

Suspend the Rules and Pass the Bill, S. 599, With an Amendment
(The amendment strikes all after the enacting clause and inserts a
new text)

114TH CONGRESS
1ST SESSION

S. 599

AN ACT

To extend and expand the Medicaid emergency psychiatric demonstration project.

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 “Improving Access to
5 Emergency Psychiatric Care Act”.

6 **SEC. 2. EXTENSION AND EXPANSION OF MEDICAID EMER-**
7 **GENCY PSYCHIATRIC DEMONSTRATION**
8 **PROJECT.**

9 (a) IN GENERAL.—Subsection (d) of section 2707 of
10 Public Law 111–148 (42 U.S.C. 1396a note) is amended
11 to read as follows:

12 “(d) LENGTH OF DEMONSTRATION PROJECT.—

13 “(1) IN GENERAL.—Except as provided in para-
14 graphs (2) and (3), the demonstration project estab-

1 lished under this section shall be conducted for a pe-
2 riod of 3 consecutive years.

3 “(2) TEMPORARY EXTENSION OF PARTICIPA-
4 TION ELIGIBILITY FOR SELECTED STATES.—

5 “(A) IN GENERAL.—Subject to subpara-
6 graph (B) and paragraph (4), a State selected
7 as an eligible State to participate in the dem-
8 onstration project on or prior to March 13,
9 2012, shall, upon the request of the State, be
10 permitted to continue to participate in the dem-
11 onstration project through September 30, 2016,
12 if—

13 “(i) the Secretary determines that the
14 continued participation of the State in the
15 demonstration project is projected not to
16 increase net program spending under title
17 XIX of the Social Security Act; and

18 “(ii) the Chief Actuary of the Centers
19 for Medicare & Medicaid Services certifies
20 that such extension for that State is pro-
21 jected not to increase net program spend-
22 ing under title XIX of the Social Security
23 Act.

24 “(B) NOTICE OF PROJECTIONS.—The Sec-
25 retary shall provide each State selected to par-

1 participate in the demonstration project on or prior
2 to March 13, 2012, with notice of the deter-
3 mination and certification made under subpara-
4 graph (A) for the State.

5 “(3) EXTENSION AND EXPANSION OF DEM-
6 ONSTRATION PROJECT.—

7 “(A) ADDITIONAL EXTENSION.—Taking
8 into account the recommendations submitted to
9 Congress under subsection (f)(3), the Secretary
10 may permit an eligible State participating in
11 the demonstration project as of the date such
12 recommendations are submitted to continue to
13 participate in the project through December 31,
14 2019, if, with respect to the State—

15 “(i) the Secretary determines that the
16 continued participation of the State in the
17 demonstration project is projected not to
18 increase net program spending under title
19 XIX of the Social Security Act; and

20 “(ii) the Chief Actuary of the Centers
21 for Medicare & Medicaid Services certifies
22 that the continued participation of the
23 State in the demonstration project is pro-
24 jected not to increase net program spend-

1 ing under title XIX of the Social Security
2 Act.

3 “(B) OPTION FOR EXPANSION TO ADDI-
4 TIONAL STATES.—Taking into account the rec-
5 ommendations submitted to Congress pursuant
6 to subsection (f)(3), the Secretary may expand
7 the number of eligible States participating in
8 the demonstration project through December
9 31, 2019, if, with respect to any new eligible
10 State—

11 “(i) the Secretary determines that the
12 participation of the State in the dem-
13 onstration project is projected not to in-
14 crease net program spending under title
15 XIX of the Social Security Act; and

16 “(ii) the Chief Actuary of the Centers
17 for Medicare & Medicaid Services certifies
18 that the participation of the State in the
19 demonstration project is projected not to
20 increase net program spending under title
21 XIX of the Social Security Act.

22 “(C) NOTICE OF PROJECTIONS.—The Sec-
23 retary shall provide each State participating in
24 the demonstration project as of the date the
25 Secretary submits recommendations to Con-

1 gress under subsection (f)(3), and any addi-
2 tional State that applies to be added to the
3 demonstration project, with notice of the deter-
4 mination and certification made for the State
5 under subparagraphs (A) and (B), respectively,
6 and the standards used to make such deter-
7 mination and certification—

8 “(i) in the case of a State partici-
9 pating in the demonstration project as of
10 the date the Secretary submits rec-
11 ommendations to Congress under sub-
12 section (f)(3), not later than August 31,
13 2016; and

14 “(ii) in the case of an additional State
15 that applies to be added to the demonstra-
16 tion project, prior to the State making a
17 final election to participate in the project.

18 “(4) **AUTHORITY TO ENSURE BUDGET NEU-**
19 **TRALITY.**—The Secretary annually shall review each
20 participating State’s demonstration project expendi-
21 tures to ensure compliance with the requirements of
22 paragraphs (2)(A)(i), (2)(A)(ii), (3)(A)(i), (3)(A)(ii),
23 (3)(B)(i), and (3)(B)(ii) (as applicable). If the Sec-
24 retary determines with respect to a State’s participa-
25 tion in the demonstration project that the State’s

1 net program spending under title XIX of the Social
2 Security Act has increased as a result of the State's
3 participation in the project, the Secretary shall treat
4 the demonstration project excess expenditures of the
5 State as an overpayment under title XIX of the So-
6 cial Security Act.”.

