

111TH CONGRESS
1ST SESSION

S. 1130

To provide for a demonstration project regarding Medicaid reimbursements for stabilization of emergency medical conditions by non-publicly owned or operated institutions for mental diseases.

IN THE SENATE OF THE UNITED STATES

MAY 21, 2009

Ms. SNOWE (for herself, Mr. CONRAD, Mr. WYDEN, and Ms. COLLINS) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To provide for a demonstration project regarding Medicaid reimbursements for stabilization of emergency medical conditions by non-publicly owned or operated institutions for mental diseases.

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 “Medicaid Emergency
5 Psychiatric Care Demonstration Project Act of 2009”.

1 **SEC. 2. DEMONSTRATION PROJECT REGARDING MEDICAID**
2 **REIMBURSEMENTS FOR STABILIZATION OF**
3 **EMERGENCY MEDICAL CONDITIONS BY NON-**
4 **PUBLICLY OWNED OR OPERATED INSTITU-**
5 **TIONS FOR MENTAL DISEASES.**

6 (a) **AUTHORITY TO CONDUCT DEMONSTRATION**
7 **PROJECT.**—The Secretary of Health and Human Services
8 (in this section referred to as the “Secretary”) shall estab-
9 lish a demonstration project under which an eligible State
10 (as described in subsection (c)) shall provide reimburse-
11 ment under the State Medicaid plan under title XIX of
12 the Social Security Act to an institution for mental dis-
13 eases that is not publicly owned or operated and that is
14 subject to the requirements of section 1867 of the Social
15 Security Act (42 U.S.C. 1395dd) for the provision of med-
16 ical assistance available under such plan to an individual
17 who—

18 (1) has attained age 21, but has not attained
19 age 65;

20 (2) is eligible for medical assistance under such
21 plan; and

22 (3) requires such medical assistance to stabilize
23 an emergency medical condition.

24 (b) **IN-STAY REVIEW.**—The Secretary shall establish
25 a mechanism for in-stay review to determine whether or
26 not the patient has been stabilized (as defined in sub-

1 section (h)(5)). This mechanism shall commence before
 2 the third day of the inpatient stay. States participating
 3 in the demonstration project may manage the provision
 4 of these benefits under the project through utilization re-
 5 view, authorization, or management practices, or the ap-
 6 plication of medical necessity and appropriateness criteria
 7 applicable to behavioral health.

8 (c) ELIGIBLE STATE DEFINED.—

9 (1) APPLICATION.—Upon approval of an appli-
 10 cation submitted by a State described in paragraph
 11 (2), the State shall be an eligible State for purposes
 12 of conducting a demonstration project under this
 13 section.

14 (2) STATE DESCRIBED.—States shall be se-
 15 lected by the Secretary in a manner so as to provide
 16 geographic diversity on the basis of the application
 17 to conduct a demonstration project under this sec-
 18 tion submitted by such States.

19 (d) LENGTH OF DEMONSTRATION PROJECT.—The
 20 demonstration project established under this section shall
 21 be conducted for a period of 3 consecutive years.

22 (e) LIMITATIONS ON FEDERAL FUNDING.—

23 (1) APPROPRIATION.—

24 (A) IN GENERAL.—Out of any funds in the
 25 Treasury not otherwise appropriated, there is

1 appropriated to carry out this section,
2 \$75,000,000 for fiscal year 2010.

3 (B) BUDGET AUTHORITY.—Subparagraph
4 (A) constitutes budget authority in advance of
5 appropriations Act and represents the obliga-
6 tion of the Federal Government to provide for
7 the payment of the amounts appropriated under
8 that subparagraph.

9 (2) 3-YEAR AVAILABILITY.—Funds appro-
10 priated under paragraph (1) shall remain available
11 for obligation through December 31, 2012.

12 (3) LIMITATION ON PAYMENTS.—In no case
13 may—

14 (A) the aggregate amount of payments
15 made by the Secretary to eligible States under
16 this section exceed \$75,000,000; or

17 (B) payments be provided by the Secretary
18 under this section after December 31, 2012.

19 (4) FUNDS ALLOCATED TO STATES.—The Sec-
20 retary shall allocate funds to eligible States based on
21 their applications and the availability of funds.

22 (5) PAYMENTS TO STATES.—The Secretary
23 shall pay to each eligible State, from its allocation
24 under paragraph (4), an amount each quarter equal
25 to the Federal medical assistance percentage of ex-

1 penditures in the quarter for medical assistance de-
2 scribed in subsection (a).

