

113TH CONGRESS  
1ST SESSION

# S. 1517

To amend the Public Health Services Act and the Social Security Act to extend health information technology assistance eligibility to behavioral health, mental health, and substance abuse professionals and facilities, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

SEPTEMBER 18, 2013

Mr. WHITEHOUSE introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend the Public Health Services Act and the Social Security Act to extend health information technology assistance eligibility to behavioral health, mental health, and substance abuse professionals and facilities, 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 “Behavioral Health In-  
5       formation Technology Act of 2013”.

1 **SEC. 2. EXTENSION OF HEALTH INFORMATION TECH-**  
 2 **NOLOGY ASSISTANCE FOR BEHAVIORAL**  
 3 **HEALTH AND MENTAL HEALTH AND SUB-**  
 4 **STANCE ABUSE.**

5 Section 3000(3) of the Public Health Services Act  
 6 (42 U.S.C. 300jj(3)) is amended by inserting “a behav-  
 7 ioral or mental health professional (as defined in section  
 8 331(a)(3)(E)(i)), a substance abuse professional, a psy-  
 9 chiatric hospital (as defined in section 1861(f) of the So-  
 10 cial Security Act), a community mental health center that  
 11 meets the criteria specified in section 1913(c) (including  
 12 community mental health centers that are operated by  
 13 county behavioral health agencies), a residential or out-  
 14 patient mental health or substance abuse treatment facil-  
 15 ity,” before “and any other category”.

16 **SEC. 3. EXTENSION OF ELIGIBILITY FOR MEDICARE AND**  
 17 **MEDICAID HEALTH INFORMATION TECH-**  
 18 **NOLOGY IMPLEMENTATION ASSISTANCE.**

19 (a) PAYMENT INCENTIVES FOR ELIGIBLE PROFES-  
 20 SIONALS UNDER THE MEDICARE PROGRAM.—Section  
 21 1848 of the Social Security Act (42 U.S.C. 1395w–4) is  
 22 amended—

23 (1) in subsection (a)(7)—

24 (A) in subparagraph (E), by adding at the  
 25 end the following new clause:

1 “(iv) ADDITIONAL ELIGIBLE PROFES-  
 2 SIONAL.—The term ‘additional eligible pro-  
 3 fessional’ means either of the following:

4 “(I) A clinical psychologist pro-  
 5 viding qualified psychologist services  
 6 (as defined in section 1861(ii)).

7 “(II) A clinical social worker (as  
 8 defined in section 1861(hh)(1)).”; and

9 (B) by adding at the end the following new  
 10 subparagraph:

11 “(F) APPLICATION TO ADDITIONAL ELIGI-  
 12 BLE PROFESSIONALS.—The Secretary shall  
 13 apply the provisions of this paragraph with re-  
 14 spect to an additional eligible professional in  
 15 the same manner as such provisions apply to an  
 16 eligible professional, except in applying sub-  
 17 paragraph (A)—

18 “(i) in clause (i), the reference to  
 19 2015 shall be deemed a reference to 2019;

20 “(ii) in clause (ii), the references to  
 21 2015, 2016, and 2017 shall be deemed ref-  
 22 erences to 2019, 2020, and 2021, respec-  
 23 tively; and

1 “(iii) in clause (iii), the reference to  
 2 2018 shall be deemed a reference to  
 3 2022.”; and

4 (2) in subsection (o)—

5 (A) in paragraph (5), by adding at the end  
 6 the following new subparagraph:

7 “(D) ADDITIONAL ELIGIBLE PROFES-  
 8 SIONAL.—The term ‘additional eligible profes-  
 9 sional’ means either of the following:

10 “(i) A clinical psychologist providing  
 11 qualified psychologist services (as defined  
 12 in section 1861(ii)).

13 “(ii) A clinical social worker (as de-  
 14 fined in section 1861(hh)(1)).”; and

15 (B) by adding at the end the following new  
 16 paragraph:

17 “(6) APPLICATION TO ADDITIONAL ELIGIBLE  
 18 PROFESSIONALS.—The Secretary shall apply the  
 19 provisions of this subsection with respect to an addi-  
 20 tional eligible professional in the same manner as  
 21 such provisions apply to an eligible professional, ex-  
 22 cept in applying—

23 “(A) paragraph (1)(A)(ii), the reference to  
 24 2016 shall be deemed a reference to 2020;

1 “(B) paragraph (1)(B)(ii), the references  
 2 to 2011 and 2012 shall be deemed references to  
 3 2015 and 2016, respectively;

4 “(C) paragraph (1)(B)(iii), the references  
 5 to 2013 shall be deemed references to 2017;

6 “(D) paragraph (1)(B)(v), the references  
 7 to 2014 shall be deemed references to 2018;  
 8 and

9 “(E) paragraph (1)(E), the reference to  
 10 2011 shall be deemed a reference to 2015.”.

