

116TH CONGRESS
1ST SESSION

S. 548

To reauthorize the Money Follows the Person Demonstration Program.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 25, 2019

Mr. PORTMAN (for himself and Ms. CANTWELL) introduced the following bill;
which was read twice and referred to the Committee on Finance

A BILL

To reauthorize the Money Follows the Person Demonstration
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 “Ensuring Medicaid
5 Provides Opportunities for Widespread Equity, Resources,
6 and Care Act” or the “EMPOWER Care Act”.

7 **SEC. 2. EXTENSION OF MONEY FOLLOWS THE PERSON RE-**
8 **BALANCING DEMONSTRATION.**

9 (a) FUNDING.—Section 6071(h) of the Deficit Re-
10 duction Act of 2005 (42 U.S.C. 1396a note) is amended—

11 (1) in paragraph (1)—

1 (A) in subparagraph (E), by striking
2 “and” after the semicolon;

3 (B) in subparagraph (F)—

4 (i) by striking “subject to subpara-
5 graph (3), \$112,000,000” and inserting
6 “\$450,000,000”; and

7 (ii) by striking the period at the end
8 and inserting “; and”; and

9 (C) by adding at the end the following new
10 subparagraph:

11 “(G) \$450,000,000 for each of fiscal years
12 2020 through 2023.”;

13 (2) in paragraph (2)—

14 (A) by striking “Subject to paragraph (3),
15 amounts” and inserting “Amounts”; and

16 (B) by striking “2021” and inserting
17 “2023”; and

18 (3) by striking paragraph (3).

19 (b) RESEARCH AND EVALUATION.—Section 6071(g)
20 of the Deficit Reduction Act of 2005 (42 U.S.C. 1396a
21 note) is amended—

22 (1) in paragraph (2), by striking “2016” and
23 inserting “2023”; and

24 (2) in paragraph (3), by inserting “and for each
25 of fiscal years 2019 through 2023,” after “2016,”.

1 **SEC. 3. CHANGES TO INSTITUTIONAL RESIDENCY PERIOD**
 2 **REQUIREMENT.**

3 (a) IN GENERAL.—Section 6071(b)(2) of the Deficit
 4 Reduction Act of 2005 (42 U.S.C. 1396a note) is amend-
 5 ed—

6 (1) in subparagraph (A)(i), by striking “90”
 7 and inserting “60”; and

8 (2) by striking the flush sentence after subpara-
 9 graph (B).

10 (b) EFFECTIVE DATE.—The amendments made by
 11 subsection (a) shall take effect on the date that is 30 days
 12 after the date of enactment of this Act.

13 **SEC. 4. UPDATES TO STATE APPLICATION REQUIREMENTS.**

14 Section 6071(c) of the Deficit Reduction Act of 2005
 15 (42 U.S.C. 1396a note) is amended—

16 (1) in paragraph (3), by striking “, which shall
 17 include” and all that follows through “2007”;

18 (2) in paragraph (7)—

19 (A) in the paragraph heading, by striking
 20 “REBALANCING” and inserting “EXPENDI-
 21 TURES”; and

22 (B) in subparagraph (B)—

23 (i) in clause (i), by striking “and”
 24 after the semicolon;

(ii) in clause (ii), by striking the period at the end and inserting a semicolon; and

(iii) by adding at the end the following:

“(iii) include a work plan that describes for each Federal fiscal year that occurs during the proposed MFP demonstration project—

“(I) the use of grant funds for each proposed initiative that is designed to accomplish the objective described in subsection (a)(1), including a funding source for each activity that is part of each such proposed initiative;

“(II) an evaluation plan that identifies expected results for each such proposed initiative; and

“(III) a sustainability plan for components of such proposed initiatives that are intended to improve transitions, which shall be updated with actual expenditure information for each Federal fiscal year that occurs during the MFP demonstration project; and

1 “(iv) contain assurances that grant funds
 2 used to accomplish the objective described in
 3 subsection (a)(1) shall be obligated not later
 4 than 24 months after the date on which the
 5 funds are awarded and shall be expended not
 6 later than 60 months after the date on which
 7 the funds are awarded (unless the Secretary ap-
 8 proves a waiver of either such requirement).”;
 9 and
 10 (3) in paragraph (13)—

11 (A) in subparagraph (A), by striking “;
 12 and” and inserting “, and in such manner as
 13 will meet the reporting requirements set forth
 14 for the Transformed Medicaid Statistical Man-
 15 agement Information System (T-MSIS);”;

16 (B) by redesignating subparagraph (B) as
 17 subparagraph (D); and

18 (C) by inserting after subparagraph (A)
 19 the following:

20 “(B) the State shall report on a quarterly
 21 basis on the use of grant funds by distinct ac-
 22 tivity, as described in the approved work plan,
 23 and by specific population as targeted by the
 24 State;

“(C) if the State fails to report the information required under subparagraph (B), fails to report such information on a quarterly basis, or fails to make progress under the approved work plan, the State shall implement a corrective action plan and any lack of progress under the approved work plan may result in withholding of grant funds made available to the State; and”.

