

116TH CONGRESS  
2D SESSION

# H. R. 7912

To provide for a demonstration program and pilot project to expand choice for inpatient psychiatric services under Medicaid and Medicare.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 31, 2020

Mr. HUIZENGA (for himself and Mr. TONKO) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To provide for a demonstration program and pilot project to expand choice for inpatient psychiatric services under Medicaid and Medicare.

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 “Increasing National  
5 Patient Access To Improved Effective Necessary Mental  
6 Health Treatment Act of 2020” or the “INPATIENT Act  
7 of 2020”.

1 **SEC. 2. DEMONSTRATION PROJECT WAIVING IMD EXCLU-**  
2 **SION TO EXPAND ACCESS TO INPATIENT PSY-**  
3 **CHIATRIC SERVICES UNDER THE MEDICAID**  
4 **PROGRAM.**

5 (a) **AUTHORITY TO CONDUCT DEMONSTRATION**  
6 **PROJECT.—**

7 (1) **IN GENERAL.—**The Secretary of Health and  
8 Human Services (in this Act referred to as the “Sec-  
9 retary”) shall establish a demonstration project (in  
10 this Act referred to as the “demonstration project”)  
11 to test the impact of waiving the limitation of sub-  
12 division (B) following paragraph (29) of section  
13 1905(a) of the Social Security Act (42 U.S.C.  
14 1396d(a)) on average length of stay, readmissions,  
15 cost, and quality outcomes for inpatient psychiatric  
16 hospital services and substance abuse services.

17 (2) **TERMS.—**Under the demonstration project,  
18 an eligible State (as defined in subsection (b)) shall  
19 provide payment under its State Medicaid plan  
20 under title XIX of the Social Security Act to quali-  
21 fying institutions (as defined in subsection  
22 (b)(3)(C)) for the provision of medical assistance  
23 available under such plan to individuals who—

24 (A) have attained age 21, but have not at-  
25 tained age 65;

1 (B) are eligible for medical assistance  
2 under such plan (or under a waiver of such  
3 plan);

4 (C) require such medical assistance for in-  
5 patient psychiatric hospital services or residen-  
6 tial substance abuse services; and

7 (D) but for participation in the demonstra-  
8 tion project, would otherwise receive medical as-  
9 sistance for such inpatient psychiatric hospital  
10 services if the services were provided in a gen-  
11 eral acute care hospital or other residential sub-  
12 stance abuse facility.

13 (b) ELIGIBLE STATE DEFINED.—

14 (1) IN GENERAL.—In this section, the term “el-  
15 igible State” means a State that has made an appli-  
16 cation under paragraph (2) and has had such appli-  
17 cation approved and has been selected under para-  
18 graph (3).

19 (2) APPLICATION.—A State seeking to partici-  
20 pate in the demonstration project shall submit to the  
21 Secretary, at such time and in such format as the  
22 Secretary requires, an application that includes such  
23 information, provisions, and assurances, as the Sec-  
24 retary may require.

25 (3) SELECTION AND LIMITATION.—

1           (A) STATE LIMITATION.—The Secretary  
2 shall limit the number of States selected for  
3 participation in the demonstration project to no  
4 more than 3 States.

5           (B) CONDITIONS FOR APPLICATION AP-  
6 PROVAL.—The Secretary shall not approve an  
7 application under paragraph (2) unless the  
8 State agrees to limit participation in the dem-  
9 onstration project to qualifying institutions (as  
10 defined in subparagraph (C)).

11           (C) QUALIFYING INSTITUTION DEFINED.—  
12 In this Act, the term “qualifying institution”  
13 means an institution for mental diseases that is  
14 not publicly owned or operated, that is subject  
15 to the requirements of section 1867 of the So-  
16 cial Security Act (42 U.S.C. 1395dd), and that  
17 meets all of the following criteria:

18           (i) The institution furnishes inpatient  
19 psychiatric hospital services to individuals  
20 age 18 years of age or older under the  
21 Medicare and Medicaid programs.

22           (ii) The institution has an average  
23 length of inpatient hospital stay of less  
24 than 15 days for individuals age 18 or  
25 older, but under 65 years of age.

1 (iii) The institution has an average  
2 length of stay of less than 21 days for hos-  
3 pital inpatients age 65 or older.

4 (iv) The institution has an approved  
5 medical residency training program and re-  
6 ceive payment due under the Medicare and  
7 Medicaid programs for the reasonable costs  
8 of graduate medical education.

9 (v) The institution uses psychiatric  
10 residents to provide inpatient psychiatric  
11 hospital services to individuals under the  
12 Medicare and Medicaid programs.

