

114TH CONGRESS
2D SESSION

H. R. 5903

To establish the Transition to Independence demonstration program.

IN THE HOUSE OF REPRESENTATIVES

JULY 14, 2016

Mr. VAN HOLLEN (for himself, Mrs. McMORRIS RODGERS, Mr. FOSTER, Mr. CRENSHAW, Mr. LANGEVIN, Mr. SESSIONS, and Mr. BEYER) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To establish the Transition to Independence demonstration 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 “Transition to Inde-
5 pendence Act of 2016”.

6 **SEC. 2. TRANSITION TO INDEPENDENCE DEMONSTRATION**
7 **PROGRAM.**

8 (a) ESTABLISHMENT.—The Secretary shall establish
9 a demonstration program under which a State that is a
10 Medicaid Buy-In State and meets certain criteria may re-

1 ceive bonus payments for meeting specific measurable
2 benchmarks in expanding individual integrated employ-
3 ment and reducing subminimum wage work, congregate
4 setting work, or facility-based day habilitation placements
5 for working-age individuals with a disability receiving
6 Medicaid-funded home or community-based services and
7 for taking other actions conducive to expanding employ-
8 ment opportunities for individuals with disabilities within
9 the State.

10 (b) REQUIREMENTS FOR THE TRANSITION TO INDE-
11 PENDENCE DEMONSTRATION PROGRAM.—

12 (1) MINIMUM STANDARDS.—The Secretary
13 shall establish minimum standards for Medicaid
14 Buy-In States participating in the demonstration
15 program to comply with in establishing eligibility re-
16 quirements for individual participants, benefits, and
17 administrative requirements for the Transition to
18 Independence Medicaid Buy-In Option offered under
19 the demonstration program.

20 (2) PREFERENCE GIVEN TO CERTAIN STATES
21 FOR DEMONSTRATION PARTICIPATION.—The Sec-
22 retary shall give preference in selecting States to
23 participate in the demonstration program to States
24 that have Medicaid Buy-In programs that—

1 (A) establish an assets or resources test
2 for participation by an individual in the Med-
3 icaid Buy-In Option that is not less than
4 \$20,000;

5 (B) establish an income requirement for
6 participation by an individual in the Medicaid
7 Buy-In Option that is at least up to 400 per-
8 cent of the poverty line;

9 (C) offer home and community-based serv-
10 ices, including employment-based services and
11 supports, in the Medicaid Buy In Option; and

12 (D) establish such other requirements for
13 an individual's participation in the Medicaid
14 Buy-In Option as the Secretary shall specify.

15 (3) WORK INCENTIVES COORDINATOR.—The
16 minimum standards shall require a Medicaid Buy-In
17 State participating in the demonstration program to
18 provide work incentives coordinators who have been
19 trained as work incentive specialists under a commu-
20 nity-based work incentives planning and assistance
21 program established under section 1149 of the So-
22 cial Security Act (42 U.S.C. 1320b–20) to assist the
23 individuals who elect to participate in the Medicaid
24 Buy-In Option in order to ensure the individuals are
25 provided with appropriate items and services.

1 (c) APPLICATION AND SELECTION REQUIRE-
2 MENTS.—

3 (1) IN GENERAL.—Not later than June 30,
4 2017, the Secretary shall solicit applications from
5 Medicaid Buy-In States and select 15 Medicaid Buy-
6 In States to participate in the demonstration pro-
7 gram.

8 (2) APPLICATION REQUIREMENTS.—An applica-
9 tion to participate in the demonstration program
10 shall include the following:

11 (A) Data and information regarding the
12 numbers of working-age individuals with dis-
13 abilities who are receiving Medicaid-funded
14 home or community-based services in the Med-
15 icaid Buy-In State who are in individual inte-
16 grated employment, subminimum wage work,
17 congregate setting work, or facility-based day
18 habilitation or day treatment, respectively.

19 (B) Data and information verifying that
20 the Medicaid Buy-In State is prepared to meet
21 the minimum standards established by the Sec-
22 retary for the Medicaid Buy-In Option.

