

112TH CONGRESS
1ST SESSION

S. 539

To amend the Public Health Services Act and the Social Security Act to extend health information technology assistance eligibility to behavioral health, mental health, and substance abuse professionals and facilities, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 10, 2011

Mr. WHITEHOUSE introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Public Health Services Act and the Social Security Act to extend health information technology assistance eligibility to behavioral health, mental health, and substance abuse professionals and facilities, and for other purposes.

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 “Behavioral Health In-
5 formation Technology Act of 2011”.

1 **SEC. 2. EXTENSION OF HEALTH INFORMATION TECH-**
 2 **NOLOGY ASSISTANCE FOR BEHAVIORAL**
 3 **HEALTH AND MENTAL HEALTH AND SUB-**
 4 **STANCE ABUSE.**

5 Section 3000(3) of the Public Health Services Act
 6 (42 U.S.C. 300jj(3)) is amended by inserting “a behav-
 7 ioral or mental health professional (as defined in section
 8 331(a)(3)(E)(i)), a substance abuse professional, a psy-
 9 chiatric hospital (as defined in section 1861(f) of the So-
 10 cial Security Act), a community mental health center (as
 11 described in section 1913(b)(2)) (including community
 12 mental health centers that are operated by county behav-
 13 ioral health agencies), a residential mental health treat-
 14 ment facility, an outpatient mental health treatment facil-
 15 ity, a substance abuse treatment facility,” before “and any
 16 other category”.

17 **SEC. 3. EXTENSION OF HEALTH INFORMATION TECH-**
 18 **NOLOGY REGIONAL EXTENSION CENTERS.**

19 Section 3012(c)(4) of the Public Health Service Act
 20 (42 U.S.C. 300jj-32(c)(4)) is amended by adding at the
 21 end the following:

22 “(E) Community mental health centers (as
 23 described in section 1913(b)(2)), psychiatric
 24 hospitals (as defined in section 1861(f) of the
 25 Social Security Act), behavioral and mental
 26 health professionals (as defined in section

1 331(a)(3)(E)(i)), substance abuse professionals,
 2 residential mental health treatment facilities,
 3 outpatient mental health treatment facilities,
 4 and substance abuse treatment facilities, includ-
 5 ing such facilities operated, managed, or con-
 6 tracted for by a county behavioral health agen-
 7 cy.”.

8 **SEC. 4. EXTENSION OF ELIGIBILITY FOR MEDICARE AND**
 9 **MEDICAID HEALTH INFORMATION TECH-**
 10 **NOLOGY ASSISTANCE.**

11 (a) PAYMENT INCENTIVES FOR ELIGIBLE PROFES-
 12 SIONALS UNDER THE MEDICARE PROGRAM.—Section
 13 1848 of the Social Security Act (42 U.S.C. 1395w-4) is
 14 amended—

15 (1) in subsection (a)(7)(E), by amending clause
 16 (iii) to read as follows:

17 “(iii) ELIGIBLE PROFESSIONAL.—The
 18 term ‘eligible professional’ means any of
 19 the following:

20 “(I) A physician (as defined sec-
 21 tion 1861(r)).

22 “(II) A clinical psychologist pro-
 23 viding qualified psychologist services
 24 (as defined in section 1861(ii)).

1 “(III) A clinical social worker (as
2 defined in section 1861(hh)(1)).”; and
3 (2) in subsection (o)(5), by amending subpara-
4 graph (C) to read as follows:

5 “(C) ELIGIBLE PROFESSIONAL.—The term
6 ‘eligible professional’ means any of the fol-
7 lowing:

8 “(i) A physician (as defined section
9 1861(r)).

10 “(ii) A clinical psychologist providing
11 qualified psychologist services (as defined
12 in section 1861(ii)).

13 “(iii) A clinical social worker (as de-
14 fined in section 1861(hh)(1)).”.

