

118TH CONGRESS
1ST SESSION

H. R. 6675

To amend titles XIX and XXI of the Social Security Act to provide mental health and substance use services to incarcerated individuals, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 7, 2023

Ms. KUSTER (for herself and Mr. BACON) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To amend titles XIX and XXI of the Social Security Act to provide mental health and substance use services to incarcerated individuals, 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 “Rehabilitation and Re-
5 covery During Incarceration Act”.

1 **SEC. 2. MODIFYING MEDICAID AND CHIP EXCLUSIONS RE-**
2 **LATING TO INCARCERATED INDIVIDUALS TO**
3 **ALLOW FOR PROVISION OF MENTAL HEALTH**
4 **AND SUBSTANCE USE SERVICES.**

5 (a) MEDICAID OPTION.—

6 (1) IN GENERAL.—Section 1905(a) of the So-
7 cial Security Act (42 U.S.C. 1396d(a)) is amended,
8 in the subdivision (A) following paragraph (31), by
9 inserting “, or, at the option of the State, in the
10 case of an eligible inmate (as defined in paragraph
11 (4) of section 1902(nn)), with respect to mental
12 health and substance use services described in para-
13 graph (5) of such section” before “); or”.

14 (2) ELIGIBLE INMATE AND MENTAL HEALTH
15 AND SUBSTANCE USE SERVICES DEFINED.—Section
16 1902(nn) of the Social Security Act (42 U.S.C.
17 1396a(nn)) is amended—

18 (A) in the subsection header, by inserting
19 “; ELIGIBLE INMATE; MENTAL HEALTH AND
20 SUBSTANCE USE SERVICES” after “PUBLIC IN-
21 STITUTION”;

22 (B) in the matter preceding paragraph (1),
23 by striking “and this subsection” and inserting
24 “, this subsection, and the subdivision (A) fol-
25 lowing the last numbered paragraph of section
26 1905(a)”;

1 (C) by adding at the end the following new
2 paragraphs:

3 “(4) ELIGIBLE INMATE.—The term ‘eligible in-
4 mate’ means an individual of any age who is an in-
5 mate of a public institution and who—

6 “(A) was determined eligible for medical
7 assistance under the State plan immediately be-
8 fore becoming an inmate of such a public insti-
9 tution; or

10 “(B) is determined eligible for such med-
11 ical assistance while an inmate of a public insti-
12 tution.

13 “(5) MENTAL HEALTH AND SUBSTANCE USE
14 SERVICES.—The term ‘mental health and substance
15 use services’ means such services for the treatment
16 of a mental health condition or substance use dis-
17 order as the Secretary shall specify by regulation.”.

18 (b) CHIP OPTION.—

19 (1) IN GENERAL.—Section 2110(b)(7) of the
20 Social Security Act (42 U.S.C. 1397jj(b)(7)) is
21 amended—

22 (A) in the paragraph header, by striking
23 “EXCEPTION” and inserting “EXCEPTIONS”;

24 (B) by striking “In the case of” and in-
25 serting the following:

1 “(A) PROVISION OF SCREENING, DIAG-
2 NOSTIC, REFERRAL, AND CASE MANAGEMENT
3 SERVICES PRE-RELEASE.—In the case of”;

4 (C) by adding at the end the following new
5 subparagraph:

6 “(B) PROVISION OF MENTAL HEALTH AND
7 SUBSTANCE USE DISORDER SERVICES WHILE
8 AN INMATE.—

9 “(i) IN GENERAL.—In the case of a
10 child who is an eligible inmate, the child
11 shall not be considered to be described in
12 paragraph (2)(A) with respect to mental
13 health services and substance use disorder
14 services otherwise covered under the State
15 child health plan (or waiver of such plan).

16 “(ii) ELIGIBLE INMATE DEFINED.—
17 For purposes of this subparagraph, the
18 term ‘eligible inmate’ has the meaning
19 given that term in section 1902(nm)(4), ex-
20 cept that such section shall be applied
21 by—

22 “(I) substituting ‘child health as-
23 sistance’ for ‘medical assistance’ each
24 place it appears; and

1 “(II) by substituting ‘State child
2 health plan under title XXI’ for ‘State
3 plan’.”.

4 (2) TECHNICAL AMENDMENT.—

5 (A) IN GENERAL.—Section 5122(b) of divi-
6 sion FF of the Consolidated Appropriations
7 Act, 2023 (Public Law 117–328) is amended by
8 striking paragraph (1).

