

112TH CONGRESS
2D SESSION

S. 2257

To increase access to community behavioral health services for all Americans and to improve Medicaid reimbursement for community behavioral health services.

IN THE SENATE OF THE UNITED STATES

MARCH 29, 2012

Ms. STABENOW (for herself and Mr. REED) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To increase access to community behavioral health services for all Americans and to improve Medicaid reimbursement for community behavioral health services.

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 “Excellence in Mental
5 Health Act”.

6 **SEC. 2. ESTABLISHING COMMUNITY BEHAVIORAL HEALTH**
7 **CENTERS.**

8 Section 1913 of the Public Health Service Act (42
9 U.S.C. 300x–2) is amended—

1 (1) in subsection (a)(2)(A), by striking “com-
 2 munity mental health services” and inserting “be-
 3 havioral health services (of the type offered by feder-
 4 ally qualified community behavioral health centers
 5 consistent with subsection (c)(3))”;

6 (2) in subsection (b)—

7 (A) by striking paragraph (1) and insert-
 8 ing the following:

9 “(1) services under the plan will be provided
 10 only through appropriate, qualified community pro-
 11 grams (which may include federally qualified com-
 12 munity behavioral health centers, child mental
 13 health programs, psychosocial rehabilitation pro-
 14 grams, mental health peer-support programs, out-
 15 patient addiction treatment programs, acute detoxi-
 16 fication services, and mental health primary con-
 17 sumer-directed programs); and”;

18 (B) in paragraph (2), by striking “commu-
 19 nity mental health centers” and inserting “fed-
 20 erally qualified community behavioral health
 21 centers”; and

22 (3) by striking subsection (c) and inserting the
 23 following:

24 “(c) CRITERIA FOR FEDERALLY QUALIFIED COMMU-
 25 NITY BEHAVIORAL HEALTH CENTERS.—

1 “(1) IN GENERAL.—The Administrator shall
2 certify, and recertify at least every 5 years, federally
3 qualified community behavioral health centers as
4 meeting the criteria specified in this subsection.

5 “(2) REGULATIONS.—Not later than 18 months
6 after the date of the enactment of the Excellence in
7 Mental Health Act, the Administrator, in consulta-
8 tion with State Mental Health and Substance Abuse
9 Authorities, shall issue final regulations for certi-
10 fying non-profit or local government centers as cen-
11 ters under paragraph (1).

12 “(3) CRITERIA.—The criteria referred to in
13 subsection (b)(2) are that the center performs each
14 of the following:

15 “(A) Provide services in locations that en-
16 sure services will be available and accessible
17 promptly and in a manner which preserves
18 human dignity and assures continuity of care.

19 “(B) Provide services in a mode of service
20 delivery appropriate for the target population.

21 “(C) Provide individuals with a choice of
22 service options where there is more than one ef-
23 ficacious treatment.

1 “(D) Employ a core staff of clinical staff
2 that is multidisciplinary and culturally and lin-
3 guistically competent.

4 “(E) Provide services, within the limits of
5 the capacities of the center, to any individual
6 residing or employed in the service area of the
7 center, regardless of the ability of the individual
8 to pay.

9 “(F) Provide, directly or through contract,
10 to the extent covered for adults in the State
11 Medicaid plan under title XIX of the Social Se-
12 curity Act and for children in accordance with
13 section 1905(r) of such Act regarding early and
14 periodic screening, diagnosis, and treatment,
15 each of the following services:

16 “(i) Screening, assessment, and diag-
17 nosis, including risk assessment.

18 “(ii) Person-centered treatment plan-
19 ning or similar processes, including risk as-
20 sessment and crisis planning.

21 “(iii) Outpatient mental health and
22 substance use services, including screening,
23 assessment, diagnosis, psychotherapy,
24 medication management, and integrated
25 treatment for mental illness and substance

1 abuse which shall be evidence-based (in-
2 cluding cognitive behavioral therapy and
3 other such therapies which are evidence-
4 based).

