

116TH CONGRESS
2D SESSION

S. 3277

To amend title XIX of the Social Security Act to strengthen the infrastructure of, access to, and reporting of Medicaid home and community-based services, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 12, 2020

Mr. CASEY 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 strengthen the infrastructure of, access to, and reporting of Medicaid home and community-based services, 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 “HCBS Infrastructure
5 Improvement Act”.

6 **SEC. 2. FINDINGS AND PURPOSE.**

7 (a) FINDINGS.—Congress finds the following:

1 (1) States are prioritizing funding of their Med-
2 icaid programs for long-term services and supports
3 (referred to in this section as “LTSS”) to offer a
4 wider range of options for home and community-
5 based services (referred to in this section as
6 “HCBS”), but gaps in HCBS remain.

7 (2) In fiscal year 2016, States were spending
8 only 57 percent of their total LTSS budgets on
9 HCBS, well short of the national goal of 69 percent
10 set by the Centers for Medicare & Medicaid Services.

11 (3) In 2017, more than 700,000 people with
12 disabilities, older adults, and children were on wait-
13 ing lists to receive HCBS through existing Medicaid
14 waver programs.

15 (4) According to projections by the Bureau of
16 the Census, the number of adults over age 65 will
17 reach 84,000,000 by mid-century, and the popu-
18 lation of people 85 and older will be nearly 15 mil-
19 lion by 2040.

20 (5) Absent strategic planning and investment,
21 States will experience greater difficulties as the
22 needs of older adults increase demands on State
23 home and community-based services HCBS capacity.

24 (6) A one-time, targeted investment to
25 strengthen State capacity to build out Medicaid in-

1 **“SEC. 1947. HOME AND COMMUNITY-BASED SERVICES IN-**
2 **FRASTRUCTURE IMPROVEMENT.**

3 “(a) DEFINITIONS.—In this section:

4 “(1) DIRECT SUPPORT PROFESSIONAL.—The
5 term ‘direct support professional’ means a person
6 who, in exchange for compensation, provides services
7 to a person with a disability (as defined in section
8 3 of the Americans With Disabilities Act of 1990)
9 that promote such person’s independence, includ-
10 ing—

11 “(A) services that enhance independence
12 and community inclusion for such person, in-
13 cluding traveling with such person, attending
14 and assisting such persons while visiting friends
15 and family, shopping, or socializing;

16 “(B) services such as coaching and sup-
17 porting such person in communicating needs,
18 achieving self-expression, pursuing personal
19 goals, living independently, and participating
20 actively in employment or voluntary roles in the
21 community;

22 “(C) services such as providing assistance
23 with activities of daily living (such as feeding,
24 bathing, toileting, and ambulation) and with
25 tasks such as meal preparation, shopping, light
26 housekeeping, and laundry; or

1 “(D) services that support such person at
2 home, work, school, church, or other community
3 settings.

4 “(2) ELIGIBLE HCBS EXPENDITURES.—The
5 term ‘eligible HCBS expenditures’ means expendi-
6 tures by an HCBS infrastructure State on medical
7 assistance for home and community-based services
8 that are provided under the State plan or waiver
9 during the State’s HCBS infrastructure period and
10 which aim to collaborate with other programs offer-
11 ing support for home and community-based services.

12 “(3) FIRST MILE/LAST MILE TRANSPOR-
13 TATION.—The term ‘first mile/last mile transpor-
14 tation’ means the transportation necessary to—

15 “(A) transport a person to a fixed route
16 transit system that the person could not other-
17 wise conveniently access by walking, wheelchair,
18 walker, or other self-propelled mobility method;
19 and

20 “(B) transport a person from a fixed route
21 transit system to the person’s final destination
22 when the final destination is not within a dis-
23 tance that the person could conveniently access
24 by walking, wheelchair, walker, or other self-
25 propelled mobility method.

1 “(4) HCBS INFRASTRUCTURE PERIOD.—The
2 term ‘HCBS infrastructure period’ means, with re-
3 spect to an HCBS infrastructure State, the 7-fiscal
4 year period that begins with the first fiscal year that
5 begins after the date on which the State is granted
6 approval by the Secretary under subsection (c) to
7 conduct an HCBS infrastructure program.

8 “(5) HCBS INFRASTRUCTURE PROGRAM.—The
9 term ‘HCBS infrastructure program’ means a dem-
10 onstration program conducted under this section.

