

114TH CONGRESS
1ST SESSION

S. 1604

To establish the Transition to Independence Medicaid Buy-In Option demonstration program.

IN THE SENATE OF THE UNITED STATES

JUNE 18, 2015

Mr. GRASSLEY (for himself, Mr. WYDEN, and Mr. CASEY) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To establish the Transition to Independence Medicaid Buy-In Option 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 “Transition to Inde-
5 pendence Act”.

6 **SEC. 2. TRANSITION TO INDEPENDENCE MEDICAID BUY-IN**
7 **OPTION DEMONSTRATION PROGRAM.**

8 (a) ESTABLISHMENT.—The Secretary shall establish
9 a demonstration program under which a State that is a
10 Medicaid Buy-In State and meets certain criteria may re-

1 ceive bonus payments for meeting specific measurable
 2 benchmarks in expanding individual integrated employ-
 3 ment and reducing subminimum wage work, congregate
 4 setting work, or facility-based day habilitation placements
 5 for working-age individuals with a disability receiving
 6 Medicaid-funded home or community-based services and
 7 for taking other actions conducive to expanding employ-
 8 ment opportunities for individuals with disabilities within
 9 the State.

10 (b) REQUIREMENTS FOR THE TRANSITION TO INDE-
 11 PENDENCE MEDICAID BUY-IN OPTION.—

12 (1) MINIMUM STANDARDS.—The Secretary
 13 shall establish minimum standards for Medicaid
 14 Buy-In States participating in the demonstration
 15 program to comply with in establishing eligibility re-
 16 quirements for individual participants, benefits, and
 17 administrative requirements for the Transition to
 18 Independence Medicaid Buy-In Option offered under
 19 the demonstration program.

20 (2) ELIGIBILITY REQUIREMENTS FOR INDI-
 21 VIDUAL PARTICIPANTS.—The minimum standards
 22 shall require a Medicaid Buy-In State participating
 23 in the demonstration program to—

24 (A) establish an assets or resources test
 25 for participation by an individual in the Transi-

1 tion to Independence Medicaid Buy-In Option
2 that is not less than \$20,000;

3 (B) establish an income requirement for
4 participation by an individual in the Transition
5 to Independence Medicaid Buy-In Option that
6 is at least up to 400 percent of the poverty line;
7 and

8 (C) establish such other requirements for
9 an individual's participation in the Transition
10 to Independence Medicaid Buy-In Option as the
11 Secretary shall specify.

12 (3) WORK INCENTIVES COORDINATOR.—The
13 minimum standards shall require a Medicaid Buy-In
14 State participating in the demonstration program to
15 provide work incentives coordinators who have been
16 trained as work incentive specialists under a commu-
17 nity-based work incentives planning and assistance
18 program established under section 1149 of the So-
19 cial Security Act (42 U.S.C. 1320b–20) to assist the
20 individuals who elect to participate in the Transition
21 to Independence Medicaid Buy-In Option in order to
22 ensure the individuals are provided with appropriate
23 items and services.

24 (4) VOLUNTARY PARTICIPATION.—The min-
25 imum standards shall require a Medicaid Buy-In

1 State participating in the demonstration program to
2 allow an individual's participation in the Transition
3 to Independence Medicaid Buy-In Option to be vol-
4 untary and to not preclude an individual who elects
5 to participate in the Transition to Independence
6 Medicaid Buy-In Option from also electing to enroll
7 in a qualified health plan offered through an Amer-
8 ican Health Benefit Exchange and—

9 (A) being deemed to be an applicable tax-
10 payer for purposes of section 36B of the Inter-
11 nal Revenue Code of 1986, notwithstanding the
12 provisions of subsection (c)(1)(A) of such sec-
13 tion;

14 (B) being deemed to be an eligible insured
15 for purposes of section 1402 of the Patient Pro-
16 tection and Affordable Care Act (42 U.S.C.
17 18071), notwithstanding the provisions of sub-
18 section (b)(2) of such section; and

19 (C) not being subject to the enrollment
20 provisions of section 1413 of such Act (42
21 U.S.C. 18083) with respect to the State in-
22 volved.

