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IMPROVING ACCESS TO EMERGENCY PSYCHIATRIC CARE ACT OF 2015

JULY 30, 2015.—Ordered to be printed

Mr. HATCH, from the Committee on Finance, submitted the following

R E P O R T

[To accompany S. 599]

The Committee on Finance, to which was referred the bill (S. 599) to extend and expand the Medicaid emergency psychiatric demonstration project, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

I. LEGISLATIVE BACKGROUND

The Committee on Finance, to which was referred the bill (S. 599) to extend and expand the Medicaid emergency psychiatric demonstration project, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

Background and need for legislative action

A longstanding policy under Medicaid, called the institutions for mental disease (IMD) exclusion, prohibits the federal government from providing federal Medicaid matching funds to states for services rendered to Medicaid eligible individuals aged 21 through 64 who are patients in IMDs. IMDs are inpatient facilities with more than 16 beds that primarily treat people with mental health and substance abuse disorders. While the original IMD exclusion is consistent with the goal of treating severe mental illness in the least restrictive setting feasible, there have been some unintended consequences. The IMD exclusion provided an incentive to shift the cost of care for mental illness to other care modalities and facilities where Medicaid matching funds were available. This contributed to

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a decrease in the number of publicly funded inpatient psychiatric beds available for emergency services, and likely contributed to psychiatric boarding and recidivism in general hospital emergency departments. Psychiatric boarding occurs when an individual with a mental health condition is kept in a hospital emergency department for several hours or admitted to medical wards or skilled nursing facilities without psychiatric expertise because appropriate mental health services are unavailable. This leads to potential serious consequences for psychiatric patients and unnecessary hospital costs. The Patient Protection and Affordable Care Act (ACA) authorized a three-year demonstration to study the effects of allowing federal Medicaid payment for emergency psychiatric treatment otherwise prohibited by the Medicaid IMD exclusion. The demonstration was funded with $75 million in FY 2011, and these funds are available for obligation through December 31, 2015. The Secretary of Health and Human Services selected eleven states and the District of Columbia to participate in the demonstration in March 2012, and the demonstration began July 1, 2012. The Committee recognizes the importance of extending the demonstration in a budget neutral manner so that the Secretary of Health and Human Services can finish its evaluation of the demonstration and make an informed recommendation regarding its continuation and expansion.

II. EXPLANATION OF THE BILL

PRESENT LAW

Section 2707 of the Patient Protection and Affordable Care Act (ACA, P.L. 111–148 as amended) authorized a three-year Medicaid demonstration project in which eligible states provide Medicaid payments to certain IMDs for services provided to Medicaid enrollees, aged 21 through 64, who require medical assistance to stabilize a psychiatric emergency medical condition. To participate in the demonstration, an IMD must be (a) not publicly owned or operated and (2) subject to the Emergency Medical Treatment and Active Labor Act (EMTALA, P.L. 99–272).

EXPLANATION OF PROVISION

The bill would temporarily extend the Medicaid Emergency Psychiatric Demonstration for states already participating in the demonstration through September 30, 2016, provided that it meets the budget neutrality requirements as described below. Then, if the Secretary of Health and Human Services (HHS) recommends extending and expanding the demonstration, the legislation would extend the demonstration through December 31, 2019, subject to the budget neutrality requirements as described below. In April 2019, the Secretary of HHS would be required to make a recommendation to Congress regarding the permanent extension and expansion of the demonstration, but congressional approval would be required to permanently extend or expand the demonstration.

The bill would allow the demonstration funding to be available until expended rather than expiring on December 31, 2015, and the bill would provide $100,000 to the Centers for Medicare & Medicaid Services (CMS) Program Management to carry out the demonstration.

States would be able to continue (for states already participating) and begin (for new states) participation in the demonstration if the Secretary of HHS and the Chief Actuary of CMS project that participation of the state would not increase Medicaid expenditures. The Secretary of HHS will provide notice of projections to the states. Also the bill would require the Secretary of HHS to annually review each state's demonstration expenditures to ensure the state's participation in the demonstration has not increased net Medicaid expenditures.

The bill would allow publicly owned IMDs to participate in the demonstration.

EFFECTIVE DATE

The provision is effective on the date of enactment.

