

118TH CONGRESS
1ST SESSION

H. R. 3074

To amend title XIX of the Social Security Act to remove the Medicaid coverage exclusion for inmates in custody pending disposition of charges, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 2, 2023

Mr. TRONE (for himself, Mr. TURNER, Mr. RUTHERFORD, Mr. TONKO, Mr. MEUSER, Mrs. BICE, Mr. BACON, Mr. JOYCE of Ohio, Mr. MOULTON, Mr. PHILLIPS, Ms. BLUNT ROCHESTER, Ms. MCCOLLUM, Mr. CÁRDENAS, Ms. KUSTER, Ms. NORTON, Mr. LIEU, and Mr. HARDER of California) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To amend title XIX of the Social Security Act to remove the Medicaid coverage exclusion for inmates in custody pending disposition of charges, and for other purposes.

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 “Due Process Con-
5 tinuity of Care Act”.

1 **SEC. 2. REMOVAL OF INMATE LIMITATION ON BENEFITS**
2 **UNDER MEDICAID.**

3 (a) **IN GENERAL.**—The subdivision (A) of section
4 1905(a) of the Social Security Act (42 U.S.C. 1396d(a))
5 following the last numbered paragraph of such section is
6 amended by inserting “, or, at the option of the State,
7 while in custody pending disposition of charges” after “pa-
8 tient in a medical institution”.

9 (b) **CONFORMING AMENDMENTS.**—Section 5122 of
10 division FF of the Consolidated Appropriations Act, 2023
11 (Public Law 117–328) is amended—

12 (1) in subsection (a), by striking “Medicaid”
13 and all that follows through “Section
14 1902(a)(84)(A)” and inserting “MEDICAID.—Sec-
15 tion 1902(a)(84)(A)”; and

16 (2) in subsection (c), by inserting “, except that
17 if such date is later than the effective date described
18 in section 2(c) of the Due Process Continuity of
19 Care Act then the amendment made by subsection
20 (a) shall take effect and apply to items and services
21 furnished for periods beginning on or after the effec-
22 tive date described in such section” before the pe-
23 riod.

24 (c) **EFFECTIVE DATE.**—The amendments made by
25 subsections (a) and (b) shall take effect on the 1st day
26 of the 1st calendar quarter that begins on or after the

1 date that is 60 days after the date of the enactment of
2 this Act and shall apply to items and services furnished
3 for periods beginning on or after such date.

4 **SEC. 3. PLANNING GRANTS.**

5 (a) IN GENERAL.—The Secretary shall award plan-
6 ning grants to States to support providing medical assist-
7 ance under the State Medicaid program to individuals who
8 are eligible for such assistance as a result of the amend-
9 ment made by section 2(a). The grants shall be used to
10 prepare an application that meets the requirements of sub-
11 section (b).

12 (b) APPLICATION REQUIREMENTS.—In order to be
13 awarded a planning grant under this section, a State shall
14 submit an application to the Secretary at such time and
15 in such form and manner as the Secretary shall require,
16 that includes the following information along with such
17 additional information, provisions, and assurances, as the
18 Secretary may require:

19 (1) A proposed process for carrying out each of
20 the activities described in subsection (c) in the State.

21 (2) A review of State policies regarding the
22 population of individuals who are eligible for medical
23 assistance under the State Medicaid program as a
24 result of the amendment made by section 2(a) with
25 respect to whether such policies may create barriers

1 to increasing the number of health care providers
2 who can provide items and services for that popu-
3 lation.

4 (3) The development of a plan, taking into ac-
5 count activities described in subsection (c)(2), that
6 will ensure a sustainable number of Medicaid-en-
7 rolled providers under the State Medicaid program
8 that can offer a full array of treatment and services
9 to the patient population described in paragraph (2)
10 as needed. Such plan shall include the following:

11 (A) Specific activities to increase the num-
12 ber of providers that will offer physical health
13 treatment, as well as services related to behav-
14 ioral health treatment, including substance use
15 disorder treatment, recovery, or support serv-
16 ices (including short-term detoxification serv-
17 ices, outpatient substance use disorder services,
18 and evidence-based peer recovery services).

19 (B) Milestones and timeliness for imple-
20 menting activities set forth in the plan.

21 (C) Specific measurable targets for in-
22 creasing the number of providers under the
23 State Medicaid program who will treat the pa-
24 tient population described in paragraph (2).

1 (4) An assurance that the State consulted with
2 relevant stakeholders, including the State agency re-
3 sponsible for administering the State Medicaid pro-
4 gram, Medicaid managed care plans, health care
5 providers, law enforcement personnel, officials from
6 jails, and Medicaid beneficiary advocates, with re-
7 spect to the preparation and completion of the appli-
8 cation and a description of such consultation.

9 (c) ACTIVITIES DESCRIBED.—For purposes of sub-
10 section (b)(1), the activities described in this subsection
11 are the following:

12 (1) Activities that support the development of
13 an initial assessment of the health treatment needs
14 of patients who are in custody pending disposition of
15 charges to determine the extent to which providers
16 are needed (including the types of such providers
17 and geographic area of need) to improve the number
18 of providers that will treat patients in custody pend-
19 ing disposition of charges under the State Medicaid
20 program, including the following:

21 (A) An estimate of the number of individ-
22 uals enrolled under the State Medicaid program
23 who are in custody pending disposition of
24 charges.

1 (B) Information on the capacity of pro-
2 viders to provide treatment or services to such
3 individuals enrolled under the State Medicaid
4 program, including information on providers
5 who provide such services and their participa-
6 tion under the State Medicaid program.

7 (C) Information on the health care services
8 provided under programs other than the State
9 Medicaid program in jails to individuals who
10 are in custody pending disposition of charges.

11 (2) Activities that, taking into account the re-
12 sults of the assessment described in paragraph (1)
13 with respect to the provision of treatment or services
14 under the State Medicaid program, support the de-
15 velopment of State infrastructure to recruit or con-
16 tract with prospective health care providers, provide
17 training and technical assistance to such providers,
18 and secure a process for an electronic health record
19 system for billing to reimburse for services provided
20 by the correctional facility, outpatient providers,
21 medical vendors, and contracted telehealth service
22 providers to patients who are in custody pending dis-
23 position of charges that are compliant with applica-
24 ble requirements and regulations for State Medicaid
25 programs.

1 (3) Activities that ensure the quality of care for
2 patients who are in custody pending disposition of
3 charges, including formal reporting mechanisms for
4 patient outcomes, and activities that promote par-
5 ticipation in learning collaboratives among providers
6 treating this population.

7 (d) GEOGRAPHIC DIVERSITY.—The Secretary shall
8 select States for planning grants under this section in a
9 manner that ensures geographic diversity.

10 (e) FUNDING.—There are authorized to be appro-
11 priated \$50,000,000 to carry out this section.

12 (f) DEFINITIONS.—In this section:

13 (1) MEDICAID PROGRAM.—The term “Medicaid
14 program” means, with respect to a State, the State
15 program under title XIX of the Social Security Act
16 (42 U.S.C. 1396 et seq.) including any waiver or
17 demonstration under such title or under section
18 1115 of such Act (42 U.S.C. 1315) relating to such
19 title.

20 (2) SECRETARY.—The term “Secretary” means
21 the Secretary of Health and Human Services.

22 (3) STATE.—The term “State” has the mean-
23 ing given that term for purposes of title XIX of the

1 Social Security Act (42 U.S.C. 1396 et seq.) in sec-
2 tion 1101(a)(1) of such Act (42 U.S.C. 1301(a)(1)).

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