

117TH CONGRESS
1ST SESSION

S. 3166

To amend title XIX of the Social Security Act to improve coverage of dental and oral health services for adults under Medicaid, and for other purposes.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 4, 2021

Mr. CARDIN (for himself and Ms. STABENOW) 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 improve coverage of dental and oral health services for adults under Medicaid, 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 “Medicaid Dental Ben-
5 efit Act of 2021”.

6 **SEC. 2. REQUIRING MEDICAID COVERAGE OF DENTAL AND**
7 **ORAL HEALTH SERVICES FOR ADULTS.**

8 (a) IN GENERAL.—

9 (1) MANDATORY COVERAGE.—

1 (A) IN GENERAL.—

2 (i) REQUIREMENT.—Section
3 1902(a)(10)(A) of the Social Security Act
4 (42 U.S.C. 1396a(a)(10)(A)) is amended
5 by inserting “(10),” after “(5),”.

6 (ii) MEDICALLY NEEDY.—

7 (I) IN GENERAL.—Section
8 1902(a)(10)(C)(iv) of such Act (42
9 U.S.C. 1396a(a)(10)(C)(iv)) is
10 amended by striking “and (17)” and
11 inserting “, (10), and (17)” after
12 “(5)”.

13 (II) RULE OF CONSTRUCTION.—
14 Nothing in this section or the amend-
15 ments made by this section shall be
16 construed to limit the access of an in-
17 dividual residing in an institutional
18 setting to dental and oral health serv-
19 ices (as such term is defined in sec-
20 tion 1905(jj) of the Social Security
21 Act, as added by paragraph (2)(B)).

22 (iii) EFFECTIVE DATE.—The amend-
23 ments made by clauses (i) and (ii) shall
24 apply with respect to expenditures for med-

1 ical assistance in calendar quarters begin-
2 ning on or after January 1, 2023.

3 (B) BENCHMARK COVERAGE.—Section
4 1937(b)(5) of the Social Security Act (42
5 U.S.C. 1396u–7(b)(5)) is amended by striking
6 the period and inserting “, and, beginning Jan-
7 uary 1, 2023, coverage of dental and oral
8 health services (as such term is defined in sec-
9 tion 1905(jj)).”.

10 (C) OPTIONAL APPLICATION TO TERRI-
11 TORIES.—Section 1902(j) of the Social Security
12 Act (42 U.S.C. 1396a(j)) is amended—

13 (i) by striking “this title, the Sec-
14 retary” and inserting “this title—

15 “(1) in the case of a State other than the 50
16 States and the District of Columbia the requirement
17 under subsection (a)(10)(A) to provide the care and
18 services listed in paragraph (10) of section 1905(a)
19 shall be optional; and

20 “(2) the Secretary”; and

21 (ii) by striking the second comma
22 after “section 1108(f)”.

23 (2) DEFINITION OF DENTAL AND ORAL HEALTH
24 SERVICES.—Section 1905 of the Social Security Act
25 (42 U.S.C. 1396d) is amended—

1 (A) in subsection (a)(10), by inserting
2 “and dental and oral health services (as defined
3 in subsection (jj))” after “dental services”; and

4 (B) by adding at the end the following new
5 subsection:

6 “(jj) DENTAL AND ORAL HEALTH SERVICES.—For
7 purposes of subsection (a)(10), the term ‘dental and oral
8 health services’ means dentures and denture services, im-
9 plants and implant services, and services necessary to pre-
10 vent oral disease and promote oral health, restore oral
11 structures to health and function, reduce oral pain, and
12 treat emergency oral conditions, that are furnished by a
13 provider who is legally authorized to furnish such items
14 and services under State law (or the State regulatory
15 mechanism provided by State law).”.

16 (3) CONFORMING AMENDMENT.—

17 (A) IN GENERAL.—Section 1905(a)(10) of
18 the Social Security Act (42 U.S.C.
19 1396d(a)(10)), as amended by paragraph (2), is
20 amended by striking “dental services and”.

21 (B) EFFECTIVE DATE.—The amendment
22 made by subparagraph (A) shall take effect on
23 January 1, 2023.

24 (b) STATE OPTION FOR ADDITIONAL DENTAL AND
25 ORAL HEALTH BENEFITS.—Section 1905(a)(13) of the

1 Social Security Act (42 U.S.C. 1396d(a)(13)) is amended
 2 by inserting the following new subparagraph after sub-
 3 paragraph (C):

4 “(D) at State option, such items and serv-
 5 ices related to dental and oral health services
 6 (as defined in subsection (jj)) that are in addi-
 7 tion to those identified in such subsection (jj)
 8 as the State may specify;”.

