

[DISCUSSION DRAFT]

115TH CONGRESS
1ST SESSION

H. R. _____

To amend title XVIII of the Social Security Act to provide for an opioid use disorder treatment demonstration program.

IN THE HOUSE OF REPRESENTATIVES

M. _____ introduced the following bill; which was referred to the Committee on _____

A BILL

To amend title XVIII of the Social Security Act to provide for an opioid use disorder treatment demonstration program.

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 “Advancing High Qual-
5 ity Treatment for Opioid Use Disorders in Medicare Act”.

1 **SEC. 2. OPIOID USE DISORDER TREATMENT DEMONSTRATION PROGRAM.**
2

3 Title XVIII of the Social Security Act (42 U.S.C.
4 1395 et seq.) is amended by inserting after section 1866E
5 (42 U.S.C. 1395cc-5) the following new section:

6 **“SEC. 1866F. OPIOID USE DISORDER TREATMENT DEMONSTRATION PROGRAM.**
7

8 “(a) IMPLEMENTATION OF 5-YEAR DEMONSTRATION
9 PROGRAM.—

10 “(1) IN GENERAL.—Not later than January 1,
11 2021, the Secretary shall implement a 5-year dem-
12 onstration program under this title (in this section
13 referred to as the ‘Program’) to increase access of
14 applicable beneficiaries to opioid use disorder treat-
15 ment services, improve physical and mental health
16 outcomes for such beneficiaries, and to the extent
17 possible, reduce expenditures under this title. Under
18 the Program, the Secretary shall make payments
19 under subsection (f) to participating care teams (as
20 defined in subsection (c)(1)(A)) for providing opioid
21 use disorder treatment services to applicable bene-
22 ficiaries participating under the Program.

23 “(2) OPIOID USE DISORDER TREATMENT SERV-
24 ICES.—For purposes of this section, the term ‘opioid
25 use disorder treatment services’ means, with respect
26 to an applicable beneficiary, such services as the

1 Secretary shall specify that are furnished for the
2 treatment of opioid use disorders in an outpatient
3 setting and for which payment may otherwise be
4 made under this title. Such services shall include—

5 “(A) medication assisted treatment;

6 “(B) treatment planning;

7 “(C) appropriate outpatient psychiatric,
8 psychological, or counseling services (or any
9 combination of such services);

10 “(D) appropriate social support services;

11 and

12 “(E) care management and care coordina-
13 tion of opioid use disorder services, as well as
14 coordination with other physicians and pro-
15 viders treating the mental and physical condi-
16 tions of such beneficiary.

17 “(b) PROGRAM DESIGN.—

18 “(1) IN GENERAL.—The Secretary shall design
19 the Program in such a manner to evaluate the ex-
20 tent to which the Program accomplishes the fol-
21 lowing purposes:

22 “(A) Reduces hospitalizations and emer-
23 gency department visits.

1 “(B) Reduces the occurrence of overdoses
2 from opioids, including prescription opioid
3 medications as well as illicit opioids.

4 “(C) Increases use of medication-assisted
5 treatment for opioid use disorders.

6 “(D) Improves health outcomes of individ-
7 uals with opioid use disorders, including by re-
8 ducing the incidence of infectious diseases (such
9 as hepatitis C and HIV).

10 “(E) Does not increase the total spending
11 on health care services under this title.

12 “(F) Reduces deaths from opioid poi-
13 soning.

14 “(G) Reduces the utilization of inpatient
15 residential treatment.

16 “(2) CONSULTATION.—In designing the Pro-
17 gram, the Secretary shall, not later than 3 months
18 after the date of the enactment of this section, con-
19 sult with specialists in the field of addiction and cli-
20 nicians in the primary care community.

21 “(c) PARTICIPATING CARE TEAMS.—

22 “(1) DEFINITION; SELECTION.—

23 “(A) DEFINITION.—In this section, the
24 term ‘participating care team’ means an opioid
25 use disorder care team (as defined in paragraph

1 (2)) that is participating under the Program
2 pursuant to selection by the Secretary under
3 subparagraph (B).