11 “(6) HCBS INFRASTRUCTURE STATE.—The
12 term ‘HCBS infrastructure State’ means a State
13 that has been granted approval by the Secretary
14 under subsection (c) to conduct an HCBS infra-
15 structure program.

16 “(7) HOME AND COMMUNITY-BASED SERV-
17 ICES.—The term ‘home and community-based serv-
18 ices’ means long-term, person-centered services and
19 supports that are not provided in an institutional
20 setting, including—

21 “(A) a home and community-based service
22 provided under subsection (c), (d), or (i) of sec-
23 tion 1915 or under a waiver under section
24 1115;

1 “(B) home and community-based long-
 2 term services and supports (provided in accord-
 3 ance with the requirements for home and com-
 4 munity-based settings under sections 441.530
 5 and 441.710 of title 42, Code of Federal Regu-
 6 lations), including—

7 “(i) services described in paragraphs
 8 (7), (8), (13), (19), and (24) of section
 9 1905(a);

10 “(ii) home and community-based serv-
 11 ices described in subsection (c)(4)(B) of
 12 section 1915;

13 “(iii) self-directed home and commu-
 14 nity-based services described in subsection
 15 (i) of section 1915;

16 “(iv) self-directed personal assistance
 17 services (as defined in subsection (j)(4)(A)
 18 of section 1915); and

19 “(v) home and community-based at-
 20 tendant services and supports described in
 21 subsection (k) of section 1915;

22 “(C) a home health care service; and

23 “(D) a personal care service.

24 “(8) LONG-TERM SERVICES AND SUPPORTS.—

25 The term ‘long-term services and supports’ has the

1 meaning given that term in section 438.2 of title 42,
2 Code of Federal Regulations (as of the date of en-
3 actment of this section).

4 “(9) SHARED LIVING.—The term ‘shared living’
5 means a living arrangement involving—

6 “(A) not more than 2 people with disabil-
7 ities or an older adult with a disability, except
8 if 1 or more of the people are related to each
9 other (by blood or a close association that is
10 equivalent to a family relationship);

11 “(B) a person who—

12 “(i) provides long-term services and
13 supports in exchange for compensation;

14 “(ii) lives together in a private home
15 with the recipient of such services; and

16 “(iii) receives a stipend or room and
17 board as the primary form of payment for
18 providing such services;

19 “(C) a person receiving funding through a
20 State Medicaid program under this title or an-
21 other publically funded program; and

22 “(D) the person receiving such services
23 having the final decision regarding who is the
24 provider of such services living with the person,
25 through a consumer-driven matching process

1 that includes relationship building, person-cen-
2 tered planning as defined by the Administrator
3 of the Centers for Medicare & Medicaid Serv-
4 ices, and an assessment of individual compat-
5 ibility.

6 “(10) STATE.—The term ‘State’ means each of
7 the 50 States, the District of Columbia, the Com-
8 monwealth of Puerto Rico, the United States Virgin
9 Islands, Guam, American Samoa, and the Northern
10 Mariana Islands.

11 “(11) UNIVERSAL MOBILITY SERVICE.—The
12 term ‘universal mobility service’ means a single plat-
13 form through which people with disabilities or older
14 adults are able to—

15 “(A) access a variety of public and private
16 demand responsive and fixed-route transpor-
17 tation services which have the necessary vehi-
18 cles and facilities to meet the needs of all users,
19 regardless of income, geographic location, dis-
20 ability, or age;

21 “(B) and identify their travel options and
22 compare the cost and length of trips using each
23 such option; and

1 “(C) schedule a ride, monitor progress,
2 and pay for the trip, regardless of the number
3 of transfers and independent providers used.

4 “(b) PLANNING GRANTS.—

5 “(1) IN GENERAL.—Not later than January 1
6 of each of calendar years 2021 through 2024, from
7 the amount appropriated under paragraph (5), the
8 Secretary shall, subject to paragraph (2), award
9 planning grants to any State that applies for such
10 a grant for the purpose of developing proposals for
11 an HCBS infrastructure program.

12 “(2) SELECTION, DURATION, AND NUMBER OF
13 STATES.—

14 “(A) SELECTION CRITERIA.—In awarding
15 grants for a year under this subsection the Sec-
16 retary shall—

17 “(i) consider the technical merits the
18 proposed HCBS infrastructure program of
19 each State that is applying for a grant in
20 such year; and

21 “(ii) select a group of States that is
22 diverse in terms of—

23 “(I) the geographic areas the
24 group represents;

1 “(II) the population sizes of the
2 States comprising the group; and

3 “(III) the subparagraphs of sub-
4 section (e)(2) in which each such
5 State is described (based on data from
6 the 2 most recent years for which
7 data is available).