9 (c) INCREASED FMAP.—

10 (1) MEDICAID.—Section 1905 of the Social Se-
 11 curity Act (42 U.S.C. 1396d), as amended by sub-
 12 section (a), is further amended—

13 (A) in subsection (b), by striking “and
 14 (ii)” and inserting “(ii), and (kk)”;

15 (B) in subsection (ff), by striking “and
 16 (ii)” and inserting “, (ii), and (kk)”;

17 (C) by adding at the end the following new
 18 subsection:

19 “(kk) INCREASED FMAP FOR EXPENDITURES RE-
 20 LATED TO DENTAL AND ORAL HEALTH SERVICES.—

21 “(1) IN GENERAL.—

22 “(A) 50 STATES AND DC.—Notwith-
 23 standing subsection (b), in the case of a State
 24 that is 1 of the 50 States or the District of Co-
 25 lumbia, during the 12-quarter period that be-

1 gins on January 1, 2023, the Federal medical
2 assistance percentage shall be equal to 100 per-
3 cent with respect to amounts expended by the
4 State for medical assistance for dental and oral
5 health services authorized under paragraph (10)
6 of subsection (a). In no case may the applica-
7 tion of this subparagraph result in the Federal
8 medical assistance percentage determined for a
9 State with respect to expenditures described in
10 this subparagraph exceeding 100 percent.

11 “(B) TERRITORIES.—

12 “(i) IN GENERAL.—Notwithstanding
13 subsection (b), in the case of a State that
14 is Puerto Rico, the Virgin Islands, Guam,
15 the Northern Mariana Islands, or Amer-
16 ican Samoa, during a period described in
17 clause (ii), the Federal medical assistance
18 percentage shall be equal to 100 percent
19 with respect to amounts expended by the
20 State for medical assistance for any item
21 or service that is included in dental and
22 oral health services authorized under para-
23 graph (10) of subsection (a). In no case
24 may the application of this clause result in
25 the Federal medical assistance percentage

1 determined for a State with respect to ex-
2 penditures described in this clause exceed-
3 ing 100 percent.

4 “(ii) PERIOD DESCRIBED.—A period
5 described in this clause is, with respect to
6 an item or service described in clause (i)
7 and a State described in such clause, the
8 12-quarter period that begins with the first
9 quarter beginning on or after January 1,
10 2023, in which such item or service is first
11 covered under the State plan or under a
12 waiver of such plan.

13 “(2) EXCLUSIONS.—The Federal medical as-
14 sistance percentage specified in paragraph (1) shall
15 not apply to amounts expended for medical assist-
16 ance during any period for—

17 “(A) additional items and services author-
18 ized under paragraph (13)(D) of subsection (a);
19 or

20 “(B) items and services furnished to an in-
21 dividual if, as of the date of enactment of this
22 subsection, medical assistance was available to
23 such individual for such items and services or
24 medicare cost-sharing under the State plan or
25 a waiver of such plan.”.

1 (2) EXCLUSION OF AMOUNTS ATTRIBUTABLE
2 TO INCREASED FMAP FROM TERRITORIAL CAPS.—
3 Section 1108 of the Social Security Act (42 U.S.C.
4 1308) is amended—

5 (A) in subsection (f), in the matter pre-
6 ceding paragraph (1), by striking “subsections
7 (g) and (h)” and inserting “subsections (g),
8 (h), and (i)”; and

9 (B) by adding at the end the following:

10 “(i) EXCLUSION FROM CAPS OF AMOUNTS ATTRIB-
11 UTABLE TO INCREASED FMAP FOR COVERAGE OF DEN-
12 TAL AND ORAL HEALTH SERVICES.—Any additional
13 amount paid to Puerto Rico, the Virgin Islands, Guam,
14 the Northern Mariana Islands, and American Samoa for
15 expenditures for medical assistance that is attributable to
16 an increase in the Federal medical assistance percentage
17 applicable to such expenditures under section 1905(kk)
18 shall not be taken into account for purposes of applying
19 payment limits under subsections (f) and (g).”.

20 **SEC. 3. ADULT ORAL HEALTH QUALITY AND EQUITY MEAS-**
21 **URES.**

22 (a) IN GENERAL.—Title XI of the Social Security Act
23 (42 U.S.C. 1301 et seq.) is amended by inserting after
24 section 1139B the following new section:

1 **“SEC. 1139C. ADULT ORAL HEALTH QUALITY AND EQUITY**
2 **MEASURES.**

3 “(a) DEVELOPMENT OF CORE SET OF ADULT ORAL
4 HEALTH CARE QUALITY AND EQUITY MEASURES.—

5 “(1) IN GENERAL.—The Secretary shall iden-
6 tify and publish a recommended core set of health
7 quality and equity measures for individuals enrolled
8 in a State plan (or waiver of such plan) under title
9 XIX who are over the age of 21 in the same manner
10 as the Secretary identifies and publishes a core set
11 of child health quality measures under section
12 1139A, including with respect to identifying and
13 publishing existing oral health quality measures for
14 such individuals that are in use under public and
15 privately sponsored health care coverage arrange-
16 ments, or that are part of reporting systems that
17 measure both the presence and duration of health
18 insurance coverage over time, that may be applicable
19 to enrolled adults.