13 (vi) The institution has documented  
14 experience in providing services to active  
15 duty military personnel and veterans.

16 (vii) The institution has standards to  
17 care for the whole person, including refer-  
18 ral agreements or other arrangements to  
19 address a patient's medical, surgical, or di-  
20 agnostic needs if such treatment services  
21 are not available within the institution.

22 (viii) The institution agrees to report  
23 on quality measures (in such form, man-  
24 ner, and frequency as specified by the Sec-  
25 retary) and report to the Secretary (in a

1 form, manner, and frequency as specified  
2 by the Secretary) such data as the Sec-  
3 retary determines appropriate to monitor  
4 and evaluate the demonstration project.

5 (ix) The institution agrees to plan and  
6 implement an annual performance im-  
7 provement project, aimed at improving the  
8 effectiveness of care provided to high uti-  
9 lizers of inpatient psychiatric hospital serv-  
10 ices (as defined in subsection (h)(1)), with  
11 identifiable measures in coordination with  
12 the Secretary and the State.

13 (c) DEADLINE FOR IMPLEMENTATION.—The Sec-  
14 retary shall implement the demonstration project by Janu-  
15 ary 1, 2022.

16 (d) LENGTH OF DEMONSTRATION PROJECT.—The  
17 demonstration project shall be conducted for a period of  
18 7 consecutive years.

19 (e) BUDGET NEUTRALITY.—With respect to the op-  
20 eration of the demonstration project in a State for the pe-  
21 riod described in subsection (d), the State must dem-  
22 onstrate to the Secretary that project will not result in  
23 a net increase in the aggregate expenditures under the  
24 Medicaid program for such period for the State above the

1 level of such expenditures if the demonstration project had  
2 not been implemented.

3 (f) EVALUATION AND REPORT TO CONGRESS.—

4 (1) EVALUATION.—The Secretary shall conduct  
5 an evaluation of the demonstration project in order  
6 to determine the impact of the project and to make  
7 recommendations on improvements to the perform-  
8 ance of the health and mental health service system  
9 and on individuals enrolled in the Medicaid program,  
10 with particular emphasis on individuals who are high  
11 utilizers of inpatient psychiatric hospital services and  
12 substance abuse residential services.

13 (2) ITEMS INCLUDED IN EVALUATION.—Such  
14 evaluation shall include the following:

15 (A) An assessment of the delivery of inpa-  
16 tient psychiatric hospital services, substance  
17 abuse residential services, and community-based  
18 services under the Medicaid program; average  
19 lengths of inpatient stays; emergency room vis-  
20 its; and readmissions.

21 (B) An assessment of the impact of the  
22 demonstration project on the costs of the full  
23 range of mental health services (including inpa-  
24 tient, emergency and ambulatory care) under  
25 the Medicaid program.

1           (C) An assessment of the impact of the  
2 demonstration project on psychiatric residency  
3 programs and the mental health workforce.

4           (D) An assessment of the impact of the  
5 demonstration project on rates of recidivism.

6           (E) Identification and assessment of best  
7 practices for caring for patients with serious  
8 mental illness, including high utilizers of inpa-  
9 tient psychiatric hospital services and substance  
10 abuse residential services.

11           (F) A comparison of outcomes and costs  
12 for similarly situated patients receiving inpa-  
13 tient psychiatric hospital services at a general  
14 acute care hospital.

15           (G) A recommendation regarding whether  
16 the demonstration project should be continued  
17 after December 31, 2028, and expanded on a  
18 national basis.

19           (3) REPORT.—Not later than December 31,  
20 2028, the Secretary shall submit to Congress (and  
21 make available to the public) a report on the find-  
22 ings of the evaluation conducted under this sub-  
23 section.

24           (g) IMD WAIVER; WAIVER AUTHORITY.—

1           (1) **IMD WAIVER.**—The limitation of subdivi-  
2           sion (B) following paragraph (29) of section 1905(a)  
3           of the Social Security Act (42 U.S.C. 1396d(a)), re-  
4           lating to limitations on payments for care or services  
5           for individuals under 65 years of age who are pa-  
6           tients in an institution for mental disease, shall not  
7           apply to inpatient psychiatric hospital services or  
8           substance abuse residential services furnished under  
9           the demonstration project.

10           (2) **WAIVER AUTHORITY.**—The Secretary may  
11           waive such requirements of titles XI and XIX of the  
12           Social Security Act (which may include the require-  
13           ments of paragraph (1) (relating to statewideness))  
14           and paragraph (10)(B) (relating to comparability) of  
15           section 1902(a) of such Act (42 U.S.C. 1396b(a))  
16           only to extent the Secretary determines such a waiv-  
17           er to be necessary to carry out the demonstration  
18           project.

