

Union Calendar No. 578

115TH CONGRESS
2D SESSION

H. R. 5605

[Report No. 115–744, Part I]

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

JUNE 12, 2018

Additional sponsors: Mrs. BLACKBURN and Mr. WALDEN

JUNE 12, 2018

Reported from the Committee on Energy and Commerce with an amendment

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

JUNE 12, 2018

The Committee on Ways and Means discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

[For text of introduced bill, see copy of bill as introduced on April 24, 2018]

A BILL

To amend title XVIII of the Social Security Act to provide for an opioid use disorder treatment 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 “Advancing High Quality*
 5 *Treatment for Opioid Use Disorders in Medicare Act”.*

6 **SEC. 2. OPIOID USE DISORDER TREATMENT DEMONSTRATION PROGRAM.**

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

11 **“SEC. 1866F. OPIOID USE DISORDER TREATMENT DEMONSTRATION PROGRAM.**

13 *“(a) IMPLEMENTATION OF 5-YEAR DEMONSTRATION*
 14 *PROGRAM.—*

15 *“(1) IN GENERAL.—Not later than January 1,*
 16 *2021, the Secretary shall implement a 5-year dem-*
 17 *onstration program under this title (in this section*
 18 *referred to as the ‘Program’) to increase access of ap-*
 19 *plicable beneficiaries to opioid use disorder treatment*
 20 *services, improve physical and mental health out-*
 21 *comes for such beneficiaries, and to the extent pos-*
 22 *sible, reduce expenditures under this title. Under the*
 23 *Program, the Secretary shall make payments under*
 24 *subsection (e) to participants (as defined in sub-*
 25 *section (c)(1)(A)) for furnishing opioid use disorder*

1 *treatment services delivered through opioid use dis-*
2 *order care teams, or arranging for such service to be*
3 *furnished, to applicable beneficiaries participating in*
4 *the Program.*

5 “(2) OPIOID USE DISORDER TREATMENT SERV-
6 ICES.—For purposes of this section, the term ‘opioid
7 use disorder treatment services’—

8 “(A) means, with respect to an applicable
9 beneficiary, services that are furnished for the
10 treatment of opioid use disorders and that utilize
11 drugs approved under section 505 of the Federal
12 Food, Drug, and Cosmetic Act for the treatment
13 of opioid use disorders in an outpatient setting;
14 and

15 “(B) includes—

16 “(i) medication assisted treatment;

17 “(ii) treatment planning;

18 “(iii) psychiatric, psychological, or
19 counseling services (or any combination of
20 such services), as appropriate;

21 “(iv) social support services, as appro-
22 priate; and

23 “(v) care management and care coordi-
24 nation services, including coordination with

1 *other providers of services and suppliers not*
2 *on an opioid use disorder care team.*

3 “(b) *PROGRAM DESIGN.*—

4 “(1) *IN GENERAL.*—*The Secretary shall design*
5 *the Program in such a manner to allow for the eval-*
6 *uation of the extent to which the Program accom-*
7 *plishes the following purposes:*

8 “(A) *Reduces hospitalizations and emer-*
9 *gency department visits.*

10 “(B) *Increases use of medication-assisted*
11 *treatment for opioid use disorders.*

12 “(C) *Improves health outcomes of individ-*
13 *uals with opioid use disorders, including by re-*
14 *ducing the incidence of infectious diseases (such*
15 *as hepatitis C and HIV).*

16 “(D) *Does not increase the total spending*
17 *on items and services under this title.*

18 “(E) *Reduces deaths from opioid overdose.*

19 “(F) *Reduces the utilization of inpatient*
20 *residential treatment.*

21 “(2) *CONSULTATION.*—*In designing the Pro-*
22 *gram, including the criteria under subsection*
23 *(e)(2)(A), the Secretary shall, not later than 3 months*
24 *after the date of the enactment of this section, consult*

1 *with specialists in the field of addiction, clinicians in*
 2 *the primary care community, and beneficiary groups.*

3 “(c) *PARTICIPANTS; OPIOID USE DISORDER CARE*
 4 *TEAMS.*—

5 “(1) *PARTICIPANTS.*—

6 “(A) *DEFINITION.*—*In this section, the term*
 7 *‘participant’ means an entity or individual—*

8 “(i) *that is otherwise enrolled under*
 9 *this title and that is—*

10 “(I) *a physician (as defined in*
 11 *section 1861(r)(1);*

12 “(II) *a group practice comprised*
 13 *of physicians described in subclause*
 14 *(I);*

15 “(III) *a hospital outpatient de-*
 16 *partment;*

17 “(IV) *a federally qualified health*
 18 *center (as defined in section*
 19 *1861(aa)(4));*