23 (c) APPLICATION AND SELECTION REQUIRE-
24 MENTS.—

1 (1) IN GENERAL.—Not later than June 30,
2 2016, the Secretary shall solicit applications from
3 Medicaid Buy-In States and select 10 Medicaid Buy-
4 In States to participate in the demonstration pro-
5 gram.

6 (2) APPLICATION REQUIREMENTS.—An applica-
7 tion to participate in the demonstration program
8 shall include the following:

9 (A) Data and information regarding the
10 numbers of working-age individuals with dis-
11 abilities who are receiving Medicaid-funded
12 home or community-based services in the Med-
13 icaid Buy-In State who are in individual inte-
14 grated employment, subminimum wage work,
15 congregate setting work, or facility-based day
16 habilitation or day treatment, respectively.

17 (B) Data and information verifying that
18 the Medicaid Buy-In State is prepared to meet
19 the minimum standards established by the Sec-
20 retary for the Transition to Independence Med-
21 icaid Buy-In Option.

22 (C) A plan for promoting the Transition to
23 Independence Medicaid Buy-In Option to poten-
24 tially eligible individuals that includes—

1 (i) clear and easy-to-understand,
2 multi-media information on how to enroll
3 in the Transition to Independence Med-
4 icaid Buy-In Option on the websites for
5 the Medicaid Buy-In State’s Medicaid and
6 Disability Determination Services Agen-
7 cies; and

8 (ii) a “no-wrong door” policy under
9 which individuals who apply for a deter-
10 mination of eligibility for the Transition to
11 Independence Medicaid Buy-In Option are
12 also determined if they are eligible for an
13 applicable State health subsidy program in
14 accordance with section 1413 of the Pa-
15 tient Protection and Affordable Care Act
16 (42 U.S.C. 18083) (including the State
17 Medicaid program under another eligibility
18 pathway), informed of the results of such
19 determinations and, depending on their eli-
20 gibility, provided with the option to volun-
21 tarily elect to participate in the Transition
22 to Independence Medicaid Buy-In Option
23 or an applicable State health subsidy pro-
24 gram.

1 (D) Verification that the Medicaid Buy-In
2 State will use independent contractors to deter-
3 mine whether an individual who is potentially
4 eligible to participate in the demonstration pro-
5 gram but who is not receiving disability insur-
6 ance benefits under title II of the Social Secu-
7 rity Act (42 U.S.C. 401 et seq.) or supple-
8 mental security income benefits under title XVI
9 of such Act (42 U.S.C. 1381 et seq.) is deter-
10 mined to be eligible for such benefits within 90
11 days of applying to participate in the dem-
12 onstration program and treated as if the indi-
13 vidual were receiving Medicaid-funded home or
14 community-based services solely for purposes of
15 participating in the demonstration program.

16 (E) Verification that the Medicaid Buy-In
17 State shall establish a Stakeholder Advisory
18 Committee that meets the requirements of
19 paragraph (3) and shall consult with and con-
20 sider recommendations of the Committee while
21 conducting the demonstration program.

22 (F) Such other information as the Sec-
23 retary may require relating to the demonstra-
24 tion program.

1 (3) STAKEHOLDER ADVISORY COMMITTEE RE-
2 QUIREMENTS.—

3 (A) MEMBERSHIP.—In establishing the
4 Stakeholder Advisory Committee required for
5 the demonstration program, the Medicaid Buy-
6 In State shall ensure that—

7 (i) at least 50 percent of the members
8 of the Stakeholder Advisory Committee are
9 individuals with disabilities; and

10 (ii) at least 1 member of the Com-
11 mittee is a provider of services to individ-
12 uals with disabilities.

