

115TH CONGRESS  
2D SESSION

# H. R. 5605

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

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 24, 2018

Mr. RUIZ introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## 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 DEMONSTRA-**

## **2 TION PROGRAM.**

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 DEM-  
7 ONSTRATION PROGRAM.**

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

“(1) IN GENERAL.—Not later than January 1, 2021, the Secretary shall implement a 5-year demonstration program under this title (in this section referred to as the ‘Program’) to increase access of applicable beneficiaries to opioid use disorder treatment services, improve physical and mental health outcomes for such beneficiaries, and to the extent possible, reduce expenditures under this title. Under the Program, the Secretary shall make payments under subsection (f) to participating care teams (as defined in subsection (c)(1)(A)) for providing opioid use disorder treatment services to applicable beneficiaries participating under the Program.

“(2) OPIOID USE DISORDER TREATMENT SERVICES.—For purposes of this section, the term ‘opioid use disorder treatment services’—

1               “(A) means, with respect to an applicable  
2               beneficiary, services that are furnished for the  
3               treatment of opioid use disorders in an out-  
4               patient setting and—

5               “(i) which are supported by the per  
6               applicable beneficiary per month care man-  
7               agement fee under subsection (f); or

8               “(ii) for which payment may otherwise  
9               be made under this title; and

10              “(B) includes—

11              “(i) medication assisted treatment;

12              “(ii) treatment planning;

13              “(iii) appropriate outpatient psy-  
14               chiatric, psychological, or counseling serv-  
15               ices (or any combination of such services);

16              “(iv) appropriate social support serv-  
17               ices; and

18              “(v) care management and care co-  
19               ordination of opioid use disorder services,  
20               as well as coordination with other physi-  
21               cians and providers treating the mental  
22               and physical conditions of such beneficiary.

23              “(b) PROGRAM DESIGN.—

24              “(1) IN GENERAL.—The Secretary shall design  
25               the Program in such a manner to evaluate the ex-

1       tent to which the Program accomplishes the fol-  
2       lowing purposes:

3                 “(A) Reduces hospitalizations and emer-  
4       gency department visits.

5                 “(B) Reduces the occurrence of overdoses  
6       from opioids, including prescription opioid  
7       medications as well as illicit opioids.

8                 “(C) Increases use of medication-assisted  
9       treatment for opioid use disorders.

10                “(D) Improves health outcomes of individ-  
11       uals with opioid use disorders, including by re-  
12       ducing the incidence of infectious diseases (such  
13       as hepatitis C and HIV).

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

16                “(F) Reduces deaths from opioid poi-  
17       soning.

18                “(G) Reduces the utilization of inpatient  
19       residential treatment.

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

25                “(c) PARTICIPATING CARE TEAMS.—

1           “(1) DEFINITION; SELECTION.—

2                 “(A) DEFINITION.—In this section, the  
3                 term ‘participating care team’ means an opioid  
4                 use disorder care team (as defined in paragraph  
5                 (2)) that is participating under the Program  
6                 pursuant to selection by the Secretary under  
7                 subparagraph (B).

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

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

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

1                 “(A) IN GENERAL.—For purposes of this  
2 section, the term ‘opioid use disorder care team’  
3 means a group of health care practitioners, or  
4 an entity employing or contracting with such  
5 health care practitioners, that—

6                 “(i) includes at least one physician  
7 who is providing primary care services or  
8 addiction treatment services to an applica-  
9 ble beneficiary during the period in which  
10 the opioid use disorder care team is receiv-  
11 ing payments under subsection (f);

12                 “(ii) includes at least one eligible  
13 practitioner (as defined in paragraph  
14 (3)(A)), who may be a physician who  
15 meets the criterion in clause (i); and

16                 “(iii) includes other practitioners—

17                 “(I) as necessary to deliver ap-  
18 propriate psychiatric, psychological,  
19 counseling, and social services to ap-  
20 plicable beneficiaries in addition to the  
21 services delivered by the eligible prac-  
22 titioner; and

23                 “(II) who only perform services  
24 that such practitioners are legally au-  
25 thorized to perform under State law.

