

115TH CONGRESS
2D SESSION

S. 3383

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 SENATE OF THE UNITED STATES

AUGUST 23, 2018

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

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

1 **SEC. 2. DEMONSTRATION PROJECT TO INCREASE SUB-**
 2 **STANCE USE PROVIDER CAPACITY UNDER**
 3 **THE MEDICAID PROGRAM.**

4 Section 1903 of the Social Security Act (42 U.S.C.
 5 1396b) is amended by adding at the end the following new
 6 subsection:

7 “(aa) DEMONSTRATION PROJECT TO INCREASE SUB-
 8 STANCE USE PROVIDER CAPACITY.—

9 “(1) IN GENERAL.—Not later than the date
 10 that is 180 days after the date of the enactment of
 11 this section, the Secretary shall conduct a 5-year
 12 demonstration project for the purpose described in
 13 paragraph (2) under which the Secretary shall—

14 “(A) for the first 18-month period of such
 15 project, award planning grants described in
 16 paragraph (3); and

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

21 “(2) PURPOSE.—The purpose described in this
 22 paragraph is for each State selected under para-
 23 graph (4) to increase the treatment capacity of pro-
 24 viders participating under the State plan (or a waiv-
 25 er of such plan) to provide substance use disorder

1 treatment or recovery services under such plan (or
2 waiver) through the following activities:

3 “(A) For the purpose described in para-
4 graph (3)(C)(i), activities that support an ongoing
5 assessment of the behavioral health treatment
6 needs of the State, taking into account
7 the matters described in subclauses (I) through
8 (IV) of such paragraph.

9 “(B) Activities that, taking into account
10 the results of the assessment described in sub-
11 paragraph (A), support the recruitment, training,
12 and provision of technical assistance for
13 providers participating under the State plan (or
14 a waiver of such plan) that offer substance use
15 disorder treatment or recovery services.

16 “(C) Improved reimbursement for and expansion
17 of, through the provision of education,
18 training, and technical assistance, the number
19 or treatment capacity of providers participating
20 under the State plan (or waiver) that—

21 “(i) are authorized to dispense drugs
22 approved by the Food and Drug Administration
23 for individuals with a substance use
24 disorder who need withdrawal management

1 or maintenance treatment for such dis-
 2 order;

3 “(ii) have in effect a registration or
 4 waiver under section 303(g) of the Con-
 5 trolled Substances Act for purposes of dis-
 6 pensing narcotic drugs to individuals for
 7 maintenance treatment or detoxification
 8 treatment and are in compliance with any
 9 regulation promulgated by the Assistant
 10 Secretary for Mental Health and Sub-
 11 stance Use for purposes of carrying out
 12 the requirements of such section 303(g); or

13 “(iii) are qualified under applicable
 14 State law to provide substance use disorder
 15 treatment or recovery services.

16 “(D) Improved reimbursement for and ex-
 17 pansion of, through the provision of education,
 18 training, and technical assistance, the number
 19 or treatment capacity of providers of substance
 20 use disorder treatment or recovery services par-
 21 ticipating under the State plan (or waiver), in-
 22 cluding providers that have the qualifications to
 23 address the treatment or recovery needs of—

24 “(i) individuals enrolled under the
 25 State plan (or a waiver of such plan) who

1 have neonatal abstinence syndrome, in ac-
 2 cordance with guidelines issued by the
 3 American Academy of Pediatrics and
 4 American College of Obstetricians and
 5 Gynecologists relating to maternal care
 6 and infant care with respect to neonatal
 7 abstinence syndrome;

8 “(ii) pregnant women, postpartum
 9 women, and infants, particularly the con-
 10 current treatment, as appropriate, and
 11 comprehensive case management of preg-
 12 nant women, postpartum women and in-
 13 fants, enrolled under the State plan (or a
 14 waiver of such plan);

15 “(iii) adolescents and young adults be-
 16 tween the ages of 12 and 21 enrolled
 17 under the State plan (or a waiver of such
 18 plan); or

19 “(iv) American Indian and Alaska Na-
 20 tive individuals enrolled under the State
 21 plan (or a waiver of such plan).