11 (b) ELIGIBLE HOSPITALS.—Section 1886 of the So-  
 12 cial Security Act (42 U.S.C. 1395ww) is amended—

13 (1) in subsection (b)(3)(B)(ix), by adding at the  
 14 end the following new subclause:

15 “(V) The Secretary shall apply  
 16 the provisions of this subsection with  
 17 respect to an additional eligible hos-  
 18 pital (as defined in subsection  
 19 (n)(6)(C)) in the same manner as  
 20 such provisions apply to an eligible  
 21 hospital except in applying—

22 “(aa) subclause (I), the ref-  
 23 erences to 2015, 2016, and 2017  
 24 shall be deemed references to

1                   2019, 2020, and 2021, respec-  
2                   tively; and

3                   “(bb) subclause (III), the  
4                   reference to 2015 shall be  
5                   deemed a reference to 2019.”;  
6                   and

7                   (2) in subsection (n)—

8                   (A) in paragraph (6), by adding at the end  
9                   the following new subparagraph:

10                  “(C) ADDITIONAL ELIGIBLE HOSPITAL.—  
11                  The term ‘additional eligible hospital’ means an  
12                  inpatient hospital that is a psychiatric hospital  
13                  (as defined in section 1861(f)).”; and

14                  (B) by adding at the end the following new  
15                  paragraph:

16                  “(7) APPLICATION TO ADDITIONAL ELIGIBLE  
17                  HOSPITALS.—The Secretary shall apply the provi-  
18                  sions of this subsection with respect to an additional  
19                  eligible hospital in the same manner as such provi-  
20                  sions apply to an eligible hospital, except in apply-  
21                  ing—

22                  “(A) paragraph (2)(E)(ii), the references  
23                  to 2013 and 2015 shall be deemed references to  
24                  2017 and 2019, respectively; and

1 “(B) paragraph (2)(G)(i), the reference to  
2 2011 shall be deemed a reference to 2015.”.

3 (c) MEDICAID PROVIDERS.—Section 1903(t) of the  
4 Social Security Act (42 U.S.C. 1396b(t)) is amended—

5 (1) in paragraph (2)(B)—

6 (A) in clause (i), by striking “, or” and in-  
7 serting a semicolon;

8 (B) in clause (ii), by striking the period at  
9 the end and inserting “; or”; and

10 (C) by adding at the end the following new  
11 clause:

12 “(iii) an additional Medicaid provider.”;

13 (2) in paragraph (3)—

14 (A) in subparagraph (B), by inserting after  
15 and below clause (v) the following new sentence:

16 “Such term includes an additional eligible pro-  
17 fessional.”; and

18 (B) by adding at the end the following new  
19 subparagraphs:

20 “(G) The term ‘additional eligible profes-  
21 sional’ means—

22 “(i) a clinical psychologist providing  
23 qualified psychologist services (as defined  
24 in section 1861(ii)), if such clinical psy-

1           chologist is practicing in an outpatient set-  
2           ting that—

3                   “(I) is led by a clinical psycholo-  
4                   gist; and

5                   “(II) is not otherwise receiving  
6                   payment under paragraph (1) as a  
7                   Medicaid provider described in para-  
8                   graph (2)(B); and

9                   “(ii) a clinical social worker (as de-  
10                  fined in section 1861(hh)(1)), if such clin-  
11                  ical social worker is practicing in an out-  
12                  patient clinic that—

13                   “(I) is led by a clinical social  
14                   worker; and

15                   “(II) is not otherwise receiving  
16                   payment under paragraph (1) as a  
17                   Medicaid provider described in para-  
18                   graph (2)(B).

