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(Original Signature of Member)

119TH CONGRESS
2D SESSION

H. R. _____

To amend title XIX of the Social Security Act to establish a Medicaid State plan amendment option to provide medical assistance to individuals with a serious mental illness who are patients in certain institutions for mental diseases.

IN THE HOUSE OF REPRESENTATIVES

Mr. BENTZ introduced the following bill; which was referred to the Committee
on _____

A BILL

To amend title XIX of the Social Security Act to establish a Medicaid State plan amendment option to provide medical assistance to individuals with a serious mental illness who are patients in certain institutions for mental diseases.

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 “Individuals in Medicaid
5 Deserve Care that is Appropriate and Responsible in its
6 Execution Act” or the “IMD CARE Act”.

1 **SEC. 2. STATE PLAN AMENDMENT OPTION TO PROVIDE**
2 **MEDICAL ASSISTANCE TO INDIVIDUALS WITH**
3 **A SERIOUS MENTAL ILLNESS WHO ARE PA-**
4 **TIENTS IN CERTAIN INSTITUTIONS FOR MEN-**
5 **TAL DISEASES.**

6 (a) IN GENERAL.—Title XIX of the Social Security
7 Act (42 U.S.C. 1396 et seq.) is amended—

8 (1) in section 1905(a), in the subdivision (B)
9 that follows paragraph (32), by inserting “or section
10 1915(m)” after “described in section 1915(l)”; and

11 (2) in section 1915, by adding at the end the
12 following new subsection:

13 “(m) STATE PLAN AMENDMENT OPTION TO PRO-
14 VIDE MEDICAL ASSISTANCE FOR INDIVIDUALS WITH A
15 SERIOUS MENTAL ILLNESS WHO ARE PATIENTS IN CER-
16 TAIN INSTITUTIONS FOR MENTAL DISEASES.—

17 “(1) IN GENERAL.—With respect to calendar
18 quarters beginning on or after January 1, 2027, a
19 State may elect, through a State plan amendment,
20 to provide medical assistance for items and services
21 furnished to an eligible individual who is a patient
22 in an institution for mental diseases in accordance
23 with the requirements of this subsection.

24 “(2) PAYMENTS.—Subject to paragraphs (3)
25 and (4), amounts expended under a State plan
26 amendment under paragraph (1) for services de-

1 scribed in such paragraph furnished, with respect to
2 a 12-month period, to an eligible individual who is
3 a patient in an institution for mental diseases shall
4 be treated as medical assistance for which payment
5 is made under section 1903(a), but only to the ex-
6 tent that such services are furnished for not more
7 than a period of 30 days (whether or not consecu-
8 tive) during such 12-month period.

9 “(3) MAINTENANCE OF EFFORT.—

10 “(A) IN GENERAL.—As a condition for a
11 State receiving payments under section 1903(a)
12 for medical assistance provided in accordance
13 with this subsection, the State shall (during the
14 period in which it so furnished such medical as-
15 sistance through a State plan amendment under
16 this subsection) maintain on an annual basis a
17 level of funding expended by the State (and po-
18 litical subdivisions thereof) from non-Federal
19 funds for items and services (including services
20 described in subparagraph (B)) furnished to eli-
21 gible individuals in outpatient and community-
22 based settings that is not less than the level of
23 such funding for such items and services for fis-
24 cal year 2023.

1 “(B) SERVICES DESCRIBED.—For pur-
2 poses of subparagraph (A), services described in
3 this subparagraph are the following:

4 “(i) Outpatient and intensive out-
5 patient mental health and co-occurring
6 substance use disorder services, including
7 case management and care coordination
8 services.

9 “(ii) Assertive community treatment.

10 “(iii) Peer support and counselor serv-
11 ices.

12 “(iv) Outpatient medication-assisted
13 treatment, related therapies, and pharma-
14 cology.

15 “(v) Crisis mental health services and
16 substance use disorders services including
17 24 hours mobile crisis teams, crisis receiv-
18 ing and crisis stabilization including spe-
19 cialized programs for in-home stabilization
20 for children and adolescents.

21 “(vi) Psychiatric rehabilitation encom-
22 passing recovery support, supported em-
23 ployment and supportive housing.

1 “(vii) Services furnished by certified
2 community behavioral health clinics and
3 community mental health centers.

4 “(viii) Routine monitoring of medica-
5 tion adherence.

6 “(ix) Medication to treat mental ill-
7 ness.

8 “(x) Other outpatient and community-
9 based services as designated by the Sec-
10 retary.