13 (B) DUTIES.—The Stakeholder Advisory
14 Committee shall—

15 (i) analyze outcomes data and other
16 information related to the conduct of the
17 demonstration program; and

18 (ii) regularly submit recommenda-
19 tions, including for specific actions by the
20 Medicaid Buy-In State participating in the
21 demonstration program, that the Com-
22 mittee determines appropriate with respect
23 to the conduct of the demonstration by the
24 State.

1 (d) REQUIREMENT FOR SELECTING STATES.—In se-
2 lecting Medicaid Buy-In States to participate in the dem-
3 onstration program, the Secretary shall ensure that the
4 Medicaid Buy-In States selected include Medicaid Buy-In
5 States with low, medium, and high numbers of working-
6 age individuals with disabilities who are receiving Med-
7 icaid-funded home or community-based services and are
8 in individual integrated employment, subminimum wage
9 work, congregate setting work, or facility-based day habili-
10 tation or day treatment, respectively.

11 (e) LENGTH OF DEMONSTRATION PROGRAM.—The
12 demonstration program shall be conducted for a period of
13 5 fiscal years, beginning with fiscal year 2017.

14 (f) PERFORMANCE BONUS PAYMENTS.—

15 (1) IN GENERAL.—For each year in which the
16 demonstration program is conducted, a Medicaid
17 Buy-In State participating in the demonstration pro-
18 gram during that year may qualify for a perform-
19 ance bonus payment.

20 (2) STATE-SPECIFIED CRITERIA AND PERFORM-
21 ANCE PLANS.—In order to participate in the dem-
22 onstration program, a Medicaid Buy-In State shall
23 submit criteria and a plan for achieving each of the
24 mandatory benchmarks described in paragraph (3)
25 and each of the additional benchmarks described in

1 paragraph (4). The Secretary shall establish a meth-
2 odology for assessing State performance with respect
3 to the State-specified criteria for the mandatory and
4 additional benchmarks.

5 (3) MANDATORY BENCHMARKS.—The manda-
6 tory benchmarks described in this paragraph are the
7 following:

8 (A) REDUCED PARTICIPATION IN SEG-
9 REGATED PROGRAMS AND INCREASED PARTICI-
10 PATION IN INDIVIDUAL INTEGRATED EMPLOY-
11 MENT.—

12 (i) REDUCED POPULATION CENSUS OF
13 SEGREGATED PROGRAMS.—

14 (I) IN GENERAL.—Achieving a
15 reduction in the population in the
16 State of working-age individuals with
17 disabilities who are receiving Med-
18 icaid-funded home or community-
19 based services or who are receiving
20 services through an Intermediate Care
21 Facility for Persons with Develop-
22 mental Disabilities (ICF-DD), a nurs-
23 ing facility, an institution for individ-
24 uals with mental illness, or other con-
25 gregate facilities and are in submin-

1 imum wage work, congregate setting
2 work, or facility-based day habilitation
3 or day treatment.

4 (II) MINIMUM PERCENT REDUC-
5 TIONS; BONUS BASED ON ACHIEVE-
6 MENT OF DIFFERING TIERS.—In
7 order to receive a bonus payment for
8 a year under this clause, a Medicaid
9 Buy-In State shall achieve a reduction
10 of the population described in sub-
11 clause (I) of at least 10 percent below
12 the State’s most recent prior year’s
13 census of the eligible population in
14 subminimum wage work, congregate
15 setting work, or facility based day ha-
16 bilitation or day treatment. Subject to
17 paragraph (5)(B), the Secretary shall
18 award an increased bonus payment
19 for a year to a Medicaid Buy-In State
20 that achieves a percentage reduction
21 of 20, 30, 40 or more with respect to
22 the prior year’s census of such popu-
23 lation.