20 “(V) *a rural health clinic (as de-*
 21 *finied in section 1861(aa)(2));*

22 “(VI) *a community mental health*
 23 *center (as defined in section*
 24 *1861(ff)(3)(B));*

1 “(VII) a clinic certified as a cer-
2 tified community behavioral health
3 clinic pursuant to section 223 of the
4 Protecting Access to Medicare Act of
5 2014; or

6 “(VIII) any other individual or
7 entity specified by the Secretary;

8 “(ii) that applied for and was selected
9 to participate in the Program pursuant to
10 an application and selection process estab-
11 lished by the Secretary; and

12 “(iii) that establishes an opioid use
13 disorder care team (as defined in paragraph
14 (2)) through employing or contracting with
15 health care practitioners described in para-
16 graph (2)(A), and uses such team to furnish
17 or arrange for opioid use disorder treatment
18 services in the outpatient setting under the
19 Program

20 “(B) PREFERENCE.—In selecting partici-
21 pants for the Program, the Secretary shall give
22 preference to individuals and entities that are lo-
23 cated in areas with a prevalence of opioid use
24 disorders that is higher than the national aver-
25 age prevalence.

1 “(2) *OPIOID USE DISORDER CARE TEAMS.*—

2 “(A) *IN GENERAL.*—*For purposes of this*
 3 *section, the term ‘opioid use disorder care team’*
 4 *means a team of health care practitioners estab-*
 5 *lished by a participant described in paragraph*
 6 *(1)(A) that—*

7 “(i) *shall include—*

8 “(I) *at least one physician (as de-*
 9 *defined in section 1861(r)(1)) furnishing*
 10 *primary care services or addiction*
 11 *treatment services to an applicable*
 12 *beneficiary; and*

13 “(II) *at least one eligible practi-*
 14 *tioner (as defined in paragraph*
 15 *(3)(A)), who may be a physician who*
 16 *meets the criterion in subclause (I);*
 17 *and*

18 “(ii) *may include other practitioners*
 19 *licensed under State law to furnish psy-*
 20 *chiatric, psychological, counseling, and so-*
 21 *cial services to applicable beneficiaries.*

22 “(B) *REQUIREMENTS FOR RECEIPT OF PAY-*
 23 *MENT UNDER PROGRAM.*—*In order to receive*
 24 *payments under subsection (e), each participant*
 25 *in the Program shall—*

1 “(i) furnish opioid use disorder treat-
2 ment services through opioid use disorder
3 care teams to applicable beneficiaries who
4 agree to receive the services;

5 “(ii) meet minimum criteria, as estab-
6 lished by the Secretary, for participation
7 through the submission of data and infor-
8 mation described in clause (iii); and

9 “(iii) submit to the Secretary, with re-
10 spect to each applicable beneficiary for
11 whom opioid use disorder treatment services
12 are furnished by the opioid use disorder
13 care team, data with respect to the criteria
14 established under subsection (e)(2)(A) and
15 such other information as the Secretary de-
16 termines appropriate to monitor and evalu-
17 ate the Program, to determine if minimum
18 criteria are met under clause (ii), and to
19 determine the incentive payment under sub-
20 section (e), in such form, manner, and fre-
21 quency as specified by the Secretary.

22 “(3) *ELIGIBLE PRACTITIONERS; OTHER PRO-*
23 *VIDER-RELATED DEFINITIONS AND APPLICATION PRO-*
24 *VISIONS.*—

1 “(A) *ELIGIBLE PRACTITIONERS.*—For pur-
2 poses of this section, the term ‘eligible practi-
3 tioner’ means a physician or other health care
4 practitioner, such as a nurse practitioner or ad-
5 vanced practice nurse, that—

6 “(i) is enrolled under section 1861(j);

7 “(ii) is authorized to prescribe or dis-
8 pense narcotic drugs to individuals for
9 maintenance treatment or detoxification
10 treatment; and

11 “(iii) has in effect a registration or
12 waiver in accordance with section 303(g) of
13 the Controlled Substances Act for such pur-
14 pose and is otherwise in compliance with
15 regulations promulgated by the Substance
16 Abuse and Mental Health Services Adminis-
17 tration to carry out such section.