7 (b) FUNDING.—Subsection (e) of section 2707 of
8 such Act (42 U.S.C. 1396a note) is amended—

9 (1) in the subsection heading, by striking “LIM-
10 ITATIONS ON FEDERAL”;

11 (2) in paragraph (2)—

12 (A) in the paragraph heading, by striking
13 “5-YEAR”; and

14 (B) by striking “through December 31,
15 2015” and inserting “until expended”;

16 (3) by striking paragraph (3);

17 (4) by redesignating paragraphs (4) and (5) as
18 paragraphs (3) and (4), respectively;

19 (5) in paragraph (3) (as so redesignated), by
20 striking “and the availability of funds” and inserting
21 “(other than States deemed to be eligible States
22 through the application of subsection (c)(4))”; and

23 (6) in paragraph (4) (as so redesignated)—

24 (A) in the first sentence—

1 (i) by inserting “(other than a State
2 deemed to be an eligible State through the
3 application of subsection (c)(4))” after “el-
4 ible State”; and

5 (ii) by striking “paragraph (4)” and
6 inserting “paragraph (3)”; and

7 (B) by inserting after the first sentence
8 the following: “In addition to any payments
9 made to an eligible State under the preceding
10 sentence, the Secretary shall, during any period
11 in effect under paragraph (2) or (3) of sub-
12 section (d), or during any period in which a law
13 described in subsection (f)(4)(C) is in effect,
14 pay each eligible State (including any State
15 deemed to be an eligible State through the ap-
16 plication of subsection (c)(4)), an amount each
17 quarter equal to the Federal medical assistance
18 percentage of expenditures in the quarter dur-
19 ing such period for medical assistance described
20 in subsection (a). Payments made to a State for
21 emergency psychiatric demonstration services
22 under this section during the extension period
23 shall be treated as medical assistance under the
24 State plan for purposes of section 1903(a)(1) of

1 the Social Security Act (42 U.S.C.
2 1396b(a)(1)).”.

3 (c) RECOMMENDATIONS TO CONGRESS.—Subsection
4 (f) of section 2707 of such Act (42 U.S.C. 1396a note)
5 is amended by adding at the end the following:

6 “(3) RECOMMENDATION TO CONGRESS REGARD-
7 ING EXTENSION AND EXPANSION OF PROJECT.—Not
8 later than September 30, 2016, the Secretary shall
9 submit to Congress and make available to the public
10 recommendations based on an evaluation of the dem-
11 onstration project, including the use of appropriate
12 quality measures, regarding—

13 “(A) whether the demonstration project
14 should be continued after September 30, 2016;
15 and

16 “(B) whether the demonstration project
17 should be expanded to additional States.

18 “(4) RECOMMENDATION TO CONGRESS REGARD-
19 ING PERMANENT EXTENSION AND NATIONWIDE EX-
20 PANSION.—

21 “(A) IN GENERAL.—Not later than April
22 1, 2019, the Secretary shall submit to Congress
23 and make available to the public recommenda-
24 tions based on an evaluation of the demonstra-

1 tion project, including the use of appropriate
2 quality measures, regarding—

3 “(i) whether the demonstration
4 project should be permanently continued
5 after December 31, 2019, in 1 or more
6 States; and

7 “(ii) whether the demonstration
8 project should be expanded (including on a
9 nationwide basis).

10 “(B) REQUIREMENTS.—Any recommenda-
11 tion submitted under subparagraph (A) to per-
12 manently continue the project in a State, or to
13 expand the project to 1 or more other States
14 (including on a nationwide basis) shall include
15 a certification from the Chief Actuary of the
16 Centers for Medicare & Medicaid Services that
17 permanently continuing the project in a par-
18 ticular State, or expanding the project to a par-
19 ticular State (or all States) is projected not to
20 increase net program spending under title XIX
21 of the Social Security Act.

22 “(C) CONGRESSIONAL APPROVAL RE-
23 QUIRED.—The Secretary shall not permanently
24 continue the demonstration project in any State
25 after December 31, 2019, or expand the dem-

1 onstration project to any additional State after
2 December 31, 2019, unless Congress enacts a
3 law approving either or both such actions and
4 the law includes provisions that—

5 “(i) ensure that each State’s partici-
6 pation in the project complies with budget
7 neutrality requirements; and

8 “(ii) require the Secretary to treat
9 any expenditures of a State participating
10 in the demonstration project that are ex-
11 cess of the expenditures projected under
12 the budget neutrality standard for the
13 State as an overpayment under title XIX
14 of the Social Security Act.

15 “(5) FUNDING.—Of the unobligated balances of
16 amounts available in the Centers for Medicare &
17 Medicaid Services Program Management account,
18 \$100,000 shall be available to carry out this sub-
19 section and shall remain available until expended.”.

20 (d) CONFORMING AMENDMENTS.—Section 2707 of
21 such Act (42 U.S.C. 1396a note) is amended—

22 (1) in subsection (a), in the matter before para-
23 graph (1), by inserting “publicly or” after “institu-
24 tion for mental diseases that is”;

25 (2) in subsection (c)—

1 (A) in paragraph (1), by striking “An eli-
2 gible State” and inserting “Except as otherwise
3 provided in paragraph (4), an eligible State”;

4 (B) in paragraph (3), by striking “A State
5 shall” and inserting “Except as otherwise pro-
6 vided in paragraph (4), a State shall”; and

7 (C) by adding at the end the following:

8 “(4) NATIONWIDE AVAILABILITY.—In the event
9 that the Secretary makes a recommendation pursu-
10 ant to subsection (f)(4) that the demonstration
11 project be expanded on a national basis, any State
12 that has submitted or submits an application pursu-
13 ant to paragraph (2) shall be deemed to have been
14 selected to be an eligible State to participate in the
15 demonstration project.”; and

16 (3) in the heading for subsection (f), by striking
17 “AND REPORT” and inserting “, REPORT, AND REC-
18 OMMENDATIONS”.

19 (e) EFFECTIVE DATE.—The amendments made by
20 this section shall take effect on the date of the enactment
21 of this Act.