24 (III) RULE OF CONSTRUCTION.—
25 A working-age individual with a dis-

1 ability shall be deemed as counting to-
 2 wards a percentage reduction for pur-
 3 poses of this clause if the individual is
 4 employed in an integrated individual
 5 employment setting for at least 10
 6 hours a week on average over a 120-
 7 day period during the year involved or
 8 is receiving integrated day services
 9 supported by the State.

10 (ii) INCREASED POPULATION CENSUS
 11 OF INDIVIDUAL INTEGRATED EMPLOY-
 12 MENT.—

13 (I) IN GENERAL.—Achieving an
 14 increase in the population in the State
 15 of working-age individuals with dis-
 16 abilities who are receiving Medicaid-
 17 funded home or community-based
 18 services and are in individual inte-
 19 grated employment.

20 (II) MINIMUM PERCENT IN-
 21 CREASES; BONUS BASED ON ACHIEVE-
 22 MENT OF CERTAIN TIERS.—In order
 23 to receive a bonus payment for a year
 24 under this clause, a Medicaid Buy-In
 25 State shall achieve an increase in the

1 population described in subclause (I)
2 of at least 10 percent above the
3 State's most recent prior year's cen-
4 sus of the eligible population in indi-
5 vidual integrated employment. Subject
6 to paragraph (5)(B), the Secretary
7 shall award an increased bonus pay-
8 ment for a year to a Medicaid Buy-In
9 State that achieves a percentage in-
10 crease of 20, 30, 40 or more with re-
11 spect to the prior year's census of
12 such population.

13 (III) RULE OF CONSTRUCTION.—
14 A working-age individual with a dis-
15 ability shall be deemed as counting to-
16 wards a percentage increase for pur-
17 poses of this clause if the individual is
18 employed in an integrated individual
19 employment setting for at least 10
20 hours a week on average over a 120-
21 day period during the year involved.

22 (B) MEETING THE TRANSITION TO INDE-
23 PENDENCE MEDICAID BUY-IN STANDARDS.—
24 Meeting the minimum standards established by

1 the Secretary for the Transition to Independ-
2 ence Medicaid Buy-In Option.

3 (4) ADDITIONAL BENCHMARKS.—The addi-
4 tional benchmarks described in this paragraph are
5 the following:

6 (A) ELIMINATION OF NEW PLACEMENT AP-
7 PROVALS.—Eliminating new approvals for
8 placement in the State of working-age individ-
9 uals with disabilities who are receiving Med-
10 icaid-funded home or community-based services
11 in subminimum wage work, congregate setting
12 work, or facility-based day habilitation or day
13 treatment, in accordance with criteria estab-
14 lished by the Secretary.

15 (B) DEMONSTRATION OF INTER-AGENCY
16 COLLABORATION.—Demonstrating inter-agency
17 collaboration between the State agencies re-
18 sponsible for administering Medicaid, vocational
19 rehabilitation, and education (and, if the State
20 is participating the Promoting Readiness of Mi-
21 nors in Supplemental Security Income initiative
22 (PROMISE), including coordination with that
23 initiative), in determining payer of last resort
24 rules and rules for providing individuals with a
25 seamless transition of services provided under

1 such agencies, in accordance with criteria estab-
2 lished by the Secretary.

3 (C) TERMINATION OF VOCATIONAL REHA-
4 BILITATION FUNDING.—Ending vocational re-
5 habilitation funding for subminimum wage
6 work, congregate setting work, or facility-based
7 day habilitation or day treatment, in accordance
8 with criteria established by the Secretary.

9 (D) WORKFORCE DEVELOPMENT.—Dem-
10 onstrating in accordance with criteria estab-
11 lished by the Secretary satisfaction of at least
12 2 of the following strategies to promote work-
13 force development:

14 (i) Increasing Medicaid payments for
15 supported employment providers for indi-
16 viduals with disabilities by an amount nec-
17 essary to ensure an adequately supported
18 employment network, as determined by the
19 Secretary.

