

Union Calendar No. 566

115TH CONGRESS
2^D SESSION

H. R. 5477

[Report No. 115–731]

To amend title XIX of the Social Security Act to provide for a demonstration project to increase substance use provider capacity under the Medicaid program.

IN THE HOUSE OF REPRESENTATIVES

APRIL 11, 2018

Mr. O'HALLERAN introduced the following bill; which was referred to the Committee on Energy and Commerce

JUNE 12, 2018

Additional sponsors: Mrs. BLACKBURN, Mr. WALDEN, and Mr. MITCHELL

JUNE 12, 2018

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italie*]

[For text of introduced bill, see copy of bill as introduced on April 11, 2018]

A BILL

To amend title XIX of the Social Security Act to provide for a demonstration project to increase substance use provider capacity under the Medicaid program.

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 “Rural Development of*
 5 *Opioid Capacity Services Act” or the “Rural DOCS Act”.*

6 **SEC. 2. DEMONSTRATION PROJECT TO INCREASE SUB-**
 7 **STANCE USE PROVIDER CAPACITY UNDER**
 8 **THE MEDICAID PROGRAM.**

9 *Section 1903 of the Social Security Act (42 U.S.C.*
 10 *1396b) is amended by adding at the end the following new*
 11 *subsection:*

12 “(aa) *DEMONSTRATION PROJECT TO INCREASE SUB-*
 13 *STANCE USE PROVIDER CAPACITY.*—

14 “(1) *IN GENERAL.*—Not later than the date that
 15 *is 180 days after the date of the enactment of this sec-*
 16 *tion, the Secretary shall, in consultation, as appro-*
 17 *priate, with the Director of the Agency for Healthcare*
 18 *Research and Quality and the Assistant Secretary for*
 19 *Mental Health and Substance Use, conduct a 5-year*
 20 *demonstration project for the purpose described in*
 21 *paragraph (2) under which the Secretary shall—*

22 “(A) *for the first 18-month period of such*
 23 *project, award planning grants described in*
 24 *paragraph (3); and*

1 “(B) for the remaining 42-month period of
2 such project, provide to each State selected under
3 paragraph (4) payments in accordance with
4 paragraph (5).

5 “(2) *PURPOSE.*—The purpose described in this
6 paragraph is for each State selected under paragraph
7 (4) to increase the treatment capacity of providers
8 participating under the State plan (or a waiver of
9 such plan) to provide substance use disorder treat-
10 ment or recovery services under such plan (or waiver)
11 through the following activities:

12 “(A) For the purpose described in para-
13 graph (3)(C)(i), activities that support an ongoing
14 assessment of the behavioral health treatment
15 needs of the State, taking into account the mat-
16 ters described in subclauses (I) through (IV) of
17 such paragraph.

18 “(B) Activities that, taking into account the
19 results of the assessment described in subpara-
20 graph (A), support the recruitment, training,
21 and provision of technical assistance for pro-
22 viders participating under the State plan (or a
23 waiver of such plan) that offer substance use dis-
24 order treatment or recovery services.

1 “(C) *Improved reimbursement for and ex-*
2 *pansion of, through the provision of education,*
3 *training, and technical assistance, the number or*
4 *treatment capacity of providers participating*
5 *under the State plan (or waiver) that—*

6 “(i) *are authorized to dispense drugs*
7 *approved by the Food and Drug Adminis-*
8 *tration for individuals with a substance use*
9 *disorder who need withdrawal management*
10 *or maintenance treatment for such disorder;*

11 “(ii) *have in effect a registration or*
12 *waiver under section 303(g) of the Con-*
13 *trolled Substances Act for purposes of dis-*
14 *persing narcotic drugs to individuals for*
15 *maintenance treatment or detoxification*
16 *treatment and are in compliance with any*
17 *regulation promulgated by the Assistant*
18 *Secretary for Mental Health and Substance*
19 *Use for purposes of carrying out the re-*
20 *quirements of such section 303(g); and*