4 “(B) SELECTION.—Under the Program,
5 the Secretary shall provide for a process for
6 opioid use disorder care teams to apply for par-
7 ticipation under the Program as participating
8 care teams and for selecting such teams for
9 such participation.

10 “(C) PREFERENCE.—In selecting opioid
11 use disorder care teams under subparagraph
12 (B) for participation under the Program, the
13 Secretary shall give preference to opioid use
14 disorder care teams that are located in areas
15 with a prevalence of opioid use disorders that is
16 higher than the national average prevalence, as
17 measured by aggregate overdoses of opioids, or
18 any other measure that the Secretary deems ap-
19 propriate.

20 “(2) OPIOID USE DISORDER CARE TEAMS.—

21 “(A) IN GENERAL.—For purposes of this
22 section, the term ‘opioid use disorder care team’
23 means a group of health care practitioners that
24 satisfies each of criteria described in subpara-
25 graph (B), or an entity employing or con-

1 tracting with such health care practitioners,
2 and may include the individuals described in
3 subparagraph (C).

4 “(B) GROUP OF HEALTH CARE PRACTI-
5 TIONERS REQUIREMENTS.—For purposes of
6 subparagraph (A), the criteria described in this
7 subparagraph, with respect to a group of health
8 care practitioners, or an entity employing or
9 contracting with such health care practitioners,
10 are the following:

11 “(i) Each of such practitioners in
12 such group (or so employed or con-
13 tracted)—

14 “(I) elects to participate in the
15 Program and to deliver opioid use dis-
16 order treatment services supported by
17 the Program to applicable bene-
18 ficiaries who agree to receive such
19 services; and

20 “(II) agrees to submit to the Sec-
21 retary, with respect to each applicable
22 beneficiary for whom such practitioner
23 provides opioid use disorder treatment
24 services, data with respect to such
25 standards and measures under sub-

1 section (d) and such other information
2 as the Secretary determines appro-
3 priate to monitor and evaluate the
4 Program and to determine the per-
5 formance of such practitioner for pur-
6 poses of the incentive payment under
7 subsection (f), in such form, manner,
8 and frequency as specified by the Sec-
9 retary.

10 “(ii) Such group of health care practi-
11 tioners includes (or such entity employs or
12 contracts with) the following:

13 “(I) An eligible practitioner (as
14 defined in paragraph (3)(A)).

15 “(II) One or more of the fol-
16 lowing who are licensed and certified
17 to provide appropriate psychiatric,
18 psychological, or counseling services,
19 and who have contracts or collabora-
20 tion agreements with the eligible prac-
21 titioner to deliver services to patients
22 in a coordinated way:

23 “(aa) Physicians.

24 “(bb) Psychologists.

25 “(cc) Counselors.

1 “(dd) Nurses.

2 “(ee) Social workers.

3 “(ff) Other qualified health
4 care professionals, as determined
5 by the Secretary.

6 “(III) One or more of the fol-
7 lowing who are licensed and certified
8 to provide social support services, and
9 who have contracts or collaboration
10 agreements with the eligible practi-
11 tioner to deliver services to patients in
12 a coordinated way—

13 “(aa) Nurses.

14 “(bb) Social workers.

15 “(cc) Pharmacists.

16 “(dd) Other qualified health
17 care or social services care pro-
18 fessionals, as determined by the
19 Secretary.

20 “(C) GROUP OF HEALTH CARE PROVIDERS
21 PERMISSIVE INCLUSIONS.—For purposes of
22 subparagraph (A), a group of health care prac-
23 titioners described in such subparagraph may
24 include—

1 “(i) an addiction specialist (as defined
2 in paragraph (3)(B));

3 “(ii) marriage and family therapists,
4 in accordance with such paragraph (3)(C);

5 “(iii) mental health counselors, in ac-
6 cordance with such paragraph (3)(C); and

7 “(iv) any other provider that the Sec-
8 retary determines appropriate.