8 “(B) DURATION.—Grants awarded under
9 this subsection shall be available to States for
10 a period of 1 year.

11 “(C) NUMBER OF STATES.—The Secretary
12 shall not award planning grants under this sub-
13 section to more than 17 States in any year, and
14 no State may receive more than 1 grant under
15 this subsection.

16 “(3) USE OF FUNDS.—A State awarded a plan-
17 ning grant under this subsection shall—

18 “(A) establish a Development and Imple-
19 mentation Council that meets the requirements
20 described in paragraph (4) to provide input into
21 the development of the proposal and, if the
22 State receives approval to conduct a demonstra-
23 tion program under this section, to monitor the
24 ongoing implementation of the program;

1 “(B) with guidance from the Centers for
2 Medicare & Medicaid Services, identify popu-
3 lations in the State for which the per capita an-
4 nual expenditures under the State plan or waiv-
5 er of such plan on home and community-based
6 services is less than the national average for
7 that population;

8 “(C) establish a set of standards and pro-
9 cedures to ensure the State makes measurable
10 progress in expanding the availability of self-di-
11 rection to people served by home and commu-
12 nity-based service providers;

13 “(D) develop a plan to increase home and
14 community-based services, increase the avail-
15 ability of providers of such service throughout
16 the State, and address at least 3 of the HCBS
17 infrastructure priority areas described in sub-
18 section (c)(3);

19 “(E) solicit public comment to help deter-
20 mine what the priorities of the proposed dem-
21 onstration program should be; and

22 “(F) execute memoranda of understanding
23 between any State agencies that will be respon-
24 sible for activities under the proposed dem-
25 onstration program under which each such

1 agency agrees to conduct the activities for
2 which it will be responsible and to cooperate
3 with other agencies as necessary.

4 “(4) DEVELOPMENT AND IMPLEMENTATION
5 COUNCIL REQUIREMENTS.—The requirements de-
6 scribed in this paragraph with respect to a Develop-
7 ment and Implementation Council established by a
8 State (referred to in this section as a ‘Council’) are
9 the following:

10 “(A) The members of the Council (the ma-
11 jority of whom shall be people with disabilities
12 or older adults who need home and community-
13 based services) shall consist of—

14 “(i) people with disabilities or older
15 adults who receive home and community-
16 based services;

17 “(ii) people with disabilities, including
18 older adults with disabilities, who meet cri-
19 teria for home and community-based serv-
20 ices but are not receiving such services;

21 “(iii) family caregivers;

22 “(iv) direct support professionals;

23 “(v) providers of home and commu-
24 nity-based services;

25 “(vi) one representative each from—

1 “(I) an organization that rep-
2 resents people with disabilities;

3 “(II) an organization that rep-
4 resents older adults; and

5 “(III) an organization that rep-
6 resents direct support professionals;
7 and

8 “(vii) representatives from State
9 agencies that provide aging, disability,
10 transportation, housing, employment, voca-
11 tional rehabilitation, mental health, and
12 substance use services and representatives,
13 as appropriate, from programs providing
14 transportation supports, housing supports,
15 home and community-based services work-
16 force development, family caregiver sup-
17 ports, and education and vocational reha-
18 bilitation services.

19 “(B) The Council is coordinated by the
20 Governor, and any proposal of the Council shall
21 be submitted to, and reviewed by, by the Gov-
22 ernor before it is submitted to the Secretary.

23 “(C) The Council shall conduct a public
24 comment process to collect information to in-

1 form the priorities and activities identified in
2 the grant application.

3 “(5) FUNDING.—

4 “(A) IN GENERAL.—Out of any funds in
5 the Treasury not otherwise appropriated, there
6 is appropriated to the Secretary for each of fis-
7 cal years 2021 through 2024 \$100,000,000 for
8 purposes of awarding grants under this sub-
9 section.

10 “(B) AVAILABILITY.—Funds appropriated
11 under subparagraph (A) shall remain available
12 until expended.

13 “(C) TECHNICAL ASSISTANCE.—

14 “(i) IN GENERAL.—For each of fiscal
15 years 2021 through 2024, out of the funds
16 appropriated for such year under subpara-
17 graph (A), \$3,000,000 shall be reserved
18 for the purpose of providing technical as-
19 sistance (through the Administrator of the
20 Centers for Medicare & Medicaid Services)
21 to States in meeting the requirements of
22 paragraph (2).