9 (B) EFFECTIVE DATE.—The amendment
10 made by this paragraph shall take effect as if
11 included in the enactment of the Consolidated
12 Appropriations Act, 2023 (Public Law 117–
13 328).

14 (c) INCREASED FEDERAL MATCH FOR MENTAL
15 HEALTH AND SUBSTANCE USE DISORDER SERVICES
16 FURNISHED TO INCARCERATED INDIVIDUALS.—

17 (1) MEDICAID.—Section 1905 of the Social Se-
18 curity Act (42 U.S.C. 1396d) is amended—

19 (A) in subsection (b), by striking “and
20 (ii)” and inserting “(ii), and (jj)”; and

21 (B) by adding at the end the following new
22 subsection:

23 “(jj) INCREASED FMAP FOR MENTAL HEALTH AND
24 SUBSTANCE USE SERVICES FURNISHED TO INMATES.—

1 “(1) IN GENERAL.—Notwithstanding any other
2 provision of this title except for paragraph (3), the
3 Federal medical assistance percentage for a State,
4 with respect to amounts expended by the State for
5 medical assistance for mental health and substance
6 use disorder services furnished to an eligible inmate
7 (as such terms are defined in section 1902(n))
8 shall be equal to 100 percent.

9 “(2) EXCLUSION OF EXPENDITURES FROM TER-
10 RITORIAL CAPS.—Any payment made to a territory
11 for expenditures for medical assistance that are sub-
12 ject to the Federal medical assistance percentage
13 specified under paragraph (1) shall not be taken into
14 account for purposes of applying payment limits
15 under subsections (f) and (g) of section 1108.

16 “(3) REQUIREMENT TO REINVEST ADDITIONAL
17 FUNDS.—As a condition for the receipt of the in-
18 crease under paragraph (1) to the Federal medical
19 assistance percentage of a State, the State shall
20 demonstrate to the satisfaction of the Secretary that
21 the State will use the Federal funds attributable to
22 such increase only for the following purposes:

23 “(A) To improve health information tech-
24 nology and data sharing between State Med-

1 icaid programs, jails and prisons, and commu-
2 nity-based providers and support organizations.

3 “(B) To increase the treatment capacity of
4 community-based providers who are particularly
5 attuned to, and able to serve, the specific needs
6 of individuals who are involved with the justice
7 system or at risk of becoming involved in the
8 justice system.

9 “(C) To expand or enhance community-
10 based reentry services and supports provided by
11 the State to incarcerated and formerly incarcer-
12 ated individuals, including services and supports
13 designed to meet the health-related social needs
14 of such individuals.”.

15 (2) CHIP.—

16 (A) IN GENERAL.—Section 2105 of the So-
17 cial Security Act (42 U.S.C. 1397ee) is amend-
18 ed—

19 (i) in subsection (b), by striking
20 “(11)” and inserting “(11), (12), and
21 (13)”; and

22 (ii) in subsection (c), by adding at the
23 end the following new paragraph:

1 “(13) ENHANCED PAYMENT FOR COVERAGE OF
2 MENTAL HEALTH AND SUBSTANCE USE DISORDER
3 SERVICES.—

4 “(A) IN GENERAL.—Notwithstanding sub-
5 section (b) and subject to subparagraph (B),
6 the enhanced FMAP for a State with respect to
7 payments under subsection (a) for expenditures
8 under the State child health plan (or a waiver
9 of such plan) for mental health or substance
10 use disorder services furnished to a targeted
11 low-income child or a targeted low-income preg-
12 nant woman who is an eligible inmate (as such
13 term is defined in section 2110(b)(7)(B)(ii))
14 shall be equal to 100 percent.

15 “(B) REQUIREMENT TO REINVEST ADDI-
16 TIONAL FUNDS.—The requirement described in
17 paragraph (3) of section 1905(jj) shall apply to
18 Federal funds attributable to an increase in the
19 enhanced Federal medical assistance percentage
20 of a State under subparagraph (A) in the same
21 manner as such requirement applies to Federal
22 funds attributable to an increase to the Federal
23 medical assistance percentage of a State under
24 paragraph (1) of such section.”.

