

PROVIDING FOR CONSIDERATION OF THE BILL (H.R. 6) TO PROVIDE FOR OPIOID USE DISORDER PREVENTION, RECOVERY, AND TREATMENT, AND FOR OTHER PURPOSES; PROVIDING FOR CONSIDERATION OF THE BILL (H.R. 5797) TO AMEND TITLE XIX OF THE SOCIAL SECURITY ACT TO ALLOW STATES TO PROVIDE UNDER MEDICAID SERVICES FOR CERTAIN INDIVIDUALS WITH OPIOID USE DISORDERS IN INSTITUTIONS FOR MENTAL DISEASES; AND PROVIDING FOR CONSIDERATION OF THE BILL (H.R. 6082) TO AMEND THE PUBLIC HEALTH SERVICE ACT TO PROTECT THE CONFIDENTIALITY OF SUBSTANCE USE DISORDER PATIENT RECORDS

JUNE 19, 2018.—Referred to the House Calendar and ordered to be printed

Mr. BURGESS, from the Committee on Rules,
submitted the following

R E P O R T

[To accompany H. Res. 949]

The Committee on Rules, having had under consideration House Resolution 949, by a record vote of 7 to 3, report the same to the House with the recommendation that the resolution be adopted.

SUMMARY OF PROVISIONS OF THE RESOLUTION

The resolution provides for consideration of H.R. 6, the Substance Use-Disorder Prevention that Promotes Opioid Recovery and Treatment for Patients and Communities Act, under a structured rule. The resolution provides one hour of general debate equally divided and controlled by the chair and ranking minority member of the Committee on Committee on Energy and Commerce. The resolution waives all points of order against consideration of the bill. The resolution provides that an amendment in the nature of a substitute consisting of the text of Rules Committee Print 115-76, modified by Rules Committee Print 115-78 and the amendment printed in part A of this report, shall be considered as adopted and the bill, as amended, shall be considered as read. The resolution waives all points of order against provisions in the bill, as amended. The resolution makes in order only those further amendments printed in part B of this report. Each such amendment may be offered only in the order printed in this report, may be offered only by a Member designated in this report, shall be considered as read, shall be debatable for the time specified in this report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for

division of the question in the House or in the Committee of the Whole. The resolution waives all points of order against the amendments printed in part B of this report. The resolution provides one motion to recommit with or without instructions.

Section 2 of the resolution provides for consideration of H.R. 5797, the Individuals in Medicaid Deserve Care that is Appropriate and Responsible in its Delivery Act, under a structured rule. The resolution provides one hour of general debate equally divided and controlled by the chair and ranking minority member of the Committee on Energy and Commerce. The resolution waives all points of order against consideration of the bill. The resolution provides that the amendment in the nature of a substitute recommended by the Committee on Energy and Commerce now printed in the bill, modified by the amendment printed in part C of this report, shall be considered as adopted and the bill, as amended, shall be considered as read. The resolution waives all points of order against provisions in the bill, as amended. The resolution makes in order only those further amendments printed in part D of this report. Each such amendment may be offered only in the order printed in this report, may be offered only by a Member designated in this report, shall be considered as read, shall be debatable for the time specified in this report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. The resolution waives all points of order against the amendments printed in part D of this report. The resolution provides one motion to recommit with or without instructions.

Section 3 of the resolution provides for consideration of H.R. 6082, the Overdose Prevention and Patient Safety Act, under a closed rule. The resolution provides one hour of debate equally divided and controlled by the chair and ranking minority member of the Committee on Energy and Commerce. The resolution waives all points of order against consideration of the bill. The resolution provides that an amendment in the nature of a substitute consisting of the text of Rules Committee Print 115-75 shall be considered as adopted, and the bill, as amended, shall be considered as read. The resolution waives all points of order against provisions in the bill, as amended. The resolution provides one motion to recommit with or without instructions.

Section 4 the resolution directs the Clerk to, in the engrossment of H.R. 6, add the text of H.R. 2851, H.R. 5735, and H.R. 5797 as passed by the House as a new matter at the end of H.R. 6 and make technical and conforming modifications in the engrossment.