19                  “(H) The term ‘additional Medicaid pro-  
20                  vider’ means—

21                   “(i) a public hospital that is prin-  
22                   cipally a psychiatric hospital (as defined in  
23                   section 1861(f));

24                   “(ii) a private hospital that is prin-  
25                   cipally a psychiatric hospital (as defined in



1 section 1861(f)) and that has at least 10  
2 percent of its patient volume (as estimated  
3 in accordance with a methodology estab-  
4 lished by the Secretary) attributable to in-  
5 dividuals who are receiving medical assist-  
6 ance under this title;

7 “(iii) a community mental health cen-  
8 ter meeting the criteria specified in section  
9 1913(c) of the Public Health Service Act;  
10 or

11 “(iv) a residential or outpatient men-  
12 tal health or substance abuse treatment fa-  
13 cility that—

14 “(I) is accredited by the Joint  
15 Commission on Accreditation of  
16 Healthcare Organizations, the Com-  
17 mission on Accreditation of Rehabili-  
18 tation Facilities, the Council on Ac-  
19 creditation, or any other national ac-  
20 crediting agency recognized by the  
21 Secretary; and

22 “(II) has at least 10 percent of  
23 its patient volume (as estimated in ac-  
24 cordance with a methodology estab-  
25 lished by the Secretary) attributable

1 to individuals who are receiving med-  
2 ical assistance under this title.”; and

3 (3) by adding at the end the following new  
4 paragraph:

5 “(11)(A) The Secretary shall apply the provi-  
6 sions of this subsection and subsection (a)(3)(F)  
7 with respect to an additional eligible professional  
8 who is a Medicaid provider described in paragraph  
9 (2)(A) in the same manner as such provisions apply  
10 to any other eligible professional who is a Medicaid  
11 provider described in paragraph (2)(A), except in  
12 applying—

13 “(i) paragraph (4)(A)(i), the reference to  
14 2016 shall be deemed a reference to 2020; and

15 “(ii) paragraph (4)(A)(iii), the reference to  
16 2021 shall be deemed a reference to 2025.

17 “(B) The Secretary shall apply the provisions of  
18 this subsection and subsection (a)(3)(F) with respect  
19 to an additional Medicaid provider in the same man-  
20 ner as such provisions apply to any other Medicaid  
21 provider described in paragraph (2)(B), except in  
22 applying paragraph (4)(D)(i), the reference to 2016  
23 shall be deemed a reference to 2020.”.

1 (d) MEDICARE ADVANTAGE ORGANIZATIONS.—Sec-  
 2 tion 1853 of the Social Security Act (42 U.S.C. 1395w-  
 3 23) is amended—

4 (1) in subsection (l)—

5 (A) in paragraph (1)—

6 (i) by inserting “or additional eligible  
 7 professionals (as described in paragraph  
 8 (9))” after “paragraph (2)”; and

9 (ii) by inserting “and additional eligi-  
 10 ble professionals” before “under such sec-  
 11 tions”;

12 (B) in paragraph (3)(B)—

13 (i) in clause (i) in the matter pre-  
 14 ceding subclause (I), by inserting “or an  
 15 additional eligible professional described in  
 16 paragraph (9)” after “paragraph (2)”; and

17 (ii) in clause (ii)—

18 (I) in the matter preceding sub-  
 19 clause (I), by inserting “or an addi-  
 20 tional eligible professional described in  
 21 paragraph (9)” after “paragraph  
 22 (2)”; and

23 (II) in subclause (I), by inserting  
 24 “or an additional eligible professional,

1                   respectively,” after “eligible profes-  
2                   sional”;

3                   (C) in paragraph (3)(C), by inserting “and  
4                   additional eligible professionals” after “all eligi-  
5                   ble professionals”;

6                   (D) in paragraph (4)(D), by adding at the  
7                   end the following new sentence: “In the case  
8                   that a qualifying MA organization attests that  
9                   not all additional eligible professionals of the  
10                  organization are meaningful EHR users with  
11                  respect to an applicable year, the Secretary  
12                  shall apply the payment adjustment under this  
13                  paragraph based on the proportion of all such  
14                  additional eligible professionals of the organiza-  
15                  tion that are not meaningful EHR users for  
16                  such year.”;

17                  (E) in paragraph (6)(A), by inserting  
18                  “and, as applicable, each additional eligible pro-  
19                  fessional described in paragraph (9)” after  
20                  “paragraph (2)”;

21                  (F) in paragraph (6)(B), by inserting  
22                  “and, as applicable, each additional eligible hos-  
23                  pital described in paragraph (9)” after “sub-  
24                  section (m)(1)”;