23 “(ii) COORDINATION WITH RELEVANT
24 AGENCIES.—In providing technical assist-
25 ance to States in developing plans to im-

1 prove HCBS infrastructure priority areas
 2 described in subsection (c)(3), the Admin-
 3 istrator of the Centers for Medicare &
 4 Medicaid Services shall consult with other
 5 agencies with relevant expertise in such
 6 areas, such as the Department of Trans-
 7 portation, the Department of Housing and
 8 Urban Development, and the Interagency
 9 Transportation Coordinating Council on
 10 Access and Mobility established under Ex-
 11 ecutive Order No. 13330.

12 “(c) HCBS INFRASTRUCTURE IMPLEMENTATION
 13 GRANTS.—

14 “(1) APPROVAL OF STATES.—Not later than 1
 15 year after awarding a planning grant to a State
 16 under subsection (b), the Secretary shall, subject to
 17 paragraph (4), award to the State an HCBS infra-
 18 structure implementation grant under this section if
 19 the application—

20 “(A) is developed through such planning
 21 grant; and

22 “(B) meets the requirements of paragraph
 23 (2).

1 “(2) GRANT REQUIREMENTS.—The require-
2 ments of this paragraph with respect to a State im-
3 plementation grant are the following:

4 “(A) APPLICATION.—The State submits an
5 application, using the most recent data avail-
6 able at the time the State was awarded a plan-
7 ning grant under subsection (b), to conduct an
8 HCBS infrastructure implementation grant to
9 the Secretary that includes, in addition to such
10 other information as the Secretary may re-
11 quire—

12 “(i) targets for spending under the
13 State plan or waiver for home and commu-
14 nity-based services under the State plan or
15 waiver as a percentage of all spending
16 under the plan or waiver on long-term
17 services and supports, and yearly mile-
18 stones for such targets that—

19 “(I) provide States with the flexi-
20 bility to focus on providing home and
21 community-based services to certain
22 populations; and

23 “(II) require the State—

24 “(aa) to achieve spending
25 targets for those populations;

1 “(bb) to identify populations
2 in the State for which the per
3 capita annual expenditures under
4 the State plan or waiver on home
5 and community-based services is
6 less than the national average for
7 that population; and

8 “(cc) to increase the level of
9 expenditures on home and com-
10 munity-based services for each
11 population described in clause
12 (v)(II) to a target level proposed
13 by the State;

14 “(ii) a description of how the State
15 will—

16 “(I) expand medical assistance
17 for home and community-based serv-
18 ices under the plan or waiver during
19 the HCBS infrastructure period;

20 “(II) achieve the spending tar-
21 gets and milestones described in
22 clause (i); and

23 “(III) initiate or expand self-di-
24 rected services, with measurable tar-
25 gets and milestones;

1 “(iii) if the State limits the provision
2 of home and community-based services to
3 people under the plan or waiver or imposes
4 any numerical limitation, waiting list, or
5 similar limitation on the eligibility of peo-
6 ple for such services, a detailed plan for
7 how the State will reduce such limitations;

8 “(iv) a detailed plan with measurable
9 objectives and annual milestones for at
10 least 3 of the HCBS infrastructure priority
11 areas described in paragraph (3); and

12 “(v) data on the extent to which the
13 State has already balanced the long-term
14 services and supports system of the State,
15 including—

16 “(I) the percentage of total an-
17 nual expenditures under the State
18 plan or waiver for long-term services
19 and supports expenditures that are
20 for home and community-based serv-
21 ices; and

22 “(II) the percentage of total an-
23 nual expenditures under the State
24 plan or waiver for long-term services
25 and supports expenditures that are

1 for home and community-based serv-
2 ices by population group, including—
3 “(aa) people with intellectual
4 and developmental disabilities;
5 “(bb) people aged 65 and
6 older;
7 “(cc) people with physical
8 disabilities; and
9 “(dd) people with mental
10 health and substance use dis-
11 orders.

12 “(B) MAINTENANCE OF ELIGIBILITY RE-
13 QUIREMENTS.—During the HCBS infrastruc-
14 ture period, the State does not apply eligibility
15 standards, methodologies, or procedures for de-
16 termining eligibility for medical assistance for
17 home and community-based services under the
18 plan or waiver that are more restrictive than
19 the eligibility standards, methodologies, or pro-
20 cedures in effect for such purposes on Decem-
21 ber 31, 2019.