19           (h) **DEFINITIONS.**—In this Act:

20           (1) **HIGH UTILIZER OF INPATIENT PSYCHIATRIC**  
21           **HOSPITAL SERVICES.**—The term “high utilizer of in-  
22           patient psychiatric hospital services” means an indi-  
23           vidual who, with respect to a point in time, meets  
24           the following conditions:

1 (A) The individual had two or more inpa-  
2 tient admissions for psychiatric services in the  
3 previous 12 months.

4 (B) The individual had 10 or more inpa-  
5 tient admissions for psychiatric services in the  
6 individual's lifetime.

7 (C) The individual had 100 or more days  
8 of inpatient psychiatric services in the individ-  
9 ual's lifetime.

10 (D) The individual meets any of the fol-  
11 lowing conditions:

12 (i) The individual is receiving court-  
13 ordered psychiatric treatment.

14 (ii) The individual has been receiving  
15 inpatient psychiatric services for a consecu-  
16 tive period of at least 12 days.

17 (iii) The individual has a documented  
18 history of suicidal or self-harming behav-  
19 iors due to mental illness.

20 (iv) The individual has a documented  
21 history of threatened or actual physical  
22 harm to another individual due to mental  
23 illness.

24 (2) INSTITUTION FOR MENTAL DISEASE.—The  
25 term “institution for mental disease” has the mean-

1 ing given that term in section 1905(i) of the Social  
2 Security Act (42 U.S.C. 1396d(i)).

3 (3) MEDICAID PROGRAM.—The term “Medicaid  
4 program” means the program under title XIX of the  
5 Social Security Act (42 U.S.C. 1396 et seq.).

6 (4) MEDICAL ASSISTANCE.—The term “medical  
7 assistance” has the meaning given that term in sec-  
8 tion 1905(a) of the Social Security Act (42 U.S.C.  
9 1396d(a)).

10 (5) MEDICARE PROGRAM.—The term “Medicare  
11 program” means the program under part A of title  
12 XVIII of the Social Security Act (42 U.S.C. 1395c  
13 et seq.) and includes the programs under parts B,  
14 C, and D of such title.

15 (6) STATE.—The term “State” has the mean-  
16 ing given that term for purposes of the Medicaid  
17 program.

18 **SEC. 3. PILOT PROGRAM WAIVING THE MEDICARE 190-DAY**  
19 **LIFETIME LIMIT ON INPATIENT PSYCHIATRIC**  
20 **HOSPITAL SERVICES TO EXPAND ACCESS TO**  
21 **INPATIENT PSYCHIATRIC SERVICES UNDER**  
22 **THE MEDICARE PROGRAM.**

23 (a) DEMONSTRATION PROGRAM AUTHORIZED.—The  
24 Secretary shall establish a pilot program (in this section

1 referred to as the “pilot program”) to test the impact of  
2 eliminating the Medicare 190-day lifetime limit on—

3 (1) promoting value;

4 (2) expanding choice; and

5 (3) aligning inpatient mental health benefits  
6 with the inpatient physical health care benefits  
7 under the Medicare program.

8 (b) DEFINITIONS.—In this section:

9 (1) APPLICABLE BENEFICIARY.—The term “ap-  
10 plicable beneficiary” means an individual who—

11 (A) is entitled to, or enrolled for, benefits  
12 under part A, and enrolled for benefits under  
13 part B, of the Medicare program;

14 (B) is admitted to a qualifying institution  
15 participating in the demonstration project; and

16 (C) but for the pilot program established  
17 under this section, would otherwise receive ben-  
18 efits for inpatient psychiatric services under the  
19 Medicare program if the services were provided  
20 in a general acute care hospital.

21 (2) INPATIENT PSYCHIATRIC HOSPITAL SERV-  
22 ICES.—The term “inpatient psychiatric hospital  
23 services” has the meaning given such term in section  
24 1861(c) of the Social Security Act (42 U.S.C.  
25 1395x(c)).

1           (3) MEDICARE 190-DAY LIFETIME LIMIT.—The  
2 term “Medicare 190-day lifetime limit” means the  
3 190-day lifetime limitation imposed on inpatient psy-  
4 chiatric hospital services under section 1812(b)(3) of  
5 the Social Security Act (42 U.S.C. 1395d(b)(3)).

6           (c) PROGRAM DETAILS.—

7           (1) DURATION AND STARTING DATE.—

8           (A) STARTING DATE.—The pilot program  
9 shall begin no later than January 1, 2021.