1                 “(B) REQUIREMENTS FOR PARTICIPA-  
2                 TION.—In order for an opioid use disorder care  
3                 team to participate in the Program as a partici-  
4                 pating care team, each of the practitioners par-  
5                 ticipating on the team shall agree to—

6                         “(i) deliver opioid use disorder treat-  
7                 ment services to applicable beneficiaries  
8                 who agree to receive the services;

9                         “(ii) meet minimum standards for  
10                 quality required by the Program; and

11                         “(iii) submit to the Secretary, with re-  
12                 spect to each applicable beneficiary for  
13                 whom such practitioner provides opioid use  
14                 disorder treatment services, data with re-  
15                 spect to the quality standards and the  
16                 measures defined in subsection (d) and  
17                 such other information as the Secretary  
18                 determines appropriate to monitor and  
19                 evaluate the Program and to determine the  
20                 performance of each practitioner for pur-  
21                 poses of the incentive payment under sub-  
22                 section (f), in such form, manner, and fre-  
23                 quency as specified by the Secretary.

1                 “(3) ELIGIBLE PRACTITIONERS; OTHER PRO-  
2                 VIDER-RELATED DEFINITIONS AND APPLICATION  
3                 PROVISIONS.—

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

8                         “(i) participates in the Medicare pro-  
9                 gram under this title;

10                         “(ii)(I) is authorized to prescribe or  
11                 dispense narcotic drugs to individuals for  
12                 maintenance treatment or detoxification  
13                 treatment; and

14                         “(II) has in effect a registration or  
15                 waiver in accordance with section 303(g) of  
16                 the Controlled Substances Act for such  
17                 purpose and is otherwise in compliance  
18                 with regulations promulgated by the Sub-  
19                 stance Abuse and Mental Health Services  
20                 Administration to carry out such section;  
21                 and

22                         “(iii) with respect to furnishing opioid  
23                 use disorder treatment services to the ap-  
24                 plicable beneficiary, participates in an

1                    opioid use disorder care team, which is a  
2                    participating care team.

3                 “(B) ADDICTION SPECIALISTS.—For pur-  
4                 poses of paragraph (2)(C), the term ‘addiction  
5                 specialist’ means a physician that possesses ex-  
6                 pert knowledge and skills in addiction medicine,  
7                 as evidenced by—

8                    “(i) certification by the American So-  
9                 ciety of Addiction Medicine or the Amer-  
10                ican Board of Addiction Medicine;

11                “(ii) subspecialty certification in ad-  
12                diction medicine by the American Board of  
13                Preventive Medicine;

14                “(iii) subspecialty certification in ad-  
15                diction psychiatry by the American Board  
16                of Psychiatry and Neurology;

17                “(iv) a certificate of added qualifica-  
18                tion in addiction medicine conferred by the  
19                American Osteopathic Association; or

20                “(v) completion of an accredited resi-  
21                dency or fellowship in addiction medicine  
22                or addiction psychiatry.

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

1           “(1) ADOPTION AND DEVELOPMENT OF STAND-  
2       ARDS AND PERFORMANCE MEASURES.—Not later  
3       than 9 months after the date of the enactment of  
4       this section, the Secretary, in conjunction with  
5       stakeholders (including clinicians in the primary care  
6       community and the field of addiction medicine),  
7       shall adopt or develop (or an appropriate entity with  
8       which the Secretary contracts shall develop) quality  
9       standards and methods of assessing the quality of  
10      care to ensure a minimum level of quality of care  
11      and to determine whether the services furnished by  
12      participating care teams are achieving the purposes  
13      described in subsection (b)(1). For purposes of  
14      adopting or developing standards for payments  
15      under subsection (f)(1) and for purposes of adopting  
16      or developing methods for assessing performance for  
17      the incentive payments under subsection (f)(2), the  
18      Secretary may consider existing clinical guidelines  
19      for the treatment of opioid use disorders and stand-  
20      ards or measures applied for use under the Medicaid  
21      program under title XIX. Standards and assessment  
22      methods shall address the following outcomes and  
23      performance criteria:

24           “(A) Patient engagement in treatment.

25           “(B) Retention in treatment.

1               “(C) Provision of evidence-based medica-  
2               tion-assisted treatment.

3               “(D) Any other criteria the Secretary  
4               deems appropriate.

5               “(2) SUBMISSION.—Each participating care  
6               team shall submit to the Secretary, in such form,  
7               manner, and frequency specified by the Secretary,  
8               data with respect to such standards and assessment  
9               methods and such other information as the Sec-  
10               etary determines appropriate to monitor and eval-  
11               uate the Program and to determine the performance  
12               of such team for purposes of the incentive payment  
13               under subsection (f)(2).