9 “(3) ELIGIBLE PRACTITIONERS; OTHER PRO-
10 VIDER-RELATED DEFINITIONS AND APPLICATION
11 PROVISIONS.—

12 “(A) ELIGIBLE PRACTITIONERS.—For pur-
13 poses of this section, the term ‘eligible practi-
14 tioner’ means, with respect to an applicable
15 beneficiary, a provider of services that—

16 “(i) participates in the Medicare pro-
17 gram under this title;

18 “(ii)(I) is authorized to prescribe or
19 dispense narcotic drugs to individuals for
20 maintenance treatment or detoxification
21 treatment; and

22 “(II) has in effect a registration or
23 waiver in accordance with section 303(g) of
24 the Controlled Substances Act for such
25 purpose and is otherwise in compliance

1 with regulations promulgated by the Sub-
2 stance Abuse and Mental Health Services
3 Administration to carry out such section;
4 and

5 “(iii) with respect to furnishing opioid
6 use disorder treatment services to the ap-
7 plicable beneficiary, participates in an
8 opioid use disorder care team, which is a
9 participating care team.

10 “(B) ADDICTION SPECIALISTS.—For pur-
11 poses of paragraph (2)(C), the term ‘addiction
12 specialist’ means a physician that possesses ex-
13 pert knowledge and skills in addiction medicine,
14 as evidenced by—

15 “(i) certification by the American So-
16 ciety of Addiction Medicine or the Amer-
17 ican Board of Addiction Medicine;

18 “(ii) subspecialty certification in ad-
19 diction medicine by the American Board of
20 Preventive Medicine;

21 “(iii) subspecialty certification in ad-
22 diction psychiatry by the American Board
23 of Psychiatry and Neurology;

1 “(iv) a certificate of added qualifica-
2 tion in addiction medicine conferred by the
3 American Osteopathic Association; or

4 “(v) completion of an accredited resi-
5 dency or fellowship in addiction medicine
6 or addiction psychiatry.

7 “(C) MARRIAGE AND FAMILY THERAPISTS;
8 MENTAL HEALTH COUNSELORS.—

9 “(i) DEFINITIONS.—For purposes of
10 paragraph (2)(C):

11 “(I) The term ‘marriage and
12 family therapist’ means an individual
13 who—

14 “(aa) possesses a master’s
15 or doctoral degree which qualifies
16 for licensure or certification as a
17 marriage and family therapist
18 pursuant to State law;

19 “(bb) after obtaining such
20 degree has performed at least 2
21 years of clinical supervised expe-
22 rience in marriage and family
23 therapy; and

24 “(cc) in the case of an indi-
25 vidual performing services in a

1 State that provides for licensure
2 or certification of marriage and
3 family therapists, is licensed or
4 certified as a marriage and fam-
5 ily therapist in such State.

6 “(II) The term ‘mental health
7 counselor’ means an individual who—

8 “(aa) possesses a master’s
9 or doctor’s degree in mental
10 health counseling or a related
11 field;

12 “(bb) after obtaining such a
13 degree has performed at least 2
14 years of supervised mental health
15 counselor practice; and

16 “(cc) in the case of an indi-
17 vidual performing services in a
18 State that provides for licensure
19 or certification of mental health
20 counselors or professional coun-
21 selors, is licensed or certified as a
22 mental health counselor or pro-
23 fessional counselor in such State.

24 “(ii) APPLICATION OF CERTAIN COV-
25 ERAGE AND PAYMENT RULES UNDER PRO-

1 GRAM.—Under the Program, opioid use
2 disorder treatment services furnished by a
3 marriage and family therapist or mental
4 health counselor which the therapist or
5 counselor is legally authorized to perform
6 under State law (or the State regulatory
7 mechanism provided by State law) shall be
8 covered and reimburseable as would other-
9 wise be covered if furnished by a physician
10 or as an incident to a physicians’ service,
11 or if furnished by a non-physician practi-
12 tioner, such as a certified nurse practi-
13 tioner, or as incident to a non-physician
14 practitioner’s service, as appropriate.

15 “(iii) WAIVER AUTHORITY.—The Sec-
16 retary may waive such requirements (other
17 than as specified in this section) of this
18 title as may be necessary to cover under
19 the Program such services furnished by a
20 marriage and family therapist or mental
21 health counselor.

