

[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 during the entire pe-
9 riod for which such services are furnished
10 and for which payment is made pursuant
11 to this paragraph in order to promote re-
12 covery, stable transition to ongoing treat-
13 ment, and discharge.

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

24 “(3) MAINTENANCE OF EFFORT AND OTHER
25 CONDITIONS.—

1 “(A) IN GENERAL.—As a condition for a
2 State including as medical assistance pursuant
3 to this subsection services furnished in institu-
4 tions for mental diseases to eligible individuals
5 with substance use disorders, the State shall—

6 “(i) during the period in which it so
7 furnished such medical assistance through
8 a State plan amendment under this sub-
9 section, maintain at least the number of li-
10 censed beds at institutions for mental dis-
11 eases owned, operated, or contracted for by
12 the State that were being maintained as of
13 the date of the enactment of this sub-
14 section or, if higher, as of the date the
15 State applies to the Secretary to include
16 such medical assistance under the State
17 plan amendment pursuant to this sub-
18 section;

19 “(ii) during the period in which it so
20 furnished such medical assistance through
21 a State plan amendment under this sub-
22 section, maintain on an annual basis a
23 level of funding expended by the State
24 (and political subdivisions thereof) other

1 than under this title from non-Federal
2 funds—

3 “(I) for inpatient services in an
4 institution for mental diseases, and
5 for active psychiatric care and treat-
6 ment provided on an outpatient basis,
7 that is not less than the level of such
8 funding for such services and care as
9 of the date of the enactment of this
10 subsection or, if higher, as of the date
11 the State applies to the Secretary to
12 include such medical assistance under
13 the State plan amendment pursuant
14 to this subsection; and

15 “(II) for specified non-IMD serv-
16 ices described in subparagraph (B)
17 that is not less than the level of such
18 funding for such services as of the
19 date of the enactment of this sub-
20 section or, if higher, as of the date the
21 State applies to the Secretary to in-
22 clude such medical assistance under
23 the State plan amendment pursuant
24 to this subsection; and

1 “(iii) notify the Secretary of how the
2 State plan amendment under this sub-
3 section ensures an appropriate clinical
4 screening of eligible individuals with a sub-
5 stance use disorder, including assessments
6 to determine level of care and length of
7 stay recommendations based upon the
8 multidimensional assessment criteria of the
9 American Society of Addiction Medicine.

10 “(B) SPECIFIED NON-IMD SERVICES DE-
11 SCRIBED.—For purposes of subparagraph
12 (A)(ii)(II), specified non-IMD services described
13 in this subparagraph are the following:

14 “(i) Inpatient services, other than
15 such services described in subparagraph
16 (A)(ii)(I).

17 “(ii) Outpatient and community-based
18 services for eligible individuals with a sub-
19 stance use disorder, such as—

20 “(I) substance use disorder treat-
21 ment;

22 “(II) evidence-based recovery and
23 support services, including short-term
24 detoxification services;

1 “(III) clinically-directed thera-
2 peutic treatment to facilitate recovery
3 skills, relapse prevention, and emo-
4 tional coping strategies;

5 “(IV) addiction pharmacotherapy
6 and drug screening;

7 “(V) counseling and clinical mon-
8 itoring;

9 “(VI) withdrawal management
10 and related treatment designed to al-
11 leviate acute emotional, behavioral,
12 cognitive, or biomedical distress re-
13 sulting from, or occurring with, an in-
14 dividual’s use of alcohol and other
15 drugs; and

16 “(VII) routine monitoring of the
17 medication adherence of such individ-
18 uals.

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

20 “(A) ELIGIBLE INDIVIDUAL WITH A SUB-
21 STANCE USE DISORDER.—The term ‘eligible in-
22 dividual with a substance use disorder’ means
23 an individual who—

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

4 “(ii) is at least 21 years of age;

5 “(iii) has not attained 65 years of
6 age; and

7 “(iv) has been diagnosed with at least
8 one substance use disorder.

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