

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.

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## 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

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## 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”.

1 **SEC. 2. STATE OPTION TO PROVIDE MEDICAID COVERAGE**  
2 **FOR SUBSTANCE USE DISORDER TREATMENT**  
3 **SERVICES; MODIFICATION OF THE IMD EX-**  
4 **CLUSION.**

5 Section 1905 of the Social Security Act (42 U.S.C.  
6 1396d) is amended—

7 (1) in subsection (a)—

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

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

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

14 “(29) substance use disorder treatment services  
15 (as defined in subsection (ee) and furnished in ac-  
16 cordance with that subsection) for individuals over  
17 20 years of age and under 65 years of age, that are  
18 offered as part of a full continuum of evidence-based  
19 treatment services provided under the State plan for  
20 individuals with substance use disorders; and”;

21 (D) in the subdivision (B) that follows  
22 paragraph (30) (as redesignated by subpara-  
23 graph (B) of this paragraph), by inserting  
24 “(other than substance use disorder treatment  
25 services provided in accordance with paragraph

1 (29) and subsection (ee))” after “care or serv-  
 2 ices”; and

3 (2) by adding at the end the following new sub-  
 4 section:

5 “(ee) SUBSTANCE USE DISORDER TREATMENT  
 6 SERVICES.—

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

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

14 “(i) has received initial assessments to  
 15 determine the appropriate level of care,  
 16 length of stay, and setting for such care  
 17 for the individual based upon criteria es-  
 18 tablished by the Secretary in consultation  
 19 with the multidimensional criteria of the  
 20 American Society of Addiction Medicine;  
 21 and

22 “(ii) at appropriate, evidence-based  
 23 intervals (and in no case less than once  
 24 every 30 days) after the first day on which  
 25 such services are provided to the indi-

1           vidual, is subsequently reassessed and de-  
2           termined to continue to require such serv-  
3           ices to promote the individual’s recovery  
4           and stable transition to ongoing treatment  
5           in an outpatient setting; and

6           “(B) in a facility that—

7                   “(i) is licensed by the Single State  
8                   Agency for Substance Abuse Services of  
9                   the State in which it is located;

10                   “(ii) is accredited for the treatment of  
11                   substance use disorders by the Joint Com-  
12                   mission, the Commission on Accreditation  
13                   of Rehabilitation Facilities, the Council on  
14                   Accreditation, or any other accrediting  
15                   agency that the Secretary deems appro-  
16                   priate as necessary to ensure nationwide  
17                   applicability;

18                   “(iii) employs a provider who can pre-  
19                   scribe and discuss with patients the risks,  
20                   benefits, and alternatives of at least 2  
21                   forms of medications approved by the Food  
22                   and Drug Administration to treat sub-  
23                   stance use disorder involving opioids, in-  
24                   cluding one antagonist and one partial  
25                   agonist; and

1           “(iv) contracts with an opioid treat-  
2           ment program (as defined in section 8.2 of  
3           title 42, Code of Federal Regulations, or  
4           any successor regulation) for the purposes  
5           of offering methadone as a medication op-  
6           tion to treat substance use disorders.

7           “(2) OTHER MEDICAL ASSISTANCE.—The provi-  
8           sion of medical assistance for substance use disorder  
9           treatment services to an individual shall not prohibit  
10          Federal financial participation for medical assistance  
11          for items or services that are provided to the indi-  
12          vidual in or away from the facility in which the sub-  
13          stance use disorder treatment services are provided  
14          during any period in which the individual is receiv-  
15          ing substance use disorder treatment services.