22 “(d) QUALITY AND OTHER REPORTING REQUIRE-
23 MENTS.—

24 “(1) STANDARDS AND MEASURES ADOPTION
25 AND DEVELOPMENT.—Not later than 18 months

1 after the date of the enactment of this section, the
2 Secretary, in conjunction with stakeholders (includ-
3 ing clinicians in the primary care community and
4 the field of addiction medicine), shall adopt or de-
5 velop (or an appropriate entity with which the Sec-
6 retary contracts shall develop) quality standards and
7 measures, including as described in subsection
8 (f)(3), to ensure a minimum level of quality of care
9 and to assess the outcomes of care furnished by par-
10 ticipating care teams. For purposes of adopting or
11 developing standards for payments under subsection
12 (f)(1) and for purposes of adopting or developing
13 quality measures for the incentive payments under
14 subsection (f)(2), the Secretary shall consider exist-
15 ing clinical guidelines for the treatment of opioid use
16 disorders or standards or measures applied for use
17 under the Medicaid program under title XIX. Qual-
18 ity measures shall address the following outcomes
19 and performance criteria:

20 “(A) Patient engagement in treatment.

21 “(B) Retention in treatment.

22 “(C) Provision of evidence-based medica-
23 tion-assisted treatment.

24 “(D) Any other criteria the Secretary
25 deems appropriate.

1 “(2) SUBMISSION.—Each participating care
2 team shall submit to the Secretary, in such form,
3 manner, and frequency specified by the Secretary,
4 data with respect to such standards and measures
5 and such other information as the Secretary deter-
6 mines appropriate to monitor and evaluate the Pro-
7 gram and to determine the performance of such
8 team for purposes of the incentive payment under
9 subsection (f)(2).

10 “(e) PARTICIPATION OF APPLICABLE BENE-
11 FICIARIES.—

12 “(1) APPLICABLE BENEFICIARY DEFINED.—In
13 this section, the term ‘applicable beneficiary’ means
14 an individual who—

15 “(A) is entitled to benefits under part A
16 and enrolled for benefits under part B;

17 “(B) is not enrolled in a Medicare Advan-
18 tage plan under part C;

19 “(C) has a diagnosis for an opioid use dis-
20 order; and

21 “(D) meets such other criteria as the Sec-
22 retary determines appropriate.

23 Such term shall include an individual who is dually
24 eligible for benefits under this title and title XIX if

1 such individual satisfies the criteria described in
2 subparagraphs (A) through (D).

3 “(2) VOLUNTARY PARTICIPATION.—An applica-
4 ble beneficiary may participate in the Program on a
5 voluntary basis and may terminate participation in
6 the Program at any time.

7 “(3) SERVICES.—In order to participate in the
8 Program, an applicable beneficiary must agree to re-
9 ceive opioid use disorder treatment services from a
10 participating care team. An applicable beneficiary
11 may only receive services supported by the Program
12 from one participating care team during any one cal-
13 endar month. Participation under the Program shall
14 not affect coverage of or payment for any other item
15 or service under this title for the applicable bene-
16 ficiary.

17 “(4) BENEFICIARY ACCESS TO SERVICES.—
18 Nothing in this section shall be construed as encour-
19 aging providers to limit applicable beneficiary access
20 to services covered under this title and applicable
21 beneficiaries shall not be required to relinquish ac-
22 cess to any benefit under this title as a condition of
23 receiving services from a participating care team.

24 “(f) PAYMENTS.—

1 “(1) PER APPLICABLE BENEFICIARY PER
2 MONTH CARE MANAGEMENT FEE.—

3 “(A) IN GENERAL.—The Secretary shall
4 establish a schedule of per applicable bene-
5 ficiary per month care management fees. Such
6 a beneficiary per month care management fee
7 shall be paid to a participating care team for
8 each applicable beneficiary who has agreed to
9 receive opioid use disorder treatment services
10 from such team during the month. Such bene-
11 ficiary per month care management fee shall be
12 paid in addition to any other amount otherwise
13 payable under this title to the practitioners par-
14 ticipating with the team or, if applicable, the
15 entity with respect to such team employing or
16 contracting with such practitioners.