14               “(e) PARTICIPATION OF APPLICABLE BENE-  
15               FICIARIES.—

16               “(1) APPLICABLE BENEFICIARY DEFINED.—In  
17               this section, the term ‘applicable beneficiary’ means  
18               an individual who—

19               “(A) is entitled to benefits under part A  
20               and enrolled for benefits under part B;

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

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

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

3                 Such term shall include an individual who is dually  
4                 eligible for benefits under this title and title XIX if  
5                 such individual satisfies the criteria described in  
6                 subparagraphs (A) through (D).

7                 “(2) VOLUNTARY PARTICIPATION.—An applica-  
8                 ble beneficiary may participate in the Program on a  
9                 voluntary basis and may terminate participation in  
10                 the Program at any time.

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

21                 “(4) BENEFICIARY ACCESS TO SERVICES.—  
22                 Nothing in this section shall be construed as encour-  
23                 aging providers to limit applicable beneficiary access  
24                 to services covered under this title and applicable  
25                 beneficiaries shall not be required to relinquish ac-

1       cess to any benefit under this title as a condition of  
2       receiving services from a participating care team.

3       “(f) PAYMENTS.—

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

6           “(A) IN GENERAL.—The Secretary shall  
7       establish a schedule of per applicable bene-  
8       ficiary per month care management fees. Such  
9       a per applicable beneficiary per month care  
10      management fee shall be paid to a participating  
11      care team in addition to any other amount oth-  
12      erwise payable under this title to the practi-  
13      tioners participating with the team or, if appli-  
14      cable, the entity with respect to such team em-  
15      ploying or contracting with such practitioners.  
16      A participating care team may use such per ap-  
17      plicable beneficiary per month care manage-  
18      ment fee to deliver additional services to appli-  
19      cable beneficiaries, including services not other-  
20      wise eligible for payment under this title.

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

23           “(i) consider the costs that partici-  
24      pating care teams are expected to incur in  
25      delivering high-quality opioid use disorder

1           care services that are not covered by pay-  
2           ments otherwise payable to the teams  
3           under this title;

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

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

20          “(iv) pay higher per applicable bene-  
21          ficiary per month care management fees  
22          for participating care teams that include  
23          an addiction specialist who is either deliv-  
24          ering services directly to applicable bene-  
25          ficiaries or providing consulting support to

1           those practitioners participating with such  
2           teams who are delivering services to applic-  
3           able beneficiaries.

4           “(2) INCENTIVE PAYMENTS.—Under the Pro-  
5           gram, the Secretary shall establish a performance-  
6           based incentive payment, which shall be paid to par-  
7           ticipating care teams based on the performance of  
8           such teams with respect to standards and assess-  
9           ment methods adopted or developed by the Secretary  
10          under subsection (d) and with respect to which the  
11          teams report under such subsection.

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

21          “(h) EVALUATION.—

22          “(1) IN GENERAL.—The Comptroller General of  
23         the United States shall conduct an intermediate and  
24         final evaluation of the program. Each such evalua-  
25         tion shall determine the extent to which each of the

1       purposes described in subsection (b) have been ac-  
2       complished under the Program. Each evaluation  
3       shall also determine the extent to which the struc-  
4       ture and requirements of the Program facilitated or  
5       impeded the participation of practitioners in the pro-  
6       gram, the participation of beneficiaries with opioid  
7       use disorder, and the delivery of high-quality opioid  
8       use disorder treatment services.

9               “(2) REPORTS.—The Comptroller General of  
10      the United States shall submit to the Secretary and  
11      Congress—

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

16               “(B) a report with respect to the final  
17      evaluation under paragraph (1) not later than  
18      6 years after such date.

19               “(i) FUNDING.—

20               “(1) ADMINISTRATIVE FUNDING.—For the pur-  
21      poses of implementing, administering, and carrying  
22      out the Program (other than for purposes described  
23      in paragraph (2)), there shall be transferred to the  
24      Secretary for the Center for Medicare & Medicaid  
25      Services Program Management Account from the

1       Federal Supplementary Medical Insurance Trust  
2       Fund under section 1841 \$5,000,000.

3           “(2) CARE MANAGEMENT FEES AND INCEN-  
4       TIVES.—For the purposes of payments under sub-  
5       section (f), there shall be transferred to the Sec-  
6       retary such sums as are necessary from the Federal  
7       Supplementary Medical Insurance Trust Fund under  
8       section 1841 for each of fiscal years 2021 through  
9       2025.

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

13          “(j) WAIVERS.—The Secretary may waive any provi-  
14       sion of this title that conflicts with or impedes the imple-  
15       mentation of the provisions of this section.”.

○