3 (f) REPORTS.—

4 (1) ANNUAL PROGRESS REPORTS.—The Sec-
5 retary shall submit annual reports to Congress on
6 the progress of the demonstration project conducted
7 under this section.

8 (2) FINAL REPORT AND RECOMMENDATION.—

9 An evaluation should be conducted of the demonstra-
10 tion project's impact on the functioning of the health
11 and mental health service system and on individuals
12 enrolled in the Medicaid program. This evaluation
13 should include collection of baseline data for one-
14 year prior to the initiation of the demonstration
15 project as well as collection of data from matched
16 comparison states not participating in the dem-
17 onstration. The evaluation measures shall include
18 the following:

19 (A) A determination, by State, as to
20 whether the demonstration project resulted in
21 increased access to inpatient mental health
22 services under the Medicaid program and
23 whether average length of stays were longer (or
24 shorter) for individuals admitted under the

1 demonstration project compared with individ-
2 uals otherwise admitted in comparison sites.

3 (B) An analysis by State, regarding wheth-
4 er the demonstration project produced a signifi-
5 cant reduction in emergency room visits for in-
6 dividuals eligible for assistance under the Med-
7 icaid program or in the duration of emergency
8 room lengths of stay.

9 (C) An assessment of discharge planning
10 by participating hospitals that ensures access to
11 further (non-emergency) inpatient or residential
12 care as well as continuity of care for those dis-
13 charged to outpatient care.

14 (D) An assessment of the impact of the
15 demonstration project on the costs of the full
16 range of mental health services (including inpa-
17 tient, emergency and ambulatory care) under
18 the plan as contrasted with the comparison
19 areas.

20 (E) Data on the percentage of consumers
21 with Medicaid coverage who are admitted to in-
22 patient facilities as a result of the demonstra-
23 tion project as compared to those admitted to
24 these same facilities through other means.

1 (F) A recommendation regarding whether
 2 the demonstration project should be continued
 3 after December 31, 2012, and expanded on a
 4 national basis.

5 (g) WAIVER AUTHORITY.—

6 (1) IN GENERAL.—The Secretary shall waive
 7 the limitation of subdivision (B) following paragraph
 8 (28) of section 1905(a) of the Social Security Act
 9 (42 U.S.C. 1396d(a)) (relating to limitations on pay-
 10 ments for care or services for individuals under 65
 11 years of age who are patients in an institution for
 12 mental diseases) for purposes of carrying out the
 13 demonstration project under this section.

14 (2) LIMITED OTHER WAIVER AUTHORITY.—The
 15 Secretary may waive other requirements of titles XI
 16 and XIX of the Social Security Act (including the
 17 requirements of sections 1902(a)(1) (relating to
 18 statewideness) and 1902(1)(10)(B) (relating to com-
 19 parability)) only to extent necessary to carry out the
 20 demonstration project under this section.

21 (h) DEFINITIONS.—In this section:

22 (1) EMERGENCY MEDICAL CONDITION.—The
 23 term “emergency medical condition” means, with re-
 24 spect to an individual, an individual who expresses

1 suicidal or homicidal thoughts or gestures, if deter-
 2 mined dangerous to self or others.

3 (2) FEDERAL MEDICAL ASSISTANCE PERCENT-
 4 AGE.—The term “Federal medical assistance per-
 5 centage” has the meaning given that term with re-
 6 spect to a State under section 1905(b) of the Social
 7 Security Act (42 U.S.C. 1396d(b)).

8 (3) INSTITUTION FOR MENTAL DISEASES.—The
 9 term “institution for mental diseases” has the mean-
 10 ing given to that term in section 1905(i) of the So-
 11 cial Security Act (42 U.S.C. 1396d(i)).

12 (4) MEDICAL ASSISTANCE.—The term “medical
 13 assistance” has the meaning given to that term in
 14 section 1905(a) of the Social Security Act (42
 15 U.S.C. 1396d(a)).

16 (5) STABILIZED.—The term “stabilized”
 17 means, with respect to an individual, that the emer-
 18 gency medical condition no longer exists with respect
 19 to the individual and the individual is no longer dan-
 20 gerous to self or others.

21 (6) STATE.—The term “State” has the mean-
 22 ing given that term for purposes of title XIX of the
 23 Social Security Act (42 U.S.C. 1396 et seq.).

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