23 (C) A plan for promoting the Medicaid
24 Buy-In Option to potentially eligible individuals
25 that includes—

1 (i) clear and easy-to-understand,
2 multi-media information on how to enroll
3 in the Medicaid Buy-In Option on the Web
4 sites for the Medicaid Buy-In State’s Med-
5 icaid and Disability Determination Services
6 Agencies; and

7 (ii) a “no-wrong door” policy under
8 which individuals who apply for a deter-
9 mination of eligibility for the Medicaid
10 Buy-In Option are also determined if they
11 are eligible for an applicable State health
12 subsidy program in accordance with sec-
13 tion 1413 of the Patient Protection and
14 Affordable Care Act (42 U.S.C. 18083)
15 (including the State Medicaid program
16 under another eligibility pathway), in-
17 formed of the results of such determina-
18 tions and, depending on their eligibility,
19 provided with the option to voluntarily
20 elect to participate in the Medicaid Buy-In
21 Option or an applicable State health sub-
22 sidy program.

23 (D)(i) An assurance that the State will es-
24 tablish and build capacity for an eligibility proc-
25 ess to make eligibility determinations for the

1 Medicaid Buy-In program. Such process shall
2 provide for a determination of eligibility not
3 later than 90 days after the date that an appli-
4 cation to participate in the program is filed, in-
5 cluding for individuals who are not receiving
6 disability insurance benefits under title II of the
7 Social Security Act (42 U.S.C. 401 et seq.) or
8 supplemental security income benefits under
9 title XVI of such Act (42 U.S.C. 1381 et seq.).

10 (ii) A description of the eligibility criteria
11 the State will use, the process it will use to de-
12 termine eligibility, for individuals who do not
13 qualify for such title II or SSI benefits and the
14 staff who will be responsible for making those
15 determinations. This eligibility process shall not
16 use the disability determination process used by
17 the Social Security Administration for such title
18 II and SSI benefits.

19 (E) Verification that the Medicaid Buy-In
20 State shall establish a Stakeholder Advisory
21 Committee that meets the requirements of
22 paragraph (3) and shall consult with and con-
23 sider recommendations of the Committee while
24 conducting the demonstration program.

1 (F) A description of the person-centered
2 planning process that the State intends to use
3 for participants in the demonstration program.

4 (G) Such other information as the Sec-
5 retary may require relating to the demonstra-
6 tion program.

7 (3) STAKEHOLDER ADVISORY COMMITTEE RE-
8 QUIREMENTS.—

9 (A) MEMBERSHIP.—In establishing the
10 Stakeholder Advisory Committee required for
11 the demonstration program, the Medicaid Buy-
12 In State shall ensure that—

13 (i) at least 50 percent of the members
14 of the Stakeholder Advisory Committee are
15 individuals with disabilities; and

16 (ii) at least 1 member of the Com-
17 mittee is a provider of services to individ-
18 uals with disabilities.

19 (B) DUTIES.—The Stakeholder Advisory
20 Committee shall—

21 (i) analyze outcomes data and other
22 information related to the conduct of the
23 demonstration program; and

24 (ii) regularly submit recommenda-
25 tions, including for specific actions by the

1 Medicaid Buy-In State participating in the
2 demonstration program, that the Com-
3 mittee determines appropriate with respect
4 to the conduct of the demonstration pro-
5 gram by the State.

6 (d) REQUIREMENT FOR SELECTING STATES.—In se-
7 lecting Medicaid Buy-In States to participate in the dem-
8 onstration program, the Secretary shall ensure that the
9 Medicaid Buy-In States selected include Medicaid Buy-In
10 States with low, medium, and high numbers of working-
11 age individuals with disabilities who are receiving Med-
12 icaid-funded home or community-based services and are
13 in individual integrated employment, subminimum wage
14 work, congregate setting work, or facility-based day habili-
15 tation or day treatment, respectively.

16 (e) LENGTH OF DEMONSTRATION PROGRAM.—The
17 demonstration program shall be conducted for a period of
18 5 fiscal years, beginning with fiscal year 2018.

