### 111TH CONGRESS 1ST SESSION

# H. R. 1415

To provide for a demonstration project regarding Medicaid reimbursements for stabilization of emergency medical conditions by non-publicly owned or operated institutions for mental diseases.

## IN THE HOUSE OF REPRESENTATIVES

March 10, 2009

Mr. Gordon of Tennessee introduced the following bill; which was referred to the Committee on Energy and Commerce

# A BILL

To provide for a demonstration project regarding Medicaid reimbursements for stabilization of emergency medical conditions by non-publicly owned or operated institutions for mental diseases.

- 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 "Medicaid Emergency
- 5 Psychiatric Care Demonstration Project Act of 2009".

1	SEC. 2. DEMONSTRATION PROJECT REGARDING MEDICAID
2	REIMBURSEMENTS FOR STABILIZATION OF
3	EMERGENCY MEDICAL CONDITIONS BY NON-
4	PUBLICLY OWNED OR OPERATED INSTITU-
5	TIONS FOR MENTAL DISEASES.
6	(a) Authority To Conduct Demonstration
7	Project.—The Secretary of Health and Human Services
8	(in this section referred to as the "Secretary") shall estab-
9	lish a demonstration project under which an eligible State
10	(as described in subsection (c)) shall provide reimburse-
11	ment under the State Medicaid plan under title XIX of
12	the Social Security Act to an institution for mental dis-
13	eases that is not publicly owned or operated and that is
14	subject to the requirements of section 1867 of the Social
15	Security Act (42 U.S.C. 1395dd) for the provision of med-
16	ical assistance available under such plan to an individual
17	who—
18	(1) has attained age 21, but has not attained
19	age 65;
20	(2) is eligible for medical assistance under such
21	plan; and
22	(3) requires such medical assistance to stabilize
23	an emergency medical condition.
24	(b) IN-STAY REVIEW.—The Secretary shall establish
25	a mechanism for in-stay review to determine whether or
26	not the patient has been stabilized (as defined in sub-

1	section (h)(5)). This mechanism shall commence before
2	the third day of the inpatient stay. States participating
3	in the demonstration project may manage the provision
4	of these benefits under the project through utilization re-
5	view, authorization, or management practices, or the ap-
6	plication of medical necessity and appropriateness criteria
7	applicable to behavioral health.
8	(c) Eligible State Defined.—
9	(1) Application.—Upon approval of an appli-
10	cation submitted by a State described in paragraph
11	(2), the State shall be an eligible State for purposes
12	of conducting a demonstration project under this
13	section.
14	(2) State described.—States shall be se-
15	lected by the Secretary in a manner so as to provide
16	geographic diversity on the basis of the application
17	to conduct a demonstration project under this sec-
18	tion submitted by such States.
19	(d) Length of Demonstration Project.—The
20	demonstration project established under this section shall
21	be conducted for a period of 3 consecutive years.
22	(e) Limitations on Federal Funding.—
23	(1) Appropriation.—
24	(A) In general.—Out of any funds in the
25	Treasury not otherwise appropriated, there is

1	appropriated to carry out this section,
2	\$75,000,000 for fiscal year 2010.
3	(B) Budget authority.—Subparagraph
4	(A) constitutes budget authority in advance of
5	appropriations Act and represents the obliga-
6	tion of the Federal Government to provide for
7	the payment of the amounts appropriated under
8	that subparagraph.
9	(2) 3-YEAR AVAILABILITY.—Funds appro-
10	priated under paragraph (1) shall remain available
11	for obligation through December 31, 2012.
12	(3) Limitation on payments.—In no case
13	may—
14	(A) the aggregate amount of payments
15	made by the Secretary to eligible States under
16	this section exceed \$75,000,000; or
17	(B) payments be provided by the Secretary
18	under this section after December 31, 2012.
19	(4) Funds allocated to states.—The Sec-
20	retary shall allocate funds to eligible States based on
21	their applications and the availability of funds.
22	(5) Payments to states.—The Secretary
23	shall pay to each eligible State, from its allocation
24	under paragraph (4), an amount each quarter equal
25	to the Federal medical assistance percentage of ex-

penditures in the quarter for medical assistance described in subsection (a).

#### (f) Reports.—

- (1) Annual progress reports.—The Secretary shall submit annual reports to Congress on the progress of the demonstration project conducted under this section.
- (2) Final report and recommendation.— An evaluation should be conducted of the demonstration project's impact on the functioning of the health and mental health service system and on individuals enrolled in the Medicaid program. This evaluation should include collection of baseline data for one-year prior to the initiation of the demonstration project as well as collection of data from matched comparison states not participating in the demonstration. The evaluation measures shall include the following:
  - (A) A determination, by State, as to whether the demonstration project resulted in increased access to inpatient mental health services under the Medicaid program and whether average length of stays were longer (or shorter) for individuals admitted under the

- demonstration project compared with individuals otherwise admitted in comparison sites.
  - (B) An analysis by State, regarding whether the demonstration project produced a significant reduction in emergency room visits for individuals eligible for assistance under the Medicaid program or in the duration of emergency room lengths of stay.
  - (C) An assessment of discharge planning by participating hospitals that ensures access to further (non-emergency) inpatient or residential care as well as continuity of care for those discharged to outpatient care.
  - (D) An assessment of the impact of the demonstration project on the costs of the full range of mental health services (including inpatient, emergency and ambulatory care) under the plan as contrasted with the comparison areas.
  - (E) Data on the percentage of consumers with Medicaid coverage who are admitted to inpatient facilities as a result of the demonstration project as compared to those admitted to these same facilities through other means.

1 (F) A recommendation regarding whether 2 the demonstration project should be continued 3 after December 31, 2012, and expanded on a 4 national basis.

### (g) WAIVER AUTHORITY.—

- (1) IN GENERAL.—The Secretary shall waive the limitation of subdivision (B) following paragraph (28) of section 1905(a) of the Social Security Act (42 U.S.C. 1396d(a)) (relating to limitations on payments for care or services for individuals under 65 years of age who are patients in an institution for mental diseases) for purposes of carrying out the demonstration project under this section.
- (2) LIMITED OTHER WAIVER AUTHORITY.—The Secretary may waive other requirements of titles XI and XIX of the Social Security Act (including the requirements of sections 1902(a)(1) (relating to statewideness) and 1902(1)(10)(B) (relating to comparability)) only to extent necessary to carry out the demonstration project under this section.

### (h) DEFINITIONS.—In this section:

(1) Emergency medical condition.—The term "emergency medical condition" means, with respect to an individual, an individual who expresses

- suicidal or homicidal thoughts or gestures, if determined dangerous to self or others.
- 3 (2) FEDERAL MEDICAL ASSISTANCE PERCENT4 AGE.—The term "Federal medical assistance per5 centage" has the meaning given that term with re6 spect to a State under section 1905(b) of the Social
  7 Security Act (42 U.S.C. 1396d(b)).
  - (3) Institution for mental diseases.—The term "institution for mental diseases" has the meaning given to that term in section 1905(i) of the Social Security Act (42 U.S.C. 1396d(i)).
  - (4) MEDICAL ASSISTANCE.—The term "medical assistance" has the meaning given to that term in section 1905(a) of the Social Security Act (42 U.S.C. 1396d(a)).
    - (5) STABILIZED.—The term "stabilized" means, with respect to an individual, that the emergency medical condition no longer exists with respect to the individual and the individual is no longer dangerous to self or others.
    - (6) STATE.—The term "State" has the meaning given that term for purposes of title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

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