

119TH CONGRESS  
1ST SESSION

# S. 1720

To amend title XIX of the Social Security Act to remove the Medicaid coverage exclusion for inmates in custody pending disposition of charges, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MAY 12, 2025

Mr. CASSIDY (for himself, Mr. MERKLEY, Mr. TILLIS, and Mr. MARKEY) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend title XIX of the Social Security Act to remove the Medicaid coverage exclusion for inmates in custody pending disposition of charges, 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 “Due Process Con-  
5 tinuity of Care Act”.

### 6 **SEC. 2. REMOVAL OF INMATE LIMITATION ON BENEFITS**

#### 7 **UNDER MEDICAID.**

8 (a) REMOVAL OF LIMITATION.—

1           (1) IN GENERAL.—The subdivision (A) of sec-  
 2           tion 1905(a) of the Social Security Act (42 U.S.C.  
 3           1396d(a)) following the last numbered paragraph of  
 4           such section is amended by striking “for an indi-  
 5           vidual” and all that follows through “charges” and  
 6           inserting “for any individual while in custody pend-  
 7           ing disposition of charges”.

8           (2) EFFECTIVE DATE.—The amendment made  
 9           by paragraph (1) shall take effect on the 1st day of  
 10          the 1st calendar quarter that begins on or after the  
 11          date that is 60 days after the date of the enactment  
 12          of this Act and shall apply to items and services fur-  
 13          nished for periods beginning on or after such date.

14          (b) CONFORMING AMENDMENT.—Effective January  
 15          2, 2026, subparagraph (A) of section 1902(a)(84) of the  
 16          Social Security Act (42 U.S.C. 1396a(a)(84)) is amended  
 17          to read as follows:

18                 “(A) the State shall not terminate eligi-  
 19                 bility for medical assistance under the State  
 20                 plan (or waiver of such plan) for an individual  
 21                 because the individual is an inmate of a public  
 22                 institution (as defined in subsection (nn)(3))  
 23                 (or, if the State has elected the option described  
 24                 in the subdivision (A) following the last num-  
 25                 bered paragraph of section 1905(a), while the

1 individual is in custody pending disposition of  
 2 charges) but, subject to subparagraph (D), may  
 3 suspend coverage during the period the indi-  
 4 vidual is such an inmate (or if the State has  
 5 made such an election, during the period the in-  
 6 dividual is in custody pending disposition of  
 7 charges);”.

8 **SEC. 3. PLANNING GRANTS.**

9 (a) IN GENERAL.—The Secretary shall award plan-  
 10 ning grants to States to support providing medical assist-  
 11 ance under the State Medicaid program to individuals who  
 12 are eligible for such assistance as a result of the amend-  
 13 ment made by section 2(a). The grants shall be used to  
 14 prepare an application that meets the requirements of sub-  
 15 section (b).

16 (b) APPLICATION REQUIREMENTS.—In order to be  
 17 awarded a planning grant under this section, a State shall  
 18 submit an application to the Secretary at such time and  
 19 in such form and manner as the Secretary shall require,  
 20 that includes the following information along with such  
 21 additional information, provisions, and assurances, as the  
 22 Secretary may require:

23 (1) A proposed process for carrying out each of  
 24 the activities described in subsection (c) in the State.

1           (2) A review of State policies regarding the  
2           population of individuals who are eligible for medical  
3           assistance under the State Medicaid program as a  
4           result of the amendment made by section 2(a) with  
5           respect to whether such policies may create barriers  
6           to increasing the number of health care providers  
7           who can provide items and services for that popu-  
8           lation.

9           (3) The development of a plan, taking into ac-  
10          count activities described in subsection (c)(2), that  
11          will ensure a sustainable number of Medicaid-en-  
12          rolled providers under the State Medicaid program  
13          that can offer a full array of treatment and services  
14          to the patient population described in paragraph (2)  
15          as needed. Such plan shall include the following:

16                (A) Specific activities to increase the num-  
17                ber of providers that will offer physical health  
18                treatment, as well as services related to behav-  
19                ioral health treatment, including substance use  
20                disorder treatment, recovery, or support serv-  
21                ices (including short-term detoxification serv-  
22                ices, outpatient substance use disorder services,  
23                and evidence-based peer recovery services).