EXPLANATION OF WAIVERS

The waiver of all points of order against consideration of H.R. 6 includes a waiver of the following:

Section 302(f) of the Congressional Budget Act, which prohibits consideration of legislation providing new budget authority in excess of a 302(a) allocation of such authority; and

Section 306 of the Congressional Budget Act, which prohibits consideration of legislation within the jurisdiction of the Committee on the Budget unless referred to or reported by the Budget Committee; and

Section 311 of the Congressional Budget Act, which prohibits consideration of legislation that would cause the level of total new budget authority for the first fiscal year to be exceeded, or would cause revenues to be less than the level of total revenues for the first fiscal year or for the total of that first fiscal year and the ensuing fiscal years for which allocations are provided.

Although the resolution waives all points of order against provisions in H.R. 6, as amended, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

Although the resolution waives all points of order against the amendments to H.R. 6 printed in part B of this report, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

The waiver of all points of order against consideration of H.R. 5797 includes a waiver of the following:

Section 302(f) of the Congressional Budget Act, which prohibits consideration of legislation providing new budget authority in excess of a 302(a) allocation of such authority; and

Section 311 of the Congressional Budget Act, which prohibits consideration of legislation that would cause the level of total new budget authority for the first fiscal year to be exceeded.

Although the resolution waives all points of order against provisions in H.R. 5797, as amended, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

Although the resolution waives all points of order against the amendments to H.R. 5797 printed in Part D of this report, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

Although the resolution waives all points of order against consideration of the H.R. 6082, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

Although the resolution waives all points of order against provisions in H.R. 6082, as amended, the Committee is not aware of any points of order. The waiver is prophylactic.

Rules Committee record vote No. 236

Motion by Mr. McGovern to make in order and provide the appropriate waivers to amendment # 7 to H.R. 5797, offered by Rep. Kennedy (MA), which expands the eligible population to individuals with all substance use disorders; whereas the current bill only makes eligible those individuals with opioid use disorder. Additionally, it would require states to provide the full continuum of care so that patients have access to critical services when they are discharged from IMDs. Defeated: 3–7

Majority Members	Vote	Minority Members	Vote
Mr. Cole		Mr. McGovern	Yea
Mr. Woodall	Nay	Mr. Hastings of Florida	Yea
Mr. Burgess	Nay	Mr. Polis	
Mr. Collins		Mrs. Torres	Yea
Mr. Byrne	Nay		
Mr. Newhouse	Nay		
Mr. Buck	Nay		
Ms. Cheney	Nay		
Mr. Sessions, Chairman	Nay		

Rules Committee record vote No. 237

Motion by Mr. Hastings of Florida to make in order and provide the appropriate waivers to amendment #9 to H.R. 5797, offered by Rep. Waters (CA), which requires states to expand Medicaid pursuant to the Affordable Care Act as a condition for using Medicaid funds to treat people with opioid abuse disorders in Institutions for Mental Disease (IMDs). Defeated: 3–7

Majority Members	Vote	Minority Members	Vote
Mr. Cole .....	.....	Mr. McGovern	Yea
Mr. Woodall	Nay	Mr. Hastings of Florida	Yea
Mr. Burgess	Nay	Mr. Polis .....	.....
Mr. Collins .....	.....	Mrs. Torres	Yea
Mr. Byrne	Nay		
Mr. Newhouse	Nay		
Mr. Buck	Nay		
Ms. Cheney	Nay		
Mr. Sessions, Chairman	Nay		

Rules Committee record vote No. 238

Motion by Mr. Woodall to report the rule. Adopted: 7–3

Majority Members	Vote	Minority Members	Vote
Mr. Cole .....	.....	Mr. McGovern	Nay
Mr. Woodall	Yea	Mr. Hastings of Florida	Nay
Mr. Burgess	Yea	Mr. Polis .....	.....
Mr. Collins .....	.....	Mrs. Torres	Nay
Mr. Byrne	Yea		
Mr. Newhouse	Yea		
Mr. Buck	Yea		
Ms. Cheney	Yea		
Mr. Sessions, Chairman	Yea		

SUMMARY OF THE AMENDMENT TO H.R. 6 IN PART A CONSIDERED AS ADOPTED

1. Walden (OR): Makes a technical correction to ensure that the matter incorporated into H.R. 6 is identical to the legislation previously adopted by the House.