22 “(C) IMPLEMENTATION AND COMPLIANCE
23 WITH HCBS SETTINGS RULE.—The State has a
24 final approved plan to—

1 “(i) fully comply with the Home and
2 Community-Based Services Final Rule
3 published by the Centers for Medicare &
4 Medicaid Services on January 16, 2014
5 (79 Fed. Reg. 2947) (referred to in this
6 section as the ‘HCBS Settings Rule’); and

7 “(ii) construct the activities of the
8 grant such that the results will be to sta-
9 bilize and expand the service delivery net-
10 work available in the State to provide serv-
11 ices and supports under the State plan or
12 waiver of such plan in a manner that com-
13 plies with the HCBS Settings Rule.

14 “(D) USE OF ADDITIONAL FUNDS.—The
15 State uses any additional Federal funds paid to
16 the State as a result of this section only for
17 purposes of increasing the availability and im-
18 proving the quality of home and community-
19 based services in the State.

20 “(E) DATA COLLECTION.—The State col-
21 lects standardized data as determined by the
22 Secretary, including—

23 “(i) services data on a per-capita or
24 family caregiver basis and, to the extent
25 possible, in accordance with the Trans-

1 formed Medicaid Statistical Information
2 System (T-MSIS) (or a successor system);

3 “(ii) quality data on a selected set of
4 core home and community-based services
5 measures determined by the Secretary, in-
6 cluding—

7 “(I) measures of beneficiary and
8 family caregiver experience;

9 “(II) measures for the achieve-
10 ment of desired outcomes appropriate
11 to a specific beneficiary or family
12 caregiver, including—

13 “(aa) community inclusion;

14 “(bb) choice and personal
15 control, including through self-di-
16 rected services; and

17 “(cc) person-centered plan-
18 ning; and

19 “(III) measures for the achieve-
20 ment of home and community-based
21 services infrastructure improvements,
22 including—

23 “(aa) competitive, integrated
24 employment for people with dis-
25 abilities and older adults;

- 1 “(bb) direct support profes-
2 sional workforce improvements,
3 including increased wages;
- 4 “(cc) caregiver supports;
- 5 “(dd) accessible housing and
6 accessible transportation im-
7 provements; and
- 8 “(ee) non-disability-specific
9 settings;
- 10 “(iii) services data from providers of
11 home and community-based services on a
12 per-beneficiary or family caregiver basis
13 and in accordance with such standardized
14 coding procedures as the State shall estab-
15 lish in consultation with the Secretary;
- 16 “(iv) quality data on a selected set of
17 core quality measures agreed upon by the
18 Secretary and the State that are—
- 19 “(I) linked to population-specific
20 outcomes measures; and
- 21 “(II) available to the public, in-
22 cluding consumers and providers of
23 home and community-based services;
24 and

1 “(v) outcomes measures data on a se-
2 lected set of core population-specific out-
3 comes measures agreed upon by the Sec-
4 retary and the State that are accessible to
5 providers and include—

6 “(I) measures of beneficiary and
7 family caregiver experience with pro-
8 viders; and

9 “(II) measures for achieving de-
10 sired outcomes appropriate to a spe-
11 cific beneficiary or family caregiver,
12 including—

13 “(aa) competitive integrated
14 employment (as defined in sec-
15 tion 3(11) of the Workforce In-
16 novation and Opportunity Act);

17 “(bb) participation in com-
18 munity life;

19 “(cc) health stability;

20 “(dd) prevention of loss in
21 function; and

22 “(ee) improved family care-
23 giver health and wellness.

1 “(3) HCBS INFRASTRUCTURE PRIORITY
2 AREAS.—The HCBS infrastructure priority areas
3 described in this paragraph are the following:

4 “(A) WORKFORCE AND UNPAID CAREGIVER
5 SUPPORTS.—The State develops and imple-
6 ments, in consultation with representatives of
7 people with disabilities, representatives of older
8 adults, and representatives of direct support
9 workers—

10 “(i) infrastructure to enhance supply
11 and retention of the direct support work-
12 force, including through—

13 “(I) enhancement of payment
14 rates, contingent on wage increases
15 for direct support professionals; and

16 “(II) training and career ad-
17 vancement programs for direct sup-
18 port professionals, including programs
19 that facilitate the participation of di-
20 rect support professionals in organiza-
21 tions that foster their professional de-
22 velopment and stakeholder engage-
23 ment;

24 “(ii) infrastructure to support self-di-
25 rection, including—

1 “(I) matching service registries;

2 and

3 “(II) training for consumers who

4 want to self-direct; and

5 “(iii) supports for family caregivers,

6 including—

7 “(I) use of family caregiver as-

8 sessments;

9 “(II) service offerings that sup-

10 port caregivers and may delay or ame-

11 liorate the need for more comprehen-

12 sive non-institutional long-term serv-

13 ices and supports; and

14 “(III) implementation of evi-

15 dence-based caregiver supportive serv-

16 ices, increased access to and improve-

17 ments in respite care, and financial

18 assistance to help with out-of-pocket

19 costs incurred by family caregivers.