16          “(3) ENSURING A CONTINUUM OF CARE.—As a  
17          condition for a State furnishing medical assistance  
18          for substance use disorder treatment services in ac-  
19          cordance with subsection (a)(29) and this sub-  
20          section, the State shall—

21                 “(A) notify the Secretary of how the State  
22                 will ensure that individuals receive appropriate  
23                 clinical screening prior to being furnished with  
24                 substance use disorder treatment services, in-

1 including the initial assessments described in  
2 paragraph (1)(A)(i); and

3 “(B) in order to ensure an appropriate  
4 transition from substance use disorder treat-  
5 ment services to other services to treat sub-  
6 stance use disorders at a lower level of clinical  
7 intensity within the continuum of care (includ-  
8 ing outpatient services), ensure that all facilities  
9 that furnish substance use disorder treatment  
10 services under the State plan—

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

14 “(ii) have an established relationship  
15 with another substance use disorder treat-  
16 ment facility or qualified provider that  
17 meets the licensing requirement of para-  
18 graph (1)(B)(i) and accepts patients re-  
19 ceiving medical assistance under this title  
20 under which the facility furnishing sub-  
21 stance use disorder treatment services may  
22 arrange for individuals to receive such  
23 other services to treat substance use dis-  
24 orders from such other facility or provider.

1           “(4) MINIMUM COVERAGE REQUIREMENTS.—As  
 2           a condition for a State furnishing medical assistance  
 3           for substance use disorder treatment services in ac-  
 4           cordance with subsection (a)(29) and this sub-  
 5           section, the State shall provide medical assistance  
 6           under the State plan for services associated with at  
 7           least 6 of the 9 levels of care set forth by the Amer-  
 8           ican Society of Addiction Medicine in the 2013 edi-  
 9           tion of its publication entitled ‘The ASAM Criteria:  
 10          Treatment Criteria for Addictive Substance-Related,  
 11          and Co-Occurring Conditions’.

12           “(5) MAINTENANCE OF EFFORT.—

13           “(A) IN GENERAL.—As a condition for a  
 14           State furnishing medical assistance for sub-  
 15           stance use disorder treatment services in ac-  
 16           cordance with subsection (a)(29) and this sub-  
 17           section, the State shall—

18           “(i) during the period in which the  
 19           State furnishes such medical assistance,  
 20           maintain at least the number of licensed  
 21           beds used for the provision of substance  
 22           use disorder treatment services at institu-  
 23           tions for mental diseases owned, operated,  
 24           or contracted for by the State that were  
 25           being maintained as of the date of the en-

1 actment of this subsection or, if higher, as  
2 of the date the State applies to the Sec-  
3 retary to include such medical assistance  
4 under the State plan or under a waiver of  
5 such plan; and

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

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

24 “(II) for specified non-IMD serv-  
25 ices described in subparagraph (B)

1 that is not less than the level of such  
2 funding for such services as of the  
3 date of the enactment of this sub-  
4 section or, if higher, as of the date the  
5 State applies to the Secretary to in-  
6 clude such medical assistance under  
7 the State plan or under a waiver of  
8 such plan.

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

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

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

20 “(I) substance use disorder treat-  
21 ment;

22 “(II) evidence-based recovery and  
23 support services, including short-term  
24 detoxification services;

1           “(III) clinically directed thera-  
2           peutic treatment to facilitate recovery  
3           skills, relapse prevention, and emo-  
4           tional coping strategies;

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

7           “(V) counseling and clinical mon-  
8           itoring;

9           “(VI) withdrawal management  
10          and related treatment designed to al-  
11          leviate acute emotional, behavioral,  
12          cognitive, or biomedical distress re-  
13          sulting from, or occurring with, an in-  
14          dividual’s use of alcohol and other  
15          drugs; and

16          “(VII) routine monitoring of the  
17          medication adherence of such individ-  
18          uals.

19               “(6) APPLICATION TO MANAGED CARE.—Pay-  
20          ments for, and limitations to, medical assistance fur-  
21          nished in accordance with subsection (a)(29) and  
22          this subsection shall be in addition to and shall not  
23          be construed to limit or supersede the ability of  
24          States to make monthly capitation payments to  
25          managed care organizations for individuals receiving

1 treatment in institutions for mental diseases in ac-  
2 cordance with section 438.6(e) of title 42, Code of  
3 Federal Regulations (or any successor regulation).”.

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