5 “(iv) Outpatient clinic primary care
6 screening and monitoring of key health in-
7 dicators and health risk (including screen-
8 ing for diabetes, hypertension, and cardio-
9 vascular disease and monitoring of weight,
10 height, body mass index (BMI), blood pres-
11 sure, blood glucose or HbA1C, and lipid
12 profile).

13 “(v) Crisis mental health services, in-
14 cluding 24-hour mobile crisis teams, emer-
15 gency crisis intervention services, and cri-
16 sis stabilization.

17 “(vi) Targeted case management
18 (services to assist individuals gaining ac-
19 cess to needed medical, social, educational,
20 and other services and applying for income
21 security and other benefits to which they
22 may be entitled).

23 “(vii) Psychiatric rehabilitation serv-
24 ices including skills training, assertive com-
25 munity treatment, family psychoeducation,

1 disability self-management, supported em-
2 ployment, supported housing services,
3 therapeutic foster care services, and such
4 other evidence-based practices as the Sec-
5 retary may require.

6 “(viii) Peer support and counselor
7 services and family supports.

8 “(G) Maintain linkages, and where possible
9 enter into formal contracts with the following:

10 “(i) Federally qualified health centers.

11 “(ii) Inpatient psychiatric facilities
12 and substance use detoxification, post-de-
13 toxification step-down services, and resi-
14 dential programs.

15 “(iii) Adult and youth peer support
16 and counselor services.

17 “(iv) Family support services for fam-
18 ilies of children with serious mental or sub-
19 stance use disorders.

20 “(v) Other community or regional
21 services, supports, and providers, including
22 schools, child welfare agencies, juvenile and
23 criminal justice agencies and facilities,
24 housing agencies and programs, employers,
25 and other social services.

1 “(vi) Onsite or offsite access to pri-
2 mary care services.

3 “(vii) Enabling services, including
4 outreach, transportation, and translation.

5 “(viii) Health and wellness services,
6 including services for tobacco cessation.

7 “(4) RULE OF CONSTRUCTION.—Nothing in
8 paragraph (1) shall be construed as prohibiting
9 States receiving funds appropriated through the
10 Community Mental Health Services Block Grant
11 under subpart I of part B of this title from financ-
12 ing qualified community programs (whether such
13 programs meet the definition of eligible programs
14 prior to or after the date of enactment of this sub-
15 section).

16 “(5) LIMITATION.—With respect to federally
17 qualified behavioral health centers authorized under
18 this subsection, 20 percent of the total number of
19 such centers shall become newly eligible to receive
20 reimbursement under this section in each of the first
21 5 years after the initial year of eligibility through
22 fiscal year 2022. In implementing this paragraph,
23 the Secretary shall ensure geographic diversity of
24 such sites, take into account the ability of such sites

1 to provide required services, and the ability of such
 2 sites to report required data.”.

3 **SEC. 3. MEDICAID COVERAGE AND PAYMENT FOR COMMU-**
 4 **NITY BEHAVIORAL HEALTH CENTER SERV-**
 5 **ICES.**

6 (a) PAYMENT FOR SERVICES PROVIDED BY FEDER-
 7 ALLY QUALIFIED COMMUNITY BEHAVIORAL HEALTH
 8 CENTERS.—Section 1902(bb) of the Social Security Act
 9 (42 U.S.C. 1396a(bb)) is amended—

10 (1) in the heading, by striking “AND RURAL
 11 HEALTH CLINICS” and inserting “, FEDERALLY
 12 QUALIFIED COMMUNITY BEHAVIORAL HEALTH
 13 CENTERS, AND RURAL HEALTH CLINICS”;

14 (2) in paragraph (1), by inserting “(and begin-
 15 ning with fiscal year 2013 with respect to services
 16 furnished on or after January 1, 2013, and each
 17 succeeding fiscal year, for services described in sec-
 18 tion 1905(a)(2)(D) furnished by a federally qualified
 19 community behavioral health center)” after “by a
 20 rural health clinic”;

21 (3) in paragraph (2)—

22 (A) by striking the heading and inserting
 23 “INITIAL FISCAL YEAR”;

24 (B) by inserting “(or, in the case of serv-
 25 ices described in section 1905(a)(2)(D) fur-