19 (f) PERFORMANCE BONUS PAYMENTS.—

20 (1) IN GENERAL.—For each fiscal year in
21 which the demonstration program is conducted, a
22 Medicaid Buy-In State participating in the dem-
23 onstration program during that fiscal year may qual-
24 ify for a performance bonus payment.

1 (2) STATE-SPECIFIED CRITERIA AND PERFORM-
2 ANCE PLANS.—In order to participate in the dem-
3 onstration program, a Medicaid Buy-In State shall
4 submit criteria and a plan for achieving each of the
5 mandatory benchmarks described in paragraph (3)
6 and a selection of the additional benchmarks de-
7 scribed in paragraph (4) as determined by the Sec-
8 retary. The Secretary shall establish a methodology
9 for assessing State performance with respect to the
10 State-specified criteria for the mandatory and addi-
11 tional benchmarks.

12 (3) MANDATORY BENCHMARKS.—The manda-
13 tory benchmarks described in this paragraph are the
14 following:

15 (A) REDUCED PARTICIPATION IN SEG-
16 REGATED PROGRAMS AND INCREASED PARTICI-
17 PATION IN INDIVIDUAL INTEGRATED EMPLOY-
18 MENT.—

19 (i) REDUCED POPULATION CENSUS OF
20 SEGREGATED PROGRAMS.—

21 (I) IN GENERAL.—Achieving a
22 reduction in the population in the
23 State of working-age individuals with
24 disabilities who are receiving Med-
25 icaid-funded home or community-

1 based services or who are receiving
2 services through an Intermediate Care
3 Facility for Persons with Develop-
4 mental Disabilities (ICF-DD), a nurs-
5 ing facility, an institution for individ-
6 uals with mental illness, or other con-
7 gregate facilities and are in submin-
8 imum wage work, congregate setting
9 work, or facility-based day habilitation
10 or day treatment.

11 (II) MINIMUM PERCENT REDUC-
12 TIONS; BONUS BASED ON ACHIEVE-
13 MENT OF DIFFERING TIERS.—In
14 order to receive a bonus payment for
15 a fiscal year under this clause, a Med-
16 icaid Buy-In State shall achieve a re-
17 duction of the population described in
18 subclause (I) of at least 10 percent
19 below the State’s most recent prior
20 fiscal year’s census of the eligible pop-
21 ulation in subminimum wage work,
22 congregate setting work, or facility
23 based day habilitation or day treat-
24 ment. Subject to paragraph (5)(B),
25 the Secretary shall award an in-

1 creased bonus payment for a fiscal
2 year to a Medicaid Buy-In State that
3 achieves a percentage reduction of 20,
4 30, 40 or more with respect to the
5 prior fiscal year's census of such pop-
6 ulation.

7 (III) REQUIREMENTS FOR MEET-
8 ING BENCHMARK.—A working-age in-
9 dividual with a disability shall be
10 deemed as counting towards a per-
11 centage reduction for purposes of this
12 clause if the individual is—

13 (aa) employed in a competi-
14 tive, integrated employment set-
15 ting for at least 10 hours a week
16 on average over a 120-day period
17 during the year involved;

18 (bb) receiving integrated day
19 services that reach the level of
20 care required in the individual's
21 person-centered plan; or

22 (cc) a combination of items
23 (aa) and (bb),
24 enabling the individual to achieve, if
25 desired, a comparable level of benefit

1 as before the change in placement.
2 The State must report aggregate data
3 to the Secretary on the outcome of all
4 individuals transitioning out of con-
5 gregate settings being counted to-
6 wards fulfillment of this benchmark.

7 (ii) INCREASED POPULATION CENSUS
8 OF INDIVIDUAL INTEGRATED EMPLOY-
9 MENT.—

10 (I) IN GENERAL.—Achieving an
11 increase in the population in the State
12 of working-age individuals with dis-
13 abilities who are receiving Medicaid-
14 funded home or community-based
15 services and are in individual inte-
16 grated employment.

