

117TH CONGRESS
2D SESSION

H. R. 6636

To amend title XIX of the Social Security Act to remove the Medicaid coverage exclusion for inmates in custody pending disposition of charges, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 7, 2022

Mr. TRONE (for himself, Mr. EMMER, Mr. TURNER, Mr. TONKO, Mr. RUTHERFORD, Mr. BACON, Ms. UNDERWOOD, Ms. NORTON, Mr. MOULTON, Ms. KUSTER, Mr. CÁRDENAS, Ms. JACKSON LEE, and Mrs. BEATTY) 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 remove the Medicaid coverage exclusion for inmates in custody pending disposition of charges, 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 “Due Process Con-
5 tinuity of Care Act”.

1 **SEC. 2. REMOVAL OF INMATE LIMITATION ON BENEFITS**
2 **UNDER MEDICAID.**

3 (a) **IN GENERAL.**—The subdivision (A) of section
4 1905(a) of the Social Security Act (42 U.S.C. 1396d(a))
5 following paragraph (31) of such section is amended by
6 inserting “or, at the option of the State, while in custody
7 pending disposition of charges” after “patient in a medical
8 institution”.

9 (b) **EFFECTIVE DATE.**—The amendment made by
10 subsection (a) shall take effect on the 1st day of the 1st
11 calendar quarter that begins after the date that is 60 days
12 after the date of the enactment of this Act and shall apply
13 to items and services furnished for periods beginning on
14 or after such date.

15 **SEC. 3. PLANNING GRANTS.**

16 (a) **IN GENERAL.**—The Secretary shall award plan-
17 ning grants to at least 10 States to support providing
18 medical assistance under the State Medicaid program to
19 individuals who are eligible for such assistance as a result
20 of the amendment made by section 2(a). The grants shall
21 be used to prepare an application that meets the require-
22 ments of subsection (b).

23 (b) **APPLICATION REQUIREMENTS.**—In order to be
24 awarded a planning grant under this section, a State shall
25 submit an application to the Secretary at such time and
26 in such form and manner as the Secretary shall require,

1 that includes the following information along with such
2 additional information, provisions, and assurances, as the
3 Secretary may require:

4 (1) A proposed process for carrying out each of
5 the activities described in subsection (c) in the State.

6 (2) A review of State policies regarding the
7 population of individuals who are eligible for medical
8 assistance under the State Medicaid program as a
9 result of the amendment made by section 2(a) with
10 respect to whether such policies may create barriers
11 to increasing the number of health care providers
12 who can provide items and services for that popu-
13 lation.

14 (3) The development of a plan, taking into ac-
15 count activities described in subsection (c)(2), that
16 will ensure a sustainable number of Medicaid-en-
17 rolled providers under the State Medicaid program
18 that can offer a full array of treatment and services
19 to the patient population described in paragraph (2)
20 as needed. Such plan shall include the following:

21 (A) Specific activities to increase the num-
22 ber of providers that will offer physical health
23 treatment, as well as services related to behav-
24 ioral health treatment, including substance use
25 disorder treatment, recovery, or support serv-

1 ices (including short-term detoxification serv-
2 ices, outpatient substance use disorder services,
3 and evidence-based peer recovery services).

4 (B) Milestones and timeliness for imple-
5 menting activities set forth in the plan.

6 (C) Specific measurable targets for in-
7 creasing the number of providers under the
8 State Medicaid program who will treat the pa-
9 tient population described in paragraph (2).

10 (4) An assurance that the State consulted with
11 relevant stakeholders, including the State agency re-
12 sponsible for administering the State Medicaid pro-
13 gram, Medicaid managed care plans, health care
14 providers, law enforcement personnel, officials from
15 jails, and Medicaid beneficiary advocates, with re-
16 spect to the preparation and completion of the appli-
17 cation and a description of such consultation.

18 (c) ACTIVITIES DESCRIBED.—For purposes of sub-
19 section (b)(1), the activities described in this subsection
20 are the following:

21 (1) Activities that support the development of
22 an initial assessment of the health treatment needs
23 of patients who are in custody pending disposition of
24 charges to determine the extent to which providers
25 are needed (including the types of such providers

1 and geographic area of need) to improve the number
2 of providers that will treat patients in custody pend-
3 ing disposition of charges under the State Medicaid
4 program, including the following:

5 (A) An estimate of the number of individ-
6 uals enrolled under the State Medicaid program
7 who are in custody pending disposition of
8 charges.

9 (B) Information on the capacity of pro-
10 viders to provide treatment or services to such
11 individuals enrolled under the State Medicaid
12 program, including information on providers
13 who provide such services and their participa-
14 tion under the State Medicaid program.

15 (C) Information on the health care services
16 provided under programs other than the State
17 Medicaid program in jails to individuals who
18 are in custody pending disposition of charges.

19 (2) Activities that, taking into account the re-
20 sults of the assessment described in paragraph (1)
21 with respect to the provision of treatment or services
22 under the State Medicaid program, support the de-
23 velopment of State infrastructure to recruit or con-
24 tract with prospective health care providers, provide
25 training and technical assistance to such providers,

1 and secure a process for an electronic health record
2 system for billing to reimburse for services provided
3 by the correctional facility, outpatient providers,
4 medical vendors, and contracted telehealth service
5 providers to patients who are in custody pending dis-
6 position of charges that are compliant with applica-
7 ble requirements and regulations for State Medicaid
8 programs.

9 (3) Activities that ensure the quality of care for
10 patients who are in custody pending disposition of
11 charges, including formal reporting mechanisms for
12 patient outcomes, and activities that promote par-
13 ticipation in learning collaboratives among providers
14 treating this population.

15 (d) GEOGRAPHIC DIVERSITY.—The Secretary shall
16 select States for planning grants under this section in a
17 manner that ensures geographic diversity.

18 (e) FUNDING.—Out of any money in the Treasury
19 not otherwise appropriated, there are appropriated to the
20 Secretary to carry out this section, \$50,000,000, to re-
21 main available until expended.

22 (f) DEFINITIONS.—In this section:

23 (1) MEDICAID PROGRAM.—The term “Medicaid
24 program” means, with respect to a State, the State
25 program under title XIX of the Social Security Act

1 (42 U.S.C. 1396 et seq.) including any waiver or
2 demonstration under such title or under section
3 1115 of such Act (42 U.S.C. 1315) relating to such
4 title.

5 (2) SECRETARY.—The term “Secretary” means
6 the Secretary of Health and Human Services.

7 (3) STATE.—The term “State” has the mean-
8 ing given that term for purposes of title XIX of the
9 Social Security Act (42 U.S.C. 1396 et seq.) in sec-
10 tion 1101(a)(1) of such Act (42 U.S.C. 1301(a)(1)).

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