

Union Calendar No. 566

115TH CONGRESS
2D SESSION

H. R. 5477

[Report No. 115–731]

To amend title XIX of the Social Security Act to provide for a demonstration project to increase substance use provider capacity under the Medicaid program.

IN THE HOUSE OF REPRESENTATIVES

APRIL 11, 2018

Mr. O'HALLERAN introduced the following bill; which was referred to the Committee on Energy and Commerce

JUNE 12, 2018

Additional sponsors: Mrs. BLACKBURN, Mr. WALDEN, and Mr. MITCHELL

JUNE 12, 2018

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italie*]

[For text of introduced bill, see copy of bill as introduced on April 11, 2018]

A BILL

To amend title XIX of the Social Security Act to provide for a demonstration project to increase substance use provider capacity under the Medicaid program.

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 “Rural Development of*
 5 *Opioid Capacity Services Act” or the “Rural DOCS Act”.*

6 **SEC. 2. DEMONSTRATION PROJECT TO INCREASE SUB-**
 7 **STANCE USE PROVIDER CAPACITY UNDER**
 8 **THE MEDICAID PROGRAM.**

9 *Section 1903 of the Social Security Act (42 U.S.C.*
 10 *1396b) is amended by adding at the end the following new*
 11 *subsection:*

12 “(aa) *DEMONSTRATION PROJECT TO INCREASE SUB-*
 13 *STANCE USE PROVIDER CAPACITY.*—

14 “(1) *IN GENERAL.*—Not later than the date that
 15 *is 180 days after the date of the enactment of this sec-*
 16 *tion, the Secretary shall, in consultation, as appro-*
 17 *priate, with the Director of the Agency for Healthcare*
 18 *Research and Quality and the Assistant Secretary for*
 19 *Mental Health and Substance Use, conduct a 5-year*
 20 *demonstration project for the purpose described in*
 21 *paragraph (2) under which the Secretary shall—*

22 “(A) *for the first 18-month period of such*
 23 *project, award planning grants described in*
 24 *paragraph (3); and*

1 “(B) for the remaining 42-month period of
2 such project, provide to each State selected under
3 paragraph (4) payments in accordance with
4 paragraph (5).

5 “(2) *PURPOSE.*—The purpose described in this
6 paragraph is for each State selected under paragraph
7 (4) to increase the treatment capacity of providers
8 participating under the State plan (or a waiver of
9 such plan) to provide substance use disorder treat-
10 ment or recovery services under such plan (or waiver)
11 through the following activities:

12 “(A) For the purpose described in para-
13 graph (3)(C)(i), activities that support an ongo-
14 ing assessment of the behavioral health treatment
15 needs of the State, taking into account the mat-
16 ters described in subclauses (I) through (IV) of
17 such paragraph.

18 “(B) Activities that, taking into account the
19 results of the assessment described in subpara-
20 graph (A), support the recruitment, training,
21 and provision of technical assistance for pro-
22 viders participating under the State plan (or a
23 waiver of such plan) that offer substance use dis-
24 order treatment or recovery services.

1 “(C) *Improved reimbursement for and ex-*
2 *pansion of, through the provision of education,*
3 *training, and technical assistance, the number or*
4 *treatment capacity of providers participating*
5 *under the State plan (or waiver) that—*

6 “(i) *are authorized to dispense drugs*
7 *approved by the Food and Drug Adminis-*
8 *tration for individuals with a substance use*
9 *disorder who need withdrawal management*
10 *or maintenance treatment for such disorder;*

11 “(ii) *have in effect a registration or*
12 *waiver under section 303(g) of the Con-*
13 *trolled Substances Act for purposes of dis-*
14 *persing narcotic drugs to individuals for*
15 *maintenance treatment or detoxification*
16 *treatment and are in compliance with any*
17 *regulation promulgated by the Assistant*
18 *Secretary for Mental Health and Substance*
19 *Use for purposes of carrying out the re-*
20 *quirements of such section 303(g); and*

21 “(iii) *are qualified under applicable*
22 *State law to provide substance use disorder*
23 *treatment or recovery services.*