20 “(B) EMPLOYMENT SUPPORTS.—The State

21 develops and implements statewide infrastruc-

22 ture, subject to the merit-based personnel

23 standards and conflict of interest safeguards es-

24 tablished and maintained by the State pursuant

25 to section 1902(a)(4), to support opportunities

1 for competitive integrated employment (as de-
2 fined in section 3(11) of the Workforce Innova-
3 tion and Opportunity Act) for people with dis-
4 abilities and older adults, which may include—

5 “(i) service delivery modifications and
6 expansion; and

7 “(ii) establishing and expanding link-
8 ages with other programs that support
9 workers with disabilities, such as—

10 “(I) vocational rehabilitation;

11 “(II) one-stop centers described
12 in section 121 of the Workforce Inno-
13 vation and Opportunity Act; and

14 “(III) State departments of edu-
15 cation.

16 “(C) HOUSING SUPPORTS.—The State de-
17 velops and implements infrastructure to in-
18 crease the availability of affordable, accessible
19 housing in non-disability-specific settings for
20 people with disabilities and older adults receiv-
21 ing home and community-based services, which
22 may include—

23 “(i) assessing the supply and avail-
24 ability of such housing in communities
25 across the State;

1 “(ii) creating or scaling incentives for
2 State and local housing partners and devel-
3 opers to create more accessible housing;

4 “(iii) developing and implementing
5 strategies to target people with the most
6 significant developmental and other disabil-
7 ities, including people with challenging be-
8 havior, complex medical needs, people re-
9 quiring round-the-clock, one-on-one sup-
10 port from a direct support professional,
11 and people with very high-service needs,
12 for housing in non-disability-specific set-
13 tings;

14 “(iv) scaling shared living within the
15 State;

16 “(v) home modifications and repairs
17 that make it possible for a person to re-
18 main in the person’s home or building
19 modifications that make it possible for a
20 person with a disability or an older adult
21 to reside in a house or apartment; and

22 “(vi) developing administrative infra-
23 structure to match people with housing
24 and provide meaningful choices among

1 non-disability-specific settings via the per-
2 son-centered planning process.

3 “(D) TRANSPORTATION SUPPORTS.—

4 “(i) IN GENERAL.—The State devel-
5 ops and implements strategies to improve
6 access for all people with disabilities and
7 older adults (including people who are
8 blind or visually impaired, deaf or hard of
9 hearing, have other physical disabilities,
10 use a wheelchair or other mobility device,
11 use a guide animal, or have an intellectual
12 disability) to accessible transportation op-
13 tions, including first mile/last mile trans-
14 portation, with the goal of improved com-
15 munity integration, in accordance with the
16 HCBS Setting Rule, which may include—

17 “(I) the provision of universal
18 mobility services (as defined in sub-
19 section (a)(11));

20 “(II) partnering with existing
21 non-emergency medical transportation
22 brokers and their networks;

23 “(III) partnering with demand-
24 responsive providers, non-disability-

1 specific non-profit providers, and
2 other transportation providers;

3 “(IV) the targeted development
4 of a community integration transpor-
5 tation system that leverages tradi-
6 tional and innovative transportation
7 networks (such as on-demand applica-
8 tion-based transportation); and

9 “(V) expanding the non-emer-
10 gency medical transportation services
11 offered under the State plan to in-
12 clude transportation to—

13 “(aa) employment training
14 and jobs;

15 “(bb) community-based sup-
16 portive services such as con-
17 gregate meals or independent liv-
18 ing centers; and

19 “(cc) pharmacies, grocery
20 stores, and other retail establish-
21 ments to assist older adults and
22 people with disabilities to remain
23 in their homes and participate
24 fully in their communities.

1 “(ii) TRAINING REQUIREMENT.—Any
2 strategy to improve access to transpor-
3 tation under this subparagraph shall in-
4 clude the implementation of a State re-
5 quirement that providers of transportation
6 receive training on how to support people
7 with disabilities and older adults.