17 (II) MINIMUM PERCENT IN-
18 CREASES; BONUS BASED ON ACHIEVE-
19 MENT OF CERTAIN TIERS.—In order
20 to receive a bonus payment for a fis-
21 cal year under this clause, a Medicaid
22 Buy-In State shall achieve an increase
23 in the population described in sub-
24 clause (I) of at least 10 percent above
25 the State's most recent prior fiscal

1 year's census of the eligible population
2 in individual integrated employment.
3 Subject to paragraph (5)(B), the Sec-
4 retary shall award an increased bonus
5 payment for a fiscal year to a Med-
6 icaid Buy-In State that achieves a
7 percentage increase of 20, 30, 40 or
8 more with respect to the prior fiscal
9 year's census of such population.

10 (III) REQUIREMENTS FOR MEET-
11 ING BENCHMARK.—A working-age in-
12 dividual with a disability shall be
13 deemed as counting towards a per-
14 centage increase for purposes of this
15 clause if the individual is employed in
16 an integrated individual employment
17 setting for at least 10 hours a week
18 on average over a 120-day period dur-
19 ing the fiscal year involved.

20 (B) MEETING THE MEDICAID BUY-IN
21 STANDARDS.—Meeting the minimum standards
22 established by the Secretary for the Medicaid
23 Buy-In Option.

1 (4) ADDITIONAL BENCHMARKS.—The addi-
2 tional benchmarks described in this paragraph are
3 the following:

4 (A) ELIMINATION OF NEW PLACEMENT AP-
5 PROVALS.—Eliminating new approvals for
6 placement in the State of working-age individ-
7 uals with disabilities who are receiving Med-
8 icaid-funded home or community-based services
9 in subminimum wage work, congregate setting
10 work, or facility-based day habilitation or day
11 treatment, in accordance with criteria estab-
12 lished by the Secretary.

13 (B) DEMONSTRATION OF INTER-AGENCY
14 COLLABORATION.—Demonstrating inter-agency
15 collaboration between the State agencies re-
16 sponsible for administering Medicaid, vocational
17 rehabilitation, and education (and, if the State
18 is participating the Promoting Readiness of Mi-
19 nors in Supplemental Security Income initiative
20 (PROMISE), including coordination with that
21 initiative), in determining payer of last resort
22 rules and rules for providing individuals with a
23 seamless transition of services provided under
24 such agencies, in accordance with criteria estab-
25 lished by the Secretary.

1 (C) TERMINATION OF VOCATIONAL REHA-
2 BILITATION FUNDING.—Ending the use of voca-
3 tional rehabilitation funding for subminimum
4 wage work, congregate setting work, or facility-
5 based day habilitation or day treatment, in ac-
6 cordance with criteria established by the Sec-
7 retary.

8 (D) WORKFORCE DEVELOPMENT.—Dem-
9 onstrating in accordance with criteria estab-
10 lished by the Secretary satisfaction of at least
11 two of the following strategies to promote work-
12 force development:

13 (i) Increasing Medicaid payments for
14 supported employment providers for indi-
15 viduals with disabilities by an amount nec-
16 essary to ensure an adequately supported
17 employment network, as determined by the
18 Secretary.

19 (ii) Adopting employment strategies
20 that result in working-age individuals with
21 disabilities who are receiving Medicaid-
22 funded home or community-based services
23 being recruited, hired, and retained as full-
24 time employees of State government or by
25 contractors of State government.

1 (iii) Developing a State equivalent of
2 section 503 of the Rehabilitation Act of
3 1973 (29 U.S.C. 793) to recruit, hire, pro-
4 mote, and retain working-age individuals
5 with disabilities who are receiving Med-
6 icaid-funded home or community-based
7 services with a utilization goal of at least
8 7 percent of the State government work-
9 force.

10 (iv) Developing a special hiring au-
11 thority mechanism akin to the Schedule A
12 appointing authority under section
13 213.3102(u) of title 5 of the Code of Fed-
14 eral Regulations (commonly referred to as
15 the “Schedule A Hiring Authority”) to as-
16 sist in easing the hiring of working-age in-
17 dividuals with disabilities who are receiving
18 Medicaid-funded home or community-based
19 services within the State government with
20 an accompanying plan submitted to the
21 Secretary outlining targeted implementa-
22 tion goals for the amount of individuals
23 with disabilities within State government.