11 “(C) STATE REPORTING REQUIREMENT.—

12 “(i) IN GENERAL.—Prior to approval
13 of a State plan amendment under this sub-
14 section, as a condition for a State receiving
15 payments under section 1903(a) for med-
16 ical assistance provided in accordance with
17 this subsection, the State shall report to
18 the Secretary, in accordance with the proc-
19 ess established by the Secretary under
20 clause (ii), the information deemed nec-
21 essary by the Secretary under such clause.

22 “(ii) PROCESS.—Not later than the
23 date that is 12 months after the date of
24 enactment of this subsection, the Secretary
25 shall establish a process for States to re-

1 port to the Secretary, at such time and in
2 such manner as the Secretary deems ap-
3 propriate, such information as the Sec-
4 retary deems necessary to verify a State's
5 compliance with subparagraph (A).

6 “(4) ENSURING A CONTINUUM OF SERVICES.—

7 “(A) IN GENERAL.—As a condition for a
8 State receiving payments under section 1903(a)
9 for medical assistance provided in accordance
10 with this subsection, the State shall carry out
11 each of the requirements described in subpara-
12 graphs (B) through (J).

13 “(B) NOTIFICATION.—The State shall re-
14 quire providers, managed care plans, and utili-
15 zation review entities to implement specified
16 evidence-based, individual placement criteria
17 and utilization management approaches devel-
18 oped by stakeholders using a consensus-based
19 process to ensure placement of eligible individ-
20 uals in an appropriate level of care, including
21 criteria and approaches to ensure that eligible
22 individuals receive appropriate evidence-based
23 clinical screening prior to being furnished with
24 items and services in an institution for mental
25 diseases, including initial and periodic assess-

1 ments to determine the appropriate level of
2 care, length of stay, and setting for such care
3 for each individual. The State shall notify the
4 Secretary at such time and in such form and
5 manner as the Secretary shall require how the
6 State will require and implement such place-
7 ment criteria and utilization management ap-
8 proaches.

9 “(C) TRANSITION OF CARE.—In order to
10 ensure an appropriate transition for an eligible
11 individual from receiving care in an institution
12 for mental diseases to receiving care at a lower
13 level of clinical intensity within the continuum
14 of care (including outpatient services), the State
15 shall ensure that—

16 “(i) a placement in such institution
17 for mental diseases would allow for an eli-
18 gible individual’s successful transition to
19 the community, considering such factors as
20 proximity to an individual’s support net-
21 work (such as family members, employ-
22 ment, and counseling and other services
23 near an individual’s residence);

24 “(ii) enrollees are connected with com-
25 munity-based providers as they prepare to

1 transition out of an institution for mental
2 diseases by covering services provided by
3 these community-based providers to enroll-
4 ees while they are still residing in the insti-
5 tution for mental diseases or by encour-
6 aging institutions for mental diseases to
7 hire peer support specialists to assist with
8 the transition and discharge process and
9 ensure enrollees are connected with pro-
10 viders and other resources in their commu-
11 nities after they leave the institution;

12 “(iii) institutions for mental diseases
13 assess whether enrollees have access to
14 housing as they are transitioning out and
15 connect such individuals with community
16 providers that coordinate housing services;
17 and

18 “(iv) all institutions for mental dis-
19 eases that furnish items and services to in-
20 dividuals for which medical assistance is
21 provided under the State plan—

22 “(I) are able to provide care at
23 such lower level of clinical intensity;

24 “(II) have an established rela-
25 tionship with another facility or pro-

1 vider that is able to provide care at
2 such lower level of clinical intensity
3 and accepts patients receiving medical
4 assistance under this title such that
5 the institution for mental diseases
6 may arrange for individuals to receive
7 such care from such other facility or
8 provider upon transitioning out of
9 that institution for mental diseases; or

10 “(III) ensure implementation of
11 protocols requiring that contact is
12 made by the institution for mental
13 diseases with each discharged bene-
14 ficiary within 72 hours of discharge
15 and to ensure access to and engage-
16 ment in follow-up care.

17 “(D) REVIEW PROCESS.—The State shall
18 have in place a process to review the compliance
19 of institutions for mental diseases with such
20 program standards specified by the State en-
21 compassing licensing requirements, auditing
22 processes, utilization review processes and Fed-
23 eral program integrity requirements.