21 “(iii) *are qualified under applicable*
22 *State law to provide substance use disorder*
23 *treatment or recovery services.*

24 “(D) *Improved reimbursement for and ex-*
25 *pansion of, through the provision of education,*

1 *training, and technical assistance, the number or*
2 *treatment capacity of providers participating*
3 *under the State plan (or waiver) that have the*
4 *qualifications to address the treatment or recov-*
5 *ery needs of—*

6 “(i) *individuals enrolled under the*
7 *State plan (or a waiver of such plan) who*
8 *have neonatal abstinence syndrome, in ac-*
9 *cordance with guidelines issued by the*
10 *American Academy of Pediatrics and Amer-*
11 *ican College of Obstetricians and Gyne-*
12 *cologists relating to maternal care and in-*
13 *fant care with respect to neonatal absti-*
14 *nence syndrome;*

15 “(ii) *pregnant women, postpartum*
16 *women, and infants, particularly the con-*
17 *current treatment, as appropriate, and com-*
18 *prehensive case management of pregnant*
19 *women, postpartum women and infants, en-*
20 *rolled under the State plan (or a waiver of*
21 *such plan);*

22 “(iii) *adolescents and young adults be-*
23 *tween the ages of 12 and 21 enrolled under*
24 *the State plan (or a waiver of such plan);*
25 *or*

1 “(iv) *American Indian and Alaska Na-*
2 *tive individuals enrolled under the State*
3 *plan (or a waiver of such plan).*

4 “(3) *PLANNING GRANTS.*—

5 “(A) *IN GENERAL.*—*The Secretary shall,*
6 *with respect to the first 18-month period of the*
7 *demonstration project conducted under para-*
8 *graph (1), award planning grants to at least 10*
9 *States selected in accordance with subparagraph*
10 *(B) for purposes of preparing an application de-*
11 *scribed in paragraph (4)(C) and carrying out*
12 *the activities described in subparagraph (C).*

13 “(B) *SELECTION.*—*In selecting States for*
14 *purposes of this paragraph, the Secretary shall—*

15 “(i) *select States that have a State*
16 *plan (or waiver of the State plan) approved*
17 *under this title;*

18 “(ii) *select States in a manner that en-*
19 *sure geographic diversity; and*

20 “(iii) *give preference to States with a*
21 *prevalence of substance use disorders (in*
22 *particular opioid use disorders) that is com-*
23 *parable to or higher than the national aver-*
24 *age prevalence, as measured by aggregate*
25 *per capita drug overdoses, or any other*

1 *measure that the Secretary deems appro-*
2 *priate.*

3 “(C) *ACTIVITIES DESCRIBED.—Activities*
4 *described in this subparagraph are, with respect*
5 *to a State, each of the following:*

6 “(i) *Activities that support the develop-*
7 *ment of an initial assessment of the behav-*
8 *ioral health treatment needs of the State to*
9 *determine the extent to which providers are*
10 *needed (including the types of such pro-*
11 *viders and geographic area of need) to im-*
12 *prove the network of providers that treat*
13 *substance use disorders under the State plan*
14 *(or waiver), including the following:*

15 “(I) *An estimate of the number of*
16 *individuals enrolled under the State*
17 *plan (or a waiver of such plan) who*
18 *have a substance use disorder.*

19 “(II) *Information on the capacity*
20 *of providers to provide substance use*
21 *disorder treatment or recovery services*
22 *to individuals enrolled under the State*
23 *plan (or waiver), including informa-*
24 *tion on providers who provide such*

1 *services and their participation under*
2 *the State plan (or waiver).*

3 *“(III) Information on the gap in*
4 *substance use disorder treatment or re-*
5 *covery services under the State plan*
6 *(or waiver) based on the information*
7 *described in subclauses (I) and (II).*

8 *“(IV) Projections regarding the*
9 *extent to which the State participating*
10 *under the demonstration project would*
11 *increase the number of providers offer-*
12 *ing substance use disorder treatment or*
13 *recovery services under the State plan*
14 *(or waiver) during the period of the*
15 *demonstration project.*