20 (ii) Adopting employment strategies
21 that result in working-age individuals with
22 disabilities who are receiving Medicaid-
23 funded home or community-based services
24 being recruited, hired, and retained as full-

1 time employees of State government or by
2 contractors or State government.

3 (iii) Developing a State equivalent of
4 section 503 of the Rehabilitation Act of
5 1973 (29 U.S.C. 793) to recruit, hire, pro-
6 mote, and retain working-age individuals
7 with disabilities who are receiving Med-
8 icaid-funded home or community-based
9 services with a utilization goal of at least
10 7 percent of the State government work-
11 force.

12 (iv) Developing a special hiring au-
13 thority mechanism akin to the Schedule A
14 appointing authority under section
15 213.3102(u) of title 5 of the Code of Fed-
16 eral Regulations (commonly referred to as
17 the “Schedule A Hiring Authority”) to as-
18 sist in easing the hiring of working-age in-
19 dividuals with disabilities who are receiving
20 Medicaid-funded home or community-based
21 services within the State government with
22 an accompanying plan submitted to the
23 Secretary outlining targeted implementa-
24 tion goals for the amount of individuals
25 with disabilities within State government.

1 (v) Increasing the hiring of working-
2 age individuals with disabilities who are re-
3 ceiving Medicaid-funded home or commu-
4 nity-based services in employment for
5 which the individual is compensated at or
6 above the minimum wage, through collabo-
7 ration with the State vocational rehabilita-
8 tion and workforce development programs
9 and Federal contractors.

10 (vi) Providing State tax credits to em-
11 ployers for hiring new workers who are
12 working-age individuals with disabilities
13 who are receiving Medicaid-funded home or
14 community-based services.

15 (5) PAYMENT TO STATES.—

16 (A) IN GENERAL.—Subject to the suc-
17 ceeding provisions of this paragraph, the Sec-
18 retary shall make a performance bonus pay-
19 ment to each Medicaid Buy-In State partici-
20 pating in the demonstration program that
21 qualifies for such a payment with respect to a
22 fiscal year as a single payment not later than
23 the last day of the first calendar quarter of the
24 fiscal year following the fiscal year to which the
25 performance bonus payments applies. Payments

1 to States made under this paragraph shall be
2 considered to have been made under, and are
3 subject to the requirements of, section 1903 of
4 the Social Security Act (42 U.S.C. 1396b).

5 (B) DETERMINATION OF PAYMENT.—The
6 performance bonus payment for a Medicaid
7 Buy-In State shall consist of the additional
8 amount that the State would have been paid for
9 providing medical assistance to individuals en-
10 rolled in the Transition to Independence Med-
11 icaid Buy-In Option during the preceding fiscal
12 year if the regular FMAP applicable to such as-
13 sistance were increased (subject to subpara-
14 graph (C)) as follows:

15 (i) 2 percentage points for achieving
16 the minimum 10 percent reduction in the
17 mandatory benchmark described in para-
18 graph (3)(A) during the preceding fiscal
19 year (or 2.4 percentage points for achiev-
20 ing a reduction of at least 20, but not
21 more than 30 percent, 2.6 percentage
22 points for achieving a reduction of at least
23 30, but not more than 40 percent, and 2.8
24 percentage points for achieving a reduction
25 of at least 40 percent).

1 (ii) 2 percentage points for achieving
2 the minimum 10 percent increase in the
3 mandatory benchmark described in para-
4 graph (3)(B) during the preceding fiscal
5 year (or 2.4 percentage points for achiev-
6 ing an increase of at least 20, but not
7 more than 30 percent, 2.6 percentage
8 points for achieving an increase of at least
9 30, but not more than 40 percent, and 2.8
10 percentage points for achieving an increase
11 of at least 40 percent).

12 (iii) 0.5 percentage points for each ad-
13 ditional benchmark described in paragraph
14 (4) that the State achieves during the pre-
15 ceding fiscal year.