1 nished by a federally qualified community be-
2 havioral health center, for services furnished on
3 and after January 1, 2013, during fiscal year
4 2013)” after “January 1, 2001, during fiscal
5 year 2001”;

6 (C) by inserting “(or, in the case of serv-
7 ices described in section 1905(a)(2)(D) fur-
8 nished by a federally qualified community be-
9 havioral health center, during fiscal years 2010
10 and 2011)” after “1999 and 2000”; and

11 (D) by inserting “(or, in the case of serv-
12 ices described in section 1905(a)(2)(D) fur-
13 nished by a federally qualified community be-
14 havioral health center, during fiscal year
15 2013)” before the period;

16 (4) in paragraph (3)—

17 (A) in the heading, by striking “FISCAL
18 YEAR 2002 AND SUCCEEDING” and inserting
19 “SUCCEEDING”; and

20 (B) by inserting “(or, in the case of serv-
21 ices described in section 1905(a)(2)(D) fur-
22 nished by a federally qualified community be-
23 havioral health center, for services furnished
24 during fiscal year 2013 or a succeeding fiscal
25 year)” after “2002 or a succeeding fiscal year”;

1 (5) in paragraph (4)—

2 (A) by inserting “(or as a federally quali-
3 fied community behavioral health center after
4 fiscal year 2011)” after “or rural health clinic
5 after fiscal year 2000”;

6 (B) by striking “furnished by the center
7 or” and inserting “furnished by the federally
8 qualified health center, services described in
9 section 1905(a)(2)(D) furnished by the feder-
10 ally qualified community behavioral health cen-
11 ter, or”; and

12 (C) in the second sentence, by striking “or
13 rural health clinic” and inserting “, federally
14 qualified community behavioral health center,
15 or rural health clinic”;

16 (6) in paragraph (5), in each of subparagraphs
17 (A) and (B), by striking “or rural health clinic” and
18 inserting “, federally qualified community behavioral
19 health center, or rural health clinic”; and

20 (7) in paragraph (6), by striking “or to a rural
21 health clinic” and inserting “, to a federally quali-
22 fied community behavioral health center for services
23 described in section 1905(a)(2)(D), or to a rural
24 health clinic”.

1 (b) INCLUSION OF COMMUNITY BEHAVIORAL
 2 HEALTH CENTER SERVICES IN THE TERM MEDICAL AS-
 3 SISTANCE.—Section 1905(a)(2) of the Social Security Act
 4 (42 U.S.C. 1396d(a)(2)) is amended—

5 (1) by striking “and” before “(C)”; and

6 (2) by inserting before the semicolon at the end
 7 the following: “, and (D) federally qualified commu-
 8 nity behavioral health center services (as defined in
 9 subsection (l)(4))”.

10 (c) DEFINITION OF FEDERALLY QUALIFIED COMMU-
 11 NITY BEHAVIORAL HEALTH CENTER SERVICES.—Section
 12 1905(l) of the Social Security Act (42 U.S.C. 1396d(l))
 13 is amended by adding at the end the following paragraph:

14 “(4)(A) The term ‘community behavioral health
 15 center services’ means services furnished to an indi-
 16 vidual at a federally qualified community behavioral
 17 health center (as defined by subparagraph (B)).

18 “(B) The term ‘federally qualified community
 19 behavioral health center’ means an entity that is cer-
 20 tified under section 1913(c) of the Public Health
 21 Service Act as meeting the criteria described in
 22 paragraph (3) of such section.”.

1 **SEC. 4. COMMUNITY-BASED MENTAL HEALTH INFRASTRUC-**
 2 **TURE IMPROVEMENT.**

3 Title V of the Public Health Service Act (42 U.S.C.
 4 280g et seq.) is amended by adding at the end the fol-
 5 lowing:

6 **“PART H—COMMUNITY-BASED MENTAL HEALTH**
 7 **INFRASTRUCTURE IMPROVEMENTS**

8 **“SEC. 560. GRANTS FOR COMMUNITY-BASED MENTAL**
 9 **HEALTH INFRASTRUCTURE IMPROVEMENTS.**

10 “(a) GRANTS AUTHORIZED.—The Secretary may
 11 award grants to eligible entities to expend funds for the
 12 construction or modernization of facilities used to provide
 13 mental health and substance abuse services to individuals.