SUMMARY OF THE AMENDMENTS TO H.R. 6 IN PART B MADE IN ORDER

1. Walden (OR), Pallone (NJ), Brady, Kevin (TX), Neal (MA): Calls for Medicaid, Medicare, and public health reforms to help combat the opioid crisis. The policies contained in H.R. 6 were advanced through regular order by the House Energy and Commerce and Ways and Means Committees. (10 minutes)

2. Dunn (FL), Marshall (KS), Harris (MD), Roe (TN): Strikes language expanding the classes of health care workers who are authorized to dispense narcotics for narcotic treatment. (10 minutes)

3. Barton (TX), Meadows (NC), Kuster, Ann (NH): Directs the Commissioner of Food and Drugs to develop high-quality, evidence-based opioid analgesic prescribing guidelines for the indication-specific treatment of acute pain. In developing such guidelines, it would require the Commissioner of Food and Drugs to gather input through a public workshop and comment period, and to provide a report to Congress on how such guidelines will be used to protect the public health. (10 minutes)

4. Curtis, John (UT): Requires a report from HHS on opioid prescribing practices and opioid misuse during pregnancy, and evaluating non-opiate pain management practices during pregnancy. (10 minutes)

5. Keating (MA), Rothfus (PA): Directs HHS to issue guidelines for prescribing naloxone in situations involving any type of prescription or illicit opioid use. (10 minutes)

6. Meadows (NC): Requires the Government Accountability Office to conduct a comprehensive report on health care policy changes that may have contributed to the increase in opioid overdoses and deaths. (10 minutes)

7. Waters (CA): Directs the Secretary of Health and Human Services (HHS) to conduct a survey of organizations that provide substance abuse treatment services. Under the amendment, HHS is required to develop, and submit to Congress, a plan to direct appropriate resources to address inadequacies in services or funding for specific types of drug addictions identified through the survey. (10 minutes)

8. Turner (OH), Kuster, Ann (NH): Eliminates Substance Abuse and Mental Health Services Administration's (SAMHSA) policy that prevents SAMHSA funding from going toward substance abuse treatment services for individuals who are incarcerated. (10 minutes)

SUMMARY OF THE AMENDMENT TO H.R. 5797 IN PART C CONSIDERED
AS ADOPTED

1. Walters, Mimi (CA): Provides an incentive for states to voluntarily adopt a medical loss ratio (MLR) requirement for their Medicaid managed care organizations (MCOs) of 85 percent.

SUMMARY OF THE AMENDMENTS TO H.R. 5797 IN PART D MADE IN
ORDER

1. Rush (IL): Expands treatment coverage to individuals suffering from cocaine use disorder (which includes crack cocaine). (10 minutes)

2. Kildee (MI): Adds two requirements to the report that states are required to submit. The first would be information regarding the number of individuals suffering from co-occurring disorders and the disorders from which they suffer and the second would be information regarding access to community care for individuals suffering from a mental illness other than substance use disorder. (10 minutes)

3. Fitzpatrick (PA): Provides flexibility for States to allow the State plan amendment to include assessments to determine level of care and length of stay recommendations based upon criteria established or endorsed by a State agency pursuant to 1932(b)(1)(A)(i) of the Public Health Service Act. (10 minutes)

PART A—TEXT OF AMENDMENT TO H.R. 6 CONSIDERED AS ADOPTED

Page 49, strike line 15 and all that follows through page 50, line 4, and insert the following:

“(1) ADMINISTRATIVE FUNDING.—For the purposes of implementing, administering, and carrying out the Program (other than for purposes described in paragraph (2)), \$5,000,000 shall

be available from the Federal Supplementary Medical Insurance Trust Fund under section 1841.

“(2) CARE MANAGEMENT FEES AND INCENTIVES.—For the purposes of making payments under subsection (e), \$10,000,000 shall be available from the Federal Supplementary Medical Insurance Trust Fund under section 1841 for each of fiscal years 2021 through 2024.”

Page 53, strike lines 16 through 24, and insert the following:

(f) FUNDING.—For purposes of implementing this section, \$75,000,000 shall be available from the Federal Supplementary Medical Insurance Trust Fund under section 1841 of the Social Security Act (42 U.S.C. 1395t), to remain available until expended.

PART B—TEXT OF AMENDMENTS TO H.R. 6 MADE IN ORDER

1. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE WALDEN OF OREGON OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 65, line 18, insert “(as described in paragraph (4)(F))” after “telehealth services”.

Page 68, line 21, insert “, as determined by the Secretary” after “clinical improvement”.

Page 70, line 24, strike “certified”.

Page 70, after line 25, insert the following:

(b) CLARIFICATION.—Nothing in the amendments made by subsection (a) shall be construed to prohibit separate payment for structured assessment and intervention services for substance abuse furnished to an individual on the same day as an initial preventive physical examination.

