

118TH CONGRESS
1ST SESSION

H. R. 3892

To amend title XIX of the Social Security Act to make permanent the State plan amendment option to provide medical assistance for certain individuals who are patients in certain institutions for mental diseases, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 7, 2023

Mr. BURGESS (for himself and Mr. TORRES of New York) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To amend title XIX of the Social Security Act to make permanent the State plan amendment option to provide medical assistance for certain individuals who are patients in certain institutions for mental diseases, 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 “Improving Mental
5 Health and Drug Treatment Act of 2023”.

1 **SEC. 2. LIFTING THE IMD EXCLUSION FOR SUBSTANCE USE**
2 **DISORDER AND SERIOUS MENTAL ILLNESS.**

3 (a) MAKING PERMANENT STATE PLAN AMENDMENT
4 OPTION TO PROVIDE MEDICAL ASSISTANCE FOR CER-
5 TAIN INDIVIDUALS WHO ARE PATIENTS IN CERTAIN IN-
6 STITUTIONS FOR MENTAL DISEASES.—Section 1915(l)(1)
7 of the Social Security Act (42 U.S.C. 1396n(l)(1)) is
8 amended by striking “With respect to calendar quarters
9 beginning during the period beginning October 1, 2019,
10 and ending September 30, 2023,” and inserting “With re-
11 spect to calendar quarters beginning on or after October
12 1, 2019,”.

13 (b) LENGTHS OF STAY.—Section 1915(l)(2) of the
14 Social Security Act (42 U.S.C. 1396n(l)(2)) is amended—

15 (1) by striking “30 days” and inserting “45
16 days”; and

17 (2) by adding at the end the following new sen-
18 tence: “Nothing in this paragraph shall be construed
19 as precluding a State from using other authorities,
20 including section 1115, that apply with respect to
21 medical assistance under the State plan under this
22 title, or waiver of such plan, for delivering care in
23 certain institutions for mental diseases with more
24 than 16 beds concurrently with this paragraph and
25 allowing for stays in such institutions for mental dis-
26 eases equal to the combined total lengths of stays

1 permitted under the respective authorities so long as
2 all requirements for such authorities are met.”.

3 (c) MAINTENANCE OF EFFORT REVISION.—Clauses
4 (i) and (ii) of section 1915(l)(3)(A) of the Social Security
5 Act (42 U.S.C. 1396n(l)(3)(A)) are each amended by
6 striking “or, if higher,” and all that follows through “in
7 accordance with this subsection”.

8 (d) ADDITIONAL REQUIREMENTS.—

9 (1) IN GENERAL.—

10 (A) GENERAL REQUIREMENTS.—Section
11 1915(l)(4) of the Social Security Act (42
12 U.S.C. 1396n(l)(4)) is amended—

13 (i) in subparagraph (A), by striking
14 “through (D)” and inserting “through
15 (E)”;

16 (ii) in subparagraph (D), in the mat-
17 ter preceding clause (i), by inserting “have
18 in place a substance use disorder-specific
19 individual placement criteria and utiliza-
20 tion management approach to ensure
21 placement of such individual in an appro-
22 priate level of care and shall” after “State
23 shall”; and

24 (iii) by adding at the end the fol-
25 lowing new subparagraph:

1 “(E) REVIEW PROCESS.—The State shall
2 have in place a process to review the compliance
3 of eligible institutions for mental diseases with
4 standards of care for eligible individuals speci-
5 fied by the State.”.

6 (B) EFFECTIVE DATE.—The amendments
7 made by subparagraph (A) shall apply with re-
8 spect to medical assistance furnished in cal-
9 endar quarters beginning on or after October 1,
10 2025.

11 (2) ONE-TIME ASSESSMENT.—Section
12 1915(l)(4) of the Social Security Act (42 U.S.C.
13 1396n(l)(4)), as amended by paragraph (1), is fur-
14 ther amended by adding at the end the following
15 new subparagraph:

16 “(F) ASSESSMENT.—The State shall, not
17 later than 12 months after the approval of a
18 State plan amendment described in this sub-
19 section (or, in the case such State has such an
20 amendment approved as of the date of the en-
21 actment of this subparagraph, not later than 12
22 months after such date), conduct an assessment
23 of—

24 “(i) the availability of treatment for
25 individuals enrolled under a State plan

1 under this title (or waiver of such plan) in
2 each level of care described in subpara-
3 graph (C); and

4 “(ii) the availability of medication-as-
5 sisted treatment and medically supervised
6 withdrawal management services for such
7 individuals.”.

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