14 “(b) ELIGIBLE ENTITY.—In this section, the term
 15 ‘eligible entity’ means—

16 “(1) a State that is the recipient of a Commu-
 17 nity Mental Health Services Block Grant under sub-
 18 part I of part B of title XIX and a Substance Abuse
 19 Prevention and Treatment Block Grant under sub-
 20 part II of such part; or

21 “(2) an Indian tribe or a tribal organization (as
 22 such terms are defined in sections 4(b) and 4(c) of
 23 the Indian Self-Determination and Education Assist-
 24 ance Act).

1 “(c) APPLICATION.—A eligible entity desiring a grant
2 under this section shall submit to the Secretary an appli-
3 cation at such time, in such manner, and containing—

4 “(1) a plan for the construction or moderniza-
5 tion of facilities used to provide mental health and
6 substance abuse services to individuals that—

7 “(A) designates a single State or tribal
8 agency as the sole agency for the supervision
9 and administration of the grant;

10 “(B) contains satisfactory evidence that
11 such agency so designated will have the author-
12 ity to carry out the plan;

13 “(C) provides for the designation of an ad-
14 visory council, which shall include representa-
15 tives of nongovernmental organizations or
16 groups, and of the relevant State or tribal agen-
17 cies, that aided in the development of the plan
18 and that will implement and monitor any grant
19 awarded to the eligible entity under this section;

20 “(D) in the case of an eligible entity that
21 is a State, includes a copy of the State plan
22 under section 1912(b) and section 1932(b);

23 “(E)(i) includes a listing of the projects to
24 be funded by the grant; and

1 “(ii) in the case of an eligible entity that
2 is a State, explains how each listed project
3 helps the State in accomplishing its goals and
4 objectives under the Community Mental Health
5 Services Block Grant under subpart I of part B
6 of title XIX and the Substance Abuse Preven-
7 tion and Treatment Block Grant under subpart
8 II of such part;

9 “(F) includes assurances that the facilities
10 will be used for a period of not less than 10
11 years for the provision of community-based
12 mental health or substance abuse services for
13 those who cannot pay for such services, subject
14 to subsection (e); and

15 “(G) in the case of a facility that is not a
16 public facility, includes the name and executive
17 director of the entity who will provide services
18 in the facility; and

19 “(2) with respect to each construction or mod-
20 ernization project described in the application—

21 “(A) a description of the site for the
22 project;

23 “(B) plans and specifications for the
24 project and State or tribal approval for the
25 plans and specifications;

1 “(C) assurance that the title for the site is
2 or will be vested with either the public entity or
3 private nonprofit entity who will provide the
4 services in the facility;

5 “(D) assurance that adequate financial re-
6 sources will be available for the construction or
7 major rehabilitation of the project and for the
8 maintenance and operation of the facility;

9 “(E) estimates of the cost of the project;
10 and

11 “(F) the estimated length of time for com-
12 pletion of the project.

13 “(d) SUBGRANTS BY STATES.—

14 “(1) IN GENERAL.—A State that receives a
15 grant under this section may award a subgrant to
16 a qualified community program (as such term is
17 used in section 1913(b)(1)).

18 “(2) USE OF FUNDS.—Subgrants awarded pur-
19 suant to paragraph (1) may be used for activities
20 such as—

21 “(A) the construction, expansion, and mod-
22 ernization of facilities used to provide mental
23 health and substance abuse services to individ-
24 uals;

1 “(B) acquiring and leasing facilities and
2 equipment (including paying the costs of amor-
3 tizing the principal of, and paying the interest
4 on, loans for such facilities and equipment) to
5 support or further the operation of the sub-
6 grantee;

7 “(C) the construction and structural modi-
8 fication (including equipment acquisition) of fa-
9 cilities to permit the integrated delivery of be-
10 havioral health and primary care of specialty
11 medical services to individuals with co-occurring
12 mental illnesses and chronic medical or surgical
13 diseases at a single service site; and

14 “(D) acquiring information technology re-
15 quired to accommodate the clinical needs of pri-
16 mary and specialty care professionals.

