

114TH CONGRESS
1ST SESSION

H. R. 3681

To extend and expand the Medicaid emergency psychiatric demonstration project.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 2, 2015

Mrs. BROOKS of Indiana (for herself and Mr. SARBANES) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To extend and expand the Medicaid emergency psychiatric demonstration project.

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 “Improving Access to
5 Emergency Psychiatric Care Act”.

1 **SEC. 2. EXTENSION AND EXPANSION OF MEDICAID EMER-**
2 **GENCY PSYCHIATRIC DEMONSTRATION**
3 **PROJECT.**

4 (a) IN GENERAL.—Subsection (d) of section 2707 of
5 Public Law 111–148 (42 U.S.C. 1396a note) is amended
6 to read as follows:

7 “(d) LENGTH OF DEMONSTRATION PROJECT.—

8 “(1) IN GENERAL.—Except as provided in para-
9 graphs (2) and (3), the demonstration project estab-
10 lished under this section shall be conducted for a pe-
11 riod of 3 consecutive years.

12 “(2) TEMPORARY EXTENSION OF PARTICIPA-
13 TION ELIGIBILITY FOR SELECTED STATES.—

14 “(A) IN GENERAL.—Subject to subpara-
15 graph (B) and paragraph (4), a State selected
16 as an eligible State to participate in the dem-
17 onstration project on or prior to March 13,
18 2012, shall, upon the request of the State, be
19 permitted to continue to participate in the dem-
20 onstration project through September 30, 2016,
21 if—

22 “(i) the Secretary determines that the
23 continued participation of the State in the
24 demonstration project is projected not to
25 increase net program spending under title
26 XIX of the Social Security Act; and

1 “(ii) the Chief Actuary of the Centers
2 for Medicare & Medicaid Services certifies
3 that such extension for that State is pro-
4 jected not to increase net program spend-
5 ing under title XIX of the Social Security
6 Act.

7 “(B) NOTICE OF PROJECTIONS.—The Sec-
8 retary shall provide each State selected to par-
9 ticipate in the demonstration project on or prior
10 to March 13, 2012, with notice of the deter-
11 mination and certification made under subpara-
12 graph (A) for the State.

13 “(3) EXTENSION AND EXPANSION OF DEM-
14 ONSTRATION PROJECT.—

15 “(A) ADDITIONAL EXTENSION.—Taking
16 into account the recommendations submitted to
17 Congress under subsection (f)(3), the Secretary
18 may permit an eligible State participating in
19 the demonstration project as of the date such
20 recommendations are submitted to continue to
21 participate in the project through December 31,
22 2019, if, with respect to the State—

23 “(i) the Secretary determines that the
24 continued participation of the State in the
25 demonstration project is projected not to

1 increase net program spending under title
2 XIX of the Social Security Act; and

3 “(ii) the Chief Actuary of the Centers
4 for Medicare & Medicaid Services certifies
5 that the continued participation of the
6 State in the demonstration project is pro-
7 jected not to increase net program spend-
8 ing under title XIX of the Social Security
9 Act.

10 “(B) OPTION FOR EXPANSION TO ADDI-
11 TIONAL STATES.—Taking into account the rec-
12 ommendations submitted to Congress pursuant
13 to subsection (f)(3), the Secretary may expand
14 the number of eligible States participating in
15 the demonstration project through December
16 31, 2019, if, with respect to any new eligible
17 State—

18 “(i) the Secretary determines that the
19 participation of the State in the dem-
20 onstration project is projected not to in-
21 crease net program spending under title
22 XIX of the Social Security Act; and

23 “(ii) the Chief Actuary of the Centers
24 for Medicare & Medicaid Services certifies
25 that the participation of the State in the

1 demonstration project is projected not to
2 increase net program spending under title
3 XIX of the Social Security Act.

4 “(C) NOTICE OF PROJECTIONS.—The Sec-
5 retary shall provide each State participating in
6 the demonstration project as of the date the
7 Secretary submits recommendations to Con-
8 gress under subsection (f)(3), and any addi-
9 tional State that applies to be added to the
10 demonstration project, with notice of the deter-
11 mination and certification made for the State
12 under subparagraphs (A) and (B), respectively,
13 and the standards used to make such deter-
14 mination and certification—

15 “(i) in the case of a State partici-
16 pating in the demonstration project as of
17 the date the Secretary submits rec-
18 ommendations to Congress under sub-
19 section (f)(3), not later than August 31,
20 2016; and

21 “(ii) in the case of an additional State
22 that applies to be added to the demonstra-
23 tion project, prior to the State making a
24 final election to participate in the project.

1 “(4) AUTHORITY TO ENSURE BUDGET NEU-
2 TRALITY.—The Secretary annually shall review each
3 participating State’s demonstration project expendi-
4 tures to ensure compliance with the requirements of
5 paragraphs (2)(A)(i), (2)(A)(ii), (3)(A)(i), (3)(A)(ii),
6 (3)(B)(i), and (3)(B)(ii) (as applicable). If the Sec-
7 retary determines with respect to a State’s participa-
8 tion in the demonstration project that the State’s
9 net program spending under title XIX of the Social
10 Security Act has increased as a result of the State’s
11 participation in the project, the Secretary shall treat
12 the demonstration project excess expenditures of the
13 State as an overpayment under title XIX of the So-
14 cial Security Act.”.