24 “(D) *Improved reimbursement for and ex-*
25 *pansion of, through the provision of education,*

1 *training, and technical assistance, the number or*
2 *treatment capacity of providers participating*
3 *under the State plan (or waiver) that have the*
4 *qualifications to address the treatment or recov-*
5 *ery needs of—*

6 “(i) *individuals enrolled under the*
7 *State plan (or a waiver of such plan) who*
8 *have neonatal abstinence syndrome, in ac-*
9 *cordance with guidelines issued by the*
10 *American Academy of Pediatrics and Amer-*
11 *ican College of Obstetricians and Gyne-*
12 *cologists relating to maternal care and in-*
13 *fant care with respect to neonatal absti-*
14 *nence syndrome;*

15 “(ii) *pregnant women, postpartum*
16 *women, and infants, particularly the con-*
17 *current treatment, as appropriate, and com-*
18 *prehensive case management of pregnant*
19 *women, postpartum women and infants, en-*
20 *rolled under the State plan (or a waiver of*
21 *such plan);*

22 “(iii) *adolescents and young adults be-*
23 *tween the ages of 12 and 21 enrolled under*
24 *the State plan (or a waiver of such plan);*
25 *or*

1 “(iv) *American Indian and Alaska Na-*
2 *tive individuals enrolled under the State*
3 *plan (or a waiver of such plan).*

4 “(3) *PLANNING GRANTS.*—

5 “(A) *IN GENERAL.*—*The Secretary shall,*
6 *with respect to the first 18-month period of the*
7 *demonstration project conducted under para-*
8 *graph (1), award planning grants to at least 10*
9 *States selected in accordance with subparagraph*
10 *(B) for purposes of preparing an application de-*
11 *scribed in paragraph (4)(C) and carrying out*
12 *the activities described in subparagraph (C).*

13 “(B) *SELECTION.*—*In selecting States for*
14 *purposes of this paragraph, the Secretary shall—*

15 “(i) *select States that have a State*
16 *plan (or waiver of the State plan) approved*
17 *under this title;*

18 “(ii) *select States in a manner that en-*
19 *sures geographic diversity; and*

20 “(iii) *give preference to States with a*
21 *prevalence of substance use disorders (in*
22 *particular opioid use disorders) that is com-*
23 *parable to or higher than the national aver-*
24 *age prevalence, as measured by aggregate*
25 *per capita drug overdoses, or any other*

1 *measure that the Secretary deems appro-*
2 *priate.*

3 “(C) *ACTIVITIES DESCRIBED.—Activities*
4 *described in this subparagraph are, with respect*
5 *to a State, each of the following:*

6 “(i) *Activities that support the develop-*
7 *ment of an initial assessment of the behav-*
8 *ioral health treatment needs of the State to*
9 *determine the extent to which providers are*
10 *needed (including the types of such pro-*
11 *viders and geographic area of need) to im-*
12 *prove the network of providers that treat*
13 *substance use disorders under the State plan*
14 *(or waiver), including the following:*

15 “(I) *An estimate of the number of*
16 *individuals enrolled under the State*
17 *plan (or a waiver of such plan) who*
18 *have a substance use disorder.*

19 “(II) *Information on the capacity*
20 *of providers to provide substance use*
21 *disorder treatment or recovery services*
22 *to individuals enrolled under the State*
23 *plan (or waiver), including informa-*
24 *tion on providers who provide such*

1 *services and their participation under*
2 *the State plan (or waiver).*

3 *“(III) Information on the gap in*
4 *substance use disorder treatment or re-*
5 *covery services under the State plan*
6 *(or waiver) based on the information*
7 *described in subclauses (I) and (II).*

8 *“(IV) Projections regarding the*
9 *extent to which the State participating*
10 *under the demonstration project would*
11 *increase the number of providers offer-*
12 *ing substance use disorder treatment or*
13 *recovery services under the State plan*
14 *(or waiver) during the period of the*
15 *demonstration project.*

16 *“(ii) Activities that, taking into ac-*
17 *count the results of the assessment described*
18 *in clause (i), support the development of*
19 *State infrastructure to, with respect to the*
20 *provision of substance use disorder treat-*
21 *ment or recovery services under the State*
22 *plan (or a waiver of such plan), recruit*
23 *prospective providers and provide training*
24 *and technical assistance to such providers.*

1 “(D) *FUNDING.*—For purposes of subpara-
2 graph (A), there is appropriated, out of any
3 funds in the Treasury not otherwise appro-
4 priated, \$50,000,000, to remain available until
5 expended.