16 (C) LIMITATIONS.—In no case may—

17 (i) the increase in the regular FMAP
18 resulting from the application of subpara-
19 graph (B) for any Medicaid Buy-In State
20 exceed 100 percent of the costs for pro-
21 viding medical assistance to individuals en-
22 rolled in the Transition to Independence
23 Medicaid Buy-In Option with respect to
24 each fiscal year of the 5-year period in

1 which the demonstration project is con-
2 ducted; or

3 (ii) payments be made to a Medicaid
4 Buy-In State under this paragraph after
5 December 31, 2021.

6 (D) USE OF PAYMENTS.—A Medicaid Buy-
7 In State receiving a performance bonus pay-
8 ment under this paragraph shall use the pay-
9 ment only to expand individual integrated em-
10 ployment and community integration for work-
11 ing-age individuals with disabilities who are re-
12 ceiving Medicaid-funded home or community-
13 based services.

14 (g) REPORTS; RECOMMENDATIONS.—

15 (1) STATE REPORTS.—

16 (A) PERIODIC REPORTS.—Each Medicaid
17 Buy-In State participating in the demonstration
18 program shall submit reports to the Secretary
19 regarding the State’s conduct of the demonstra-
20 tion program, at such time and in such manner,
21 as the Secretary shall require. Such reports
22 shall include, in addition to data and informa-
23 tion regarding State performance with respect
24 the mandatory and additional benchmarks de-
25 scribed in paragraphs (3) and (4) of subsection

1 (f) and such other information as the Secretary
2 may require, data and information regarding
3 the extent to which, since the start of the dem-
4 onstration program—

5 (i) the State has reduced the State
6 population of individuals with disabilities
7 who have attained age 18 but have not at-
8 tained age 31, are receiving Medicaid-fund-
9 ed home or community-based services or
10 services through an Intermediate Care Fa-
11 cility for Persons with Developmental Dis-
12 abilities (ICF–DD), a nursing facility, an
13 institution for individuals with mental ill-
14 ness, or other congregate facilities, and
15 were in subminimum wage work, con-
16 gregate setting work, or facility-based day
17 habilitation or day treatment; and

18 (ii) the State has increased the State
19 population of individuals with disabilities
20 who have attained age 18 but have not at-
21 tained age 31, are receiving Medicaid-fund-
22 ed home or community-based services, and
23 are engaged in individual integrated em-
24 ployment.

25 (B) ANNUAL REPORT.—

1 (i) IN GENERAL.—Each Medicaid
2 Buy-In State participating in the dem-
3 onstration program annually shall submit a
4 detailed report to the Secretary regarding
5 the State’s efforts to transition individuals
6 with disabilities who are participating in
7 the demonstration program to individual
8 integrated employment during the pre-
9 ceding year. Each annual report shall
10 specify the full spectrum of employment
11 outcomes for such individuals, best prac-
12 tices for successfully achieving such transi-
13 tions, and lessons learned.

14 (ii) DISSEMINATION TO ALL PARTICI-
15 PATING AND NON-PARTICIPATING
16 STATES.—The Secretary shall disseminate
17 the annual reports submitted under clause
18 (i) by Medicaid Buy-In States participating
19 in the demonstration program to all
20 States.

21 (2) REPORTS AND RECOMMENDATIONS TO CON-
22 GRESS.—

23 (A) IN GENERAL.—Not later than January
24 1, 2017, and January 1 of each of the 6 years
25 thereafter, the Secretary shall submit to Con-

1 gress a report on the demonstration program.
2 Each such report shall include data and infor-
3 mation regarding State performance with re-
4 spect to each of the mandatory and additional
5 benchmarks described in paragraphs (3) and
6 (4) of subsection (f) and other data and infor-
7 mation reported by States under paragraph (1)
8 and an assessment of the extent to which the
9 demonstration program is successful in
10 transitioning working-age individuals with dis-
11 abilities to independent living and work in their
12 communities.