15 (b) FUNDING.—Subsection (e) of section 2707 of
16 such Act (42 U.S.C. 1396a note) is amended—

17 (1) in the subsection heading, by striking “LIM-
18 ITATIONS ON FEDERAL”;

19 (2) in paragraph (2)—

20 (A) in the paragraph heading, by striking
21 “5-YEAR”; and

22 (B) by striking “through December 31,
23 2015” and inserting “until expended”;

24 (3) by striking paragraph (3);

1 (4) by redesignating paragraphs (4) and (5) as
2 paragraphs (3) and (4), respectively;

3 (5) in paragraph (3) (as so redesignated), by
4 striking “and the availability of funds” and inserting
5 “(other than States deemed to be eligible States
6 through the application of subsection (c)(4))”; and

7 (6) in paragraph (4) (as so redesignated)—

8 (A) in the first sentence—

9 (i) by inserting “(other than a State
10 deemed to be an eligible State through the
11 application of subsection (c)(4))” after “el-
12 igible State”; and

13 (ii) by striking “paragraph (4)” and
14 inserting “paragraph (3)”; and

15 (B) by inserting after the first sentence
16 the following: “In addition to any payments
17 made to an eligible State under the preceding
18 sentence, the Secretary shall, during any period
19 in effect under paragraph (2) or (3) of sub-
20 section (d), or during any period in which a law
21 described in subsection (f)(4)(C) is in effect,
22 pay each eligible State (including any State
23 deemed to be an eligible State through the ap-
24 plication of subsection (c)(4)), an amount each
25 quarter equal to the Federal medical assistance

1 percentage of expenditures in the quarter dur-
2 ing such period for medical assistance described
3 in subsection (a). Payments made to a State for
4 emergency psychiatric demonstration services
5 under this section during the extension period
6 shall be treated as medical assistance under the
7 State plan for purposes of section 1903(a)(1) of
8 the Social Security Act (42 U.S.C.
9 1396b(a)(1)).”.

10 (c) RECOMMENDATIONS TO CONGRESS.—Subsection
11 (f) of section 2707 of such Act (42 U.S.C. 1396a note)
12 is amended by adding at the end the following:

13 “(3) RECOMMENDATION TO CONGRESS REGARD-
14 ING EXTENSION AND EXPANSION OF PROJECT.—Not
15 later than September 30, 2016, the Secretary shall
16 submit to Congress and make available to the public
17 recommendations based on an evaluation of the dem-
18 onstration project, including the use of appropriate
19 quality measures, regarding—

20 “(A) whether the demonstration project
21 should be continued after September 30, 2016;
22 and

23 “(B) whether the demonstration project
24 should be expanded to additional States.

1 “(4) RECOMMENDATION TO CONGRESS REGARD-
2 ING PERMANENT EXTENSION AND NATIONWIDE EX-
3 PANSION.—

4 “(A) IN GENERAL.—Not later than April
5 1, 2019, the Secretary shall submit to Congress
6 and make available to the public recommenda-
7 tions based on an evaluation of the demonstra-
8 tion project, including the use of appropriate
9 quality measures, regarding—

10 “(i) whether the demonstration
11 project should be permanently continued
12 after December 31, 2019, in 1 or more
13 States; and

14 “(ii) whether the demonstration
15 project should be expanded (including on a
16 nationwide basis).

17 “(B) REQUIREMENTS.—Any recommenda-
18 tion submitted under subparagraph (A) to per-
19 manently continue the project in a State, or to
20 expand the project to 1 or more other States
21 (including on a nationwide basis) shall include
22 a certification from the Chief Actuary of the
23 Centers for Medicare & Medicaid Services that
24 permanently continuing the project in a par-
25 ticular State, or expanding the project to a par-

1 ticular State (or all States) is projected not to
2 increase net program spending under title XIX
3 of the Social Security Act.

4 “(C) CONGRESSIONAL APPROVAL RE-
5 QUIRED.—The Secretary shall not permanently
6 continue the demonstration project in any State
7 after December 31, 2019, or expand the dem-
8 onstration project to any additional State after
9 December 31, 2019, unless Congress enacts a
10 law approving either or both such actions and
11 the law includes provisions that—

12 “(i) ensure that each State’s partici-
13 pation in the project complies with budget
14 neutrality requirements; and

15 “(ii) require the Secretary to treat
16 any expenditures of a State participating
17 in the demonstration project that are ex-
18 cess of the expenditures projected under
19 the budget neutrality standard for the
20 State as an overpayment under title XIX
21 of the Social Security Act.

22 “(5) FUNDING.—Out of any funds in the
23 Treasury not otherwise appropriated, there is appro-
24 priated to the Centers for Medicare & Medicaid
25 Services Program Management Account to carry out

1 this subsection, \$100,000 for fiscal year 2015, to re-
2 main available until expended.”.

3 (d) CONFORMING AMENDMENTS.—Section 2707 of
4 such Act (42 U.S.C. 1396a note) is amended—

5 (1) in subsection (a), in the matter before para-
6 graph (1), by inserting “publicly or” after “institu-
7 tion for mental diseases that is”;

8 (2) in subsection (c)—

9 (A) in paragraph (1), by striking “An eli-
10 gible State” and inserting “Except as otherwise
11 provided in paragraph (4), an eligible State”;

12 (B) in paragraph (3), by striking “A State
13 shall” and inserting “Except as otherwise pro-
14 vided in paragraph (4), a State shall”; and

15 (C) by adding at the end the following:

16 “(4) NATIONWIDE AVAILABILITY.—In the event
17 that the Secretary makes a recommendation pursu-
18 ant to subsection (f)(4) that the demonstration
19 project be expanded on a national basis, any State
20 that has submitted or submits an application pursu-
21 ant to paragraph (2) shall be deemed to have been
22 selected to be an eligible State to participate in the
23 demonstration project.”; and

1 (3) in the heading for subsection (f), by striking
2 “AND REPORT” and inserting “, REPORT, AND REC-
3 COMMENDATIONS”.

4 (e) EFFECTIVE DATE.—The amendments made by
5 this section shall take effect on the date of the enactment
6 of this Act.

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