

118TH CONGRESS
1ST SESSION

H. R. 6296

To provide for an emergency increase in Federal funding to State Medicaid programs for expenditures on home and community-based services.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 8, 2023

Mrs. DINGELL introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To provide for an emergency increase in Federal funding to State Medicaid programs for expenditures on home and community-based services.

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 “HCBS Relief Act of
5 2023”.

6 **SEC. 2. ADDITIONAL SUPPORT FOR MEDICAID HOME AND**
7 **COMMUNITY-BASED SERVICES.**

8 (a) INCREASED FMAP.—

9 (1) IN GENERAL.—Notwithstanding section
10 1905(b) of the Social Security Act (42 U.S.C.

1 1396d(b)), in the case of an HCBS program State,
2 the Federal medical assistance percentage deter-
3 mined for the State under section 1905(b) of such
4 Act and, if applicable, increased under subsection
5 (y), (z), or (aa) of section 1905 of such Act (42
6 U.S.C. 1396d), or section 1915(k) of such Act (42
7 U.S.C. 1396n(k)), shall be increased by 10 percent-
8 age points with respect to expenditures of the State
9 under the State Medicaid program for home and
10 community-based services that are provided during
11 fiscal years 2024 and 2025. In no case may the ap-
12 plication of the previous sentence result in the Fed-
13 eral medical assistance percentage determined for a
14 State being more than 95 percent.

15 (2) DEFINITIONS.—In this section:

16 (A) HCBS PROGRAM STATE.—The term
17 “HCBS program State” means a State that
18 meets the condition described in subsection (b)
19 by submitting an application described in such
20 subsection, which is approved by the Secretary
21 pursuant to subsection (c).

22 (B) HOME AND COMMUNITY-BASED SERV-
23 ICES.—The term “home and community-based
24 services” means home health care services au-
25 thorized under paragraph (7) of section 1905(a)

1 of the Social Security Act (42 U.S.C.
2 1396d(a)), behavioral health services authorized
3 under paragraph (13) of such section, personal
4 care services authorized under paragraph (24)
5 of such section, PACE services authorized
6 under paragraph (26) of such section, services
7 authorized under subsections (b), (c), (i), (j),
8 and (k) of section 1915 of such Act (42 U.S.C.
9 1396n), such services authorized under a waiver
10 under section 1115 of such Act (42 U.S.C.
11 1315), and such other services specified by the
12 Secretary.

13 (b) CONDITION.—The condition described in this sub-
14 section, with respect to a State, is that the State submits
15 an application to the Secretary, at such time and in such
16 manner as specified by the Secretary, that includes, in ad-
17 dition to such other information as the Secretary shall re-
18 quire—

19 (1) a description of which activities described in
20 subsection (d) that a State plans to implement and
21 a description of how it plans to implement such ac-
22 tivities;

23 (2) assurances that all Federal funds attrib-
24 utable to the increase under subsection (a) will be—

1 (A) expended by the State in accordance
2 with this section not later than September 30,
3 2027; and

4 (B) used—

5 (i) to implement the activities de-
6 scribed in subsection (d);

7 (ii) to supplement, and not supplant,
8 the level of State funds expended for home
9 and community-based services for eligible
10 individuals through programs in effect as
11 of the date of the enactment of this sec-
12 tion; and

13 (iii) to increase reimbursement rates
14 for home and community-based services to
15 a level that will support recruitment and
16 retention of a sufficient workforce to pro-
17 vide home and community-based services
18 to eligible individuals; and

19 (3) assurances that the State will conduct ade-
20 quate oversight and ensure the validity of such data
21 as may be required by the Secretary.

22 (c) APPROVAL OF APPLICATION.—Not later than 90
23 days after the date of submission of an application of a
24 State under subsection (b), the Secretary shall certify if
25 the application is complete. Upon certification that an ap-

1 plication of a State is complete, the application shall be
2 deemed to be approved for purposes of this section.

