AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 5477
OFFERED BY M_.

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE. This Act may be cited as the “Rural Development of Opioid Capacity Services Act” or the “Rural DOCS Act”.

SEC. 2. DEMONSTRATION PROJECT TO INCREASE SUBSTANCE USE PROVIDER CAPACITY UNDER THE MEDICAID PROGRAM.

Section 1903 of the Social Security Act (42 U.S.C. 1396b) is amended by adding at the end the following new subsection:

“(aa) DEMONSTRATION PROJECT TO INCREASE SUBSTANCE USE PROVIDER CAPACITY.—

“(1) IN GENERAL.—Not later than the date that is 180 days after the date of the enactment of this section, the Secretary shall, in consultation, as appropriate, with the Director of the Agency for Healthcare Research and Quality and the Assistant Secretary for Mental Health and Substance Use,
conduct a 5-year demonstration project for the purpose described in paragraph (2) under which the Secretary shall—

“(A) for the first 18-month period of such project, award planning grants described in paragraph (3); and

“(B) for the remaining 42-month period of such project, provide to each State selected under paragraph (4) payments in accordance with paragraph (5).

“(2) Purpose.—The purpose described in this paragraph is for each State selected under paragraph (4) to increase the treatment capacity of providers participating under the State plan (or a waiver of such plan) to provide substance use disorder treatment or recovery services under such plan (or waiver) through the following activities:

“(A) For the purpose described in paragraph (3)(C)(i), activities that support an ongoing assessment of the behavioral health treatment needs of the State, taking into account the matters described in subclauses (I) through (IV) of such paragraph.

“(B) Activities that, taking into account the results of the assessment described in sub-
paragraph (A), support the recruitment, training, and provision of technical assistance for providers participating under the State plan (or a waiver of such plan) that offer substance use disorder treatment or recovery services.

“(C) Improved reimbursement for and expansion of, through the provision of education, training, and technical assistance, the number or treatment capacity of providers participating under the State plan (or waiver) that—

“(i) are authorized to dispense drugs approved by the Food and Drug Administration for individuals with a substance use disorder who need withdrawal management or maintenance treatment for such disorder;

“(ii) have in effect a registration or waiver under section 303(g) of the Controlled Substances Act for purposes of dispensing narcotic drugs to individuals for maintenance treatment or detoxification treatment and are in compliance with any regulation promulgated by the Assistant Secretary for Mental Health and Substance Use for purposes of carrying out
the requirements of such section 303(g);
and
“(iii) are qualified under applicable State law to provide substance use disorder treatment or recovery services.
“(D) Improved reimbursement for and expansion of, through the provision of education, training, and technical assistance, the number or treatment capacity of providers participating under the State plan (or waiver) that have the qualifications to address the treatment or recovery needs of—
“(i) individuals enrolled under the State plan (or a waiver of such plan) who have neonatal abstinence syndrome, in accordance with guidelines issued by the American Academy of Pediatrics and American College of Obstetricians and Gynecologists relating to maternal care and infant care with respect to neonatal abstinence syndrome;
“(ii) pregnant women, postpartum women, and infants, particularly the concurrent treatment, as appropriate, and comprehensive case management of preg-
nant women, postpartum women and infants, enrolled under the State plan (or a waiver of such plan);

“(iii) adolescents and young adults between the ages of 12 and 21 enrolled under the State plan (or a waiver of such plan); or

“(iv) American Indian and Alaska Native individuals enrolled under the State plan (or a waiver of such plan).

“(3) PLANNING GRANTS.—

“(A) IN GENERAL.—The Secretary shall, with respect to the first 18-month period of the demonstration project conducted under paragraph (1), award planning grants to at least 10 States selected in accordance with subparagraph (B) for purposes of preparing an application described in paragraph (4)(C) and carrying out the activities described in subparagraph (C).

“(B) SELECTION.—In selecting States for purposes of this paragraph, the Secretary shall—
“(i) select States that have a State plan (or waiver of the State plan) approved under this title; “

“(ii) select States in a manner that ensures geographic diversity; and “

“(iii) give preference to States with a prevalence of substance use disorders (in particular opioid use disorders) that is comparable to or higher than the national average prevalence, as measured by aggregate per capita drug overdoses, or any other measure that the Secretary deems appropriate.

“(C) ACTIVITIES DESCRIBED.—Activities described in this subparagraph are, with respect to a State, each of the following:

“(i) Activities that support the development of an initial assessment of the behavioral health treatment needs of the State to determine the extent to which providers are needed (including the types of such providers and geographic area of need) to improve the network of providers that treat substance use disorders under
the State plan (or waiver), including the following:

“(I) An estimate of the number of individuals enrolled under the State plan (or a waiver of such plan) who have a substance use disorder.

