

Comparing the base document H.R. 5797, as reported, with H.R. 5797, as reported, as amended by
H. Res. 949

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Section 1. Short title

This Act may be cited as the "Individuals in Medicaid Deserve Care that is Appropriate and Responsible in its Execution Act" or the "IMD CARE Act".

Sec. 2. Medicaid State plan option To provide services for certain individuals with opioid use disorders in institutions for mental diseases

Section 1915 of the Social Security Act (42 U.S.C. 1396n) is amended by adding at the end the following new subsection:

"(I) STATE PLAN OPTION TO PROVIDE SERVICES FOR CERTAIN INDIVIDUALS IN INSTITUTIONS FOR MENTAL DISEASES.

"(1) IN GENERAL.— With respect to calendar quarters beginning during the period beginning January 1, 2019, and ending December 31, 2023, a State may elect, through a State plan amendment, to, notwithstanding section 1905(a), provide medical assistance for services furnished in institutions for mental diseases and for other medically necessary services furnished to eligible individuals with opioid use disorders, in accordance with the requirements of this subsection.

"(2) PAYMENTS.—

"(A) IN GENERAL.— Amounts expended under a State plan amendment under paragraph (1) for services described in such paragraph furnished, with respect to a 12-month period, to an eligible individual with an opioid use disorder who is a patient in an institution for mental diseases shall be treated as medical assistance for which payment is made under section 1903(a) but only to the extent that such services are furnished for not more than a period of 30 days (whether or not consecutive) during such 12-month period.

"(B) CLARIFICATION.— Payment made under this paragraph for expenditures under a State plan amendment under this subsection with respect to services described in paragraph (1) furnished to an eligible individual with an opioid use disorder shall not affect payment that would otherwise be made under section 1903(a) for expenditures under the State plan (or waiver of such plan) for medical assistance for such individual.

"(3) INFORMATION REQUIRED IN STATE PLAN AMENDMENT.—

"(A) IN GENERAL.— A State electing to provide medical assistance pursuant to this subsection shall include with the submission of the State plan amendment under paragraph (1) to the Secretary—

"(i) a plan on how the State will improve access to outpatient care during the period of the State plan amendment, including a description of—

"(I) the process by which eligible individuals with opioid use disorders will make the transition from receiving inpatient services in an institution for mental diseases to appropriate outpatient care; and

"(II) the process the State will undertake to ensure individuals with opioid use disorder are provided care in the most integrated setting appropriate to the needs of the individuals; and

"(ii) a description of how the State plan amendment ensures an appropriate clinical screening of eligible individuals with an opioid use disorder, including assessments to determine level of care and length of stay recommendations based upon the multidimensional assessment criteria of the American Society of Addiction Medicine.

"(B) REPORT.— Not later than the sooner of December 31, 2024, or one year after the date of the termination of a State plan amendment under this subsection, the State shall submit to the Secretary a report that includes at least—

"(i) the number of eligible individuals with opioid use disorders who received services pursuant to such State plan amendment;

"(ii) the length of the stay of each such individual in an institution for mental diseases; and

"(iii) the type of outpatient treatment, including medication-assisted treatment, each such individual received after being discharged from such institution.

"(4) DEFINITIONS.— In this subsection:

"(A) ELIGIBLE INDIVIDUAL WITH AN OPIOID USE DISORDER.— The term 'eligible individual with an opioid use disorder' means an individual who—

"(i) with respect to a State, is enrolled for medical assistance under the State plan (or a waiver of such plan);

"(ii) is at least 21 years of age;

"(iii) has not attained 65 years of age; and

"(iv) has been diagnosed with at least one opioid use disorder.

"(B) INSTITUTION FOR MENTAL DISEASES.— The term 'institution for mental diseases' has the meaning given such term in section 1905(i).

"(C) OPIOID PRESCRIPTION PAIN RELIEVER.— The term 'opioid prescription pain reliever' includes hydrocodone products, oxycodone products, tramadol products, codeine products, morphine products, fentanyl products, buprenorphine products, oxymorphone products, meperidine products, hydromorphone products, methadone, and any other prescription pain reliever identified by the Assistant Secretary for Mental Health and Substance Use.

"(D) OPIOID USE DISORDER.— The term 'opioid use disorder' means a disorder that meets the criteria of the Diagnostic and Statistical Manual of Mental Disorders, 4th Edition (or a successor edition), for heroin use disorder or pain reliever use disorder (including with respect to opioid prescription pain relievers).

"(E) OTHER MEDICALLY NECESSARY SERVICES.— The term 'other medically necessary services' means, with respect to an eligible individual with an opioid use disorder who is a patient in an institution for mental diseases, items and services that are provided to such individual outside of such institution to the extent that such items and services would be treated as medical assistance for such individual if such individual were not a patient in such institution."

Sec. 3. Promoting value in Medicaid managed care

Section 1903(m) of the Social Security Act (42 U.S.C. 1396b(m)) is amended by adding at the end the following new paragraph:

"(7)

"(A) With respect to expenditures described in subparagraph (B) that are incurred by a State for any fiscal year after fiscal year 2020 (and before fiscal year 2025), in determining the pro rata share to which the United States is equitably entitled under subsection (d)(3), the Secretary shall substitute the Federal medical assistance percentage that applies for such fiscal year to the State under section 1905(b) (without regard to any adjustments to such percentage applicable under such section or any other provision of law) for the percentage that applies to such expenditures under section 1905(y).

"(B) Expenditures described in this subparagraph, with respect to a fiscal year to which subparagraph (A) applies, are expenditures incurred by a State for payment for medical assistance

provided to individuals described in subclause (VIII) of section 1902(a)(10)(A)(i) by a managed care entity, or other specified entity (as defined in subparagraph (D)(iii)), that are treated as remittances because the State—

"(i) has satisfied the requirement of section 438.8 of title 42, Code of Federal Regulations (or any successor regulation), by electing—

"(I) in the case of a State described in subparagraph (C), to apply a minimum medical loss ratio (as defined in subparagraph (D)(ii)) that is at least 85 percent but not greater than the minimum medical loss ratio (as so defined) that such State applied as of May 31, 2018; or

"(II) in the case of a State not described in subparagraph (C), to apply a minimum medical loss ratio that is equal to 85 percent; and

"(ii) recovered all or a portion of the expenditures as a result of the entity's failure to meet such ratio.

"(C) For purposes of subparagraph (B), a State described in this subparagraph is a State that as of May 31, 2018, applied a minimum medical loss ratio (as calculated under subsection (d) of section 438.8 of title 42, Code of Federal Regulations (as in effect on June 1, 2018)) for payment for services provided by entities described in such subparagraph under the State plan under this title (or a waiver of the plan) that is equal to or greater than 85 percent.

"(D) For purposes of this paragraph:

"(i) The term 'managed care entity' means a medicaid managed care organization described in section 1932(a)(1)(B)(i).

"(ii) The term 'minimum medical loss ratio' means, with respect to a State, a minimum medical loss ratio (as calculated under subsection (d) of section 438.8 of title 42, Code of Federal Regulations (as in effect on June 1, 2018)) for payment for services provided by entities described in subparagraph (B) under the State plan under this title (or a waiver of the plan).

"(iii) The term 'other specified entity' means—

"(I) a prepaid inpatient health plan, as defined in section 438.2 of title 42, Code of Federal Regulations (or any successor regulation); and

"(II) a prepaid ambulatory health plan, as defined in such section (or any successor regulation)."