22 “(3) PLANNING GRANTS.—

23 “(A) IN GENERAL.—The Secretary shall,
 24 with respect to the first 18-month period of the
 25 demonstration project conducted under para-

graph (1), award planning grants to at least 10 States selected in accordance with subparagraph (B) for purposes of preparing an application described in paragraph (4)(C) and carrying out the activities described in subparagraph (C).

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

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

“(ii) select States in a manner that ensures geographic diversity; and

“(iii) give preference to States with a prevalence of substance use disorders (in particular opioid use disorders) that is comparable to or higher than the national average prevalence, as measured by aggregate per capita drug overdoses, or any other measure that the Secretary deems appropriate.

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

1 “(i) Activities that support the devel-
2 opment of an initial assessment of the be-
3 havioral health treatment needs of the
4 State to determine the extent to which pro-
5 viders are needed (including the types of
6 such providers and geographic area of
7 need) to improve the network of providers
8 that treat substance use disorders under
9 the State plan (or waiver), including the
10 following:

11 “(I) An estimate of the number
12 of individuals enrolled under the State
13 plan (or a waiver of such plan) who
14 have a substance use disorder.

15 “(II) Information on the capacity
16 of providers to provide substance use
17 disorder treatment or recovery serv-
18 ices to individuals enrolled under the
19 State plan (or waiver), including in-
20 formation on providers who provide
21 such services and their participation
22 under the State plan (or waiver).

23 “(III) Information on the gap in
24 substance use disorder treatment or
25 recovery services under the State plan

(or waiver) based on the information described in subclauses (I) and (II).

“(IV) Projections regarding the extent to which the State participating under the demonstration project would increase the number of providers offering substance use disorder treatment or recovery services under the State plan (or waiver) during the period of the demonstration project.

“(ii) Activities that, taking into account the results of the assessment described in clause (i), support the development of State infrastructure to, with respect to the provision of substance use disorder treatment or recovery services under the State plan (or a waiver of such plan), recruit prospective providers and provide training and technical assistance to such providers.

“(D) FUNDING.—For purposes of subparagraph (A), there is appropriated, out of any funds in the Treasury not otherwise appro-

1 pried, \$50,000,000, to remain available until
2 expended.

3 “(4) POST-PLANNING STATES.—

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

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

15 “(i) select States that received a plan-
16 ning grant under paragraph (3);

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

22 “(iii) select States in a manner that
23 ensures geographic diversity; and

24 “(iv) give preference to States with a
25 prevalence of substance use disorders (in

1 particular opioid use disorders) that is
2 comparable to or higher than the national
3 average prevalence, as measured by aggregate
4 per capita drug overdoses, or any
5 other measure that the Secretary deems
6 appropriate.

7 “(C) APPLICATIONS.—

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

16 “(I) A proposed process for carrying
17 out the ongoing assessment described in
18 paragraph (2)(A), taking into account the
19 results of the initial assessment described in
20 paragraph (3)(C)(i).

22 “(II) A review of reimbursement
23 methodologies and other policies related to
24 substance use disorder treatment or recovery
25 services under the

1 State plan (or waiver) that may create
2 barriers to increasing the number of
3 providers delivering such services.

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

13 “(aa) Specific activities to
14 increase the number of providers
15 (including providers that spe-
16 cialize in providing substance use
17 disorder treatment or recovery
18 services, hospitals, health care
19 systems, federally qualified health
20 centers, and, as applicable, cer-
21 tified community behavioral
22 health clinics) that offer sub-
23 stance use disorder treatment, re-
24 covery, or support services, in-
25 cluding short-term detoxification

1 services, outpatient substance use
2 disorder services, and evidence-
3 based peer recovery services.

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

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

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

21 “(IV) A proposed process for re-
22 porting the information required
23 under paragraph (6)(A), including in-
24 formation to assess the effectiveness
25 of the efforts of the State to expand

1 the capacity of providers to deliver
2 substance use disorder treatment or
3 recovery services during the period of
4 the demonstration project under this
5 subsection.