24 (v) Increasing the hiring of working-
25 age individuals with disabilities who are re-

1 ceiving Medicaid-funded home or commu-
2 nity-based services in employment for
3 which the individual is compensated at or
4 above the minimum wage, through collabo-
5 ration with the State vocational rehabilita-
6 tion and workforce development programs
7 and Federal contractors.

8 (vi) Providing State tax credits to em-
9 ployers for hiring new workers who are
10 working-age individuals with disabilities
11 who are receiving Medicaid-funded home or
12 community-based services.

13 (5) PAYMENT TO STATES.—

14 (A) IN GENERAL.—Subject to the suc-
15 ceeding provisions of this paragraph, the Sec-
16 retary shall make a performance bonus pay-
17 ment to each Medicaid Buy-In State partici-
18 pating in the demonstration program that
19 qualifies for such a payment with respect to a
20 fiscal year as a single payment not later than
21 the last day of the first calendar quarter of the
22 fiscal year following the fiscal year to which the
23 performance bonus payments applies. Payments
24 to States made under this paragraph shall be
25 considered to have been made under, and are

1 subject to the requirements of, section 1903 of
2 the Social Security Act (42 U.S.C. 1396b).

3 (B) DETERMINATION OF PAYMENT.—The
4 performance bonus payment for a Medicaid
5 Buy-In State shall consist of the additional
6 amount that the State would have been paid for
7 providing medical assistance to individuals en-
8 rolled in the State’s Medicaid Buy-In Option
9 during the preceding fiscal year if the regular
10 FMAP applicable to such assistance were in-
11 creased (subject to subparagraph (C)) as fol-
12 lows:

13 (i) Two percentage points for achiev-
14 ing the minimum 10 percent reduction in
15 the mandatory benchmark described in
16 paragraph (3)(A) during the preceding fis-
17 cal year (or 2.4 percentage points for
18 achieving a reduction of at least 20 percent
19 (but not more than 30 percent), 2.6 per-
20 centage points for achieving a reduction of
21 at least 30 percent (but not more than 40
22 percent), and 2.8 percentage points for
23 achieving a reduction of at least 40 per-
24 cent).

1 (ii) Two percentage points for achiev-
2 ing the minimum 10 percent increase in
3 the mandatory benchmark described in
4 paragraph (3)(B) during the preceding fis-
5 cal year (or 2.4 percentage points for
6 achieving an increase of at least 20 percent
7 (but not more than 30 percent), 2.6 per-
8 centage points for achieving an increase of
9 at least 30 percent (but not more than 40
10 percent), and 2.8 percentage points for
11 achieving an increase of at least 40 per-
12 cent).

13 (iii) One-half percentage points for
14 each additional benchmark described in
15 paragraph (4) that the State achieves dur-
16 ing the preceding fiscal year.

17 (C) LIMITATIONS.—In no case may—

18 (i) the increase in the regular FMAP
19 resulting from the application of subpara-
20 graph (B) for any Medicaid Buy-In State
21 exceed 100 percent of the costs for pro-
22 viding medical assistance to individuals en-
23 rolled in the Medicaid Buy-In Option with
24 respect to each fiscal year of the 5-fiscal-

1 year period in which the demonstration
2 project is conducted; or

3 (ii) payments be made to a Medicaid
4 Buy-In State under this paragraph after
5 December 31, 2021.

6 (D) USE OF PAYMENTS.—A Medicaid Buy-
7 In State receiving a performance bonus pay-
8 ment under this paragraph shall use the pay-
9 ment only to expand individual integrated em-
10 ployment and community integration for work-
11 ing-age individuals with disabilities who are re-
12 ceiving Medicaid-funded home or community-
13 based services.

14 (g) REPORTS; RECOMMENDATIONS.—

15 (1) ANNUAL STATE REPORTS.—

16 (A) IN GENERAL.—Each Medicaid Buy-In
17 State participating in the demonstration pro-
18 gram annually shall submit a detailed report to
19 the Secretary regarding the State’s conduct of
20 the demonstration program.