16 *“(ii) Activities that, taking into ac-*
17 *count the results of the assessment described*
18 *in clause (i), support the development of*
19 *State infrastructure to, with respect to the*
20 *provision of substance use disorder treat-*
21 *ment or recovery services under the State*
22 *plan (or a waiver of such plan), recruit*
23 *prospective providers and provide training*
24 *and technical assistance to such providers.*

1 “(D) *FUNDING.*—*For purposes of subpara-*
 2 *graph (A), there is appropriated, out of any*
 3 *funds in the Treasury not otherwise appro-*
 4 *priated, \$50,000,000, to remain available until*
 5 *expended.*

6 “(4) *POST-PLANNING STATES.*—

7 “(A) *IN GENERAL.*—*The Secretary shall,*
 8 *with respect to the remaining 42-month period of*
 9 *the demonstration project conducted under para-*
 10 *graph (1), select not more than 5 States in ac-*
 11 *cordance with subparagraph (B) for purposes of*
 12 *carrying out the activities described in para-*
 13 *graph (2) and receiving payments in accordance*
 14 *with paragraph (5).*

15 “(B) *SELECTION.*—*In selecting States for*
 16 *purposes of this paragraph, the Secretary shall—*

17 “(i) *select States that received a plan-*
 18 *ning grant under paragraph (3);*

19 “(ii) *select States that submit to the*
 20 *Secretary an application in accordance*
 21 *with the requirements in subparagraph (C),*
 22 *taking into consideration the quality of each*
 23 *such application;*

24 “(iii) *select States in a manner that*
 25 *ensures geographic diversity; and*

1 “(iv) give preference to States with a
2 prevalence of substance use disorders (in
3 particular opioid use disorders) that is com-
4 parable to or higher than the national aver-
5 age prevalence, as measured by aggregate
6 per capita drug overdoses, or any other
7 measure that the Secretary deems appro-
8 priate.

9 “(C) APPLICATIONS.—

10 “(i) IN GENERAL.—A State seeking to
11 be selected for purposes of this paragraph
12 shall submit to the Secretary, at such time
13 and in such form and manner as the Sec-
14 retary requires, an application that in-
15 cludes such information, provisions, and as-
16 surances, as the Secretary may require, in
17 addition to the following:

18 “(I) A proposed process for car-
19 rying out the ongoing assessment de-
20 scribed in paragraph (2)(A), taking
21 into account the results of the initial
22 assessment described in paragraph
23 (3)(C)(i).

24 “(II) A review of reimbursement
25 methodologies and other policies related

1 to substance use disorder treatment or
2 recovery services under the State plan
3 (or waiver) that may create barriers to
4 increasing the number of providers de-
5 livering such services.

6 “(III) The development of a plan,
7 taking into account activities carried
8 out under paragraph (3)(C)(ii), that
9 will result in long-term and sustain-
10 able provider networks under the State
11 plan (or waiver) that will offer a con-
12 tinuum of care for substance use dis-
13 orders. Such plan shall include the fol-
14 lowing:

15 “(aa) Specific activities to
16 increase the number of providers
17 (including providers that spe-
18 cialize in providing substance use
19 disorder treatment or recovery
20 services, hospitals, health care sys-
21 tems, Federally qualified health
22 centers, and, as applicable, cer-
23 tified community behavioral
24 health clinics) that offer substance
25 use disorder treatment, recovery,

1 or support services, including
2 short-term detoxification services,
3 outpatient substance use disorder
4 services, and evidence-based peer
5 recovery services.

6 “(bb) Strategies that will
7 incentivize providers described in
8 subparagraphs (C) and (D) of
9 paragraph (2) to obtain the nec-
10 essary training, education, and
11 support to deliver substance use
12 disorder treatment or recovery
13 services in the State.

14 “(cc) Milestones and timeli-
15 ness for implementing activities
16 set forth in the plan.