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

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

13 “(VII) A preliminary plan for
14 how the State will sustain any in-
15 crease in the capacity of providers to
16 deliver substance use disorder treat-
17 ment or recovery services resulting
18 from the demonstration project under
19 this subsection after the termination
20 of such demonstration project.

21 “(VIII) A description of how the
22 State will coordinate the goals of the
23 demonstration project with any waiver
24 that the State has applied for under,
25 or received pursuant to, section 1115

1 for the delivery of substance use serv-
2 ices under the State plan, as applica-
3 ble.

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

11 “(5) PAYMENT.—

12 “(A) IN GENERAL.—For each quarter oc-
13 ccurring during the period for which the dem-
14 onstration project is conducted (after the first
15 18 months of such period), the Secretary shall
16 pay under this subsection, subject to subpara-
17 graph (C), to each State selected under para-
18 graph (4) an amount equal to 90 percent of so
19 much of the qualified sums expended during
20 such quarter.

21 “(B) QUALIFIED SUMS DEFINED.—For
22 purposes of subparagraph (A), the term ‘quali-
23 fied sums’ means, with respect to a State and
24 a quarter, the amount equal to the amount (if
25 any) by which the sums expended by the State

1 during such quarter attributable to substance
2 use treatment or recovery services furnished by
3 providers participating under the State plan (or
4 a waiver of such plan) exceeds $\frac{1}{4}$ of such sums
5 expended by the State during fiscal year 2018
6 attributable to substance use treatment or re-
7 covery services.

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

17 “(6) REPORTS.—

18 “(A) STATE REPORTS.—A State receiving
19 payments under paragraph (5) shall, for the pe-
20 riod of the demonstration project under this
21 subsection, submit to the Secretary a quarterly
22 report, with respect to expenditures for sub-
23 stance use treatment or recovery services for
24 which payment is made to the State under this
25 subsection, on the following:

1 “(i) The specific activities with re-
2 spect to which payment under this sub-
3 section was provided.

4 “(ii) The number of providers that de-
5 livered substance use disorder treatment or
6 recovery services in the State under the
7 demonstration project compared to the es-
8 timated number of providers that would
9 have otherwise delivered such services in
10 the absence of such demonstration project.

11 “(iii) The number of individuals en-
12 rolled under the State plan (or a waiver of
13 such plan) who received substance use dis-
14 order treatment or recovery services under
15 the demonstration project compared to the
16 estimated number of such individuals who
17 would have otherwise received such services
18 in the absence of such demonstration
19 project.

20 “(iv) Other matters as determined by
21 the Secretary.

22 “(B) CMS REPORTS.—

23 “(i) INITIAL REPORT.—Not later than
24 October 1, 2020, the Secretary shall sub-
25 mit to Congress an initial report on—

1 “(I) the States awarded planning
2 grants under paragraph (3);

3 “(II) the criteria used in such se-
4 lection; and

5 “(III) the activities carried out
6 by such States under such planning
7 grants.

8 “(ii) INTERIM REPORT.—Not later
9 than October 1, 2022, the Secretary shall
10 submit to Congress an interim report—

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

14 “(II) on the extent to which
15 States selected under paragraph (4)
16 have achieved the stated goals sub-
17 mitted in their applications under sub-
18 paragraph (C) of such paragraph;

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

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

1 “(iii) FINAL REPORT.—Not later than
2 October 1, 2024, the Secretary shall sub-
3 mit to Congress a final report—

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

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

12 “(III) evaluating such dem-
13 onstration project.

14 “(7) DATA SHARING AND BEST PRACTICES.—
15 During the period of the demonstration project
16 under this subsection, the Secretary shall, in collabo-
17 ration with States selected under paragraph (4), fa-
18 cilitate data sharing and the development of best
19 practices between such States and States that were
20 not so selected.

21 “(8) CMS FUNDING.—There is appropriated,
22 out of any funds in the Treasury not otherwise ap-
23 propriated, \$5,000,000 to the Centers for Medicare
24 & Medicaid Services for purposes of implementing

- 1 this subsection. Such amount shall remain available
- 2 until expended.”.