3 (d) ACTIVITIES TO IMPROVE THE DELIVERY OF
4 HCBS.—

5 (1) IN GENERAL.—A State shall work with
6 community partners, such as Area Agencies on
7 Aging, Centers for Independent Living, non-profit
8 home and community-based services providers, and
9 other entities providing home and community-based
10 services, to implement the purposes described in
11 paragraph (2).

12 (2) FOCUSED AREAS OF HCBS IMPROVE-
13 MENT.—The purposes described in this paragraph,
14 with respect to a State, are the following:

15 (A) To increase rates for home health
16 agencies and agencies that employ direct sup-
17 port professionals (including independent pro-
18 viders in a self-directed or consumer-directed
19 model) to provide home and community-based
20 services under the State Medicaid program,
21 provided that any agency or individual that re-
22 ceives payment under such an increased rate in-
23 creases the compensation it pays its home
24 health workers or direct support professionals.

1 (B) To provide paid sick leave, paid family
2 leave, and paid medical leave for home health
3 workers and direct support professionals.

4 (C) To provide hazard pay, overtime pay,
5 and shift differential pay for home health work-
6 ers and direct support professionals.

7 (D) To improve stability of home health
8 worker and direct support professional jobs, in-
9 cluding consistent hours, scheduling, pay, and
10 benefit eligibility.

11 (E) To provide home and community-based
12 services to eligible individuals who are on wait-
13 ing lists for programs approved under section
14 1115 or 1915 of the Social Security Act (42
15 U.S.C. 1315, 1396n).

16 (F) To purchase emergency supplies and
17 equipment, which may include items not typi-
18 cally covered under the Medicaid program, such
19 as personal protective equipment, necessary to
20 enhance access to services and to protect the
21 health and well-being of home health workers
22 and direct support professionals.

23 (G) To pay for the travel of home health
24 workers and direct support professionals to con-
25 duct home and community-based services.

1 (H) To recruit new home health workers
2 and direct support professionals.

3 (I) To support family care providers of eli-
4 gible individuals with needed supplies, equip-
5 ment, and services, which may include items
6 such as family caregiver pay and respite serv-
7 ices.

8 (J) To pay for training for home health
9 workers and direct support professionals.

10 (K) To pay for assistive technologies, staff-
11 ing, training to facilitate an eligible individual's
12 communication, and other costs incurred in
13 order to facilitate community integration and
14 ensure an individual's person-centered service
15 plan continues to be fully implemented.

16 (L) To prepare information and public
17 health and educational materials in accessible
18 formats (including formats accessible to people
19 with low literacy or intellectual disabilities)
20 about prevention, treatment, recovery and other
21 aspects of communicable diseases and threats to
22 the health of eligible individuals, their families,
23 and the general community served by agencies
24 described in subparagraph (A).

1 (M) To protect the health and safety of
2 home health workers and direct support profes-
3 sionals during public health emergencies and
4 natural disasters.

5 (N) To pay for interpreters to assist in
6 providing home and community-based services
7 to eligible individuals and to inform the general
8 public about communicable diseases and other
9 public health threats.

10 (O) To allow day services providers to pro-
11 vide home and community-based services.

12 (P) To pay for other expenses deemed ap-
13 propriate by the Secretary to enhance, expand,
14 or strengthen Home and Community-Based
15 Services, including retainer payments, and ex-
16 penses which meet the criteria of the home and
17 community-based settings rule published on
18 January 16, 2014.

19 (Q) To assist eligible individuals who had
20 to relocate to a nursing facility or institutional
21 setting from their homes in—

22 (i) moving back to their homes (in-
23 cluding by paying for moving costs, first
24 month's rent, and other one-time expenses
25 and start-up costs);

1 (ii) resuming home and community-
2 based services;

3 (iii) receiving mental health services
4 and necessary rehabilitative service to re-
5 gain skills lost while relocated; and

6 (iv) while funds attributable to the in-
7 creased FMAP under this section remain
8 available, continuing home and community-
9 based services for eligible individuals who
10 were served from a waiting list for such
11 services during the emergency period de-
12 scribed in section 1135(g)(1)(B) of the So-
13 cial Security Act (42 U.S.C. 1320b-
14 5(g)(1)(B)).