6 “(4) *POST-PLANNING STATES.*—

7 “(A) *IN GENERAL.*—The Secretary shall,
8 with respect to the remaining 42-month period of
9 the demonstration project conducted under para-
10 graph (1), select not more than 5 States in ac-
11 cordance with subparagraph (B) for purposes of
12 carrying out the activities described in para-
13 graph (2) and receiving payments in accordance
14 with paragraph (5).

15 “(B) *SELECTION.*—In selecting States for
16 purposes of this paragraph, the Secretary shall—

17 “(i) select States that received a plan-
18 ning grant under paragraph (3);

19 “(ii) select States that submit to the
20 Secretary an application in accordance
21 with the requirements in subparagraph (C),
22 taking into consideration the quality of each
23 such application;

24 “(iii) select States in a manner that
25 ensures geographic diversity; and

1 “(iv) give preference to States with a
2 prevalence of substance use disorders (in
3 particular opioid use disorders) that is com-
4 parable to or higher than the national aver-
5 age prevalence, as measured by aggregate
6 per capita drug overdoses, or any other
7 measure that the Secretary deems appro-
8 priate.

9 “(C) APPLICATIONS.—

10 “(i) IN GENERAL.—A State seeking to
11 be selected for purposes of this paragraph
12 shall submit to the Secretary, at such time
13 and in such form and manner as the Sec-
14 retary requires, an application that in-
15 cludes such information, provisions, and as-
16 surances, as the Secretary may require, in
17 addition to the following:

18 “(I) A proposed process for car-
19 rying out the ongoing assessment de-
20 scribed in paragraph (2)(A), taking
21 into account the results of the initial
22 assessment described in paragraph
23 (3)(C)(i).

24 “(II) A review of reimbursement
25 methodologies and other policies related

1 *to substance use disorder treatment or*
2 *recovery services under the State plan*
3 *(or waiver) that may create barriers to*
4 *increasing the number of providers de-*
5 *livering such services.*

6 *“(III) The development of a plan,*
7 *taking into account activities carried*
8 *out under paragraph (3)(C)(ii), that*
9 *will result in long-term and sustain-*
10 *able provider networks under the State*
11 *plan (or waiver) that will offer a con-*
12 *tinuum of care for substance use dis-*
13 *orders. Such plan shall include the fol-*
14 *lowing:*

15 *“(aa) Specific activities to*
16 *increase the number of providers*
17 *(including providers that spe-*
18 *cialize in providing substance use*
19 *disorder treatment or recovery*
20 *services, hospitals, health care sys-*
21 *tems, Federally qualified health*
22 *centers, and, as applicable, cer-*
23 *tified community behavioral*
24 *health clinics) that offer substance*
25 *use disorder treatment, recovery,*

1 or support services, including
2 short-term detoxification services,
3 outpatient substance use disorder
4 services, and evidence-based peer
5 recovery services.

6 “(bb) Strategies that will
7 incentivize providers described in
8 subparagraphs (C) and (D) of
9 paragraph (2) to obtain the nec-
10 essary training, education, and
11 support to deliver substance use
12 disorder treatment or recovery
13 services in the State.

14 “(cc) Milestones and timeli-
15 ness for implementing activities
16 set forth in the plan.

17 “(dd) Specific measurable
18 targets for increasing the sub-
19 stance use disorder treatment and
20 recovery provider network under
21 the State plan (or a waiver of
22 such plan).