21 (B) INFORMATION TO BE INCLUDED.—

22 Such annual reports shall include, in addition
23 to data and information regarding State per-
24 formance with respect the mandatory and addi-
25 tional benchmarks described in paragraphs (3)

1 and (4) of subsection (f) and such other infor-
2 mation as the Secretary may require, data and
3 information regarding the extent to which, since
4 the start of the demonstration program—

5 (i) the State has reduced the State
6 population of individuals with disabilities
7 who have attained age 18 but have not at-
8 tained age 31, are receiving Medicaid-fund-
9 ed home or community-based services or
10 services through an Intermediate Care Fa-
11 cility for Persons with Developmental Dis-
12 abilities (ICF–DD), a nursing facility, an
13 institution for individuals with mental ill-
14 ness, or other congregate facilities, and
15 were in subminimum wage work, con-
16 gregate setting work, or facility-based day
17 habilitation or day treatment; and

18 (ii) the State has increased the State
19 population of individuals with disabilities
20 who have attained age 18 but have not at-
21 tained age 31, are receiving Medicaid-fund-
22 ed home or community-based services, and
23 are engaged in individual integrated em-
24 ployment.

1 (C) ADDITIONAL INFORMATION ON
2 TRANSITIONING INDIVIDUALS TO INTEGRATED
3 EMPLOYMENT.—Each such annual report shall
4 include information regarding—

5 (i) the State’s efforts to transition in-
6 dividuals with disabilities who are partici-
7 pating in the demonstration program to in-
8 dividual integrated employment during the
9 preceding fiscal year;

10 (ii) the full spectrum of employment
11 outcomes for such individuals;

12 (iii) best practices for successfully
13 achieving such transitions; and

14 (iv) lessons learned.

15 (D) PROMOTING PUBLIC PARTICIPATION.—
16 To promote transparency with respect to such
17 annual reports, each Medicaid Buy-In State
18 shall—

19 (i) provide, before submission of each
20 such report—

21 (I) for posting of a draft of the
22 report for review by the public on a
23 publicly accessible Web site of the
24 State;

1 (II) for providing a period of not
2 less than 30 days for the receipt of
3 public comments on the draft report;
4 and

5 (III) for at least two public hear-
6 ings regarding the draft report; and

7 (ii) include in the report so submitted
8 a response to public comments received
9 during such period (along with a descrip-
10 tion of whether changes have been made in
11 the report in response to such comments).

12 With respect to each such State report sub-
13 mitted, the Secretary, at the Federal level, shall
14 provide for another 30-day public comment pe-
15 riod to receive comments on such report.

16 (E) POSTING OF REPORTS ON PUBLICLY
17 ACCESSIBLE WEB SITE.—The Secretary shall
18 post each of the annual reports submitted
19 under this paragraph, with a summary of the
20 comments received under subparagraph (D), on
21 a publicly accessible Web site.

22 (2) REPORTS AND RECOMMENDATIONS TO CON-
23 GRESS.—

24 (A) IN GENERAL.—Not later than January
25 1, 2018, and January 1 of each of the 6 years

1 thereafter, the Secretary shall submit to Con-
2 gress a report on the demonstration program.
3 Each such report shall include data and infor-
4 mation regarding State performance with re-
5 spect to each of the mandatory and additional
6 benchmarks described in paragraphs (3) and
7 (4) of subsection (f) and other data and infor-
8 mation reported by States under paragraph (1)
9 and an assessment of the extent to which the
10 demonstration program is successful in transi-
11 tioning working-age individuals with disabilities
12 to independent living and work in their commu-
13 nities.

14 (B) RECOMMENDATIONS.—Not later than
15 December 31, 2019, the Secretary shall submit
16 to Congress recommendations regarding wheth-
17 er the demonstration program should be contin-
18 ued, expanded, modified, or terminated.

19 (3) RESEARCH AND EVALUATION.—

20 (A) IN GENERAL.—The Secretary, acting
21 through the Administration on Community Liv-
22 ing, directly or through grant or contract, shall
23 provide for research on, and a national evalua-
24 tion of, the demonstration program, including

1 assistance to the Secretary in preparing the
2 final report required under subparagraph (C).