13 (B) RECOMMENDATIONS.—Not later than
14 December 31, 2019, the Secretary shall submit
15 to Congress recommendations regarding wheth-
16 er the demonstration program should be contin-
17 ued, expanded, modified, or terminated.

18 (h) DEFINITIONS.—In this section:

19 (1) CONGREGATE SETTING WORK.—The term
20 “congregate setting work” means a nonprofit, for-
21 profit, or State agency entity that employs a major-
22 ity of individuals with disabilities and receives Med-
23 icaid or other State funds for the purpose of pro-
24 viding employment services, or a facility or sub-unit
25 of any such agency that meets such criteria.

1 (2) DEMONSTRATION PROGRAM.—The term
2 “demonstration program” means the Transition to
3 Independence Medicaid Buy-In Option Demonstra-
4 tion Program established under this section.

5 (3) FACILITY-BASED DAY HABILITATION OR
6 DAY TREATMENT.—The term “facility-based day ha-
7 bilitation or day treatment” has the meaning estab-
8 lished by the Secretary for that term for purposes of
9 the demonstration program and shall include non-
10 residential day services which take place predomi-
11 nantly or in large part at a single site, fixed site, or
12 center-based program for individuals with disabil-
13 ities. In establishing the meaning of such term, the
14 Secretary shall provide clear instructions distin-
15 guishing facility-based day habilitation or day treat-
16 ment from integrated day habilitation or day treat-
17 ment programs taking place in settings within the
18 broader community and which do not isolate individ-
19 uals participating in such integrated day habilitation
20 or day treatment programs from mainstream life.

21 (4) INDIVIDUAL INTEGRATED EMPLOYMENT.—

22 (A) IN GENERAL.—The term “individual
23 integrated employment” means the ongoing
24 supports to an individual who, because of the
25 individual’s disabilities, needs intensive on-going

1 supports to obtain and maintain an individual
2 job in competitive or customized employment,
3 self-employment, or in an integrated working
4 setting in the general workforce for which the
5 individual is compensated at or above the min-
6 imum wage, but not less than the customary
7 wage and level of benefits paid by the employer
8 for the same or similar work performed by an
9 individual without a disability.

10 (B) CUSTOMIZED EMPLOYMENT SERVICES
11 INCLUDED.—Such term includes customized
12 employment services in which an individual re-
13 ceives support to craft a job description around
14 their strengths and challenges.

15 (C) EXCLUSIONS.—Such term does not in-
16 clude enclaves, mobile work crews, or other set-
17 tings in which the location and nature of em-
18 ployment is determined by the individual’s dis-
19 ability.

20 (5) INTEGRATED DAY SERVICES.—The term
21 “integrated day services” means services integrated
22 in and supporting the full access of individuals with
23 disabilities to the greater community to the same de-
24 gree as individuals not receiving services that are
25 provided consistent with all of the following:

1 (A) No overall facility or program schedule
2 for the individuals receiving such services.

3 (B) Each individual receiving such services
4 has a unique schedule reflecting the individual's
5 interests and goals.

6 (C) Activities take place on an individual
7 basis or in small groups of individuals who
8 choose to be served together.

9 (D) The majority of time spent receiving
10 such services takes place within the broader
11 community rather than within a single-site,
12 fixed site, or center-based program for individ-
13 uals with disabilities, regardless of the program
14 size.

15 (E) The services are provided consistent
16 with the requirements of section 441.710 of
17 title 42, Code of Federal Regulations.

18 (6) MEDICAID.—The term “Medicaid” means
19 the program for medical assistance established under
20 title XIX of the Social Security Act (42 U.S.C. 1396
21 et seq.).

