

[DISCUSSION DRAFT]

115TH CONGRESS
2^D SESSION

H. R. _____

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

IN THE HOUSE OF REPRESENTATIVES

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

A BILL

To amend title XIX of the Social Security Act to allow States to provide under Medicaid services for certain individuals with substance 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. MEDICAID STATE PLAN OPTION TO PROVIDE**
2 **SERVICES FOR CERTAIN INDIVIDUALS WITH**
3 **SUBSTANCE USE DISORDERS IN INSTITU-**
4 **TIONS 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 Oc-
13 tober 1, 2018, and ending September 30, 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 substance
18 use disorders, in accordance with the requirements
19 of 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 a substance 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 90 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 a substance 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—

17 “(i) after such 30-day period (and, in
18 addition, in the case of such services fur-
19 nished during any period exceeding 60 con-
20 secutive days, after such 60-day period), a
21 qualified health care provider treating the
22 individual in the institution for mental dis-
23 eases assesses the individual and deter-
24 mines the individual continues to medically
25 need the treatment and services furnished

1 to the individual in the institution for men-
2 tal diseases, in accordance with criteria es-
3 tablished by the Secretary, in consultation
4 with the American Society of Addiction
5 Medicine; and

6 “(ii) the State requires under the
7 State plan amendment continued medically
8 necessary treatment and social support
9 services during the entire period for which
10 such services are furnished and for which
11 payment is made pursuant to this para-
12 graph in order to promote recovery, stable
13 transition to ongoing treatment, and dis-
14 charge.

15 “(C) CLARIFICATION.—Payment made
16 under this paragraph for expenditures under a
17 State plan amendment under this subsection
18 with respect to services described in paragraph
19 (1) furnished to an eligible individual with a
20 substance use disorder shall not affect payment
21 that would otherwise be made under section
22 1903(a) for expenditures under the State plan
23 (or waiver of such plan) for medical assistance
24 for such individual.

1 “(3) MAINTENANCE OF EFFORT.—As a condi-
2 tion for a State including as medical assistance pur-
3 suant to this subsection services furnished in institu-
4 tions for mental diseases to eligible individuals with
5 substance use disorders, the State shall (during the
6 period in which it so furnished such medical assist-
7 ance through a State plan amendment under this
8 subsection)—

9 “(A) maintain at least the number of li-
10 censed beds at institutions for mental diseases
11 owned, operated, or contracted for by the State
12 that were being maintained as of the date of
13 the enactment of this subsection or, if higher,
14 as of the date the State applies to the Secretary
15 to include such medical assistance under the
16 State plan amendment pursuant to this sub-
17 section; and

18 “(B) maintain on an annual basis a level
19 of funding expended by the State (and political
20 subdivisions thereof) other than under this title
21 from non-Federal funds for inpatient services in
22 an institution for mental diseases, and for ac-
23 tive psychiatric care and treatment provided on
24 an outpatient basis, that is not less than the
25 level of such funding for such services and care

1 as of the date of the enactment of this sub-
2 section or, if higher, as of the date the State
3 applies to the Secretary to include such medical
4 assistance under the State plan amendment
5 pursuant to this subsection.

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

7 “(A) ELIGIBLE INDIVIDUAL WITH A SUB-
8 STANCE USE DISORDER.—The term ‘eligible in-
9 dividual with a substance use disorder’ means
10 an individual who—

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

14 “(ii) is at least 21 years of age;

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

17 “(iv) has been diagnosed with at least
18 one substance use disorder.

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