SEC. 5. FUNDING FOR QUALITY ASSURANCE AND IMPROVEMENT; TECHNICAL ASSISTANCE; OVERSIGHT.

Section 6071(f) of the Deficit Reduction Act of 2005 (42 U.S.C. 1396a note) is amended by striking paragraph (2) and inserting the following:

“(2) FUNDING.—From the amounts appropriated under subsection (h)(1) for each of fiscal years 2019 through 2023, \$1,000,000 shall be available to the Secretary for each such fiscal year to carry out this subsection.”.

SEC. 6. BEST PRACTICES EVALUATION.

Section 6071 of the Deficit Reduction Act of 2005 (42 U.S.C. 1396a note) is amended by adding at the end the following:

“(i) BEST PRACTICES.—

1 “(1) REPORT.—The Secretary, directly or
2 through grant or contract, shall submit a report to
3 the President and Congress not later than Sep-
4 tember 30, 2020, that contains findings and conclu-
5 sions on best practices from the State MFP dem-
6 onstration projects carried out with grants made
7 under this section. The report shall include informa-
8 tion and analyses with respect to the following:

9 “(A) The most effective State strategies
10 for transitioning beneficiaries from institutional
11 to qualified community settings carried out
12 under the State MFP demonstration projects
13 and how such strategies may vary for different
14 types of beneficiaries, such as beneficiaries who
15 are aged, physically disabled, intellectually or
16 developmentally disabled, or individuals with se-
17 rious mental illnesses, and other targeted waiv-
18 er beneficiary populations.

19 “(B) The most common and the most ef-
20 fective State uses of grant funds carried out
21 under the State MFP demonstration projects
22 for transitioning beneficiaries from institutional
23 to qualified community settings and improving
24 health outcomes, including differentiating fund-
25 ing for current initiatives that are designed for

1 such purpose and funding for proposed initia-
2 tives that are designed for such purpose.

3 “(C) The most effective State approaches
4 carried out under State MFP demonstration
5 projects for improving person-centered care and
6 planning.

7 “(D) Identification of program, financing,
8 and other flexibilities available under the State
9 MFP demonstration projects, that are not
10 available under the traditional Medicaid pro-
11 gram, and which directly contributed to suc-
12 cessful transitions and improved health out-
13 comes under the State MFP demonstration
14 projects.

15 “(E) State strategies and financing mecha-
16 nisms for effective coordination of housing fi-
17 nanced or supported under State MFP dem-
18 onstration projects with local housing authori-
19 ties and other resources.

20 “(F) Effective State approaches for deliv-
21 ering Money Follows the Person transition serv-
22 ices through managed care entities.

23 “(G) Other best practices and effective
24 transition strategies demonstrated by States

with approved MFP demonstration projects, as determined by the Secretary.

“(H) Identification and analyses of opportunities and challenges to integrating effective Money Follows the Person practices and State strategies into the traditional Medicaid program.

“(2) COLLABORATION.—In preparing the report required under this subsection, the Secretary shall collect and incorporate information from States with approved MFP demonstration projects and beneficiaries participating in such projects, and providers participating in such projects.

“(3) FUNDING.—From the amounts appropriated under subsection (h)(1) for each of fiscal years 2019 through 2020, not more than \$300,000 shall be available to the Secretary for each such fiscal year to carry out this subsection.”.

SEC. 7. MACPAC REPORT ON QUALIFIED SETTINGS CRITERIA.

Section 6071 of the Deficit Reduction Act of 2005 (42 U.S.C. 1396a note), as amended by section 6, is amended by adding at the end the following:

“(j) MACPAC REPORT.—Prior to the final implementation date established by the Secretary for the cri-

1 teria established for home and community-based settings
 2 in section 441.301(c)(4) of title 42, Code of Federal Regu-
 3 lations, as part of final implementation of the Home and
 4 Community Based Services (HCBS) Final Rule published
 5 on January 16, 2014 (79 Fed. Reg. 2947) (referred to
 6 in this subsection as the ‘HCBS final rule’), the Medicaid
 7 and CHIP Payment and Access Commission (MACPAC)
 8 shall submit to Congress a report that—

9 “(1) identifies the types of home and commu-
 10 nity-based settings and associated services that are
 11 available to eligible individuals in both the MFP
 12 demonstration program and sites in compliance with
 13 the HCBS final rule; and

14 “(2) if determined appropriate by the Commis-
 15 sion, recommends policies to align the criteria for a
 16 qualified residence under subsection (b)(6) (as in ef-
 17 fect on October 1, 2017) with the criteria in the
 18 HCBS final rule.”.

19 **SEC. 8. APPLICATION TO CURRENT PROJECTS.**

20 Not later than 1 year after the date of enactment
 21 of this Act, any State with an approved MFP demonstra-
 22 tion project under section 6071 of the Deficit Reduction
 23 Act of 2005 (42 U.S.C. 1396a note) on the date of enact-
 24 ment of this Act shall submit a revised application to the
 25 Secretary that contains the same information and assur-

- 1 ances as are required for any new State applicant under
- 2 the amendments made by this Act.