17 “(dd) Specific measurable
18 targets for increasing the sub-
19 stance use disorder treatment and
20 recovery provider network under
21 the State plan (or a waiver of
22 such plan).

23 “(IV) A proposed process for re-
24 porting the information required under
25 paragraph (6)(A), including informa-

1 *tion to assess the effectiveness of the ef-*
2 *forts of the State to expand the capac-*
3 *ity of providers to deliver substance use*
4 *disorder treatment or recovery services*
5 *during the period of the demonstration*
6 *project under this subsection.*

7 “(V) *The expected financial im-*
8 *pect of the demonstration project under*
9 *this subsection on the State.*

10 “(VI) *A description of all funding*
11 *sources available to the State to pro-*
12 *vide substance use disorder treatment*
13 *or recovery services in the State.*

14 “(VII) *A preliminary plan for*
15 *how the State will sustain any increase*
16 *in the capacity of providers to deliver*
17 *substance use disorder treatment or re-*
18 *covery services resulting from the dem-*
19 *onstration project under this subsection*
20 *after the termination of such dem-*
21 *onstration project.*

22 “(VIII) *A description of how the*
23 *State will coordinate the goals of the*
24 *demonstration project with any waiver*
25 *received pursuant to section 1115 for*

1 *the delivery of substance use services*
2 *under the State plan, as applicable.*

3 “(ii) *CONSULTATION.*—*In completing*
4 *an application under clause (i), a State*
5 *shall consult with relevant stakeholders, in-*
6 *cluding Medicaid managed care plans,*
7 *health care providers, and Medicaid bene-*
8 *ficiary advocates, and include in such ap-*
9 *plication a description of such consultation.*

10 “(5) *PAYMENT.*—

11 “(A) *IN GENERAL.*—*For each quarter occur-*
12 *ring during the period for which the demonstra-*
13 *tion project is conducted (after the first 18*
14 *months of such period), the Secretary shall pay*
15 *under this subsection, subject to subparagraphs*
16 *(C) and (D), to each State selected under para-*
17 *graph (4) an amount equal to 80 percent of so*
18 *much of the qualified sums expended during such*
19 *quarter.*

20 “(B) *QUALIFIED SUMS DEFINED.*—*For pur-*
21 *poses of subparagraph (A), the term ‘qualified*
22 *sums’ means, with respect to a State and a quar-*
23 *ter, the amount equal to the amount (if any) by*
24 *which the sums expended by the State during*
25 *such quarter attributable to substance use treat-*

1 *ment or recovery services furnished by providers*
2 *participating under the State plan (or a waiver*
3 *of such plan) exceeds 1/4 of such sums expended*
4 *by the State during fiscal year 2018 attributable*
5 *to substance use treatment or recovery services.*

6 “(C) *NON-DUPLICATION OF PAYMENT.—In*
7 *the case that payment is made under subpara-*
8 *graph (A) with respect to expenditures for sub-*
9 *stance use treatment or recovery services fur-*
10 *nished by providers participating under the*
11 *State plan (or a waiver of such plan), payment*
12 *may not also be made under subsection (a) with*
13 *respect to expenditures for the same services so*
14 *furnished.*

15 “(D) *CONDITIONS.—In the case of a State*
16 *selected under paragraph (4) that provides sub-*
17 *stance use disorder treatment and recovery serv-*
18 *ices under a waiver under section 1115, such*
19 *State shall, as a condition of receiving payments*
20 *under subparagraph (A)—*

21 “(i) *coordinate such services under*
22 *such waiver with substance use disorder*
23 *treatment and recovery services provided*
24 *under the demonstration project under this*
25 *subsection; and*

1 “(ii) take such actions as appropriate
2 under the demonstration project to expand
3 such services under such waiver.

4 “(6) *REPORTS.*—

5 “(A) *STATE REPORTS.*—A State receiving
6 payments under paragraph (5) shall, for the pe-
7 riod of the demonstration project under this sub-
8 section, submit to the Secretary a quarterly re-
9 port, with respect to expenditures for substance
10 use treatment or recovery services for which pay-
11 ment is made to the State under this subsection,
12 on the following:

13 “(i) The specific activities with respect
14 to which payment under this subsection was
15 provided.

