

115TH CONGRESS  
2D SESSION

# H. R. 5797

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.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 15, 2018

Mrs. MIMI WALTERS of California (for herself, Mr. KNIGHT, and Mr. GUTHRIE) introduced the following bill; which was referred to the Committee on Energy and Commerce

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## A BILL

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,*

3 **SECTION 1. SHORT TITLE.**

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

1 **SEC. 2. MEDICAID STATE PLAN OPTION TO PROVIDE SERV-**  
2 **ICES FOR CERTAIN INDIVIDUALS WITH**  
3 **OPIOID USE DISORDERS IN INSTITUTIONS**  
4 **FOR MENTAL DISEASES.**

5 Section 1915 of the Social Security Act (42 U.S.C.  
6 1396n) is amended by adding at the end the following new  
7 subsection:

8 “(1) STATE PLAN OPTION TO PROVIDE SERVICES  
9 FOR CERTAIN INDIVIDUALS IN INSTITUTIONS FOR MEN-  
10 TAL DISEASES.—

11 “(1) IN GENERAL.—With respect to calendar  
12 quarters beginning during the period beginning Jan-  
13 uary 1, 2019, and ending December 31, 2023, a  
14 State may elect, through a State plan amendment,  
15 to, notwithstanding section 1905(a), provide medical  
16 assistance for services furnished in institutions for  
17 mental diseases to eligible individuals with opioid use  
18 disorders, in accordance with the requirements of  
19 this subsection.

20 “(2) PAYMENTS.—

21 “(A) IN GENERAL.—Amounts expended  
22 under a State plan amendment under para-  
23 graph (1) for services described in such para-  
24 graph furnished, with respect to a 12-month pe-  
25 riod, in an institution for mental diseases to an  
26 eligible individual with an opioid use disorder

1 shall be treated as medical assistance for which  
2 payment is made under section 1903(a) but  
3 only to the extent that, subject to subparagraph  
4 (B), such services are furnished for not more  
5 than a period of 30 days (whether or not con-  
6 secutive) during such 12-month period.

7 “(B) LIMITATIONS.—Payment for expendi-  
8 tures described in subparagraph (A), with re-  
9 spect to services described in paragraph (1) fur-  
10 nished in an institution for mental diseases to  
11 an eligible individual with an opioid use dis-  
12 order during a 12-month period, shall not be  
13 made under section 1903(a) with respect to  
14 such services furnished during any period ex-  
15 ceeding 30 consecutive days during such 12-  
16 month period, unless the State requires under  
17 the State plan amendment continued medically  
18 necessary treatment during the entire period for  
19 which such services are furnished and for which  
20 payment is made pursuant to this paragraph in  
21 order to promote recovery, stable transition to  
22 ongoing treatment, and discharge.

23 “(C) CLARIFICATION.—Payment made  
24 under this paragraph for expenditures under a  
25 State plan amendment under this subsection

1 with respect to services described in paragraph  
2 (1) furnished to an eligible individual with an  
3 opioid use disorder shall not affect payment  
4 that would otherwise be made under section  
5 1903(a) for expenditures under the State plan  
6 (or waiver of such plan) for medical assistance  
7 for such individual.

8 “(3) INFORMATION REQUIRED IN STATE PLAN  
9 AMENDMENT.—

10 “(A) IN GENERAL.—A State electing to  
11 provide medical assistance pursuant to this sub-  
12 section shall include with the submission of the  
13 State plan amendment under paragraph (1) to  
14 the Secretary—

15 “(i) a plan on how the State will im-  
16 prove access to outpatient care during the  
17 period of the State plan amendment, in-  
18 cluding a description of—

19 “(I) the process by which eligible  
20 individuals with opioid use disorders  
21 will make the transition from receiv-  
22 ing inpatient services in an institution  
23 for mental diseases to appropriate  
24 outpatient care; and

1                   “(II) the process the State will  
2                   undertake to ensure individuals with  
3                   opioid use disorder are provided care  
4                   in the most integrated setting appro-  
5                   priate to the needs of the individuals;  
6                   and

7                   “(ii) a description of how the State  
8                   plan amendment ensures an appropriate  
9                   clinical screening of eligible individuals  
10                  with an opioid use disorder, including as-  
11                  sessments to determine level of care and  
12                  length of stay recommendations based  
13                  upon the multidimensional assessment cri-  
14                  teria of the American Society of Addiction  
15                  Medicine.

16                  “(B) REPORT.—Not later than one year  
17                  after the date of the termination of a State plan  
18                  amendment under this subsection, the State  
19                  shall submit to the Secretary a report that in-  
20                  cludes at least—

21                  “(i) the number of eligible individuals  
22                  with opioid use disorders who received  
23                  services pursuant to such plan;

1           “(ii) the length of the stay of each  
2           such individual in an institution for mental  
3           diseases; and

4           “(iii) the type of outpatient treatment,  
5           including medication-assisted treatment,  
6           each such individual received after being  
7           discharged from such institution.

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

9           “(A) ELIGIBLE INDIVIDUAL WITH AN  
10          OPIOID USE DISORDER.—The term ‘eligible in-  
11          dividual with an opioid use disorder’ means an  
12          individual who—

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

16               “(ii) is at least 21 years of age;

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

19               “(iv) has been diagnosed with at least  
20               one opioid use disorder.

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

1           “(C) OPIOID PRESCRIPTION PAIN RE-  
2           LIEVER.—The term ‘opioid prescription pain re-  
3           liever’ includes hydrocodone products,  
4           oxycodone products, tramadol products, codeine  
5           products, morphine products, fentanyl products,  
6           buprenorphine products, oxymorphone products,  
7           meperidine products, hydromorphone products,  
8           methadone, and any other prescription pain re-  
9           liever identified by the Assistant Secretary for  
10          Mental Health and Substance Use.

11           “(D) OPIOID USE DISORDER.—The term  
12          ‘opioid use disorder’ means a disorder that  
13          meets the criteria of the Diagnostic and Statis-  
14          tical Manual of Mental Disorders, 4th Edition  
15          (or a successor edition), for heroin use disorder  
16          or pain reliever use disorder (including with re-  
17          spect to opioid prescription pain relievers).”.

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