18 “(B) *ADDICTION SPECIALISTS.*—For pur-
19 poses of subsection (e)(1)(B)(iv), the term ‘addic-
20 tion specialist’ means a physician that possesses
21 expert knowledge and skills in addiction medi-
22 cine, as evidenced by appropriate certification
23 from a specialty body, a certificate of advanced
24 qualification in addiction medicine, or comple-
25 tion of an accredited residency or fellowship in

1 *addiction medicine or addiction psychiatry, as*
 2 *determined by the Secretary.*

3 “(d) *PARTICIPATION OF APPLICABLE BENE-*
 4 *FICIARIES.—*

5 “(1) *APPLICABLE BENEFICIARY DEFINED.—In*
 6 *this section, the term ‘applicable beneficiary’ means*
 7 *an individual who—*

8 “(A) *is entitled to, or enrolled for, benefits*
 9 *under part A and enrolled for benefits under*
 10 *part B;*

11 “(B) *is not enrolled in a Medicare Advan-*
 12 *tage plan under part C;*

13 “(C) *has a current diagnosis for an opioid*
 14 *use disorder; and*

15 “(D) *meets such other criteria as the Sec-*
 16 *retary determines appropriate.*

17 *Such term shall include an individual who is dually*
 18 *eligible for benefits under this title and title XIX if*
 19 *such individual satisfies the criteria described in sub-*
 20 *paragraphs (A) through (D).*

21 “(2) *VOLUNTARY PARTICIPATION; LIMITATION ON*
 22 *NUMBER OF PARTICIPANTS.—An applicable bene-*
 23 *ficiary may participate in the Program on a vol-*
 24 *untary basis and may terminate participation in the*

1 *Program at any time. Not more than 20,000 applica-*
 2 *ble beneficiaries may participate in the Program.*

3 *“(3) SERVICES.—In order to participate in the*
 4 *Program, an applicable beneficiary shall agree to re-*
 5 *ceive opioid use disorder treatment services from a*
 6 *participant. Participation under the Program shall*
 7 *not affect coverage of or payment for any other item*
 8 *or service under this title for the applicable bene-*
 9 *ficiary.*

10 *“(4) BENEFICIARY ACCESS TO SERVICES.—Noth-*
 11 *ing in this section shall be construed as encouraging*
 12 *providers to limit applicable beneficiary access to*
 13 *services covered under this title and applicable bene-*
 14 *ficiaries shall not be required to relinquish access to*
 15 *any benefit under this title as a condition of receiving*
 16 *services from a participant in the Program.*

17 *“(e) PAYMENTS.—*

18 *“(1) PER APPLICABLE BENEFICIARY PER MONTH*
 19 *CARE MANAGEMENT FEE.—*

20 *“(A) IN GENERAL.—The Secretary shall es-*
 21 *tablish a schedule of per applicable beneficiary*
 22 *per month care management fees. Such a per ap-*
 23 *plicable beneficiary per month care management*
 24 *fee shall be paid to a participant in addition to*
 25 *any other amount otherwise payable under this*

1 *title to the health care practitioners in the par-*
2 *ticipant’s opioid use disorder care team or, if*
3 *applicable, to the participant. A participant*
4 *may use such per applicable beneficiary per*
5 *month care management fee to deliver additional*
6 *services to applicable beneficiaries, including*
7 *services not otherwise eligible for payment under*
8 *this title.*

9 “(B) *PAYMENT AMOUNTS.—In carrying out*
10 *subparagraph (A), the Secretary shall—*

11 “(i) *consider payments otherwise pay-*
12 *able under this title for opioid use disorder*
13 *treatment services and the needs of applica-*
14 *ble beneficiaries;*

15 “(ii) *pay a higher per applicable bene-*
16 *ficiary per month care management fee for*
17 *an applicable beneficiary who receives more*
18 *intensive treatment services from a partici-*
19 *pant and for whom those services are ap-*
20 *propriate based on clinical guidelines for*
21 *opioid use disorder care;*

22 “(iii) *pay a higher per applicable ben-*
23 *eficiary per month care management fee for*
24 *the month in which the applicable bene-*
25 *ficiary begins treatment with a participant*

1 *than in subsequent months, to reflect the*
2 *greater time and costs required for the plan-*
3 *ning and initiation of treatment, as com-*
4 *pared to maintenance of treatment;*

5 *“(iv) pay higher per applicable bene-*
6 *ficiary per month care management fees for*
7 *participants that have established opioid*
8 *use disorder care teams that include an ad-*
9 *diction specialist (as defined in subsection*
10 *(c)(3)(B)); and*

11 *“(v) take into account whether a par-*
12 *ticipant’s opioid use disorder care team re-*
13 *fers applicable beneficiaries to other sup-*
14 *pliers or providers for any opioid use dis-*
15 *order treatment services.*