1 (B) ADJUSTING STATE CHIP ALLOTMENTS
2 TO ACCOUNT FOR INCREASED PAYMENTS FOR
3 COVERAGE OF MENTAL HEALTH AND SUB-
4 STANCE USE SERVICES FURNISHED TO ELIGI-
5 BLE INMATES.—Section 2104(m) of the Social
6 Security Act (42 U.S.C. 1397dd(m)) is amend-
7 ed—

8 (i) in paragraph (2)(B), in the matter
9 preceding clause (i), by striking “and
10 (12)” and inserting “(12), and (13)”; and

11 (ii) by adding at the end the following
12 new paragraph:

13 “(13) ADJUSTING ALLOTMENTS TO ACCOUNT
14 FOR INCREASED FEDERAL PAYMENTS FOR COV-
15 ERAGE OF MENTAL HEALTH AND SUBSTANCE USE
16 SERVICES FOR ELIGIBLE INMATES.—If a State, com-
17 monwealth, or territory receives payment for a fiscal
18 year under subsection (a) of section 2105 for ex-
19 penditures that are subject to the enhanced FMAP
20 specified under subsection (c)(13) of such section,
21 the amount of the allotment determined for the
22 State, commonwealth, or territory under this sub-
23 section—

24 “(A) for such fiscal year shall be increased
25 by the projected expenditures for such year by

1 the State, commonwealth, or territory under the
2 State child health plan (or a waiver of such
3 plan) for mental health and substance use dis-
4 order services furnished to eligible inmates (as
5 defined in section 2110(b)(7)(B)(ii)); and

6 “(B) once actual expenditures are available
7 in the subsequent fiscal year, the fiscal year al-
8 lotment that was adjusted by the amount de-
9 scribed in subparagraph (A) shall be adjusted
10 on the basis of the difference between—

11 “(i) such projected amount of expend-
12 itures described in subparagraph (A) for
13 such fiscal year described in such subpara-
14 graph by the State, commonwealth, or ter-
15 ritory; and

16 “(ii) the actual amount of expendi-
17 tures for such fiscal year described in sub-
18 paragraph (A) by the State, common-
19 wealth, or territory under the State child
20 health plan (or waiver of such plan) for
21 mental health and substance use disorder
22 services furnished to eligible inmates (as
23 defined in section 2110(b)(7)(B)(ii)).”.

24 (d) CONFORMING AMENDMENTS.—

1 (1) Section 1905(a) of the Social Security Act
2 (42 U.S.C. 1396d(a)), as amended by subsection (a),
3 is amended, in the matter following paragraph (31),
4 by striking “set forth in the subdivision (B) fol-
5 lowing paragraph (30) of the first sentence of this
6 subsection” and inserting “set forth in the portion
7 of the first sentence of this subsection that follows
8 the last numbered paragraph of this subsection”.

9 (2) Section 5122(a)(1) of division FF of the
10 Consolidated Appropriations Act, 2023 (Public Law
11 117–328) is amended by striking “case manage-
12 ment” and inserting “targeted case management
13 services”.

14 (e) EFFECTIVE DATE.—

15 (1) IN GENERAL.—Except as provided in para-
16 graph (2), the amendments made by this section
17 shall apply with respect to medical assistance, child
18 health assistance, and pregnancy-related assistance
19 provided on or after January 1, 2023.

20 (2) EFFECTIVE DATE OF CONFORMING AMEND-
21 MENT.—The amendment made by paragraph (2) of
22 subsection (d) shall take effect as if included in the
23 enactment of the Consolidated Appropriations Act,
24 2023 (Public Law 117–328).

1 **SEC. 3. REPORT BY COMPTROLLER GENERAL.**

2 Not later than the date that is 5 years after the date
3 of enactment of this Act, the Comptroller General of the
4 United States shall submit to Congress a report con-
5 taining available information regarding incarcerated indi-
6 viduals that receive medical assistance or child health as-
7 sistance under a State plan under title XIX or XXI of
8 the Social Security Act (42 U.S.C. 1396 et seq., 1397aa
9 et seq.) (as applicable) as a result of a State electing to
10 provide coverage to eligible inmates pursuant to the
11 amendments to such titles made by section 2. The infor-
12 mation contained in the report may include information
13 such as the following:

14 (1) The number of such incarcerated individ-
15 uals.

16 (2) The access of such incarcerated individuals
17 to health care services, including specialty care, and
18 health care providers.

19 (3) The quality of health care services provided
20 to incarcerated individuals.

21 (4) Any impact of coverage under such a State
22 plan on recidivism.

23 (5) The percentage of such incarcerated individ-
24 uals who, upon release, are—

25 (A) enrolled under such a State plan;

1 (B) connected to a provider in their com-
2 munity of mental health, substance use dis-
3 order, or primary care services; and

4 (C) receiving medication-assisted treatment
5 for the treatment of a substance use disorder.

6 (6) Any other information the Comptroller Gen-
7 eral determines necessary regarding the health of in-
8 carcerated individuals.

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