8 “(iii) EXCLUSION.—To the extent
9 that any expansion, development, or fi-
10 nancing of paratransit is required under
11 the Americans with Disabilities Act for
12 fixed route service, such expansion, devel-
13 opment, or financing shall not be consid-
14 ered to be a strategy to improve access to
15 transportation for purposes of this sub-
16 paragraph.

17 “(iv) CONSIDERATION OF NATIONAL
18 AGING AND DISABILITY TRANSPORTATION
19 CENTER PROPOSALS.—A proposal for im-
20 provements described in this subparagraph
21 shall consider and discuss the work of the
22 National Aging and Disability Transpor-
23 tation Center, the ‘Transactional Data
24 Specification for Demand Responsive
25 Transportation’ published by the Trans-

1 portation Research Board, and best prac-
2 tices for the delivery of Medicaid non-emer-
3 gency medical transportation services.

4 “(E) ‘NO WRONG DOOR SINGLE’ ENTRY
5 POINT SYSTEM.—The State develops and imple-
6 ments a statewide system (which may include
7 preadmission screening by nurses, peer asses-
8 sors, and other necessary providers to ensure
9 that the appropriate assessments with respect
10 to any person with a disability or older adult
11 are done as soon as required), subject to the
12 merit-based personnel standards and conflict of
13 interest safeguards established and maintained
14 by the State pursuant to section 1902(a)(4), to
15 enable people enrolled in the State plan or waiv-
16 er to access, on a timely basis, all long-term
17 services and supports through an agency, orga-
18 nization, coordinated network, or portal, in ac-
19 cordance with such standards as the State shall
20 establish and that shall provide information re-
21 garding—

22 “(i) the availability of such services;

23 “(ii) how to apply for such services;

24 “(iii) disability benefits counseling;

1 “(iv) referral services for services and
2 supports otherwise available in the commu-
3 nity; and

4 “(v) determinations of financial and
5 functional eligibility for such services and
6 supports, or assistance with assessment
7 processes for financial and functional eligi-
8 bility.

9 “(4) NUMBER OF STATES.—The Secretary shall
10 not grant approval to more than 17 States to con-
11 duct an HCBS infrastructure demonstration pro-
12 gram under this section in any year.

13 “(d) EVALUATION, OVERSIGHT, AND QUALITY.—

14 “(1) SURVEYS AND REPORT ON DIRECT SUP-
15 PORT PROFESSIONAL COMPENSATION.—

16 “(A) IN GENERAL.—Each HCBS infra-
17 structure State shall, for each fiscal year of the
18 State’s HCBS infrastructure period, conduct
19 surveys of providers that received increased
20 rates under the HCBS infrastructure program
21 conducted by the State on the compensation
22 paid by such providers to direct support profes-
23 sionals.

24 “(B) REPORT.—Not later than 2 years
25 after the date that an HCBS infrastructure

1 State begins to conduct an HCBS infrastruc-
2 ture program, the State submits a report to the
3 Administrator of the Centers for Medicare &
4 Medicaid Services on the impact of the rate in-
5 creases on the compensation, benefits, and
6 training received by direct support profes-
7 sionals.

8 “(2) EVALUATION.—

9 “(A) IN GENERAL.—The Secretary shall
10 evaluate the implementation and outcomes of
11 the HCBS infrastructure programs conducted
12 by the States in the aggregate using an external
13 evaluator with experience evaluating home and
14 community-based services, disability programs,
15 and older adult programs using the criteria de-
16 scribed in each HCBS infrastructure State’s
17 application and evaluating any change in HCBS
18 service availability and quality for each HCBS
19 infrastructure State.

20 “(B) EVALUATION CRITERIA.—The exter-
21 nal evaluator shall document and evaluate
22 changes in access, availability, and quality of
23 HCBS services in each of the priority areas de-
24 scribed in subsection (c)(3) chosen by each
25 HCBS infrastructure State. The external eval-

1 uator shall also evaluate the aggregate change
2 changes in access, availability, and quality of
3 HCBS services in each of the priorities areas
4 described in subsection (c)(3) across the HCBS
5 infrastructure States. The external evaluator
6 shall also evaluate the HCBS infrastructure
7 programs based on (i) the impact of the pro-
8 grams on increasing funding for home and com-
9 munity-based services, (ii) the impact of the
10 programs on achieving targeted access, avail-
11 ability, and quality of home and community-
12 based services, and (iii) promising practices
13 identified by the programs that increase access
14 to, availability of, and quality of home and com-
15 munity based services.