Page 71, line 1, redesignate the subsection (b) as a subsection (c).

Page 71, strike line 21 and all that follows through page 72, line 2, and insert the following:

“(ii) For purposes of clause (i), the term ‘targeted procedure’ means a procedure to which Healthcare Common Procedure Coding System code 62310 (or, for years beginning after 2016, 62321), 62311 (or, for years beginning after 2016, 62323), 62264, 64490, 64493, or G0260, or any successor code, apply.”.

Page 95, line 1, strike “100 or more” and insert “more than 100”.

Page 95, line 2, strike “30 or more” and insert “more than 30”.

Page 95, line 13, insert “the frequency of toxicology testing, including” before “the average”.

page 96, line 10, strike “2025” and insert “2024”.

page 97, strike line 7, and insert “that is at least 85 percent but not greater than the minimum medical loss ratio (as so defined) that such State applied as of May 31, 2018; or”.

2. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE DUNN OF FLORIDA OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 93, strike lines 18 through 22 and insert the following:

(2) in subclause (II), by striking “during the period beginning on the date of enactment of the Comprehensive Addiction and Recovery Act of 2016 and ending on October 1, 2021,”.

Page 93, strike line 23 and all that follows through page 94, line 17.

Page 94, line 18, strike “(e)” and insert “(c)”.

3. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE BARTON OF TEXAS OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

At the end of title III, insert the following new section:

SEC. 304. HIGH-QUALITY, EVIDENCE-BASED OPIOID ANALGESIC PRESCRIBING GUIDELINES AND REPORT.

(a) **GUIDELINES.**—The Commissioner of Food and Drugs shall develop high-quality, evidence-based opioid analgesic prescribing guidelines for the indication-specific treatment of acute pain in the relevant therapeutic areas where such guidelines do not exist.

(b) **PUBLIC INPUT.**—In developing the guidelines under subsection (a), the Commissioner of Food and Drugs shall—

(1) conduct a public workshop, open to representatives of State medical societies and medical boards, various medical specialties including pain medicine specialty societies, patient groups, pharmacists, universities, and others; and

(2) provide a period for the submission of comments by the public.

(c) **REPORT.**—Not later than the date that is 2 years after the date of enactment of this Act, the Commissioner of Food and Drugs shall submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate, and post on the public website of the Food and Drug Administration, a report on how the guidelines under subsection (a) will be utilized to protect the public health.

(d) **UPDATES.**—The Commissioner of Food and Drugs shall periodically—

(1) update the guidelines under subsection (a), informed by public input described in subsection (b); and

(2) submit to the committees specified in subsection (c) and post on the public website of the Food and Drug Administration an updated report under subsection (c).

(e) **STATEMENT TO ACCOMPANY GUIDELINES AND RECOMMENDATIONS.**—The Commissioner of Food and Drugs shall ensure that any opioid analgesic prescribing guidelines and other recommendations developed under this section are accompanied by a clear statement that such guidelines or recommendations, as applicable—

(1) are intended to help inform clinical decisionmaking by prescribers and patients; and

(2) should not be used by other parties, including pharmacy benefit management companies, retail or community pharmacies, or public and private payors, for the purposes of restricting, limiting, delaying, or denying coverage for or access to a prescription issued for a legitimate medical purpose by an individual practitioner acting in the usual course of professional practice.

(f) **DEFINITION.**—In this section, the term “evidence-based” means informed by a robust and systemic review of treatment efficacy and clinical evidence.

4. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE CURTIS OF UTAH OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Add at the end of title III the following:

SEC. 304. REPORT ON OPIOIDS PRESCRIBING PRACTICES FOR PREGNANT WOMEN.

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Health and Human Services, in coordination with the Centers for Disease Control and Prevention, the National Institutes of Health, and the Substance Abuse and Mental Health Services Administration shall develop and submit to the Congress a report—

(1) on opioids prescribing practices for pregnant women and recommendations for such practices;

(2) that provides recommendations for identifying and reducing opioids misuse during pregnancy;

(3) on prescription opioid misuse during pregnancy in urban and rural areas;

(4) on prescription opioid use during pregnancy for the purpose of medication-assisted treatment in urban and rural areas;

(5) evaluating current utilization of non-opiate pain management practices in place of prescription opioids during pregnancy;

(6) providing guidelines encouraging the use of non-opioid pain management practices during pregnancy when safe and effective; and

(7) that provides recommendations for increasing public awareness and education of opioid use disorder in pregnancy, including available treatment resources in urban and rural areas.