15 (b) ELIGIBLE HOSPITALS.—Section 1886(s) of the
16 Social Security Act (42 U.S.C. 1395ww(s)) is amended—

17 (1) in paragraph (4)(A)(i), by inserting “(or,
18 beginning with fiscal year 2015, by one-quarter of
19 such annual update (determined without regard to
20 clause (i) or (ii) of paragraph (2)(A) or paragraph
21 (5))” after “2 percentage points”; and

22 (2) by adding at the end the following new
23 paragraph:

24 “(5) APPLICATION OF INCENTIVES AND INCEN-
25 TIVE MARKET BASKET ADJUSTMENT FOR ADOPTION

1 AND MEANINGFUL USE OF CERTIFIED EHR TECH-
2 NOLOGY.—The provisions of subsections (n) and
3 (b)(3)(B)(ix) shall apply to a psychiatric hospital (as
4 defined in section 1861(f)) that furnishes inpatient
5 hospital services with respect to a rate year begin-
6 ning in a fiscal year in the same manner as such
7 subsections apply to an eligible hospital (as defined
8 in subsection (n)(6)(B)) with respect to such fiscal
9 year (in accordance with rules prescribed by the Sec-
10 retary).”.

11 (c) MEDICAID PROVIDERS.—Section 1903(t) of the
12 Social Security Act (42 U.S.C. 1396b(t)) is amended—

13 (1) in paragraph (2)—

14 (A) in subparagraph (B)—

15 (i) in clause (i), by striking “, or” and
16 inserting a semicolon;

17 (ii) in clause (ii), by striking the pe-
18 riod at the end and inserting a semicolon;

19 and

20 (iii) by adding after clause (ii) the fol-
21 lowing:

22 “(iii) a public hospital that is prin-
23 cipally a psychiatric hospital (as defined in
24 section 1861(f));

1 “(iv) a private hospital that is prin-
2 cipally a psychiatric hospital (as defined in
3 section 1861(f)) and that has at least 10
4 percent of its patient volume (as estimated
5 in accordance with a methodology estab-
6 lished by the Secretary) attributable to in-
7 dividuals who are receiving medical assist-
8 ance under this title;

9 “(v) a community mental health cen-
10 ter (as described in section 1913(b)(2) of
11 the Public Health Service Act);

12 “(vi) a residential or outpatient men-
13 tal health treatment facility that—

14 “(I) is accredited by the Joint
15 Commission on Accreditation of
16 Healthcare Organizations, the Com-
17 mission on Accreditation of Rehabili-
18 tation Facilities, the Council on Ac-
19 creditation, or any other national ac-
20 crediting agency recognized by the
21 Secretary; and

22 “(II) has at least 10 percent of
23 its patient volume (as estimated in ac-
24 cordance with a methodology estab-
25 lished by the Secretary) attributable

1 to individuals who are receiving med-
2 ical assistance under this title; or

3 “(vii) a substance abuse treatment fa-
4 cility that—

5 “(I) is accredited by the Joint
6 Commission on Accreditation of
7 Healthcare Organizations, the Com-
8 mission on Accreditation of Rehabili-
9 tation Facilities, the Council on Ac-
10 creditation, or any other national ac-
11 crediting agency recognized by the
12 Secretary; and

13 “(II) has at least 10 percent of
14 its patient volume (as estimated in ac-
15 cordance with a methodology estab-
16 lished by the Secretary) attributable
17 to individuals who are receiving med-
18 ical assistance under this title.”; and

19 (B) in the flush matter at the end, by add-
20 ing the following: “For purposes of subpara-
21 graph (B), a hospital, facility, or mental health
22 center described under such subparagraph shall
23 include those operated or managed, directly or
24 under contract, by a county behavioral health
25 center.”; and

1 (2) in paragraph (3)(B)—

2 (A) in clause (iv), by striking “; and” and
3 inserting a semicolon;

4 (B) in clause (v), by striking the period
5 and inserting a semicolon; and

6 (C) by adding at the end the following:

7 “(vi) clinical psychologist providing
8 qualified psychologist services (as defined
9 in section 1861(ii)), if such clinical psy-
10 chologist is practicing in an outpatient set-
11 ting that—

12 “(I) is led by a clinical psycholo-
13 gist; and

14 “(II) is not otherwise receiving
15 payment under paragraph (1) as a
16 Medicaid provider described in para-
17 graph (2)(B); and

18 “(vii) a clinical social worker (as de-
19 fined in section 1861(hh)(1)), if such clin-
20 ical social worker is practicing in an out-
21 patient clinic that—

22 “(I) is led by a clinical social
23 worker; and

24 “(II) is not otherwise receiving
25 payment under paragraph (1) as a

1 Medicaid provider described in para-
2 graph (2)(B).”.

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