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115TH CONGRESS
2D SESSION

H. R. 5605

To amend title XVIII of the Social Security Act to provide for an opioid use disorder treatment demonstration program.

IN THE HOUSE OF REPRESENTATIVES

APRIL 24, 2018

Mr. RUIZ introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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A BILL

To amend title XVIII of the Social Security Act to provide for an opioid use disorder treatment demonstration program.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Advancing High Quality Treatment for Opioid Use Disorders in Medicare Act".

SEC. 2. OPIOID USE DISORDER TREATMENT DEMONSTRATION PROGRAM.

Title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) is amended by inserting after section 1866E (42 U.S.C. 1395cc–5) the following new section:

"SEC. 1866F. OPIOID USE DISORDER TREATMENT DEMONSTRATION PROGRAM.

''(a) IMPLEMENTATION OF 5-YEAR DEMONSTRATION PROGRAM.—

''(1) IN GENERAL.—Not later than January 1, 2021, the Secretary shall implement a 5-year demonstration program under this title (in this section referred to as the 'Program') to increase access of applicable beneficiaries to opioid use disorder treatment services, improve physical and mental health outcomes for such beneficiaries, and to the extent possible, reduce expenditures under this title. Under the Program, the Secretary shall make payments under subsection (f) to participating care teams (as defined in subsection (c)(1)(A)) for providing opioid use disorder treatment services to applicable beneficiaries participating under the Program.

''(2) OPIOID USE DISORDER TREATMENT SERVICES.—For purposes of this section, the term 'opioid use disorder treatment services'—

''(A) means, with respect to an applicable beneficiary, services that are furnished for the treatment of opioid use disorders in an outpatient setting and—

''(i) which are supported by the per applicable beneficiary per month care management fee under subsection (f); or

''(ii) for which payment may otherwise be made under this title; and

''(B) includes—

''(i) medication assisted treatment;

''(ii) treatment planning;

''(iii) appropriate outpatient psychiatric, psychological, or counseling services (or any combination of such services);

''(iv) appropriate social support services; and

''(v) care management and care coordination of opioid use disorder services, as well as coordination with other physicians and providers treating the mental and physical conditions of such beneficiary.

''(b) PROGRAM DESIGN.—

''(1) IN GENERAL.—The Secretary shall design the Program in such a manner to evaluate the ex-

tent to which the Program accomplishes the following purposes:

''(A) Reduces hospitalizations and emergency department visits.

''(B) Reduces the occurrence of overdoses from opioids, including prescription opioid medications as well as illicit opioids.

''(C) Increases use of medication-assisted treatment for opioid use disorders.

''(D) Improves health outcomes of individuals with opioid use disorders, including by reducing the incidence of infectious diseases (such as hepatitis C and HIV).

''(E) Does not increase the total spending on health care services under this title.

''(F) Reduces deaths from opioid poisoning.

''(G) Reduces the utilization of inpatient residential treatment.

''(2) CONSULTATION.—In designing the Program, the Secretary shall, not later than 3 months after the date of the enactment of this section, consult with specialists in the field of addiction and clinicians in the primary care community.

''(c) PARTICIPATING CARE TEAMS.—

''(1) DEFINITION; SELECTION.—

''(A) DEFINITION.—In this section, the term 'participating care team' means an opioid use disorder care team (as defined in paragraph (2)) that is participating under the Program pursuant to selection by the Secretary under subparagraph (B).

''(B) SELECTION.—Under the Program, the Secretary shall provide for a process for opioid use disorder care teams to apply for participation under the Program as participating care teams and for selecting such teams for such participation.

''(C) PREFERENCE.—In selecting opioid use disorder care teams under subparagraph (B) for participation under the Program, the Secretary shall give preference to opioid use disorder care teams that are located in areas with a prevalence of opioid use disorders that is higher than the national average prevalence, as measured by aggregate overdoses of opioids, or any other measure that the Secretary deems appropriate.

''(2) OPIOID USE DISORDER CARE TEAMS.—

''(A) IN GENERAL.—For purposes of this section, the term 'opioid use disorder care team' means a group of health care practitioners, or an entity employing or contracting with such health care practitioners, that—

''(i) includes at least one physician who is providing primary care services or addiction treatment services to an applicable beneficiary during the period in which the opioid use disorder care team is receiving payments under subsection (f);

''(ii) includes at least one eligible practitioner (as defined in paragraph (3)(A)), who may be a physician who meets the criterion in clause (i); and

''(iii) includes other practitioners—

''(I) as necessary to deliver appropriate psychiatric, psychological, counseling, and social services to applicable beneficiaries in addition to the services delivered by the eligible practitioner; and

''(II) who only perform services that such practitioners are legally authorized to perform under State law.