3 (B) CONTENTS OF EVALUATION.—Such
4 national evaluation shall include an analysis of
5 the characteristics and outcomes of the individ-
6 uals participating in the demonstration program
7 and the best practices developed to achieve the
8 goals of the demonstration program.

9 (C) FINAL REPORT.—Not later than June
10 30, 2020, the Secretary shall submit to the
11 President and Congress a final report that re-
12 flects the evaluation under subparagraph (A),
13 that provides findings and conclusions on the
14 conduct and effectiveness of demonstration pro-
15 gram, and that includes a summary of the pub-
16 lic comments received under paragraph (1)(D).

17 (h) DEFINITIONS.—In this section:

18 (1) CONGREGATE SETTING WORK.—The term
19 “congregate setting work” means a nonprofit, for-
20 profit, or State agency entity that employs a major-
21 ity of individuals with disabilities and receives Med-
22 icaid or other State funds for the purpose of pro-
23 viding employment services, or a facility or sub-unit
24 of any such agency that meets such criteria.

1 (2) DEMONSTRATION PROGRAM.—The term
2 “demonstration program” means the Transition to
3 Independence Demonstration Program established
4 under this section.

5 (3) FACILITY-BASED DAY HABILITATION OR
6 DAY TREATMENT.—The term “facility-based day ha-
7 bilitation or day treatment” has the meaning estab-
8 lished by the Secretary for that term for purposes of
9 the demonstration program and shall include non-
10 residential day services which take place predomi-
11 nantly or in large part at a single site, fixed site, or
12 center-based program for individuals with disabil-
13 ities. In establishing the meaning of such term, the
14 Secretary shall provide clear instructions distin-
15 guishing facility-based day habilitation or day treat-
16 ment from integrated day habilitation or day treat-
17 ment programs taking place in settings within the
18 broader community and which do not isolate individ-
19 uals participating in such integrated day habilitation
20 or day treatment programs from mainstream life.

21 (4) INDIVIDUAL INTEGRATED EMPLOYMENT.—

22 (A) IN GENERAL.—The term “individual
23 integrated employment” means the ongoing
24 supports to an individual who, because of the
25 individual’s disabilities, needs intensive on-going

1 supports to obtain and maintain an individual
2 job in competitive or customized employment,
3 self-employment, or in an integrated working
4 setting in the general workforce for which the
5 individual is compensated at or above the min-
6 imum wage, but not less than the customary
7 wage and level of benefits paid by the employer
8 for the same or similar work performed by an
9 individual without a disability.

10 (B) CUSTOMIZED EMPLOYMENT SERVICES
11 INCLUDED.—Such term includes customized
12 employment services in which an individual re-
13 ceives support to craft a job description around
14 their strengths and challenges.

15 (C) EXCLUSIONS.—Such term does not in-
16 clude segregated enclaves, segregated mobile
17 work crews, or other employment scenarios
18 where an individual is placed solely based on
19 the individual’s disability. In this subparagraph,
20 the term “segregated” means, with respect to a
21 setting or work crew, a setting or work crew in
22 which individuals with disabilities are separated
23 (in place or in rates of pay) from individuals
24 without disabilities.

1 (5) INTEGRATED DAY HABILITATION SERV-
2 ICES.—The term “integrated day habilitation serv-
3 ices” means services that are provided outside of dis-
4 ability specific programs or facilities, in a setting
5 that supports the full access of individuals with dis-
6 abilities to the greater community to the same de-
7 gree as individuals not receiving services, and con-
8 sistent with the following:

9 (A) Each individual receiving such services
10 has an individually tailored schedule that is di-
11 rectly related to and reflects the individual’s
12 specific interests and goals.

13 (B) Activities take place on an individual
14 basis or in small groups of individuals who
15 choose to be served together.

16 (C) The majority of time spent receiving
17 such services takes place within the broader
18 community rather than within a single-site,
19 fixed site, or center-based program for individ-
20 uals with disabilities, regardless of the program
21 size.

22 (D) The services are provided consistent
23 with the requirements of section 441.710 of
24 title 42, Code of Federal Regulations.

1 (6) MEDICAID.—The term “Medicaid” means
2 the program for medical assistance established under
3 title XIX of the Social Security Act (42 U.S.C. 1396
4 et seq.).

