115TH CONGRESS  
2D Session  

S. 3462  

To amend title XIX of the Social Security Act to provide States with the option to provide medical assistance for substance use disorder treatment services to individuals between the ages of 21 and 64 with substance use disorders, and for other purposes.

IN THE SENATE OF THE UNITED STATES  
SEPTEMBER 18, 2018  

Mr. Portman (for himself, Mr. Durbin, Mr. Brown, Ms. Collins, Mr. Booker, and Mr. King) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL  
To amend title XIX of the Social Security Act to provide States with the option to provide medical assistance for substance use disorder treatment services to individuals between the ages of 21 and 64 with substance use disorders, and for other purposes.

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 “Improving Coverage
5 for Substance Use Disorder Recovery Expansion Act”.


SEC. 2. STATE OPTION TO PROVIDE MEDICAID COVERAGE FOR SUBSTANCE USE DISORDER TREATMENT SERVICES; MODIFICATION OF THE IMD EXCLUSION.

Section 1905 of the Social Security Act (42 U.S.C. 1396d) is amended—

(1) in subsection (a)—

(A) in paragraph (28), by striking “and” after the semicolon;

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

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

“(29) substance use disorder treatment services (as defined in subsection (ee) and furnished in accordance with that subsection) for individuals over 20 years of age and under 65 years of age, that are offered as part of a full continuum of evidence-based treatment services provided under the State plan for individuals with substance use disorders; and”; and

(D) in the subdivision (B) that follows paragraph (30) (as redesignated by subparagraph (B) of this paragraph), by inserting “(other than substance use disorder treatment services provided in accordance with paragraph
(29) and subsection (ee))” after “care or services”; and

(2) by adding at the end the following new subsection:

“(ee) SUBSTANCE USE DISORDER TREATMENT SERVICES.—

“(1) IN GENERAL.—For purposes of subsection (a)(29), the term ‘substance use disorder treatment services’ means inpatient services provided—

“(A) to an individual for the purpose of treating a substance use disorder that are furnished for not more than 90 days in any 12-month period to an individual who—

“(i) has received initial assessments to determine the appropriate level of care, length of stay, and setting for such care for the individual based upon criteria established by the Secretary in consultation with the multidimensional criteria of the American Society of Addiction Medicine; and

“(ii) at appropriate, evidence-based intervals (and in no case less than once every 30 days) after the first day on which such services are provided to the indi-
vidual, is subsequently reassessed and de-
termined to continue to require such serv-
ices to promote the individual’s recovery
and stable transition to ongoing treatment
in an outpatient setting; and
“(B) in a facility that—
“(i) is licensed by the Single State
Agency for Substance Abuse Services of
the State in which it is located;
“(ii) is accredited for the treatment of
substance use disorders by the Joint Com-
mission, the Commission on Accreditation
of Rehabilitation Facilities, the Council on
Accreditation, or any other accrediting
agency that the Secretary deems appro-
priate as necessary to ensure nationwide
applicability;
“(iii) employs a provider who can pre-
scribe and discuss with patients the risks,
benefits, and alternatives of at least 2
forms of medications approved by the Food
and Drug Administration to treat sub-
stance use disorder involving opioids, in-
cluding one antagonist and one partial
agonist; and
“(iv) contracts with an opioid treatment program (as defined in section 8.2 of title 42, Code of Federal Regulations, or any successor regulation) for the purposes of offering methadone as a medication option to treat substance use disorders.

“(2) OTHER MEDICAL ASSISTANCE.—The provision of medical assistance for substance use disorder treatment services to an individual shall not prohibit Federal financial participation for medical assistance for items or services that are provided to the individual in or away from the facility in which the substance use disorder treatment services are provided during any period in which the individual is receiving substance use disorder treatment services.