10           (B) DURATION.—Subject to subparagraph  
11 (C), the pilot program shall be conducted for a  
12 period of 7 years.

13           (C) EXPANSION.—The Secretary may, at  
14 any time after the pilot program has operated  
15 for a period of at least 3 years expand the du-  
16 ration and scope of the pilot program, to the  
17 extent determined appropriate by the Secretary,  
18 if—

19           (i) the Secretary determines that such  
20 expansion is expected—

21           (I) to reduce (or not to result in  
22 any increase in) net expenditures  
23 under the Medicare program without  
24 reducing the quality of care; or

1 (II) to improve the quality of  
2 care without increasing such net ex-  
3 penditures;

4 (ii) the Chief Actuary of the Centers  
5 for Medicare & Medicaid Services certifies  
6 that such expansion would reduce spending  
7 under the Medicare program; and

8 (iii) the Secretary determines that  
9 such expansion would not deny or limit the  
10 coverage or provision of benefits under the  
11 Medicare program for applicable bene-  
12 ficiaries.

13 (2) WAIVER OF MEDICARE 190-DAY LIFETIME  
14 LIMIT.—The Medicare 190-day lifetime limit shall  
15 not apply to applicable beneficiaries receiving inpa-  
16 tient psychiatric services at a participating institu-  
17 tion under the pilot program.

18 (3) PARTICIPATING PROVIDERS OF SERVICES  
19 AND SUPPLIERS.—

20 (A) IN GENERAL.—Only institutions par-  
21 ticipating in the demonstration project may  
22 submit an application to the Secretary to pro-  
23 vide inpatient psychiatric services under the  
24 pilot program.

1 (B) REQUIREMENTS.—The Secretary may  
2 develop additional requirements for institutions  
3 to participate in the pilot program. Such re-  
4 quirements may include the collection and re-  
5 porting of data related to the reasonable costs  
6 of graduate medical education.

7 (4) QUALITY MEASURES.—

8 (A) IN GENERAL.—The Secretary shall es-  
9 tablish quality measures related to care pro-  
10 vided by qualifying institutions participating in  
11 the pilot program, which measures shall include  
12 at least measures of the following:

13 (i) Reducing rates of avoidable hos-  
14 pital readmissions.

15 (ii) Rates of discharge to the commu-  
16 nity.

17 (iii) Rates of admission to an emer-  
18 gency room after a hospitalization.

19 (iv) Other measures, including meas-  
20 ures of patient outcomes, determined ap-  
21 propriate by the Secretary.

22 (B) REPORTING ON QUALITY MEASURES.—  
23 A qualifying institution shall submit (in a form  
24 and manner specified by the Secretary) data to  
25 the Secretary on quality measures established

1           under subparagraph (A) during each year in  
2           which the institution is participating in the pilot  
3           program.

4           (d) WAIVER.—The Secretary shall waive such provi-  
5           sions of titles XI and XVIII of the Social Security Act  
6           as may be necessary to carry out the pilot program.

7           (e) INDEPENDENT EVALUATION AND REPORTS ON  
8           PILOT PROGRAM.—

9           (1) INDEPENDENT EVALUATION.—The Sec-  
10          retary shall conduct an independent evaluation of  
11          the pilot program, including the extent to which the  
12          pilot program has—

13                 (A) improved quality measures established  
14                 under subsection (c)(4)(A);

15                 (B) improved health outcomes;

16                 (C) improved patient satisfaction; and

17                 (D) reduced spending under the Medicare  
18          program.

19          (2) REPORT.—Not later than December 31,  
20          2027, the Secretary shall submit to Congress a re-  
21          port on the evaluation conducted under paragraph  
22          (1).

23          (3) COORDINATION WITH EXPANDING CHOICE  
24          FOR MEDICAID INPATIENT PSYCHIATRIC HOSPITAL  
25          SERVICES DEMONSTRATION PROJECT.—The Sec-

1       retary may combine the independent evaluation and  
2       reports required under this section and the reports  
3       required under the demonstration project under sec-  
4       tion 2(f).

5       (f) BUDGET NEUTRALITY.—With respect to the pe-  
6       riod of the pilot program under subsection (c)(1) occurring  
7       before any expansion under subparagraph (C) of such sub-  
8       section, the Secretary shall ensure that the program does  
9       not result in a net increase in the aggregate expenditures  
10      under the Medicare program for such period above the  
11      level of such expenditures if the pilot program had not  
12      been implemented. The Secretary may make such adjust-  
13      ments to payments under the Medicare program as is nec-  
14      essary to carry out the previous sentence.

○