17 “(3) LIMITATION.—Not to exceed 15 percent of
18 grant funds may be used for activities described in
19 paragraph (2)(D).

20 “(e) REQUEST TO TRANSFER OBLIGATION.—An eli-
21 gible entity that receives a grant under this section may
22 submit a request to the Secretary for permission to trans-
23 fer the 10-year obligation of facility use, as described in
24 subsection (c)(1)(F), to another facility.

1 “(f) AGREEMENT TO FEDERAL SHARE.—As a condi-
 2 tion of receipt of a grant under this section, an eligible
 3 entity shall agree, with respect to the costs to be incurred
 4 by the entity in carrying out the activities for which such
 5 grant is awarded, that the entity will make available non-
 6 Federal contributions (which may include State or local
 7 funds, or funds from the qualified community program)
 8 in an amount equal to not less than \$1 for every \$1 of
 9 Federal funds provided under the grant.

10 “(g) REPORTING.—

11 “(1) REPORTING BY STATES.—During the 10-
 12 year period referred to in subsection (c)(1)(F), the
 13 Secretary shall require that a State that receives a
 14 grant under this section submit, as part of the re-
 15 port of the State required under the Community
 16 Mental Health Services Block Grant under subpart
 17 I of part B of title XIX and the Substance Abuse
 18 Prevention and Treatment Block Grant under sub-
 19 part II of such part, a description of the progress
 20 on—

21 “(A) the projects carried out pursuant to
 22 the grant under this section; and

23 “(B) the assurances that the facilities in-
 24 volved continue to be used for the purpose for

1 which they were funded under such grant dur-
2 ing such 10-year period.

3 “(2) REPORTING BY INDIAN TRIBES AND TRIB-
4 AL ORGANIZATIONS.—The Secretary shall establish
5 reporting requirements for Indian tribes and tribal
6 organizations that receive a grant under this section.
7 Such reporting requirements shall include that such
8 Indian tribe or tribal organization provide a descrip-
9 tion of the progress on—

10 “(A) the projects carried out pursuant to
11 the grant under this section; and

12 “(B) the assurances that the facilities in-
13 volved continue to be used for the purpose for
14 which they were funded under such grant dur-
15 ing the 10-year period referred to in subsection
16 (c)(1)(F).

17 “(h) FAILURE TO MEET OBLIGATIONS.—

18 “(1) IN GENERAL.—If an eligible entity that re-
19 ceives a grant under this section fails to meet any
20 of the obligations of the entity required under this
21 section, the Secretary shall take appropriate steps,
22 which may include—

23 “(A) requiring that the entity return the
24 unused portion of the funds awarded under this
25 section for the projects that are incomplete; and

1 “(B) extending the length of time that the
2 entity must ensure that the facility involved is
3 used for the purposes for which it is intended,
4 as described in subsection (c)(1)(F).

5 “(2) HEARING.—Prior to requesting the return
6 of the funds under paragraph (1)(B), the Secretary
7 shall provide the entity notice and opportunity for a
8 hearing.

9 “(i) COLLABORATION.—The Secretary may establish
10 intergovernmental and interdepartmental memorandums
11 of agreement as necessary to carry out this section.

12 “(j) AUTHORIZATION OF APPROPRIATIONS.—There
13 is authorized to be appropriated to carry out this section
14 such sums as may be necessary for each of fiscal years
15 2013 through 2017.”.

16 **SEC. 5. EXPANDED PARTICIPATION IN 340B PROGRAM.**

17 Section 340B(a)(4) of the Public Health Service Act
18 (42 U.S.C. 256b(a)(4)) is amended by adding at the end
19 the following:

20 “(P) An entity receiving funds under sub-
21 part I of part B of title XIX of this Act for the
22 provision of community mental health services.

23 “(Q) An entity receiving funds under sub-
24 part II of part B of title XIX of this Act for

1 the provision of treatment services for sub-
2 stance abuse.”.

○