22 (7) MEDICAID BUY-IN STATE.—The term “Med-
23 icaid Buy-In State” means a State that, under sub-
24 clause (XIII), (XV), or (XVI) of section
25 1902(a)(10)(A)(ii) of the Social Security Act (42

1 U.S.C. 1396a(a)(10)(A)(ii)), a waiver approved
2 under section 1115 or 1915 of such Act (42 U.S.C.
3 1315, 1396n), or other authority, has a program
4 under which individuals with disabilities with earn-
5 ings and assets that would otherwise make them in-
6 eligible for medical assistance under the State’s
7 Medicaid program are able to maintain their eligi-
8 bility for such assistance.

9 (8) NURSING FACILITY.—The term “nursing
10 facility” has the meaning given that term in section
11 1919(a) of the Social Security Act (42 U.S.C.
12 1396r(a)).

13 (9) POVERTY LINE.—The term “poverty line”
14 has the meaning given that term in section
15 2110(c)(5) of the Social Security Act (42 U.S.C.
16 1397jj(c)(5)).

17 (10) REGULAR FMAP.—The term “regular
18 FMAP” means the Federal medical assistance per-
19 centage applicable to the State (as determined under
20 section 1905(b) of the Social Security Act (42
21 U.S.C. 1396d(b))) without regard to any increases
22 in that percentage applicable under subsections (y),
23 (z), (aa), or (dd) of section 1905 of such Act or
24 under any other provision of law.

1 (11) SECRETARY.—The term “Secretary”
2 means the Secretary of Health and Human Services.

3 (12) SUBMINIMUM WAGE WORK.—The term
4 “subminimum wage work” means any setting in
5 which individuals with disabilities are paid less than
6 minimum wage under a certificate issued in accord-
7 ance with section 14(c) of the Fair Labor Standards
8 Act of 1938 (29 U.S.C. 214(c)).

9 (13) SUPPORTED EMPLOYMENT.—The term
10 “supported employment” has the meaning given that
11 term in section 7 of the Rehabilitation Act of 1973
12 (29 U.S.C. 705).

13 (14) STATE.—The term “State” has the mean-
14 ing given such term for purposes of title XIX of the
15 Social Security Act (42 U.S.C. 1396 et seq.).

16 (15) TITLE II DISABILITY BENEFICIARY.—The
17 term “title II disability beneficiary” means an indi-
18 vidual entitled to disability insurance benefits under
19 section 223 of the Social Security Act (42 U.S.C.
20 423) or to monthly insurance benefits under section
21 202 of such Act (42 U.S.C. 402) based on such indi-
22 vidual’s disability (as defined in section 223(d) of
23 such Act (42 U.S.C. 423(d))).

24 (16) TITLE XVI DISABILITY BENEFICIARY.—
25 The term “title XVI disability beneficiary” means an

1 individual eligible for supplemental security income
2 benefits under title XVI of the Social Security Act
3 (42 U.S.C. 1381 et seq.) on the basis of blindness
4 (within the meaning of section 1614(a)(2) of such
5 Act (42 U.S.C. 1382c(a)(2))) or disability (within
6 the meaning of section 1614(a)(3) of such Act (42
7 U.S.C. 1382c(a)(3))).

8 (17) WORKING-AGE INDIVIDUAL WITH A DIS-
9 ABILITY RECEIVING MEDICAID-FUNDED HOME OR
10 COMMUNITY-BASED SERVICES.—The term “working-
11 age individual with a disability receiving Medicaid-
12 funded home or community-based services” means a
13 title II disability beneficiary or a title XVI disability
14 beneficiary who has attained age 18, but has not at-
15 tained age 65, and is receiving home or community-
16 based services—

17 (A) under a waiver approved under sub-
18 section (c) or (d) of section 1915 the Social Se-
19 curity Act (42 U.S.C. 1396n);

20 (B) under the State Medicaid plan in ac-
21 cordance with subsection (i), (j), or (k) of such
22 section; or

1 (C) under a Medicaid waiver approved
2 under section 1115 of the Social Security Act
3 (42 U.S.C. 1315).

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