16 “(ii) The number of providers that de-
17 livered substance use disorder treatment or
18 recovery services in the State under the
19 demonstration project compared to the esti-
20 mated number of providers that would have
21 otherwise delivered such services in the ab-
22 sence of such demonstration project.

23 “(iii) The number of individuals en-
24 rolled under the State plan (or a waiver of
25 such plan) who received substance use dis-

1 *order treatment or recovery services under*
2 *the demonstration project compared to the*
3 *estimated number of such individuals who*
4 *would have otherwise received such services*
5 *in the absence of such demonstration*
6 *project.*

7 *“(iv) Other matters as determined by*
8 *the Secretary.*

9 *“(B) CMS REPORTS.—*

10 *“(i) INITIAL REPORT.—Not later than*
11 *October 1, 2020, the Administrator of the*
12 *Centers for Medicare & Medicaid Services*
13 *shall, in consultation with the Director of*
14 *the Agency for Healthcare Research and*
15 *Quality and the Assistant Secretary for*
16 *Mental Health and Substance Use, submit*
17 *to Congress an initial report on—*

18 *“(I) the States awarded planning*
19 *grants under paragraph (3);*

20 *“(II) the criteria used in such se-*
21 *lection; and*

22 *“(III) the activities carried out by*
23 *such States under such planning*
24 *grants.*

1 “(ii) *INTERIM REPORT.*—Not later
2 than October 1, 2022, the Administrator of
3 the Centers for Medicare & Medicaid Serv-
4 ices shall, in consultation with the Director
5 of the Agency for Healthcare Research and
6 Quality and the Assistant Secretary for
7 Mental Health and Substance Use, submit
8 to Congress an interim report—

9 “(I) on activities carried out
10 under the demonstration project under
11 this subsection;

12 “(II) on the extent to which States
13 selected under paragraph (4) have
14 achieved the stated goals submitted in
15 their applications under subparagraph
16 (C) of such paragraph;

17 “(III) with a description of the
18 strengths and limitations of such dem-
19 onstration project; and

20 “(IV) with a plan for the sustain-
21 ability of such project.

22 “(iii) *FINAL REPORT.*—Not later than
23 October 1, 2024, the Administrator of the
24 Centers for Medicare & Medicaid Services
25 shall, in consultation with the Director of

1 *the Agency for Healthcare Research and*
2 *Quality and the Assistant Secretary for*
3 *Mental Health and Substance Use, submit*
4 *to Congress a final report—*

5 *“(I) providing updates on the*
6 *matters reported in the interim report*
7 *under clause (ii);*

8 *“(II) including a description of*
9 *any changes made with respect to the*
10 *demonstration project under this sub-*
11 *section after the submission of such in-*
12 *terim report; and*

13 *“(III) evaluating such demonstra-*
14 *tion project.*

15 *“(C) AHRQ REPORT.—Not later than three*
16 *years after the date of the enactment of this sub-*
17 *section, the Director of the Agency for Healthcare*
18 *Research and Quality shall submit to Congress a*
19 *summary on the experiences of States awarded*
20 *planning grants under paragraph (3) and States*
21 *selected under paragraph (4).*

22 *“(7) DATA SHARING AND BEST PRACTICES.—*
23 *During the period of the demonstration project under*
24 *this subsection, the Secretary shall, in collaboration*
25 *with States selected under paragraph (4), facilitate*

1 *data sharing and the development of best practices be-*
2 *tween such States and States that were not so selected.*

3 “(8) *CMS FUNDING.*—*There is appropriated, out*
4 *of any funds in the Treasury not otherwise appro-*
5 *priated, \$5,000,000 to the Centers for Medicare &*
6 *Medicaid Services for purposes of implementing this*
7 *subsection. Such amount shall remain available until*
8 *expended.”.*

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