16 “(2) *INCENTIVE PAYMENTS.—*

17 “(A) *IN GENERAL.—Under the Program, the*
18 *Secretary shall establish a performance-based in-*
19 *centive payment, which shall be paid (using a*
20 *methodology established and at a time deter-*
21 *mined appropriate by the Secretary) to partici-*
22 *pants based on the performance of participants*
23 *with respect to criteria, as determined appro-*
24 *priate by the Secretary, in accordance with sub-*
25 *paragraph (B).*

1 “(B) *CRITERIA.*—

2 “(i) *IN GENERAL.*—Criteria described
3 in subparagraph (A) may include consider-
4 ation of the following:

5 “(I) *Patient engagement and re-*
6 *tention in treatment.*

7 “(II) *Evidence-based medication-*
8 *assisted treatment.*

9 “(III) *Other criteria established*
10 *by the Secretary.*

11 “(ii) *REQUIRED CONSULTATION AND*
12 *CONSIDERATION.*—In determining criteria
13 described in subparagraph (A), the Sec-
14 retary shall—

15 “(I) *consult with stakeholders, in-*
16 *cluding clinicians in the primary care*
17 *community and in the field of addic-*
18 *tion medicine; and*

19 “(II) *consider existing clinical*
20 *guidelines for the treatment of opioid*
21 *use disorders.*

22 “(C) *SUBMISSION OF DATA.*—Each partici-
23 pant shall submit to the Secretary, in such form,
24 manner, and frequency specified by the Sec-
25 retary, data with respect to such criteria de-

1 scribed in subparagraph (A) and such other in-
2 formation as the Secretary determines appro-
3 priate to evaluate and monitor the effectiveness
4 of the Program, to determine the performance of
5 the participants for purposes of the incentive
6 payment under subparagraph (A), and to ensure
7 the participants meet minimum criteria for pro-
8 gram participation described in subsection
9 (c)(2)(B)(ii).

10 “(3) *NON-DUPLICATION OF PAYMENTS.*—In the
11 case if an applicable beneficiary receiving services
12 supported by the Program from more than one partic-
13 ipant during any one calendar month, or from a par-
14 ticipant and a provider who is not a participant dur-
15 ing any one calendar month, the Secretary shall ad-
16 just (such as pro-rate) payment under paragraph (1)
17 and any payment under paragraph (2) to each such
18 participant, with respect to such applicable bene-
19 ficiary and month to avoid any duplication of pay-
20 ment.

21 “(f) *MULTIPAYER STRATEGY.*—In carrying out the
22 Program, the Secretary shall encourage other payers to pro-
23 vide similar payments and to use similar criteria as ap-
24 plied under the Program under subsection (e)(2)(C). The
25 Secretary may enter into a memorandum of understanding

1 *with other payers to align the methodology for payment*
2 *provided by such a payer related to opioid use disorder*
3 *treatment services with such methodology for payment*
4 *under the Program.*

5 “(g) *EVALUATION.*—

6 “(1) *IN GENERAL.*—*The Secretary shall conduct*
7 *an intermediate and final evaluation of the program.*
8 *Each such evaluation shall determine the extent to*
9 *which each of the purposes described in subsection (b)*
10 *have been accomplished under the Program.*

11 “(2) *REPORTS.*—*The Secretary shall submit to*
12 *the Secretary and Congress—*

13 “(A) *a report with respect to the inter-*
14 *mediate evaluation under paragraph (1) not*
15 *later than 3 years after the date of the imple-*
16 *mentation of the Program; and*

17 “(B) *a report with respect to the final eval-*
18 *uation under paragraph (1) not later than 6*
19 *years after such date.*

20 “(h) *FUNDING.*—

21 “(1) *ADMINISTRATIVE FUNDING.*—*For the pur-*
22 *poses of implementing, administering, and carrying*
23 *out the Program (other than for purposes described in*
24 *paragraph (2)), the Secretary shall provide for the*
25 *transfer from the Federal Supplementary Medical In-*

1 *surance Trust Fund under section 1841 of \$5,000,000*
2 *to the Centers for Medicare & Medicaid Services Pro-*
3 *gram Management Account.*

4 “(2) *CARE MANAGEMENT FEES AND INCEN-*
5 *TIVES.—For the purposes of making payments under*
6 *subsection (e), the Secretary shall provide for the*
7 *transfer from the Federal Supplementary Medical In-*
8 *surance Trust Fund under section 1841 of*
9 *\$10,000,000 for each of fiscal years 2021 through*
10 *2025.*

11 “(3) *AVAILABILITY.—Amounts transferred under*
12 *this subsection for a fiscal year shall be available*
13 *until expended.*

14 “(i) *WAIVERS.—The Secretary may waive any provi-*
15 *sion of this title as may be necessary to carry out the Pro-*
16 *gram under this section.”.*

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