5 (7) MEDICAID BUY-IN STATE.—The term “Medicaid Buy-In State” means a State that, under sub-
6 clause (XIII), (XV), or (XVI) of section
7 1902(a)(10)(A)(ii) of the Social Security Act (42
8 U.S.C. 1396a(a)(10)(A)(ii)), a waiver approved
9 under section 1115 or 1915 of such Act (42 U.S.C.
10 1315, 1396n), or other authority, has a program
11 under which individuals with disabilities with earn-
12 ings and assets that would otherwise make them in-
13 eligible for medical assistance under the State’s
14 Medicaid program are able to maintain their eligi-
15 bility for such assistance.

17 (8) NURSING FACILITY.—The term “nursing
18 facility” has the meaning given that term in section
19 1919(a) of the Social Security Act (42 U.S.C.
20 1396r(a)).

21 (9) POVERTY LINE.—The term “poverty line”
22 has the meaning given that term in section
23 2110(c)(5) of the Social Security Act (42 U.S.C.
24 1397jj(c)(5)).

1 (10) REGULAR FMAP.—The term “regular
2 FMAP” means the Federal medical assistance per-
3 centage applicable to the State (as determined under
4 section 1905(b) of the Social Security Act (42
5 U.S.C. 1396d(b))) without regard to any increases
6 in that percentage applicable under subsections (y),
7 (z), (aa), or (dd) of section 1905 of such Act or
8 under any other provision of law.

9 (11) SECRETARY.—The term “Secretary”
10 means the Secretary of Health and Human Services.

11 (12) SUBMINIMUM WAGE WORK.—The term
12 “subminimum wage work” means any setting in
13 which individuals with disabilities are paid less than
14 minimum wage under a certificate issued in accord-
15 ance with section 14(c) of the Fair Labor Standards
16 Act of 1938 (29 U.S.C. 214(c)).

17 (13) SUPPORTED EMPLOYMENT.—The term
18 “supported employment” has the meaning given that
19 term in section 7 of the Rehabilitation Act of 1973
20 (29 U.S.C. 705).

21 (14) STATE.—The term “State” has the mean-
22 ing given such term for purposes of title XIX of the
23 Social Security Act (42 U.S.C. 1396 et seq.).

24 (15) TITLE II DISABILITY BENEFICIARY.—The
25 term “title II disability beneficiary” means an indi-

1 vidual entitled to disability insurance benefits under
2 section 223 of the Social Security Act (42 U.S.C.
3 423) or to monthly insurance benefits under section
4 202 of such Act (42 U.S.C. 402) based on such indi-
5 vidual’s disability (as defined in section 223(d) of
6 such Act (42 U.S.C. 423(d))).

7 (16) TITLE XVI DISABILITY BENEFICIARY.—
8 The term “title XVI disability beneficiary” means an
9 individual eligible for supplemental security income
10 benefits under title XVI of the Social Security Act
11 (42 U.S.C. 1381 et seq.) on the basis of blindness
12 (within the meaning of section 1614(a)(2) of such
13 Act (42 U.S.C. 1382c(a)(2))) or disability (within
14 the meaning of section 1614(a)(3) of such Act (42
15 U.S.C. 1382c(a)(3))).

16 (17) WORKING-AGE INDIVIDUAL WITH A DIS-
17 ABILITY RECEIVING MEDICAID-FUNDED HOME OR
18 COMMUNITY-BASED SERVICES.—The term “working-
19 age individual with a disability receiving Medicaid-
20 funded home or community-based services” means a
21 title II disability beneficiary or a title XVI disability
22 beneficiary who has attained age 18, but has not at-
23 tained age 65, and is receiving home or community-
24 based services—

1 (A) under a waiver approved under sub-
2 section (c) or (d) of section 1915 the Social Se-
3 curity Act (42 U.S.C. 1396n);

4 (B) under the State Medicaid plan in ac-
5 cordance with subsection (i), (j), or (k) of such
6 section; or

7 (C) under a Medicaid waiver approved
8 under section 1115 of the Social Security Act
9 (42 U.S.C. 1315).

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