III. BUDGET EFFECTS OF THE BILL

A. COMMITTEE ESTIMATES

In compliance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate, the following statement is made concerning the estimated budget effects of the revenue provisions of the "Improving Access to Emergency Psychiatric Care Act of 2015" as reported.

S. 599 would increase direct spending by $100,000 over the 2015–2025 period. Because enacting the bill would affect direct spending pay-as-you-go procedures apply. Enacting the bill would not affect revenues.

B. BUDGET AUTHORITY

Budget authority

In compliance with section 308 (a)(1) of the Congressional Budget and Impoundment Control Act of 1974 ("Budget Act")[1], the Committee states that the bill as reported involves increased budget authority (see Part A, above).

Tax expenditures

In compliance with section 308(a)(1) of the Budget Act, the Committee states that the bill does not involve increased tax expenditures.

C. CONSULTATION WITH CONGRESSIONAL BUDGET OFFICE

In accordance with section 403 of the Budget Act, the Committee advises that the Congressional Budget Office has submitted a statement on the bill.

S. 599—Improving Access to Emergency Psychiatric Care Act

S. 599 would extend the period of time during which the Secretary of Health and Human Services could conduct the Medicaid Emergency Psychiatric Demonstration Project and would require the Secretary to recommend to the Congress whether to continue and expand the demonstration. CBO estimates that implementing

[1] Pub. L. No 93–344.

S. 599 would increase direct spending by $100,000 over the 2015–2025 period. Because enacting the bill would affect direct spending pay-as-you-go procedures apply. Enacting the bill would not affect revenues.

With limited exception, under current law, Medicaid does not cover services provided in psychiatric institutions to enrollees aged 21 to 64. Rather, Medicaid payment is available to other providers such as general hospitals that may provide emergency psychiatric services to such enrollees. The demonstration was established to assess the health outcomes and cost effectiveness of allowing private psychiatric hospitals to provide emergency psychiatric services to Medicaid enrollees aged 21 to 64.

S. 599 would authorize the Secretary to extend a state's participation in the demonstration from December 2015 through September 2016 if the Secretary determines and certifies that doing so would not increase net spending in the Medicaid program. The bill would require, not later than September 30, 2016, that the Secretary recommend to the Congress whether the demonstration should be continued beyond September 2016 or expanded to any additional states. The Secretary would be authorized to extend and expand the demonstration if the Secretary also determines and certifies that doing so would not increase net spending in the Medicaid program. After December 31, 2019, the Secretary's authority to continue or expand the demonstration would expire. Finally, the bill would appropriate $100,000 for fiscal year 2015 for the Secretary to carry out the demonstration; thus increasing direct spending by that amount.

S. 599 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandate Reform Act and would impose no costs on state, local, or tribal governments.

The CBO staff contact for this estimate is Lisa Ramirez-Branum. The estimate was approved by Holly Harvey, Deputy Assistant Director for Budget Analysis.

IV. VOTES OF THE COMMITTEE

In compliance with paragraph 7(b) of rule XXVI of the Standing Rules of the Senate, the Committee states that, with a majority present, the "Improving Access to Emergency Psychiatric Care Act of 2015" as modified was ordered favorably reported on June 24, 2015 as follows:

Final Passage of the Improving Access to Emergency Psychiatric Care Act of 2015—approved, as modified, by voice vote.

V. REGULATORY IMPACT AND OTHER MATTERNS

A. REGULATORY IMPACT

Pursuant to paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following statement concerning the regulatory impact that might be incurred in carrying out the provisions of the bill.

Impact on individuals and businesses, personal privacy and paperwork

The bill is not expected to impose additional administrative requirements or regulatory burdens on individuals. The bill is ex-

pected to reduce administrative requirements and regulatory burdens on some businesses.

The provisions of the bill do not impact personal privacy.

B. UNFUNDED MANDATES STATEMENT

This information is provided in accordance with section 423 of the Unfunded Mandates Reform Act of 1995 (Pub. L. No. 104–4).

The Committee has determined that the bill does not contain any private sector mandates. The Committee has determined that the bill contains no intergovernmental mandate.

VI. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In the opinion of the Committee, it is necessary in order to expedite the business of the Senate, to dispense with the requirements of paragraph 12 of rule XXVI of the Standing Rules of the Senate (relating to the showing of changes in existing law made by the bill as reported by the Committee).

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