(b) NO ADDITIONAL FUNDS.—No additional funds are authorized to be appropriated for purposes of carrying out subsection (a).

5. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE KEATING OF MASSACHUSETTS OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Add at the end of title III the following:

SEC. 304. GUIDELINES FOR PRESCRIBING NALOXONE.

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Health and Human Services shall issue guidelines for prescribing an opioid overdose reversal drug.

(b) CONTENTS.—In issuing guidelines under subsection (a), the Secretary shall address the following:

(1) Co-prescribing an opioid overdose reversal drug in conjunction with any prescribed opioid.

(2) Dosage safety.

(3) Prescribing an opioid overdose reversal drug to an individual other than a patient.

(4) Standing orders.

(5) Other distribution, education, and safety measures as determined necessary.

6. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE MEADOWS OF NORTH CAROLINA OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

At the end of title III, insert the following new section:

SEC. 304. GAO STUDY AND REPORT ON POLICY CHANGES THAT MAY HAVE CONTRIBUTED TO THE OPIOID EPIDEMIC.

Not later than 2 years after the date of enactment of this Act, the Comptroller General of the United States shall complete a study and submit a report to Congress on health care policy changes that may have contributed to the increase in opioid overdoses and deaths during the 10 years preceding the date of enactment of this Act. Such study shall include—

(1) a review of health care-related legislative, administrative, and judicial decisions by officers and employees of the Federal Government that have affected access to pain management strategies with an emphasis on pharmaceuticals;

(2) an analysis of what is known about the costs and benefits, whether financial or nonfinancial, of reversing or revising such decisions individually or in combination, including whether the reversals or revisions would be expected to achieve a reduction in abuse of, addiction to, overdose on, and death from opioids;

(3) an analysis of the differences among State-based prescription drug monitoring programs, including an analysis of what is known about the effects of such differences on monitoring for abuse of, addiction to, overdose on, and death from opioids;

(4) an analysis of what is known about positive and negative impacts that prescribing limitations, both State and Federal, have on patient medical outcomes, including for chronic pain patients; and

(5) an analysis of what is known about the costs and benefits to payers of using abuse-deterrent formulations of opioid pain medications, compared to opioid pain medications without abuse-deterrent features.

7. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE WATERS OF CALIFORNIA OR HER DESIGNEE, DEBATABLE FOR 10 MINUTES

Add at the end of title III the following new section:

SEC. ____ . REQUIRING A SURVEY OF SUBSTANCE USE DISORDER TREATMENT PROVIDERS RECEIVING FEDERAL FUNDING.

(a) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the “Secretary”) shall conduct a survey of all entities that receive Federal funding for the purpose of providing substance use disorder treatment services. The survey shall direct such entities to provide the following information:

(1) The length of time the entity has provided substance use disorder treatment services.

(2) A detailed description of the patient population served by the entity, including but not limited to the number of patients, type of addictions, geographic area served, as well as gender, racial, ethnic and socioeconomic demographics of such patients.

(3) A detailed description of the types of addiction for which the entity has the experience, capability, and capacity to provide such services.

(4) An explanation of how the entity handles patients requiring treatment for a substance use disorder that the organization is not able to treat.

(5) A description of what is needed, in the opinion of the entity, in order to improve the entity's ability to meet the addiction treatment needs of the communities served by that entity.

(6) Based on the identified needs of the communities served, a description of unmet needs and inadequate services and how such needs and services could be better addressed through additional Federal, State, or local government resources or funding to treat addiction to methamphetamine, crack cocaine, other types of cocaine, heroin, opioids, and other commonly abused drugs.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall develop and submit to Congress a plan to direct appropriate resources to entities that provide substance use disorder treatment services in order to address inadequacies in services or funding identified through the survey described in subsection (a).

8. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE TURNER OF OHIO OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Add at the end of title III the following:

SEC. 304. NO SAMSHA POLICY AGAINST SUBSTANCE ABUSE TREATMENT FOR INCARCERATED INDIVIDUALS.

The Substance Abuse and Mental Health Services Administration shall not establish, maintain, or implement any memorandum of understanding or other policy that prohibits or restricts the Administration's provision or support of substance abuse treatment or related services for incarcerated individuals, so long as such provision or support—

(1) is statutorily authorized (by provisions of law other than this section) for such type of treatment or services; and

(2) not statutorily prohibited or restricted with respect to incarcerated individuals.