17 “(B) APPLICATION.—In carrying out sub-
18 paragraph (A), the Secretary shall—

19 “(i) consider the costs that partici-
20 pating care teams are expected to incur in
21 delivering high-quality opioid use disorder
22 care services that are not covered by pay-
23 ments otherwise payable to the teams
24 under this title;

1 “(ii) pay a higher per applicable bene-
2 ficiary per month care management fee for
3 an applicable beneficiary who receives more
4 intensive treatment services from a partici-
5 pating care team and who is appropriate
6 for such services based on clinical guide-
7 lines for opioid use disorder care;

8 “(iii) pay a higher per applicable ben-
9 eficiary per month care management fee
10 for the month in which the applicable ben-
11 eficiary begins treatment with a partici-
12 pating care team than in subsequent
13 months, to reflect the greater time and
14 costs required for the team to plan and ini-
15 tiate treatment, as compared to mainte-
16 nance of treatment; and

17 “(iv) pay higher per applicable bene-
18 ficiary per month care management fees
19 for participating care teams that include
20 an addiction specialist who is either deliv-
21 ering services directly to applicable bene-
22 ficiaries or providing consulting support to
23 those practitioners participating with such
24 teams who are delivering services to appli-
25 cable beneficiaries.

1 “(2) INCENTIVE PAYMENTS.—Under the Pro-
2 gram, the Secretary shall establish a performance-
3 based incentive payment, which shall be paid to par-
4 ticipating care teams based on the performance of
5 such teams with respect to standards, quality meas-
6 ures, and outcome measures adopted or developed by
7 the Secretary under subsection (d) and with respect
8 to which the teams report under such subsection.

9 “(g) MULTIPAYER STRATEGY.—In carrying out the
10 Program, the Secretary shall encourage other payers to
11 provide similar payments and to use similar quality stand-
12 ards and measures as applied under the Program. The
13 Secretary may enter into a memorandum of understanding
14 with other payers to align the methodology for payment
15 provided by such a payer related to opioid use disorder
16 treatment services with such methodology for payment
17 under the Program.

18 “(h) EVALUATION.—

19 “(1) IN GENERAL.—The Comptroller General of
20 the United States shall conduct an intermediate and
21 final evaluation of the program. Each such evalua-
22 tion shall determine the extent to which each of the
23 purposes described in subsection (b) have been ac-
24 complished under the Program. Each evaluation
25 shall also determine the extent to which the struc-

1 ture and requirements of the Program facilitated or
2 impeded the participation of practitioners in the pro-
3 gram, the participation of beneficiaries with opioid
4 use disorder, and the delivery of high-quality opioid
5 use disorder treatment services.

6 “(2) REPORTS.—The Comptroller General of
7 the United States shall submit to the Secretary and
8 Congress—

9 “(A) a report with respect to the inter-
10 mediate evaluation under paragraph (1) not
11 later than 3 years after the date of the imple-
12 mentation of the Program; and

13 “(B) a report with respect to the final
14 evaluation under paragraph (1) not later than
15 6 years after such date.

16 “(i) FUNDING.—

17 “(1) ADMINISTRATIVE FUNDING.—For the pur-
18 poses of implementing, administering, and carrying
19 out the Program (other than for purposes described
20 in paragraph (2)), there shall be transferred to the
21 Secretary for the Center for Medicare & Medicaid
22 Services Program Management Account from the
23 Federal Supplementary Medical Insurance Trust
24 Fund under section 1841 \$5,000,000.

1 “(2) CARE MANAGEMENT FEES AND INCEN-
2 TIVES.—For the purposes of payments under sub-
3 section (f), there shall be transferred to the Sec-
4 retary such sums as are necessary from the Federal
5 Supplementary Medical Insurance Trust Fund under
6 section 1841 for each of fiscal years 2021 through
7 2025.

8 “(3) AVAILABILITY.—Amounts transferred
9 under this subsection for a fiscal year shall be avail-
10 able until expended.”.