"(B) REQUIREMENTS FOR PARTICIPATION.—In order for an opioid use disorder care team to participate in the Program as a participating care team, each of the practitioners participating on the team shall agree to—

"(i) deliver opioid use disorder treatment services to applicable beneficiaries who agree to receive the services;

"(ii) meet minimum standards for quality required by the Program; and

"(iii) submit to the Secretary, with respect to each applicable beneficiary for whom such practitioner provides opioid use disorder treatment services, data with respect to the quality standards and the measures defined in subsection (d) and such other information as the Secretary determines appropriate to monitor and evaluate the Program and to determine the performance of each practitioner for purposes of the incentive payment under subsection (f), in such form, manner, and frequency as specified by the Secretary.

''(3) ELIGIBLE PRACTITIONERS; OTHER PROVIDER-RELATED DEFINITIONS AND APPLICATION PROVISIONS.—

''(A) ELIGIBLE PRACTITIONERS.—For purposes of this section, the term 'eligible practitioner' means, with respect to an applicable beneficiary, a provider of services that—

''(i) participates in the Medicare program under this title;

''(ii)(I) is authorized to prescribe or dispense narcotic drugs to individuals for maintenance treatment or detoxification treatment; and

''(II) has in effect a registration or waiver in accordance with section 303(g) of the Controlled Substances Act for such purpose and is otherwise in compliance with regulations promulgated by the Substance Abuse and Mental Health Services Administration to carry out such section; and

''(iii) with respect to furnishing opioid use disorder treatment services to the applicable beneficiary, participates in an

opioid use disorder care team, which is a participating care team.

''(B) ADDICTION SPECIALISTS.—For purposes of paragraph (2)(C), the term 'addiction specialist' means a physician that possesses expert knowledge and skills in addiction medicine, as evidenced by—

''(i) certification by the American Society of Addiction Medicine or the American Board of Addiction Medicine;

''(ii) subspecialty certification in addiction medicine by the American Board of Preventive Medicine;

''(iii) subspecialty certification in addiction psychiatry by the American Board of Psychiatry and Neurology;

''(iv) a certificate of added qualification in addiction medicine conferred by the American Osteopathic Association; or

''(v) completion of an accredited residency or fellowship in addiction medicine or addiction psychiatry.

''(d) QUALITY AND OTHER REPORTING REQUIREMENTS.—

''(1) ADOPTION AND DEVELOPMENT OF STANDARDS AND PERFORMANCE MEASURES.—Not later than 9 months after the date of the enactment of this section, the Secretary, in conjunction with stakeholders (including clinicians in the primary care community and the field of addiction medicine), shall adopt or develop (or an appropriate entity with which the Secretary contracts shall develop) quality standards and methods of assessing the quality of care to ensure a minimum level of quality of care and to determine whether the services furnished by participating care teams are achieving the purposes described in subsection (b)(1). For purposes of adopting or developing standards for payments under subsection (f)(1) and for purposes of adopting or developing methods for assessing performance for the incentive payments under subsection (f)(2), the Secretary may consider existing clinical guidelines for the treatment of opioid use disorders and standards or measures applied for use under the Medicaid program under title XIX. Standards and assessment methods shall address the following outcomes and performance criteria:

''(A) Patient engagement in treatment.

''(B) Retention in treatment.

''(C) Provision of evidence-based medication-assisted treatment.

''(D) Any other criteria the Secretary deems appropriate.

''(2) SUBMISSION.—Each participating care team shall submit to the Secretary, in such form, manner, and frequency specified by the Secretary, data with respect to such standards and assessment methods and such other information as the Secretary determines appropriate to monitor and evaluate the Program and to determine the performance of such team for purposes of the incentive payment under subsection (f)(2).

''(e) PARTICIPATION OF APPLICABLE BENEFICIARIES.—

''(1) APPLICABLE BENEFICIARY DEFINED.—In this section, the term 'applicable beneficiary' means an individual who—

''(A) is entitled to benefits under part A and enrolled for benefits under part B;

''(B) is not enrolled in a Medicare Advantage plan under part C;

''(C) has a diagnosis for an opioid use disorder; and

''(D) meets such other criteria as the Secretary determines appropriate.

Such term shall include an individual who is dually eligible for benefits under this title and title XIX if such individual satisfies the criteria described in subparagraphs (A) through (D).