PART C—TEXT OF AMENDMENT TO H.R. 5796 CONSIDERED AS ADOPTED

Add at the end the following:

SEC. 3. PROMOTING VALUE IN MEDICAID MANAGED CARE.

Section 1903(m) of the Social Security Act (42 U.S.C. 1396b(m)) is amended by adding at the end the following new paragraph:

“(7)(A) With respect to expenditures described in subparagraph (B) that are incurred by a State for any fiscal year after fiscal year 2020 (and before fiscal year 2025), in determining the pro rata share to which the United States is equitably entitled under subsection (d)(3), the Secretary shall substitute the Federal medical assistance percentage that applies for such fiscal year to the State under section 1905(b) (without regard to any adjustments to such percentage applicable under such section or any other provision of

law) for the percentage that applies to such expenditures under section 1905(y).

“(B) Expenditures described in this subparagraph, with respect to a fiscal year to which subparagraph (A) applies, are expenditures incurred by a State for payment for medical assistance provided to individuals described in subclause (VIII) of section 1902(a)(10)(A)(i) by a managed care entity, or other specified entity (as defined in subparagraph (D)(iii)), that are treated as remittances because the State—

“(i) has satisfied the requirement of section 438.8 of title 42, Code of Federal Regulations (or any successor regulation), by electing—

“(I) in the case of a State described in subparagraph (C), to apply a minimum medical loss ratio (as defined in subparagraph (D)(ii)) that is at least 85 percent but not greater than the minimum medical loss ratio (as so defined) that such State applied as of May 31, 2018; or

“(II) in the case of a State not described in subparagraph (C), to apply a minimum medical loss ratio that is equal to 85 percent; and

“(ii) recovered all or a portion of the expenditures as a result of the entity’s failure to meet such ratio.

“(C) For purposes of subparagraph (B), a State described in this subparagraph is a State that as of May 31, 2018, applied a minimum medical loss ratio (as calculated under subsection (d) of section 438.8 of title 42, Code of Federal Regulations (as in effect on June 1, 2018)) for payment for services provided by entities described in such subparagraph under the State plan under this title (or a waiver of the plan) that is equal to or greater than 85 percent.

“(D) For purposes of this paragraph:

“(i) The term ‘managed care entity’ means a medicaid managed care organization described in section 1932(a)(1)(B)(i).

“(ii) The term ‘minimum medical loss ratio’ means, with respect to a State, a minimum medical loss ratio (as calculated under subsection (d) of section 438.8 of title 42, Code of Federal Regulations (as in effect on June 1, 2018)) for payment for services provided by entities described in subparagraph (B) under the State plan under this title (or a waiver of the plan).

“(iii) The term ‘other specified entity’ means—

“(I) a prepaid inpatient health plan, as defined in section 438.2 of title 42, Code of Federal Regulations (or any successor regulation); and

“(II) a prepaid ambulatory health plan, as defined in such section (or any successor regulation).”.

PART D—TEXT OF AMENDMENTS TO H.R. 5797 MADE IN ORDER

1. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE RUSH OF ILLINOIS OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

In section 2, strike “**INDIVIDUALS WITH OPIOID USE DISORDERS**” and insert “**INDIVIDUALS WITH TARGETED SUDS**”.

In the subsection (l) proposed to be added by section 2 of the bill to section 1915 of the Social Security Act, strike “eligible individ-

uals with opioid use disorders” each place it appears and insert “eligible individuals with targeted SUDs” each such place.

In the subsection (l) proposed to be added by section 2 of the bill to section 1915 of the Social Security Act, strike “eligible individual with an opioid use disorder” each place it appears and insert “eligible individual with a targeted SUD” each such place.

Page 5, beginning on line 19, strike “individuals with opioid use disorder” and insert “eligible individuals with targeted SUDs”.

Page 6, beginning on line 1, strike “eligible individuals with an opioid use disorder” and insert “eligible individuals with targeted SUDs”.

Page 6, line 7, insert before the period the following: “and to determine the appropriate setting for such care”.

Page 7, line 12, strike “opioid use disorder” and insert “targeted SUD”.

In the subsection (l)(4) proposed to be added by section 2 of the bill to section 1915 of the Social Security Act, strike subparagraph (D), redesignate subparagraph (E) as subparagraph (D), and add at the end the following:

“(E) TARGETED SUD.—

“(i) IN GENERAL.—The term ‘targeted SUD’ means an opioid use disorder or a cocaine use disorder.