20 “(2) ALIGNMENT WITH EXISTING CORE SET.—
21 In identifying and publishing the recommended core
22 set of adult oral health quality and equity measures
23 required under paragraph (1), the Secretary shall
24 ensure that, to the extent possible, such measures
25 align with and do not duplicate the core set of adult

1 health quality and equity measures identified, pub-
2 lished, and revised under section 1139B.

3 “(3) PROCESS FOR ADULT ORAL HEALTH QUAL-
4 ITY AND EQUITY MEASURES PROGRAM.—In identi-
5 fying gaps in existing adult oral health quality and
6 equity measures and establishing priorities for the
7 development and advancement of such measures, the
8 Secretary shall consult with—

9 “(A) States;

10 “(B) health care providers;

11 “(C) patient representatives;

12 “(D) dental professionals; and

13 “(E) national organizations with expertise
14 in oral health quality or equity measurement.

15 “(b) DEADLINES.—

16 “(1) RECOMMENDED MEASURES.—Not later
17 than 1 year after enactment of this Act, the Sec-
18 retary shall identify and publish for comment a rec-
19 ommended core set of adult oral health quality and
20 equity measures that includes the following:

21 “(A) Measures of utilization of oral health
22 and dental services across health care settings.

23 “(B) Measures that address the availability
24 of oral evaluations during or following medical
25 visits for enrolled adults.

1 “(C) Measures that address the incidence
2 of emergency department visits for non-trau-
3 matic dental conditions.

4 “(D) Measures that address the avail-
5 ability and receipt of follow-up dental care after
6 emergency department visits for non-traumatic
7 dental conditions during pregnancy.

8 “(E) Measures that address the availability
9 of counseling of enrolled adults aimed at im-
10 proving oral health outcomes.

11 “(F) Measures that address the availability
12 and receipt of care for beneficiaries who meet
13 the medical necessity criteria for general anes-
14 thesia and intravenous sedation.

15 “(G) Measures that address screening and
16 evaluation for caries risk and periodontitis and
17 treatment for caries risk and periodontitis, in-
18 cluding the following:

19 “(i) The percentage of enrolled adults
20 who have caries risk documented in the re-
21 porting year involved.

22 “(ii) The percentage of enrolled adults
23 who received a topical fluoride application
24 or sealants based on an oral health risk as-
25 sessment demonstrating the need for such

1 application or sealants during the report-
2 ing year involved.

3 “(iii) The percentage of enrolled
4 adults who received a comprehensive or
5 periodic oral evaluation or a comprehensive
6 periodontal evaluation during the reporting
7 year involved.

8 “(iv) The percentage of enrolled
9 adults with a history of periodontitis who
10 received an oral prophylaxis, scaling or
11 root planing, or periodontal maintenance
12 visit at least 2 times during the reporting
13 year involved.

14 “(v) The percentage of enrolled adults
15 with diabetes who receive a comprehensive
16 or periodic evaluation or a comprehensive
17 periodontal evaluation during the reporting
18 year involved.

19 “(vi) The percentage of enrolled
20 adults who require tooth extraction during
21 the reporting year involved.

22 “(vii) The percentage of enrolled
23 adults who require partial or full dentures
24 during the reporting year involved.

1 “(2) DISSEMINATION.—Not later than 1 year
2 after enactment of this Act, the Secretary shall pub-
3 lish an initial core set of oral health quality and eq-
4 uity measures that are applicable to enrolled adults.

5 “(3) STANDARDIZED REPORTING.—Not later
6 than 2 years after the date of the enactment of this
7 Act, the Secretary, in consultation with States, shall
8 develop a standardized format for the collection and
9 reporting of information based on the initial core set
10 of adult oral health quality and equity measures
11 (stratified by race, ethnicity, primary language, dis-
12 ability status, sexual orientation and gender iden-
13 tity) and create guidelines, procedures, and incen-
14 tives to States to use such measures and to collect
15 and report information regarding the quality and eq-
16 uity of oral health care for enrolled adults.

17 “(4) REPORTS TO CONGRESS.—Not later than
18 3 years after enactment of this act, and every 3
19 years thereafter, the Secretary shall include in the
20 report to Congress required under section
21 1139A(a)(6) information similar to the information
22 required under that section with respect to the
23 measures established under this section.

1 “(c) ANNUAL STATE REPORTS REGARDING STATE-
2 SPECIFIC ORAL HEALTH QUALITY AND EQUITY MEAS-
3 URES APPLIED UNDER MEDICAID.—

4 “(1) IN GENERAL.—Each State with a plan ap-
5 proved under title XIX (or with a waiver of such
6 plan in effect) shall annually report (separately or as
7 part of the annual report required under section
8 1139A(c)) to the Secretary on—

9 “(A) the State-specific adult oral health
10 quality and equity measures applied by the
11 State under such a plan or waiver, including
12 measures described in subsection (b)(1);

13 “(B) the State-specific information on the
14 quality and equity of oral health care furnished
15 to enrolled adults under such a plan or waiver,
16 including information collected through external
17 quality reviews of managed care organizations
18 under section 1932 and benchmark plans under
19 section 1937, disaggregated by race, ethnicity,
20 primary language, disability status, sexual ori-
21 entation, and gender identity;

22 “(C) the State-specific information regard-
23 ing the dental benefits available to enrolled
24 adults under such a plan or waiver, including
25 any limits on such benefits and the amount of

1 reimbursement provided under such plan or
2 waiver for such benefits; and

3 “(D) the State-specific plan to identify,
4 evaluate, and reduce in meaningful and measur-
5 able ways, to the extent practicable, health dis-
6 parities based on age, sex, race, ethnicity, pri-
7 mary language, sexual orientation and gender
8 identity, and disability status.

9 “(2) PUBLICATION.—Not later than 2 years
10 after the date of enactment of this Act, and annually
11 thereafter, the Secretary shall collect, analyze, and
12 make publicly available the information reported by
13 States under paragraph (1).

14 “(d) AUTHORIZATION OF APPROPRIATIONS.—There
15 are authorized to be appropriated \$10,000,000 to carry
16 out this section. Funds appropriated under this subsection
17 shall remain available until expended.”.

18 (b) REQUIRED REPORTING.—

19 (1) MEDICAID.—Section 1902(a) of the Social
20 Security Act (42 U.S.C. 1396a(a)) is amended—

21 (A) in paragraph (86), by striking “and”
22 at the end;

23 (B) in paragraph (87)(D), by striking the
24 period and inserting “; and”; and

1 (C) by inserting after paragraph (87) the
2 following new paragraph:

3 “(88) provide for the reporting required under
4 section 1139C(e).”.

5 (2) CHIP.—Section 2102 of the Social Security
6 Act (42 U.S.C. 1397bb) is amended by adding at
7 the end the following new subsection:

8 “(d) REPORTING REQUIREMENTS.—A State child
9 health plan shall provide for the reporting required under
10 section 1139C(e).”.

11 **SEC. 4. ADULT ORAL HEALTH CARE REPORT.**

12 Not later than 2 years after the date of enactment
13 of this Act, the Medicaid and CHIP Payment and Access
14 Commission shall submit to Congress a report on issues
15 related to adult oral health across the 50 States, tribes,
16 and the territories, including—

17 (1) the availability of adult oral health cov-
18 erage, and enrollment in such coverage;

19 (2) a survey of adult oral health status among
20 low-income women of childbearing age;

21 (3) barriers to accessing adult oral health care,
22 including for racially diverse, ethnically diverse, and
23 limited English proficient communities;

24 (4) innovations and potential solutions to prob-
25 lems of access (including disparities in access) to

1 adult oral health care, including innovations that
2 would expand access to such care beyond dental of-
3 fices; and

4 (5) the impact of the amendments made by sec-
5 tion 2 and recommendations for improving reim-
6 bursement rates for such provider of dental and oral
7 health services under the Medicaid program.

8 **SEC. 5. ORAL HEALTH OUTREACH AND EDUCATION.**

9 Not later than 1 year after the date of enactment
10 of this Act, the Secretary shall develop a program, to be
11 implemented through contracts with entities that fund or
12 provide oral health care, to provide—

13 (1) culturally competent and linguistically ap-
14 propriate information on the availability and scope
15 of oral health and dental coverage for adults who are
16 eligible for or enrolled under a State plan (or waiver
17 of such plan) under title XIX of the Social Security
18 Act (42 U.S.C. 1396 et seq.);

19 (2) assistance in connecting adults and under-
20 served populations enrolled in such a plan (or waiv-
21 er) to oral health care;

22 (3) education to dental, oral health, and med-
23 ical professionals to strengthen core competencies in
24 delivering culturally competent oral health care to
25 adults enrolled in such a plan (or waiver), including:

1 individuals with physical and intellectual disabilities,
2 pregnant and postpartum individuals, Alaskan-Na-
3 tive and American-Indian populations, and people
4 living in urban, rural and, other underserved com-
5 munities; and
6 (4) culturally competent and linguistically ap-
7 propriate interactive oral health education aimed at
8 promoting good oral health practices for adults, in-
9 cluding racially and ethnically diverse Medicaid
10 beneficiaries.

○