15 (e) REPORTING REQUIREMENTS.—

16 (1) STATE REPORTING REQUIREMENTS.—Not
17 later than December 31, 2027, any State with re-
18 spect to which an application is approved by the Sec-
19 retary pursuant to subsection (c) shall submit a re-
20 port to the Secretary that contains the following in-
21 formation:

22 (A) Activities and programs that were
23 funded using Federal funds attributable to such
24 increase.

1 (B) The number of eligible individuals who
2 were served by such activities and programs.

3 (C) The number of eligible individuals who
4 were able to resume home and community-
5 based services as a result of such activities and
6 programs.

7 (2) HHS EVALUATION.—

8 (A) IN GENERAL.—The Secretary shall
9 evaluate the implementation and outcomes of
10 this section in the aggregate using an external
11 evaluator with experience evaluating home and
12 community-based services, disability programs,
13 and older adult programs.

14 (B) EVALUATION CRITERIA.—For pur-
15 poses of subparagraph (A), the external eval-
16 uator shall—

17 (i) document and evaluate changes in
18 access, availability, and quality of home
19 and community-based services in each
20 HCBS program State;

21 (ii) document and evaluate aggregate
22 changes in access, availability, and quality
23 of home and community-based services
24 across all such States; and

1 (iii) evaluate the implementation and
2 outcomes of this section based on—

3 (I) the impact of this section on
4 increasing funding for home and com-
5 munity-based services;

6 (II) the impact of this section on
7 achieving targeted access, availability,
8 and quality of home and community-
9 based services; and

10 (III) promising practices identi-
11 fied by activities conducted pursuant
12 to subsection (d) that increase access
13 to, availability of, and quality of home
14 and community-based services.

15 (C) DISSEMINATION OF EVALUATION FIND-
16 INGS.—The Secretary shall—

17 (i) disseminate the findings from the
18 evaluations conducted under this para-
19 graph to—

20 (I) all State Medicaid directors;

21 and

22 (II) the Committee on Energy
23 and Commerce of the House of Rep-
24 resentatives, the Committee on Fi-
25 nance of the Senate, and the Special

1 Committee on Aging of the Senate;
2 and

3 (ii) make all evaluation findings pub-
4 licly available in an accessible electronic
5 format and any other accessible format de-
6 termined appropriate by the Secretary.

7 (D) OVERSIGHT.—Each State with respect
8 to which an application is approved by the Sec-
9 retary pursuant to subsection (c) shall ensure
10 adequate oversight of the expenditure of Fed-
11 eral funds pursuant to such increase in accord-
12 ance with the Medicaid regulations, including
13 sections 1115 and 1915 waiver regulations and
14 special terms and conditions for any relevant
15 waiver or grant program.

16 (3) NON-APPLICATION OF THE PAPERWORK RE-
17 DUCTION ACT.—Chapter 35 of title 44, United
18 States Code (commonly referred to as the “Paper-
19 work Reduction Act of 1995”), shall not apply to the
20 provisions of this subsection.

21 (f) ADDITIONAL DEFINITIONS.—In this section:

22 (1) ELIGIBLE INDIVIDUAL.—The term “eligible
23 individual” means an individual who is eligible for or
24 enrolled for medical assistance under a State Med-
25 icaid program.

1 (2) MEDICAID PROGRAM.—The term “Medicaid
2 program” means, with respect to a State, the State
3 program under title XIX of the Social Security Act
4 (42 U.S.C. 1396 et seq.) (including any waiver or
5 demonstration under such title or under section
6 1115 of such Act (42 U.S.C. 1315) relating to such
7 title).

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

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

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