23 “(IV) A proposed process for re-
24 porting the information required under
25 paragraph (6)(A), including informa-

1 *tion to assess the effectiveness of the ef-*
2 *forts of the State to expand the capac-*
3 *ity of providers to deliver substance use*
4 *disorder treatment or recovery services*
5 *during the period of the demonstration*
6 *project under this subsection.*

7 *“(V) The expected financial im-*
8 *pect of the demonstration project under*
9 *this subsection on the State.*

10 *“(VI) A description of all funding*
11 *sources available to the State to pro-*
12 *vide substance use disorder treatment*
13 *or recovery services in the State.*

14 *“(VII) A preliminary plan for*
15 *how the State will sustain any increase*
16 *in the capacity of providers to deliver*
17 *substance use disorder treatment or re-*
18 *covery services resulting from the dem-*
19 *onstration project under this subsection*
20 *after the termination of such dem-*
21 *onstration project.*

22 *“(VIII) A description of how the*
23 *State will coordinate the goals of the*
24 *demonstration project with any waiver*
25 *received pursuant to section 1115 for*

1 *the delivery of substance use services*
2 *under the State plan, as applicable.*

3 “(ii) *CONSULTATION.*—*In completing*
4 *an application under clause (i), a State*
5 *shall consult with relevant stakeholders, in-*
6 *cluding Medicaid managed care plans,*
7 *health care providers, and Medicaid bene-*
8 *ficiary advocates, and include in such ap-*
9 *plication a description of such consultation.*

10 “(5) *PAYMENT.*—

11 “(A) *IN GENERAL.*—*For each quarter occur-*
12 *ring during the period for which the demonstra-*
13 *tion project is conducted (after the first 18*
14 *months of such period), the Secretary shall pay*
15 *under this subsection, subject to subparagraphs*
16 *(C) and (D), to each State selected under para-*
17 *graph (4) an amount equal to 80 percent of so*
18 *much of the qualified sums expended during such*
19 *quarter.*

20 “(B) *QUALIFIED SUMS DEFINED.*—*For pur-*
21 *poses of subparagraph (A), the term ‘qualified*
22 *sums’ means, with respect to a State and a quar-*
23 *ter, the amount equal to the amount (if any) by*
24 *which the sums expended by the State during*
25 *such quarter attributable to substance use treat-*

1 *ment or recovery services furnished by providers*
2 *participating under the State plan (or a waiver*
3 *of such plan) exceeds 1/4 of such sums expended*
4 *by the State during fiscal year 2018 attributable*
5 *to substance use treatment or recovery services.*

6 *“(C) NON-DUPLICATION OF PAYMENT.—In*
7 *the case that payment is made under subpara-*
8 *graph (A) with respect to expenditures for sub-*
9 *stance use treatment or recovery services fur-*
10 *nished by providers participating under the*
11 *State plan (or a waiver of such plan), payment*
12 *may not also be made under subsection (a) with*
13 *respect to expenditures for the same services so*
14 *furnished.*

15 *“(D) CONDITIONS.—In the case of a State*
16 *selected under paragraph (4) that provides sub-*
17 *stance use disorder treatment and recovery serv-*
18 *ices under a waiver under section 1115, such*
19 *State shall, as a condition of receiving payments*
20 *under subparagraph (A)—*

21 *“(i) coordinate such services under*
22 *such waiver with substance use disorder*
23 *treatment and recovery services provided*
24 *under the demonstration project under this*
25 *subsection; and*

1 “(ii) take such actions as appropriate
2 under the demonstration project to expand
3 such services under such waiver.

4 “(6) *REPORTS.*—

5 “(A) *STATE REPORTS.*—A State receiving
6 payments under paragraph (5) shall, for the pe-
7 riod of the demonstration project under this sub-
8 section, submit to the Secretary a quarterly re-
9 port, with respect to expenditures for substance
10 use treatment or recovery services for which pay-
11 ment is made to the State under this subsection,
12 on the following:

13 “(i) The specific activities with respect
14 to which payment under this subsection was
15 provided.