“(II) Information on the capacity of providers to provide substance use disorder treatment or recovery services to individuals enrolled under the State plan (or waiver), including information on providers who provide such services and their participation under the State plan (or waiver).

“(III) Information on the gap in substance use disorder treatment or recovery services under the State plan (or waiver) based on the information described in subclauses (I) and (II).

“(IV) Projections regarding the extent to which the State participating under the demonstration project would increase the number of providers offering substance use disorder treatment or recovery services
under the State plan (or waiver) during the period of the demonstration project.

“(ii) Activities that, taking into account the results of the assessment described in clause (i), support the development of State infrastructure to, with respect to the provision of substance use disorder treatment or recovery services under the State plan (or a waiver of such plan), recruit prospective providers and provide training and technical assistance to such providers.

“(D) FUNDING.—For purposes of subparagraph (A), there is appropriated, out of any funds in the Treasury not otherwise appropriated, $50,000,000, to remain available until expended.

“(4) POST-PLANNING STATES.—

“(A) IN GENERAL.—The Secretary shall, with respect to the remaining 42-month period of the demonstration project conducted under paragraph (1), select not more than 5 States in accordance with subparagraph (B) for purposes of carrying out the activities described in para-
graph (2) and receiving payments in accordance with paragraph (5).

“(B) SELECTION.—In selecting States for purposes of this paragraph, the Secretary shall—

“(i) select States that received a planning grant under paragraph (3);

“(ii) select States that submit to the Secretary an application in accordance with the requirements in subparagraph (C), taking into consideration the quality of each such application;

“(iii) select States in a manner that ensures geographic diversity; and

“(iv) give preference to States with a prevalence of substance use disorders (in particular opioid use disorders) that is comparable to or higher than the national average prevalence, as measured by aggregate per capita drug overdoses, or any other measure that the Secretary deems appropriate.

“(C) APPLICATIONS.—

“(i) IN GENERAL.—A State seeking to be selected for purposes of this paragraph
shall submit to the Secretary, at such time and in such form and manner as the Secretary requires, an application that includes such information, provisions, and assurances, as the Secretary may require, in addition to the following:

“(I) A proposed process for carrying out the ongoing assessment described in paragraph (2)(A), taking into account the results of the initial assessment described in paragraph (3)(C)(i).

“(II) A review of reimbursement methodologies and other policies related to substance use disorder treatment or recovery services under the State plan (or waiver) that may create barriers to increasing the number of providers delivering such services.

“(III) The development of a plan, taking into account activities carried out under paragraph (3)(C)(ii), that will result in long-term and sustainable provider networks under the State plan (or waiver) that will offer
a continuum of care for substance use disorders. Such plan shall include the following:

“(aa) Specific activities to increase the number of providers (including providers that specialize in providing substance use disorder treatment or recovery services, hospitals, health care systems, Federally qualified health centers, and, as applicable, certified community behavioral health clinics) that offer substance use disorder treatment, recovery, or support services, including short-term detoxification services, outpatient substance use disorder services, and evidence-based peer recovery services.

“(bb) Strategies that will incentivize providers described in subparagraphs (C) and (D) of paragraph (2) to obtain the necessary training, education, and support to deliver substance use
disorder treatment or recovery 
services in the State.

“(cc) Milestones and timeli-
ness for implementing activities 
set forth in the plan.

“(dd) Specific measurable 
targets for increasing the sub-
stance use disorder treatment 
and recovery provider network 
under the State plan (or a waiver 
of such plan).

“(IV) A proposed process for re-
porting the information required 
under paragraph (6)(A), including in-
formation to assess the effectiveness 
of the efforts of the State to expand 
the capacity of providers to deliver 
substance use disorder treatment or 
recovery services during the period of 
the demonstration project under this 
subsection.

“(V) The expected financial im-
pact of the demonstration project 
under this subsection on the State.
“(VI) A description of all funding sources available to the State to provide substance use disorder treatment or recovery services in the State.

“(VII) A preliminary plan for how the State will sustain any increase in the capacity of providers to deliver substance use disorder treatment or recovery services resulting from the demonstration project under this subsection after the termination of such demonstration project.

“(VIII) A description of how the State will coordinate the goals of the demonstration project with any waiver received pursuant to section 1115 for the delivery of substance use services under the State plan, as applicable.

