made available to the
 18 State; and”.

19 **SEC. 5. FUNDING FOR QUALITY ASSURANCE AND IMPROVE-**
 20 **MENT; TECHNICAL ASSISTANCE; OVERSIGHT.**

21 Section 6071(f) of the Deficit Reduction Act of 2005
 22 (42 U.S.C. 1396a note) is amended by striking paragraph
 23 (2) and inserting the following:

24 “(2) FUNDING.—From the amounts appro-
 25 priated under subsection (h)(1)(F) for each of fiscal

1 years 2018 through 2022, \$1,000,000 shall be avail-
 2 able to the Secretary for each such fiscal year to
 3 carry out this subsection.”.

4 **SEC. 6. BEST PRACTICES EVALUATION.**

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

8 “(i) BEST PRACTICES.—

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

17 “(A) The most effective State strategies
 18 for transitioning beneficiaries from institutional
 19 to qualified community settings carried out
 20 under the State MFP demonstration projects
 21 and how such strategies may vary for different
 22 types of beneficiaries, such as beneficiaries who
 23 are aged, physically disabled, intellectually or
 24 developmentally disabled, or individuals with se-

1 rious mental illnesses, and other targeted waiv-
2 er beneficiary populations.

3 “(B) The most common and the most ef-
4 fective State uses of grant funds carried out
5 under the State MFP demonstration projects
6 for transitioning beneficiaries from institutional
7 to qualified community settings and improving
8 health outcomes, including differentiating fund-
9 ing for current initiatives that are designed for
10 such purpose and funding for proposed initia-
11 tives that are designed for such purpose.

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

16 “(D) Identification of program, financing,
17 and other flexibilities available under the State
18 MFP demonstration projects, that are not
19 available under the traditional Medicaid pro-
20 gram, and which directly contributed to suc-
21 cessful transitions and improved health out-
22 comes under the State MFP demonstration
23 projects.

24 “(E) State strategies and financing mecha-
25 nisms for effective coordination of housing fi-

1 nanced or supported under State MFP dem-
2 onstration projects with local housing authori-
3 ties and other resources.

4 “(F) Effective State approaches for deliv-
5 ering Money Follows the Person transition serv-
6 ices through managed care entities.

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

11 “(H) Identification and analyses of oppor-
12 tunities and challenges to integrating effective
13 Money Follows the Person practices and State
14 strategies into the traditional Medicaid pro-
15 gram.

16 “(2) COLLABORATION.—In preparing the report
17 required under this subsection, the Secretary shall
18 collect and incorporate information from States with
19 approved MFP demonstration projects and bene-
20 ficiaries participating in such projects, and providers
21 participating in such projects.

22 “(3) FUNDING.—From the amounts appro-
23 priated under subsection (h)(1) for each of fiscal
24 years 2017 through 2019, not more than \$300,000

1 shall be available to the Secretary for each such fis-
 2 cal year to carry out this subsection.”.

3 **SEC. 7. MACPAC REPORT ON QUALIFIED SETTINGS CRI-**
 4 **TERIA.**

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

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

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

24 “(2) recommends policies to align the criteria
 25 for a qualified residence under subsection (b)(6) (as

1 in effect on October 1, 2017) with the criteria in the
2 HCBS final rule.”.

3 **SEC. 8. TECHNICAL AMENDMENT.**

4 Section 6071(b) of the Deficit Reduction Act of 2005
5 (42 U.S.C. 1396a note) is amended by adding at the end
6 the following:

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

10 **SEC. 9. EFFECTIVE DATES; APPLICATION TO CURRENT**
11 **PROJECTS.**

12 (a) EFFECTIVE DATES.—

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

16 (2) CHANGES TO INSTITUTIONAL RESIDENCY
17 PERIOD REQUIREMENT.—The amendments made by
18 section 3 shall take effect on the date that is 30
19 days after the date of enactment of this Act.

20 (b) APPLICATION TO CURRENT PROJECTS.—Not
21 later than 1 year after the date of enactment of this Act,
22 any State with an approved MFP demonstration project
23 under section 6071 of the Deficit Reduction Act of 2005
24 (42 U.S.C. 1396a note) on the date of enactment of this
25 Act shall submit a revised application to the Secretary

1 that contains the same information and assurances as are
2 required for any new State applicant under the amend-
3 ments made by this Act.

