

115<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 5797

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## AN ACT

To amend title XIX of the Social Security Act to allow States to provide under Medicaid services for certain individuals with opioid use disorders in institutions for mental diseases.

1        *Be it enacted by the Senate and House of Representa-*  
2        *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Individuals in Medicaid  
3 Deserve Care that is Appropriate and Responsible in its  
4 Execution Act” or the “IMD CARE Act”.

5 **SEC. 2. MEDICAID STATE PLAN OPTION TO PROVIDE SERV-**  
6 **ICES FOR CERTAIN INDIVIDUALS WITH TAR-**  
7 **GETED SUDS IN INSTITUTIONS FOR MENTAL**  
8 **DISEASES.**

9 Section 1915 of the Social Security Act (42 U.S.C.  
10 1396n) is amended by adding at the end the following new  
11 subsection:

12 “(1) STATE PLAN OPTION TO PROVIDE SERVICES  
13 FOR CERTAIN INDIVIDUALS IN INSTITUTIONS FOR MEN-  
14 TAL DISEASES.—

15 “(1) IN GENERAL.—With respect to calendar  
16 quarters beginning during the period beginning Jan-  
17 uary 1, 2019, and ending December 31, 2023, a  
18 State may elect, through a State plan amendment,  
19 to, notwithstanding section 1905(a), provide medical  
20 assistance for services furnished in institutions for  
21 mental diseases and for other medically necessary  
22 services furnished to eligible individuals with tar-  
23 geted SUDs, in accordance with the requirements of  
24 this subsection.

25 “(2) PAYMENTS.—

1           “(A) IN GENERAL.—Amounts expended  
2           under a State plan amendment under para-  
3           graph (1) for services described in such para-  
4           graph furnished, with respect to a 12-month pe-  
5           riod, to an eligible individual with a targeted  
6           SUD who is a patient in an institution for men-  
7           tal diseases shall be treated as medical assist-  
8           ance for which payment is made under section  
9           1903(a) but only to the extent that such serv-  
10          ices are furnished for not more than a period  
11          of 30 days (whether or not consecutive) during  
12          such 12-month period.

13          “(B) CLARIFICATION.—Payment made  
14          under this paragraph for expenditures under a  
15          State plan amendment under this subsection  
16          with respect to services described in paragraph  
17          (1) furnished to an eligible individual with a  
18          targeted SUD shall not affect payment that  
19          would otherwise be made under section 1903(a)  
20          for expenditures under the State plan (or waiv-  
21          er of such plan) for medical assistance for such  
22          individual.

23          “(3) INFORMATION REQUIRED IN STATE PLAN  
24          AMENDMENT.—

1           “(A) IN GENERAL.—A State electing to  
2 provide medical assistance pursuant to this sub-  
3 section shall include with the submission of the  
4 State plan amendment under paragraph (1) to  
5 the Secretary—

6           “(i) a plan on how the State will im-  
7 prove access to outpatient care during the  
8 period of the State plan amendment, in-  
9 cluding a description of—

10           “(I) the process by which eligible  
11 individuals with targeted SUDs will  
12 make the transition from receiving in-  
13 patient services in an institution for  
14 mental diseases to appropriate out-  
15 patient care; and

16           “(II) the process the State will  
17 undertake to ensure eligible individ-  
18 uals with targeted SUDs are provided  
19 care in the most integrated setting ap-  
20 propriate to the needs of the individ-  
21 uals; and

22           “(ii) a description of how the State  
23 plan amendment ensures an appropriate  
24 clinical screening of eligible individuals  
25 with targeted SUDs, including assessments

1 to determine level of care and length of  
2 stay recommendations based upon the  
3 multidimensional assessment criteria of the  
4 American Society of Addiction Medicine  
5 and to determine the appropriate setting  
6 for such care.

7 “(B) REPORT.—Not later than the sooner  
8 of December 31, 2024, or 1 year after the date  
9 of the termination of a State plan amendment  
10 under this subsection, the State shall submit to  
11 the Secretary a report that includes at least—

12 “(i) the number of eligible individuals  
13 with targeted SUDs who received services  
14 pursuant to such State plan amendment;

15 “(ii) the length of the stay of each  
16 such individual in an institution for mental  
17 diseases;

18 “(iii) the type of outpatient treatment,  
19 including medication-assisted treatment,  
20 each such individual received after being  
21 discharged from such institution;

22 “(iv) the number of eligible individ-  
23 uals with any co-occurring disorders who re-  
24 ceived services pursuant to such State plan

1 amendment and the co-occurring disorders  
2 from which they suffer; and

3 “(v) information regarding the effects  
4 of a State plan amendment on access to  
5 community care for individuals suffering  
6 from a mental disease other than sub-  
7 stance use disorder.

8 “(4) DEFINITIONS.—In this subsection:

9 “(A) ELIGIBLE INDIVIDUAL WITH A TAR-  
10 GETED SUD.—The term ‘eligible individual with  
11 a targeted SUD’ means an individual who—

12 “(i) with respect to a State, is en-  
13 rolled for medical assistance under the  
14 State plan (or a waiver of such plan);

15 “(ii) is at least 21 years of age;

16 “(iii) has not attained 65 years of  
17 age; and

18 “(iv) has been diagnosed with at least  
19 one targeted SUD.

20 “(B) INSTITUTION FOR MENTAL DIS-  
21 EASES.—The term ‘institution for mental dis-  
22 eases’ has the meaning given such term in sec-  
23 tion 1905(i).

24 “(C) OPIOID PRESCRIPTION PAIN RE-  
25 LIEVER.—The term ‘opioid prescription pain re-

1           liever’ includes hydrocodone products,  
2           oxycodone products, tramadol products, codeine  
3           products, morphine products, fentanyl products,  
4           buprenorphine products, oxymorphone products,  
5           meperidine products, hydromorphone products,  
6           methadone, and any other prescription pain re-  
7           liever identified by the Assistant Secretary for  
8           Mental Health and Substance Use.

9           “(D) OTHER MEDICALLY NECESSARY  
10          SERVICES.—The term ‘other medically nec-  
11          essary services’ means, with respect to an eligi-  
12          ble individual with a targeted SUD who is a pa-  
13          tient in an institution for mental diseases, items  
14          and services that are provided to such indi-  
15          vidual outside of such institution to the extent  
16          that such items and services would be treated  
17          as medical assistance for such individual if such  
18          individual were not a patient in such institu-  
19          tion.

20          “(E) TARGETED SUD.—

21                 “(i) IN GENERAL.—The term ‘tar-  
22                 geted SUD’ means an opioid use disorder  
23                 or a cocaine use disorder.

24                 “(ii) COCAINE USE DISORDER.—The  
25                 term ‘cocaine use disorder’ means a dis-

1 order that meets the criteria of the Diag-  
2 nostic and Statistical Manual of Mental  
3 Disorders, 4th Edition (or a successor edi-  
4 tion), for either dependence or abuse for  
5 cocaine, including cocaine base (commonly  
6 referred to as ‘crack cocaine’).

7 “(iii) OPIOID USE DISORDER.—The  
8 term ‘opioid use disorder’ means a disorder  
9 that meets the criteria of the Diagnostic  
10 and Statistical Manual of Mental Dis-  
11 orders, 4th Edition (or a successor edi-  
12 tion), for heroin use disorder or pain re-  
13 liever use disorder (including with respect  
14 to opioid prescription pain relievers).”.

15 **SEC. 3. PROMOTING VALUE IN MEDICAID MANAGED CARE.**

16 Section 1903(m) of the Social Security Act (42  
17 U.S.C. 1396b(m)) is amended by adding at the end the  
18 following new paragraph:

19 “(7)(A) With respect to expenditures described in  
20 subparagraph (B) that are incurred by a State for any  
21 fiscal year after fiscal year 2020 (and before fiscal year  
22 2024), in determining the pro rata share to which the  
23 United States is equitably entitled under subsection  
24 (d)(3), the Secretary shall substitute the Federal medical  
25 assistance percentage that applies for such fiscal year to



1 the State under section 1905(b) (without regard to any  
2 adjustments to such percentage applicable under such sec-  
3 tion or any other provision of law) for the percentage that  
4 applies to such expenditures under section 1905(y).

5 “(B) Expenditures described in this subparagraph,  
6 with respect to a fiscal year to which subparagraph (A)  
7 applies, are expenditures incurred by a State for payment  
8 for medical assistance provided to individuals described in  
9 subclause (VIII) of section 1902(a)(10)(A)(i) by a man-  
10 aged care entity, or other specified entity (as defined in  
11 subparagraph (D)(iii)), that are treated as remittances be-  
12 cause the State—

13 “(i) has satisfied the requirement of section  
14 438.8 of title 42, Code of Federal Regulations (or  
15 any successor regulation), by electing—

16 “(I) in the case of a State described in  
17 subparagraph (C), to apply a minimum medical  
18 loss ratio (as defined in subparagraph (D)(ii))  
19 that is at least 85 percent but not greater than  
20 the minimum medical loss ratio (as so defined)  
21 that such State applied as of May 31, 2018; or

22 “(II) in the case of a State not described  
23 in subparagraph (C), to apply a minimum med-  
24 ical loss ratio that is equal to 85 percent; and

1           “(ii) recovered all or a portion of the expendi-  
2           tures as a result of the entity’s failure to meet such  
3           ratio.

4           “(C) For purposes of subparagraph (B), a State de-  
5           scribed in this subparagraph is a State that as of May  
6           31, 2018, applied a minimum medical loss ratio (as cal-  
7           culated under subsection (d) of section 438.8 of title 42,  
8           Code of Federal Regulations (as in effect on June 1,  
9           2018)) for payment for services provided by entities de-  
10          scribed in such subparagraph under the State plan under  
11          this title (or a waiver of the plan) that is equal to or great-  
12          er than 85 percent.

13          “(D) For purposes of this paragraph:

14                 “(i) The term ‘managed care entity’ means a  
15                 medicaid managed care organization described in  
16                 section 1932(a)(1)(B)(i).

17                 “(ii) The term ‘minimum medical loss ratio’  
18                 means, with respect to a State, a minimum medical  
19                 loss ratio (as calculated under subsection (d) of sec-  
20                 tion 438.8 of title 42, Code of Federal Regulations  
21                 (as in effect on June 1, 2018)) for payment for serv-  
22                 ices provided by entities described in subparagraph  
23                 (B) under the State plan under this title (or a waiv-  
24                 er of the plan).

25                 “(iii) The term ‘other specified entity’ means—

1           “(I) a prepaid inpatient health plan, as de-  
2           fined in section 438.2 of title 42, Code of Fed-  
3           eral Regulations (or any successor regulation);  
4           and

5           “(II) a prepaid ambulatory health plan, as  
6           defined in such section (or any successor regu-  
7           lation).”.

Passed the House of Representatives June 20, 2018.

Attest:

*Clerk.*

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