''(2) VOLUNTARY PARTICIPATION.—An applicable beneficiary may participate in the Program on a voluntary basis and may terminate participation in the Program at any time.

''(3) SERVICES.—In order to participate in the Program, an applicable beneficiary must agree to receive opioid use disorder treatment services from a participating care team. An applicable beneficiary may only receive services supported by the Program from one participating care team during any one calendar month. Participation under the Program shall not affect coverage of or payment for any other item or service under this title for the applicable beneficiary.

''(4) BENEFICIARY ACCESS TO SERVICES.—Nothing in this section shall be construed as encouraging providers to limit applicable beneficiary access to services covered under this title and applicable beneficiaries shall not be required to relinquish ac-

cess to any benefit under this title as a condition of receiving services from a participating care team.

''(f) PAYMENTS.—

''(1) PER APPLICABLE BENEFICIARY PER MONTH CARE MANAGEMENT FEE.—

''(A) IN GENERAL.—The Secretary shall establish a schedule of per applicable beneficiary per month care management fees. Such a per applicable beneficiary per month care management fee shall be paid to a participating care team in addition to any other amount otherwise payable under this title to the practitioners participating with the team or, if applicable, the entity with respect to such team employing or contracting with such practitioners. A participating care team may use such per applicable beneficiary per month care management fee to deliver additional services to applicable beneficiaries, including services not otherwise eligible for payment under this title.

''(B) APPLICATION.—In carrying out subparagraph (A), the Secretary shall—

''(i) consider the costs that participating care teams are expected to incur in delivering high-quality opioid use disorder

care services that are not covered by payments otherwise payable to the teams under this title;

''(ii) pay a higher per applicable beneficiary per month care management fee for an applicable beneficiary who receives more intensive treatment services from a participating care team and who is appropriate for such services based on clinical guidelines for opioid use disorder care;

''(iii) pay a higher per applicable beneficiary per month care management fee for the month in which the applicable beneficiary begins treatment with a participating care team than in subsequent months, to reflect the greater time and costs required for the team to plan and initiate treatment, as compared to maintenance of treatment; and

''(iv) pay higher per applicable beneficiary per month care management fees for participating care teams that include an addiction specialist who is either delivering services directly to applicable beneficiaries or providing consulting support to

those practitioners participating with such teams who are delivering services to applicable beneficiaries.

''(2) INCENTIVE PAYMENTS.—Under the Program, the Secretary shall establish a performance-based incentive payment, which shall be paid to participating care teams based on the performance of such teams with respect to standards and assessment methods adopted or developed by the Secretary under subsection (d) and with respect to which the teams report under such subsection.

''(g) MULTIPAYER STRATEGY.—In carrying out the Program, the Secretary shall encourage other payers to provide similar payments and to use similar quality standards and methods of assessment as applied under the Program. The Secretary may enter into a memorandum of understanding with other payers to align the methodology for payment provided by such a payer related to opioid use disorder treatment services with such methodology for payment under the Program.

''(h) EVALUATION.—

''(1) IN GENERAL.—The Comptroller General of the United States shall conduct an intermediate and final evaluation of the program. Each such evaluation shall determine the extent to which each of the

purposes described in subsection (b) have been accomplished under the Program. Each evaluation shall also determine the extent to which the structure and requirements of the Program facilitated or impeded the participation of practitioners in the program, the participation of beneficiaries with opioid use disorder, and the delivery of high-quality opioid use disorder treatment services.

''(2) REPORTS.—The Comptroller General of the United States shall submit to the Secretary and Congress—

''(A) a report with respect to the intermediate evaluation under paragraph (1) not later than 3 years after the date of the implementation of the Program; and

''(B) a report with respect to the final evaluation under paragraph (1) not later than 6 years after such date.

''(i) FUNDING.—

''(1) ADMINISTRATIVE FUNDING.—For the purposes of implementing, administering, and carrying out the Program (other than for purposes described in paragraph (2)), there shall be transferred to the Secretary for the Center for Medicare & Medicaid Services Program Management Account from the

Federal Supplementary Medical Insurance Trust Fund under section 1841 $5,000,000.

''(2) CARE MANAGEMENT FEES AND INCENTIVES.—For the purposes of payments under subsection (f), there shall be transferred to the Secretary such sums as are necessary from the Federal Supplementary Medical Insurance Trust Fund under section 1841 for each of fiscal years 2021 through 2025.

''(3) AVAILABILITY.—Amounts transferred under this subsection for a fiscal year shall be available until expended.

''(j) WAIVERS.—The Secretary may waive any provision of this title that conflicts with or impedes the implementation of the provisions of this section.''.

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