24                (B) Milestones and timeliness for imple-  
25                menting activities set forth in the plan.

1 (C) Specific measurable targets for in-  
2 creasing the number of providers under the  
3 State Medicaid program who will treat the pa-  
4 tient population described in paragraph (2).

5 (4) An assurance that the State consulted with  
6 relevant stakeholders, including the State agency re-  
7 sponsible for administering the State Medicaid pro-  
8 gram, Medicaid managed care plans, health care  
9 providers, law enforcement personnel, officials from  
10 jails, and Medicaid beneficiary advocates, with re-  
11 spect to the preparation and completion of the appli-  
12 cation and a description of such consultation.

13 (c) ACTIVITIES DESCRIBED.—For purposes of sub-  
14 section (b)(1), the activities described in this subsection  
15 are the following:

16 (1) Activities that support the development of  
17 an initial assessment of the health treatment needs  
18 of patients who are in custody pending disposition of  
19 charges to determine the extent to which providers  
20 are needed (including the types of such providers  
21 and geographic area of need) to improve the number  
22 of providers that will treat patients in custody pend-  
23 ing disposition of charges under the State Medicaid  
24 program, including the following:

1 (A) An estimate of the number of individ-  
2 uals enrolled under the State Medicaid program  
3 who are in custody pending disposition of  
4 charges.

5 (B) Information on the capacity of pro-  
6 viders to provide treatment or services to such  
7 individuals enrolled under the State Medicaid  
8 program, including information on providers  
9 who provide such services and their participa-  
10 tion under the State Medicaid program.

11 (C) Information on the health care services  
12 provided under programs other than the State  
13 Medicaid program in jails to individuals who  
14 are in custody pending disposition of charges.

15 (2) Activities that, taking into account the re-  
16 sults of the assessment described in paragraph (1)  
17 with respect to the provision of treatment or services  
18 under the State Medicaid program, support the de-  
19 velopment of State infrastructure to recruit or con-  
20 tract with prospective health care providers, provide  
21 training and technical assistance to such providers,  
22 and secure a process for an electronic health record  
23 system for billing to reimburse for services provided  
24 by the correctional facility, outpatient providers,  
25 medical vendors, and contracted telehealth service

1 providers to patients who are in custody pending dis-  
2 position of charges that are compliant with applica-  
3 ble requirements and regulations for State Medicaid  
4 programs.

5 (3) Activities that ensure the quality of care for  
6 patients who are in custody pending disposition of  
7 charges, including formal reporting mechanisms for  
8 patient outcomes, and activities that promote par-  
9 ticipation in learning collaboratives among providers  
10 treating this population.

11 (d) GEOGRAPHIC DIVERSITY.—The Secretary shall  
12 select States for planning grants under this section in a  
13 manner that ensures geographic diversity.

14 (e) FUNDING.—There are authorized to be appro-  
15 priated \$50,000,000 to carry out this section.

16 (f) DEFINITIONS.—In this section:

17 (1) MEDICAID PROGRAM.—The term “Medicaid  
18 program” means, with respect to a State, the State  
19 program under title XIX of the Social Security Act  
20 (42 U.S.C. 1396 et seq.) including any waiver or  
21 demonstration under such title or under section  
22 1115 of such Act (42 U.S.C. 1315) relating to such  
23 title.

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

1           (3) STATE.—The term “State” has the mean-  
2           ing given that term for purposes of title XIX of the  
3           Social Security Act (42 U.S.C. 1396 et seq.) in sec-  
4           tion 1101(a)(1) of such Act (42 U.S.C. 1301(a)(1)).

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