“(3) ENSURING A CONTINUUM OF CARE.—As a condition for a State furnishing medical assistance for substance use disorder treatment services in accordance with subsection (a)(29) and this subsection, the State shall—

“(A) notify the Secretary of how the State will ensure that individuals receive appropriate clinical screening prior to being furnished with substance use disorder treatment services, in-
including the initial assessments described in paragraph (1)(A)(i); and

“(B) in order to ensure an appropriate transition from substance use disorder treatment services to other services to treat substance use disorders at a lower level of clinical intensity within the continuum of care (including outpatient services), ensure that all facilities that furnish substance use disorder treatment services under the State plan—

“(i) are able to provide such other services to treat substance use disorders; or

“(ii) have an established relationship with another substance use disorder treatment facility or qualified provider that meets the licensing requirement of paragraph (1)(B)(i) and accepts patients receiving medical assistance under this title under which the facility furnishing substance use disorder treatment services may arrange for individuals to receive such other services to treat substance use disorders from such other facility or provider.
“(4) Minimum coverage requirements.—As a condition for a State furnishing medical assistance for substance use disorder treatment services in accordance with subsection (a)(29) and this subsection, the State shall provide medical assistance under the State plan for services associated with at least 6 of the 9 levels of care set forth by the American Society of Addiction Medicine in the 2013 edition of its publication entitled ‘The ASAM Criteria: Treatment Criteria for Addictive Substance-Related, and Co-Occurring Conditions’.

“(5) Maintenance of effort.—

“(A) In general.—As a condition for a State furnishing medical assistance for substance use disorder treatment services in accordance with subsection (a)(29) and this subsection, the State shall—

“(i) during the period in which the State furnishes such medical assistance, maintain at least the number of licensed beds used for the provision of substance use disorder treatment services at institutions for mental diseases owned, operated, or contracted for by the State that were being maintained as of the date of the en-
actment of this subsection or, if higher, as
of the date the State applies to the Sec-
retary to include such medical assistance
under the State plan or under a waiver of
such plan; and

“(ii) during the period in which the
State furnishes such medical assistance,
maintain on an annual basis a level of
funding expended by the State (and polit-
cical subdivisions thereof) other than under
this title from non-Federal funds—

“(I) for inpatient services fur-
nished for the purpose of treating a
substance use disorder in institutions
for mental diseases that is not less
than the level of such funding for
such services and care as of the date
of the enactment of this subsection or,
if higher, as of the date the State ap-
plies to the Secretary to include such
medical assistance under the State
plan or under a waiver of such plan;
and

“(II) for specified non-IMD serv-
ices described in subparagraph (B)
that is not less than the level of such funding for such services as of the date of the enactment of this subsection or, if higher, as of the date the State applies to the Secretary to include such medical assistance under the State plan or under a waiver of such plan.

“(B) SPECIFIED NON-IMD SERVICES DESCRIBED.—For purposes of subparagraph (A)(ii)(II), specified non-IMD services described in this subparagraph are the following:

“(i) Inpatient services, other than such services described in subparagraph (A)(ii)(I).

“(ii) Outpatient and community-based services for individuals who are furnished substance use disorder treatment services, such as—

“(I) substance use disorder treatment;

“(II) evidence-based recovery and support services, including short-term detoxification services;
“(III) clinically directed therapeutic treatment to facilitate recovery skills, relapse prevention, and emotional coping strategies;

“(IV) substance use disorder pharmacotherapy and drug screening;

“(V) counseling and clinical monitoring;

“(VI) withdrawal management and related treatment designed to alleviate acute emotional, behavioral, cognitive, or biomedical distress resulting from, or occurring with, an individual’s use of alcohol and other drugs; and

“(VII) routine monitoring of the medication adherence of such individuals.

“(6) APPLICATION TO MANAGED CARE.—Payments for, and limitations to, medical assistance furnished in accordance with subsection (a)(29) and this subsection shall be in addition to and shall not be construed to limit or supersede the ability of States to make monthly capitation payments to managed care organizations for individuals receiving
treatment in institutions for mental diseases in accordance with section 438.6(e) of title 42, Code of Federal Regulations (or any successor regulation)."