16 “(C) DISSEMINATION OF EVALUATION
17 FINDINGS.—The Secretary shall—

18 “(i) disseminate the findings from the
19 evaluations of HCBS infrastructure pro-
20 grams conducted under this paragraph
21 to—

22 “(I) all State Medicaid directors;

23 and

24 “(II) the Committees on Ways
25 and Means and Energy and Com-

1 merce of the House of Representa-
2 tives, the Committee on Finance of
3 the Senate, and the Special Com-
4 mittee on Aging of the Senate; and

5 “(ii) make all evaluation findings pub-
6 licly available in an accessible electronic
7 format and any other accessible format de-
8 termined appropriate by the Secretary.

9 “(D) OVERSIGHT.—Each State awarded a
10 grant under subsection (c) shall ensure ade-
11 quate oversight of the expenditure of HCBS in-
12 frastructure program grant funds in accordance
13 with the Medicaid regulations, including waiver
14 1115 and 1915 waiver regulations.

15 “(e) FINANCING INCENTIVES.—

16 “(1) IN GENERAL.—Notwithstanding section
17 1905(b), with respect to each fiscal year in an
18 HCBS infrastructure State’s HCBS infrastructure
19 period, if such State meets the conditions described
20 in subsection (e)(2) for the year, the Federal med-
21 ical assistance percentage that would otherwise
22 apply with respect to eligible HCBS expenditures
23 made by the State during the year shall be increased
24 (but in no case to exceed 100 percent) by the appli-
25 cable percentage points increase determined for the

1 State and year under paragraph (2) (and as in-
2 creased, if applicable, under paragraph (3)).

3 “(2) APPLICABLE PERCENTAGE POINTS IN-
4 CREASE.—The applicable percentage points increase
5 for an HCBS infrastructure State and year is—

6 “(A) in the case of a State in which, for
7 the 2 years preceding the year involved, less
8 than 35 percent of the total expenditures for
9 long-term services and supports were for home
10 and community-based services, 5 percentage
11 points;

12 “(B) in the case of a State in which, for
13 the 2 years preceding the year involved, be-
14 tween 35 percent and 50 percent of the total
15 expenditures for long-term services and sup-
16 ports were for home and community-based serv-
17 ices, 2 percentage points;

18 “(C) in the case of a State in which, for
19 the 2 years preceding the year involved, be-
20 tween 50 percent and 65 percent of the total
21 expenditures for long-term services and sup-
22 ports were for home and community-based serv-
23 ices, 0.50 percentage points; and

24 “(D) in the case of a State in which, for
25 the 2 years preceding the year involved, 65 per-

1 cent or more of the total expenditures for long-
2 term services and supports were for home and
3 community-based services, 0.25 percentage
4 points.

5 “(3) ADDITIONAL INCREASE TO INCENTIVIZE
6 TARGETING UNDERSERVED POPULATIONS.—Begin-
7 ning with the first full fiscal year for which the
8 Transformed Medicaid Statistical Information Sys-
9 tem (T-MSIS) is fully operational, the applicable
10 percentage points increase determined for an HCBS
11 infrastructure State and year under paragraph (2)
12 shall be increased by an additional—

13 “(A) in the case of a State that is pro-
14 viding home and community based services to
15 85 percent or more of the people that make up
16 the populations identified by the State under
17 subsection (b)(3)(B), 5 percentage points;

18 “(B) in the case of a State that is pro-
19 viding home and community based services to
20 between 75 percent and 85 percent of the peo-
21 ple that make up the populations identified by
22 the State under subsection (b)(3)(B), 2 per-
23 centage points;

24 “(C) in the case of a State that is pro-
25 viding home and community based services to

1 between 65 percent and 75 percent of the peo-
2 ple that make up the populations identified by
3 the State under subsection (b)(3)(B), 0.5 per-
4 centage points; and

5 “(D) in the case of a State that is pro-
6 viding home and community based services to
7 less than 65 percent of the people that make up
8 the populations identified by the State under
9 subsection (b)(3)(B), 0.25 percentage points.

10 “(4) EXEMPTION FROM LIMITS ON PAYMENTS
11 TO TERRITORIES.—The limitations on payment
12 under subsections (f) and (g) of section 1108 shall
13 not apply to Federal payments under this title that
14 are based on the Federal medical assistance percent-
15 age as increased under this subsection, and such
16 payments shall not be taken into account in applying
17 such subsections.”.

○