“(ii) CONSULTATION.—In completing an application under clause (i), a State shall consult with relevant stakeholders, including Medicaid managed care plans, health care providers, and Medicaid beneficiary advocates, and include in such application a description of such consultation.
“(5) PAYMENT.—

“(A) IN GENERAL.—For each quarter occurring during the period for which the demonstration project is conducted (after the first 18 months of such period), the Secretary shall pay under this subsection, subject to subparagraphs (C) and (D), to each State selected under paragraph (4) an amount equal to 80 percent of so much of the qualified sums expended during such quarter.

“(B) QUALIFIED SUMS DEFINED.—For purposes of subparagraph (A), the term ‘qualified sums’ means, with respect to a State and a quarter, the amount equal to the amount (if any) by which the sums expended by the State during such quarter attributable to substance use treatment or recovery services furnished by providers participating under the State plan (or a waiver of such plan) exceeds 1/4 of such sums expended by the State during fiscal year 2018 attributable to substance use treatment or recovery services.

“(C) NON-DUPLICATION OF PAYMENT.—In the case that payment is made under subparagraph (A) with respect to expenditures for sub-
stance use treatment or recovery services furnished by providers participating under the State plan (or a waiver of such plan), payment may not also be made under subsection (a) with respect to expenditures for the same services so furnished.

“(D) CONDITIONS.—In the case of a State selected under paragraph (4) that provides substance use disorder treatment and recovery services under a waiver under section 1115, such State shall, as a condition of receiving payments under subparagraph (A)—

“(i) coordinate such services under such waiver with substance use disorder treatment and recovery services provided under the demonstration project under this subsection; and

“(ii) take such actions as appropriate under the demonstration project to expand such services under such waiver.

“(6) REPORTS.—

“(A) STATE REPORTS.—A State receiving payments under paragraph (5) shall, for the period of the demonstration project under this subsection, submit to the Secretary a quarterly
report, with respect to expenditures for substance use treatment or recovery services for which payment is made to the State under this subsection, on the following:

“(i) The specific activities with respect to which payment under this subsection was provided.

“(ii) The number of providers that delivered substance use disorder treatment or recovery services in the State under the demonstration project compared to the estimated number of providers that would have otherwise delivered such services in the absence of such demonstration project.

“(iii) The number of individuals enrolled under the State plan (or a waiver of such plan) who received substance use disorder treatment or recovery services under the demonstration project compared to the estimated number of such individuals who would have otherwise received such services in the absence of such demonstration project.

“(iv) Other matters as determined by the Secretary.
“(B) CMS reports.—

“(i) Initial report.—Not later than October 1, 2020, the Administrator of the Centers for Medicare & Medicaid Services shall, in consultation with the Director of the Agency for Healthcare Research and Quality and the Assistant Secretary for Mental Health and Substance Use, submit to Congress an initial report on—

“(I) the States awarded planning grants under paragraph (3);

“(II) the criteria used in such selection; and

“(III) the activities carried out by such States under such planning grants.

“(ii) Interim report.—Not later than October 1, 2022, the Administrator of the Centers for Medicare & Medicaid Services shall, in consultation with the Director of the Agency for Healthcare Research and Quality and the Assistant Secretary for Mental Health and Substance Use, submit to Congress an interim report—
“(I) on activities carried out under the demonstration project under this subsection;

“(II) on the extent to which States selected under paragraph (4) have achieved the stated goals submitted in their applications under subparagraph (C) of such paragraph;

“(III) with a description of the strengths and limitations of such demonstration project; and

“(IV) with a plan for the sustainability of such project.

“(iii) FINAL REPORT.—Not later than October 1, 2024, the Administrator of the Centers for Medicare & Medicaid Services shall, in consultation with the Director of the Agency for Healthcare Research and Quality and the Assistant Secretary for Mental Health and Substance Use, submit to Congress a final report—

“(I) providing updates on the matters reported in the interim report under clause (ii);
“(II) including a description of
any changes made with respect to the
demonstration project under this sub-
section after the submission of such
interim report; and

“(III) evaluating such dem-
onstration project.

“(C) AHRQ REPORT.—Not later than
three years after the date of the enactment of
this subsection, the Director of the Agency for
Healthcare Research and Quality shall submit
to Congress a summary on the experiences of
States awarded planning grants under para-
graph (3) and States selected under paragraph
(4).

“(7) DATA SHARING AND BEST PRACTICES.—
During the period of the demonstration project
under this subsection, the Secretary shall, in collab-
oration with States selected under paragraph (4), fa-
cilitate data sharing and the development of best
practices between such States and States that were
not so selected.

“(8) CMS FUNDING.—There is appropriated,
out of any funds in the Treasury not otherwise ap-
propriated, $5,000,000 to the Centers for Medicare
Medicaid Services for purposes of implementing this subsection. Such amount shall remain available until expended.”.