1 (G) in paragraph (7)(A), by inserting  
 2 “and, as applicable, additional eligible profes-  
 3 sionals” after “eligible professionals”;

4 (H) in paragraph (7)(B), by inserting  
 5 “and, as applicable, additional eligible profes-  
 6 sionals” after “eligible professionals”;

7 (I) in paragraph (8)(B), by inserting “and  
 8 additional eligible professionals described in  
 9 paragraph (9)” after “paragraph (2)”; and

10 (J) by adding at the end the following new  
 11 paragraph:

12 “(9) ADDITIONAL ELIGIBLE PROFESSIONAL DE-  
 13 SCRIBED.—With respect to a qualifying MA organi-  
 14 zation, an additional eligible professional described  
 15 in this paragraph is an additional eligible profes-  
 16 sional (as defined for purposes of section 1848(o))  
 17 who—

18 “(A)(i) is employed by the organization; or

19 “(ii)(I) is employed by, or is a partner of,  
 20 an entity that through contract with the organi-  
 21 zation furnishes at least 80 percent of the enti-  
 22 ty’s Medicare patient care services to enrollees  
 23 of such organization; and

24 “(II) furnishes at least 80 percent of the  
 25 professional services of the additional eligible

1 professional covered under this title to enrollees  
2 of the organization; and

3 “(B) furnishes, on average, at least 20  
4 hours per week of patient care services.”; and  
5 (2) in subsection (m)—

6 (A) in paragraph (1)—

7 (i) by inserting “or additional eligible  
8 hospitals (as described in paragraph (7))”  
9 after “paragraph (2)”; and

10 (ii) by inserting “and additional eligi-  
11 ble hospitals” before “under such sec-  
12 tions”;

13 (B) in paragraph (3)(A)(i), by inserting  
14 “or additional eligible hospital” after “eligible  
15 hospital”;

16 (C) in paragraph (3)(A)(ii), by inserting  
17 “or an additional eligible hospital” after “eligi-  
18 ble hospital” in each place it occurs;

19 (D) in paragraph (3)(B)—

20 (i) in clause (i), by inserting “or an  
21 additional eligible hospital described in  
22 paragraph (7)” after “paragraph (2)”; and

23 (ii) in clause (ii)—

24 (I) in the matter preceding sub-  
25 clause (I), by inserting “or an addi-

1                    tional eligible hospital described in  
2                    paragraph (7)” after “paragraph  
3                    (2)”;

4                    (II) in subclause (I), by inserting  
5                    “or an additional eligible hospital, re-  
6                    spectively,” after “eligible hospital”;

7                    (E) in paragraph (4)(A), by inserting “or  
8                    one or more additional eligible hospitals (as de-  
9                    fined in section 1886(n)), as appropriate,” after  
10                    “section 1886(n)(6)(A)”;

11                    (F) in paragraph (4)(D), by adding at the  
12                    end the following new sentence: “In the case  
13                    that a qualifying MA organization attests that  
14                    not all additional eligible hospitals of the orga-  
15                    nization are meaningful EHR users with re-  
16                    spect to an applicable period, the Secretary  
17                    shall apply the payment adjustment under this  
18                    paragraph based on the methodology specified  
19                    by the Secretary, taking into account the pro-  
20                    portion of such additional eligible hospitals, or  
21                    discharges from such hospitals, that are not  
22                    meaningful EHR users for such period.”;

23                    (G) in paragraph (5)(A), by inserting  
24                    “and, as applicable, each additional eligible hos-

1           pital described in paragraph (7)” after “para-  
2           graph (2)”;

3           (H) in paragraph (5)(B), by inserting  
4           “and additional eligible hospitals, as applica-  
5           ble,” after “eligible hospitals”;

6           (I) in paragraph (6)(B), by inserting “and  
7           additional eligible hospitals described in para-  
8           graph (7)” after “paragraph (2)”;

9           (J) by adding at the end the following new  
10          paragraph:

11          “(7) ADDITIONAL ELIGIBLE HOSPITAL DE-  
12          SCRIBED.—With respect to a qualifying MA organi-  
13          zation, an additional eligible hospital described in  
14          this paragraph is an additional eligible hospital (as  
15          defined in section 1886(n)(6)(C)) that is under com-  
16          mon corporate governance with such organization  
17          and serves individuals enrolled under an MA plan of-  
18          fered by such organization.”.

○