“(ii) COCAINE USE DISORDER.—The term ‘cocaine use disorder’ means a disorder that meets the criteria of the Diagnostic and Statistical Manual of Mental Disorders, 4th Edition (or a successor edition), for either dependence or abuse for cocaine, including cocaine base (commonly referred to as ‘crack cocaine’).

“(iii) OPIOID USE DISORDER.—The term ‘opioid use disorder’ means a disorder that meets the criteria of the Diagnostic and Statistical Manual of Mental Disorders, 4th Edition (or a successor edition), for heroin use disorder or pain reliever use disorder (including with respect to opioid prescription pain relievers).”.

Strike all that follows after section 2 and insert the following:

SEC. 3. PROMOTING VALUE IN MEDICAID MANAGED CARE.

Section 1903(m) of the Social Security Act (42 U.S.C. 1396b(m)) is amended by adding at the end the following new paragraph:

“(7)(A) With respect to expenditures described in subparagraph (B) that are incurred by a State for any fiscal year after fiscal year 2020 (and before fiscal year 2024), in determining the pro rata share to which the United States is equitably entitled under subsection (d)(3), the Secretary shall substitute the Federal medical assistance percentage that applies for such fiscal year to the State under section 1905(b) (without regard to any adjustments to such percentage applicable under such section or any other provision of law) for the percentage that applies to such expenditures under section 1905(y).

“(B) Expenditures described in this subparagraph, with respect to a fiscal year to which subparagraph (A) applies, are expenditures incurred by a State for payment for medical assistance provided to individuals described in subclause (VIII) of section 1902(a)(10)(A)(i) by a managed care entity, or other specified entity (as defined in subparagraph (D)(iii)), that are treated as remittances because the State—

“(i) has satisfied the requirement of section 438.8 of title 42, Code of Federal Regulations (or any successor regulation), by electing—

“(I) in the case of a State described in subparagraph (C), to apply a minimum medical loss ratio (as defined in subparagraph (D)(ii)) that is at least 85 percent but not greater than the minimum medical loss ratio (as so defined) that such State applied as of May 31, 2018; or

“(II) in the case of a State not described in subparagraph (C), to apply a minimum medical loss ratio that is equal to 85 percent; and

“(ii) recovered all or a portion of the expenditures as a result of the entity’s failure to meet such ratio.

“(C) For purposes of subparagraph (B), a State described in this subparagraph is a State that as of May 31, 2018, applied a minimum medical loss ratio (as calculated under subsection (d) of section 438.8 of title 42, Code of Federal Regulations (as in effect on June 1, 2018)) for payment for services provided by entities described in such subparagraph under the State plan under this title (or a waiver of the plan) that is equal to or greater than 85 percent.

“(D) For purposes of this paragraph:

“(i) The term ‘managed care entity’ means a medicaid managed care organization described in section 1932(a)(1)(B)(i).

“(ii) The term ‘minimum medical loss ratio’ means, with respect to a State, a minimum medical loss ratio (as calculated under subsection (d) of section 438.8 of title 42, Code of Federal Regulations (as in effect on June 1, 2018)) for payment for services provided by entities described in subparagraph (B) under the State plan under this title (or a waiver of the plan).

“(iii) The term ‘other specified entity’ means—

“(I) a prepaid inpatient health plan, as defined in section 438.2 of title 42, Code of Federal Regulations (or any successor regulation); and

“(II) a prepaid ambulatory health plan, as defined in such section (or any successor regulation).”.

2. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE KILDEE OF MICHIGAN OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 6, line 19, strike “and”.

Page 6, line 23, strike the period at the end and insert “; and”.

Page 6, after line 23, insert the following:

“(iv) the number of eligible individuals with any co-occurring disorders who received services pursuant to such State plan amendment and the co-occurring disorders from which they suffer; and

“(v) information regarding the effects of a State plan amendment on access to community care for individuals suffering from a mental disease other than substance use disorder.”.

3. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE
FITZPATRICK OF PENNSYLVANIA OR HIS DESIGNEE, DEBATABLE
FOR 10 MINUTES

Page 6, line 7, insert before the period the following: “or criteria established or endorsed by the State agency identified by the State pursuant to section 1932(b)(1)(A)(i) of the Public Health Service Act”.