24 “(E) CARE FOR CO-MORBID CONDI-
25 TIONS.—The State shall implement a require-

1 ment that institutions for mental diseases also
2 screen enrollees for co-morbid physical health
3 conditions and substance use disorders and sui-
4 cidal ideation and provide for treatment either
5 on-site or via partnerships with local providers
6 for any identified co-occurring conditions.

7 “(F) CARE CONTINUUM ASSESSMENT.—

8 “(i) IN GENERAL.—The State shall,
9 as part of its application for approval of a
10 State plan amendment described in this
11 subsection, complete and submit an assess-
12 ment of the availability of outpatient and
13 community based behavioral health services
14 for individuals enrolled under a State plan
15 under this title (or waiver of such plan) in
16 each level of care, including how such
17 availability varies by region of the State.

18 “(ii) REQUIRED UPDATES.—The State
19 shall complete an update of such assess-
20 ment described in clause (i) not later than
21 12 months after date the State commences
22 such assessment.

23 “(G) FINANCING PLAN.—The State shall
24 consult with the Secretary in succeeding years
25 regarding financing plans to increase the avail-

1 ability of services listed in paragraph (3)(B)
2 where feasible.

3 “(H) COORDINATION.—The State shall im-
4 plement strategies to improve data-sharing be-
5 tween different types of providers (such as men-
6 tal health, substance use disorder, and physical
7 health providers) and different settings of care
8 (such as hospitals, emergency departments, cri-
9 sis stabilization providers, community-based
10 treatment providers) as well as strategies to im-
11 prove the State’s capacity to track availability
12 of treatment and crisis stabilization beds and
13 capacity of mental health providers to accept
14 new patients.

15 “(I) CONNECTIONS.—The State shall im-
16 plement strategies to decrease use of emergency
17 departments by enrollees with serious mental
18 illness primarily in need of mental health treat-
19 ment, including by supporting peer supports
20 and psychiatric consultants in emergency de-
21 partments to improve connections with services
22 and resources.

23 “(J) INTEGRATION AND ENGAGEMENT.—
24 The State shall take actions to increase integra-
25 tion of mental health and substance use dis-

1 order treatment in non-specialty care settings
2 including schools, primary care practices, and
3 emergency departments as well as additional
4 strategies to support earlier identification and
5 engagement in treatment among youth with se-
6 rious mental health conditions including
7 through supported education and supported em-
8 ployment programs.

9 “(5) APPLICATION TO MANAGED CARE.—Pay-
10 ments for, and limitations to, medical assistance fur-
11 nished in accordance with this subsection shall be in
12 addition to and shall not be construed to limit or su-
13 persede the ability of States to make monthly capita-
14 tion payments to managed care organizations for in-
15 dividuals receiving treatment in institutions for men-
16 tal diseases in accordance with section 438.6(e) of
17 title 42, Code of Federal Regulations (or any suc-
18 cessor regulation).

19 “(6) OTHER MEDICAL ASSISTANCE.—The provi-
20 sion of medical assistance for items and services fur-
21 nished to an eligible individual who is a patient in
22 an institution for mental diseases in accordance with
23 the requirements of this subsection shall not prohibit
24 Federal financial participation for medical assistance
25 for items or services that are provided to such eligi-

1 ble individual in or away from the institution for
2 mental disease during any period in which the eligi-
3 ble individual is receiving items or services in ac-
4 cordance with this subsection.

5 “(7) DEFINITIONS.—In this subsection:

6 “(A) ELIGIBLE INDIVIDUAL.—The term
7 ‘eligible individual’ means an individual who—

8 “(i) with respect to a State, is en-
9 rolled for medical assistance under the
10 State plan or a waiver of such plan;

11 “(ii) is at least 21 years of age;

12 “(iii) has not attained 65 years of
13 age; and

14 “(iv) has at least 1 mental disorder
15 defined in the most recent version of the
16 American Psychiatric Association Diag-
17 nostic and Statistical Manual.

18 “(B) INSTITUTION FOR MENTAL DIS-
19 EASES.—The term ‘institution for mental dis-
20 eases’ has the meaning given that term in sec-
21 tion 1905(i).”.

22 (b) RULE OF CONSTRUCTION.—Nothing in the
23 amendments made by subsection (a) shall be construed as
24 encouraging a State to place an individual in an inpatient
25 or a residential care setting where a home or community-

1 based care setting would be more appropriate for the indi-
2 vidual, or as preventing a State from conducting or pur-
3 suing a demonstration project under section 1115 of the
4 Social Security Act to improve access to, and the quality
5 of care for enrollees with serious mental illness or serious
6 emotional disturbance.