16 “(ii) The number of providers that de-
17 livered substance use disorder treatment or
18 recovery services in the State under the
19 demonstration project compared to the esti-
20 mated number of providers that would have
21 otherwise delivered such services in the ab-
22 sence of such demonstration project.

23 “(iii) The number of individuals en-
24 rolled under the State plan (or a waiver of
25 such plan) who received substance use dis-

1 *order treatment or recovery services under*
2 *the demonstration project compared to the*
3 *estimated number of such individuals who*
4 *would have otherwise received such services*
5 *in the absence of such demonstration*
6 *project.*

7 *“(iv) Other matters as determined by*
8 *the Secretary.*

9 *“(B) CMS REPORTS.—*

10 *“(i) INITIAL REPORT.—Not later than*
11 *October 1, 2020, the Administrator of the*
12 *Centers for Medicare & Medicaid Services*
13 *shall, in consultation with the Director of*
14 *the Agency for Healthcare Research and*
15 *Quality and the Assistant Secretary for*
16 *Mental Health and Substance Use, submit*
17 *to Congress an initial report on—*

18 *“(I) the States awarded planning*
19 *grants under paragraph (3);*

20 *“(II) the criteria used in such se-*
21 *lection; and*

22 *“(III) the activities carried out by*
23 *such States under such planning*
24 *grants.*

1 “(ii) *INTERIM REPORT.*—Not later
2 than October 1, 2022, the Administrator of
3 the Centers for Medicare & Medicaid Serv-
4 ices shall, in consultation with the Director
5 of the Agency for Healthcare Research and
6 Quality and the Assistant Secretary for
7 Mental Health and Substance Use, submit
8 to Congress an interim report—

9 “(I) on activities carried out
10 under the demonstration project under
11 this subsection;

12 “(II) on the extent to which States
13 selected under paragraph (4) have
14 achieved the stated goals submitted in
15 their applications under subparagraph
16 (C) of such paragraph;

17 “(III) with a description of the
18 strengths and limitations of such dem-
19 onstration project; and

20 “(IV) with a plan for the sustain-
21 ability of such project.

22 “(iii) *FINAL REPORT.*—Not later than
23 October 1, 2024, the Administrator of the
24 Centers for Medicare & Medicaid Services
25 shall, in consultation with the Director of

1 *the Agency for Healthcare Research and*
2 *Quality and the Assistant Secretary for*
3 *Mental Health and Substance Use, submit*
4 *to Congress a final report—*

5 “(I) *providing updates on the*
6 *matters reported in the interim report*
7 *under clause (ii);*

8 “(II) *including a description of*
9 *any changes made with respect to the*
10 *demonstration project under this sub-*
11 *section after the submission of such in-*
12 *terim report; and*

13 “(III) *evaluating such demonstra-*
14 *tion project.*

15 “(C) *AHRQ REPORT.—Not later than three*
16 *years after the date of the enactment of this sub-*
17 *section, the Director of the Agency for Healthcare*
18 *Research and Quality shall submit to Congress a*
19 *summary on the experiences of States awarded*
20 *planning grants under paragraph (3) and States*
21 *selected under paragraph (4).*

22 “(7) *DATA SHARING AND BEST PRACTICES.—*
23 *During the period of the demonstration project under*
24 *this subsection, the Secretary shall, in collaboration*
25 *with States selected under paragraph (4), facilitate*

1 *data sharing and the development of best practices be-*
2 *tween such States and States that were not so selected.*

3 “(8) *CMS FUNDING.*—*There is appropriated, out*
4 *of any funds in the Treasury not otherwise appro-*
5 *riated, \$5,000,000 to the Centers for Medicare &*
6 *Medicaid Services for purposes of implementing this*
7 *subsection. Such amount shall remain available until*
8 *expended.”.*

Union Calendar No. 566

115TH CONGRESS
2^D Session

H. R. 5477

[Report No. 115-731]

A BILL

To amend title XIX of the Social Security Act to provide for a demonstration project to increase substance use provider capacity under the Medicaid program.

JUNE 12, 2018

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed