Calendar No. 484

115TH CONGRESS
2D SESSION

S. 3120

[Report No. 115–284]

To amend titles XVIII and XIX of the Social Security Act to help end addictions and lessen substance abuse disorders, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 25, 2018

Mr. HATCH, from the Committee on Finance, reported the following original bill; which was read twice and placed on the calendar

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A BILL

To amend titles XVIII and XIX of the Social Security Act to help end addictions and lessen substance abuse disorders, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Helping to End Addiction and Lessen Substance Use Disorders Act of 2018'' or the ''HEAL Act of 2018''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

TITLE I—MEDICARE

SEC. 101. MEDICARE OPIOID SAFETY EDUCATION.

(a) IN GENERAL.—Section 1804 of the Social Security Act (42 U.S.C. 1395b–2) is amended by adding at the end the following new subsection:

''(d) The notice provided under subsection (a) shall include—

''(1) references to educational resources regarding opioid use and pain management;

''(2) a description of categories of alternative, non-opioid pain management treatments covered under this title; and

''(3) a suggestion for the beneficiary to talk to a physician regarding opioid use and pain management.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to notices distributed prior to each Medicare open enrollment period beginning after January 1, 2019.

SEC. 102. EXPANDING THE USE OF TELEHEALTH SERVICES FOR THE TREATMENT OF OPIOID USE DISORDER AND OTHER SUBSTANCE USE DISORDERS.

Section 1834(m) of the Social Security Act (42 U.S.C. 1395m(m)) is amended—

(1) in paragraph (2)(B)—

(A) in clause (i), in the matter preceding subclause (I), by striking ''clause (ii)'' and inserting ''clause (ii) and paragraph (6)(C)''; and

(B) in clause (ii), in the heading, by striking ''FOR HOME DIALYSIS THERAPY'';

(2) in paragraph (4)(C)—

(A) in clause (i), by striking ''paragraph (6)'' and inserting ''paragraphs (5), (6), and (7)''; and

(B) in clause (ii)(X), by inserting ''or telehealth services described in paragraph (7)(A)'' before the period at the end; and

(3) by adding at the end the following new paragraph:

''(7) TREATMENT OF SUBSTANCE USE DISORDER SERVICES FURNISHED THROUGH TELEHEALTH.—

''(A) NON-APPLICATION OF ORIGINATING SITE GEOGRAPHIC REQUIREMENTS.—The geographic requirements described in paragraph (4)(C)(i) shall not apply with respect to telehealth services furnished on or after January 1, 2019, to an eligible telehealth individual with a substance use disorder diagnosis for purposes of

treatment of such disorder, as determined by the Secretary, at an originating site described in paragraph (4)(C)(ii) (other than an originating site described in subclause (IX) of such paragraph).

''(B) IMPLEMENTATION.—The Secretary may implement the provisions of this paragraph by interim final rule.

''(C) REPORT.—Not later than 5 years after the date of the enactment of this paragraph, the Secretary shall submit to Congress a report on the impact of this paragraph with respect to telehealth services on—

''(i) the utilization of health care items and services related to substance use disorders, including emergency department visits; and

''(ii) health outcomes related to substance use disorders, such as opioid overdose deaths.''.

SEC. 103. COMPREHENSIVE SCREENINGS FOR SENIORS.

(a) INITIAL PREVENTIVE PHYSICAL EXAMINATION.—Section 1861(ww) of the Social Security Act (42 U.S.C. 1395x(ww)) is amended—

(1) in paragraph (1)—

(A) by striking ''paragraph (2) and'' and inserting ''paragraph (2),''; and

(B) by inserting ''and the furnishing of a review of any current opioid prescriptions (as defined in paragraph (4)),'' after ''upon the agreement with the individual,''; and

(2) in paragraph (2)—

(A) by redesignating subparagraph (N) as subparagraph (O); and

(B) by inserting after subparagraph (M) the following new subparagraph:

''(N) Screening for potential substance use disorders.''; and

(3) by adding at the end the following new paragraph:

''(4) For purposes of paragraph (1), the term 'a review of any current opioid prescriptions' means, with respect to an individual determined to have a current prescription for opioids—

''(A) a review of the potential risk factors to the individual for opioid use disorder;

''(B) an evaluation of the individual's severity of pain and current treatment plan;

''(C) the provision of information on non-opioid treatment options; and

''(D) a referral to a pain management specialist, as appropriate.''.

(b) ANNUAL WELLNESS VISIT.—Section 1861(hhh)(2) of the Social Security Act (42 U.S.C. 1395x(hhh)(2)) is amended—

(1) by redesignating subparagraph (G) as subparagraph (I); and

(2) by inserting after subparagraph (F) the following new subparagraphs:

''(G) Screening for potential substance use disorders and referral for treatment as appropriate.

''(H) The furnishing of a review of any current opioid prescriptions (as defined in subsection (ww)(4)).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to examinations and visits furnished on or after January 1, 2019.

SEC. 104. EVERY PRESCRIPTION CONVEYED SECURELY.

(a) IN GENERAL.—Section 1860D–4(e) of the Social Security Act (42 U.S.C. 1395w–104(e)) is amended by adding at the end the following:

''(7) REQUIREMENT OF E-PRESCRIBING FOR CONTROLLED SUBSTANCES.—

"(A) IN GENERAL.—Subject to subparagraph (B), a prescription for a covered part D drug under a prescription drug plan (or under an MA–PD plan) for a schedule II, III, IV, or V controlled substance shall be transmitted by a health care practitioner electronically in accordance with an electronic prescription drug program that meets the requirements of paragraph (2).

"(B) EXCEPTION FOR CERTAIN CIRCUMSTANCES.—The Secretary shall, through rulemaking, specify circumstances and processes by which the Secretary may waive the requirement under subparagraph (A), with respect to a covered part D drug, including in the case of—

"(i) a prescription issued when the practitioner and dispensing pharmacy are the same entity;

"(ii) a prescription issued that cannot be transmitted electronically under the most recently implemented version of the National Council for Prescription Drug Programs SCRIPT Standard;

''(iii) a prescription issued by a practitioner who received a waiver or a renewal thereof for a period of time as determined by the Secretary, not to exceed one year, from the requirement to use electronic prescribing due to demonstrated economic hardship, technological limitations that are not reasonably within the control of the practitioner, or other exceptional circumstance demonstrated by the practitioner;

''(iv) a prescription issued by a practitioner under circumstances in which, notwithstanding the practitioner's ability to submit a prescription electronically as required by this subsection, such practitioner reasonably determines that it would be impractical for the individual involved to obtain substances prescribed by electronic prescription in a timely manner, and such delay would adversely impact the individual's medical condition involved;

''(v) a prescription issued by a practitioner prescribing a drug under a research protocol;

"(vi) a prescription issued by a practitioner for a drug for which the Food and Drug Administration requires a prescription to contain elements that are not able to be included in electronic prescribing such as, a drug with risk evaluation and mitigation strategies that include elements to assure safe use;

"(vii) a prescription issued by a practitioner—

"(I) for an individual who receives hospice care under this title; and

"(II) that is not covered under the hospice benefit under this title; and

"(viii) a prescription issued by a practitioner for an individual who is—

"(I) a resident of a nursing facility (as defined in section 1919(a)); and

"(II) dually eligible for benefits under this title and title XIX.

"(C) DISPENSING.—(i) Nothing in this paragraph shall be construed as requiring a

sponsor of a prescription drug plan under this part, MA organization offering an MA–PD plan under part C, or a pharmacist to verify that a practitioner, with respect to a prescription for a covered part D drug, has a waiver (or is otherwise exempt) under subparagraph (B) from the requirement under subparagraph (A).

''(ii) Nothing in this paragraph shall be construed as affecting the ability of the plan to cover or the pharmacists' ability to continue to dispense covered part D drugs from otherwise valid written, oral or fax prescriptions that are consistent with laws and regulations.

''(iii) Nothing in this paragraph shall be construed as affecting the ability of an individual who is being prescribed a covered part D drug to designate a particular pharmacy to dispense the covered part D drug to the extent consistent with the requirements under subsection (b)(1) and under this paragraph.

''(D) ENFORCEMENT.—The Secretary shall, through rulemaking, have authority to enforce and specify appropriate penalties for noncompliance with the requirement under subparagraph (A).''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to coverage of drugs prescribed on or after January 1, 2021.

SEC. 105. STANDARDIZING ELECTRONIC PRIOR AUTHORIZATION FOR SAFE PRESCRIBING.

Section 1860D–4(e)(2) of the Social Security Act (42 U.S.C. 1395w–104(e)(2)) is amended by adding at the end the following new subparagraph:

"(E) ELECTRONIC PRIOR AUTHORIZATION.—

"(i) IN GENERAL.—Not later than January 1, 2021, the program shall provide for the secure electronic transmittal of—

"(I) a prior authorization request from the prescribing health care professional for coverage of a covered part D drug for a part D eligible individual enrolled in a part D plan (as defined in section 1860D–23(a)(5)) to the PDP sponsor or Medicare Advantage organization offering such plan; and

"(II) a response, in accordance with this subparagraph, from such

PDP sponsor or Medicare Advantage organization, respectively, to such professional.

''(ii) ELECTRONIC TRANSMISSION.—

''(I) EXCLUSIONS.—For purposes of this subparagraph, a facsimile, a proprietary payer portal that does not meet standards specified by the Secretary, or an electronic form shall not be treated as an electronic transmission described in clause (i).

''(II) STANDARDS.—In order to be treated, for purposes of this subparagraph, as an electronic transmission described in clause (i), such transmission shall comply with technical standards adopted by the Secretary in consultation with the National Council for Prescription Drug Programs, other standard setting organizations determined appropriate by the Secretary, and stakeholders including PDP sponsors, Medicare Advantage organizations, health care

professionals, and health information technology software vendors.

''(III) APPLICATION.—Notwithstanding any other provision of law, for purposes of this subparagraph, the Secretary may require the use of such standards adopted under subclause (II) in lieu of any other applicable standards for an electronic transmission described in clause (i) for a covered part D drug for a part D eligible individual.''.

SEC. 106. STRENGTHENING PARTNERSHIPS TO PREVENT OPIOID ABUSE.

(a) IN GENERAL.—Section 1859 of the Social Security Act (42 U.S.C. 1395w–28) is amended by adding at the end the following new subsection:

''(i) PROGRAM INTEGRITY TRANSPARENCY MEASURES.—

''(1) PROGRAM INTEGRITY PORTAL.—

''(A) IN GENERAL.—Not later than 2 years after the date of the enactment of this subsection, the Secretary shall, after consultation with stakeholders, establish a secure Internet website portal that would allow a secure path

for communication between the Secretary, MA plans under this part, prescription drug plans under part D, and an eligible entity with a contract under section 1893 (such as a Medicare drug integrity contractor or any successor entity to a Medicare drug integrity contractor), in accordance with subsection (j)(3) of such section, for the purpose of enabling through such portal—

''(i) the referral by such plans of suspicious activities of a provider of services (including a prescriber) or supplier related to fraud, waste, and abuse for initiating or assisting investigations conducted by the eligible entity; and

''(ii) data sharing among such MA plans, prescription drug plans, and the Secretary.

''(B) REQUIRED USES OF PORTAL.—The Secretary shall disseminate the following information to MA plans under this part and prescription drug plans under part D through the secure Internet website portal established under subparagraph (A):

''(i) Providers of services and suppliers that have been referred pursuant to subparagraph (A)(i) during the previous 12-month period.

''(ii) Providers of services and suppliers who are the subject of an active exclusion under section 1128 or who are subject to a suspension of payment under this title pursuant to section 1862(o) or otherwise.

''(iii) Providers of services and suppliers who are the subject of an active revocation of participation under this title, including for not satisfying conditions of participation.

''(iv) In the case of such a plan that makes a referral under subparagraph (A)(i) through the portal with respect to suspicious activities of a provider of services (including a prescriber) or supplier, if such provider (or prescriber) or supplier has been the subject of an administrative action under this title or title XI with respect to similar activities, a notification to such plan of such action so taken.

"(C) RULEMAKING.—For purposes of this paragraph, the Secretary shall, through rulemaking, specify what constitutes suspicious activities related to fraud, waste, and abuse, using guidance such as what is provided in the Medicare Program Integrity Manual 4.7.1.

"(2) QUARTERLY REPORTS.—Beginning not later than 2 years after the date of the enactment of this subsection, the Secretary shall make available to MA plans under this part and prescription drug plans under part D in a timely manner (but no less frequently than quarterly) and using information submitted to an entity described in paragraph (1) through the portal described in such paragraph or pursuant to section 1893, information on fraud, waste, and abuse schemes and trends in identifying suspicious activity. Information included in each such report shall—

"(A) include administrative actions, pertinent information related to opioid overprescribing, and other data determined appropriate by the Secretary in consultation with stakeholders; and

''(B) be anonymized information submitted by plans without identifying the source of such information.

''(3) CLARIFICATION.—Nothing in this subsection shall preclude or otherwise affect referrals to the Inspector General of the Department of Health and Human Services or other law enforcement entities.''.

(b) CONTRACT REQUIREMENT TO COMMUNICATE PLAN CORRECTIVE ACTIONS AGAINST OPIOIDS OVER-PRESCRIBERS.—Section 1857(e)(4)(C) of the Social Security Act (42 U.S.C. 1395w–27(e)(4)(C)) is amended by adding at the end the following new paragraph:

''(5) COMMUNICATING PLAN CORRECTIVE ACTIONS AGAINST OPIOIDS OVER-PRESCRIBERS.—

''(A) IN GENERAL.—Beginning with plan years beginning on or after January 1, 2021, a contract under this section with an MA organization shall require the organization to submit to the Secretary, through the process established under subparagraph (B), information on credible evidence of suspicious activities of a provider of services (including a prescriber) or supplier related to fraud and other actions

taken by such plans related to inappropriate prescribing of opioids.

''(B) PROCESS.—Not later than January 1, 2021, the Secretary shall, in consultation with stakeholders, establish a process under which MA plans and prescription drug plans shall submit to the Secretary information described in subparagraph (A).

''(C) REGULATIONS.—For purposes of this paragraph, including as applied under section 1860D–12(b)(3)(D), the Secretary shall, pursuant to rulemaking—

''(i) specify a definition for the term 'inappropriate prescribing of opioids' and a method for determining if a provider of services prescribes such a high volume; and

''(ii) establish the process described in subparagraph (B) and the types of information that may be submitted through such process.''.

(c) REFERENCE UNDER PART D TO PROGRAM INTEGRITY TRANSPARENCY MEASURES.—Section 1860D–4 of the Social Security Act (42 U.S.C. 1395w–104) is amended by adding at the end the following new subsection:

''(m) PROGRAM INTEGRITY TRANSPARENCY MEASURES.—For program integrity transparency measures applied with respect to prescription drug plan and MA plans, see section 1859(i).''.

SEC. 107. COMMIT TO OPIOID MEDICAL PRESCRIBER ACCOUNTABILITY AND SAFETY FOR SENIORS.

Section 1860D–4(c)(4) of the Social Security Act (42 U.S.C. 1395w–104(c)(4)) is amended by adding at the end the following new subparagraph:

''(D) NOTIFICATION AND ADDITIONAL REQUIREMENTS WITH RESPECT TO STATISTICAL OUTLIER PRESCRIBERS OF OPIOIDS.—

''(i) NOTIFICATION.—Not later than January 1, 2021, the Secretary shall, in the case of a prescriber identified by the Secretary under clause (ii) to be a statistical outlier prescriber of opioids, provide, subject to clause (iv), an annual notification to such prescriber that such prescriber has been so identified that includes resources on proper prescribing methods and other information as specified in accordance with clause (iii).

''(ii) IDENTIFICATION OF STATISTICAL OUTLIER PRESCRIBERS OF OPIOIDS.—

"(I) IN GENERAL.—The Secretary shall, subject to subclause (III), using the valid prescriber National Provider Identifiers included pursuant to subparagraph (A) on claims for covered part D drugs for part D eligible individuals enrolled in prescription drug plans under this part or MA–PD plans under part C and based on the thresholds established under subclause (II), identify prescribers that are statistical outlier opioids prescribers for a period of time specified by the Secretary.

"(II) ESTABLISHMENT OF THRESHOLDS.—For purposes of subclause (I) and subject to subclause (III), the Secretary shall, after consultation with stakeholders, establish thresholds, based on prescriber specialty and, as determined appropriate by the Secretary, geographic area, for identifying whether a prescriber in a specialty and geographic area is a statistical outlier prescriber of opioids as

compared to other prescribers of opioids within such specialty and area.

''(III) EXCLUSIONS.—The following shall not be included in the analysis for identifying statistical outlier prescribers of opioids under this clause:

''(aa) Claims for covered part D drugs for part D eligible individuals who are receiving hospice care under this title.

''(bb) Claims for covered part D drugs for part D eligible individuals who are receiving oncology services under this title.

''(cc) Prescribers who are the subject of an investigation by the Centers for Medicare & Medicaid Services or the Inspector General of the Department of Health and Human Services.

''(iii) CONTENTS OF NOTIFICATION.—The Secretary shall include the following information in the notifications provided under clause (i):

"(I) Information on how such prescriber compares to other prescribers within the same specialty and, if determined appropriate by the Secretary, geographic area.

"(II) Information on opioid prescribing guidelines, based on input from stakeholders, that may include the Centers for Disease Control and Prevention guidelines for prescribing opioids for chronic pain and guidelines developed by physician organizations.

"(III) Other information determined appropriate by the Secretary.

"(iv) MODIFICATIONS AND EXPANSIONS.—

"(I) FREQUENCY.—Beginning 5 years after the date of the enactment of this subparagraph, the Secretary may change the frequency of the notifications described in clause (i) based on stakeholder input and changes in opioid prescribing utilization and trends.

"(II) EXPANSION TO OTHER PRESCRIPTIONS.—The Secretary may expand notifications under this subparagraph to include identifications and notifications with respect to concurrent prescriptions of covered Part D drugs used in combination with opioids that are considered to have adverse side effects when so used in such combination, as determined by the Secretary.

"(v) ADDITIONAL REQUIREMENTS FOR PERSISTENT STATISTICAL OUTLIER PRESCRIBERS.—In the case of a prescriber who the Secretary determines is persistently identified under clause (ii) as a statistical outlier prescriber of opioids, the following shall apply:

"(I) The Secretary shall provide an opportunity for such prescriber to receive technical assistance or educational resources on opioid prescribing guidelines (such as the guidelines described in clause (iii)(II)) from an entity that furnishes such assist-

ance or resources, which may include a quality improvement organization under part B of title XI, as available and appropriate.

''(II) Such prescriber may be required to enroll in the program under this title under section 1866(j) if such prescriber is not otherwise required to enroll. The Secretary shall determine the length of the period for which such prescriber is required to maintain such enrollment.

''(III) Not less frequently than annually (and in a form and manner determined appropriate by the Secretary), the Secretary shall communicate information on such prescribers to sponsors of a prescription drug plan and Medicare Advantage organizations offering an MA–PD plan.

''(vi) PUBLIC AVAILABILITY OF INFORMATION.—The Secretary shall make aggregate information under this subparagraph available on the Internet website of the Centers for Medicare & Medicaid Serv-

ices. Such information shall be in a form and manner determined appropriate by the Secretary and shall not identify any specific prescriber. In carrying out this clause, the Secretary shall consult with interested stakeholders.

''(vii) OPIOIDS DEFINED.—For purposes of this subparagraph, the term 'opioids' has such meaning as specified by the Secretary.

''(viii) OTHER ACTIVITIES.—Nothing in this subparagraph shall preclude the Secretary from conducting activities that provide prescribers with information as to how they compare to other prescribers that are in addition to the activities under this subparagraph, including activities that were being conducted as of the date of the enactment of this subparagraph.''.

SEC. 108. FIGHTING THE OPIOID EPIDEMIC WITH SUNSHINE.

(a) INCLUSION OF INFORMATION REGARDING PAYMENTS TO ADVANCE PRACTICE NURSES.—

(1) IN GENERAL.—Section 1128G(e)(6) of the Social Security Act (42 U.S.C. 1320a–7h(e)(6)) is amended—

(A) in subparagraph (A), by adding at the end the following new clauses:

''(iii) A physician assistant, nurse practitioner, or clinical nurse specialist (as such terms are defined in section 1861(aa)(5)).

''(iv) A certified registered nurse anesthetist (as defined in section 1861(bb)(2)).

''(v) A certified nurse-midwife (as defined in section 1861(gg)(2)).''; and

(B) in subparagraph (B), by inserting '', physician assistant, nurse practitioner, clinical nurse specialist, certified nurse anesthetist, or certified nurse-midwife'' after ''physician''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to information required to be submitted under section 1128G of the Social Security Act (42 U.S.C. 1320a–7h) on or after January 1, 2021.

(b) SUNSET OF EXCLUSION OF NATIONAL PROVIDER IDENTIFIER OF COVERED RECIPIENT IN INFORMATION

MADE PUBLICLY AVAILABLE.—Section 1128G(c)(1)(C)(viii) of the Social Security Act (42 U.S.C. 1320a–7h(c)(1)(C)(viii))) is amended by striking ''does not contain'' and inserting ''in the case of information made available under this subparagraph prior to January 1, 2021, does not contain''.

(c) ADMINISTRATION.—Chapter 35 of title 44, United States Code, shall not apply to this section or the amendments made by this section.

SEC. 109. DEMONSTRATION TESTING COVERAGE OF CERTAIN SERVICES FURNISHED BY OPIOID TREATMENT PROGRAMS.

Title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) is amended by inserting after section 1866E the following:

''DEMONSTRATION TESTING COVERAGE OF CERTAIN SERVICES FURNISHED BY OPIOID TREATMENT PROGRAMS

''SEC. 1866F. (a) ESTABLISHMENT.—

''(1) IN GENERAL.—The Secretary shall conduct a demonstration (in this section referred to as the 'demonstration') to test coverage of and payment for opioid use disorder treatment services (as defined in paragraph (2)(B)) furnished by opioid treatment programs (as defined in paragraph (2)(A)) to individuals under part B using a bundled payment as described in paragraph (3).

''(2) DEFINITIONS.—In this section:

''(A) OPIOID TREATMENT PROGRAM.—The term 'opioid treatment program' means an entity that is an opioid treatment program (as defined in section 8.2 of title 42 of the Code of Federal Regulations, or any successor regulation) that—

''(i) is selected for participation in the demonstration;

''(ii) has in effect a certification by the Substance Abuse and Mental Health Services Administration for such a program;

''(iii) is accredited by an accrediting body approved by the Substance Abuse and Mental Health Services Administration;

''(iv) submits to the Secretary data and information needed to monitor the quality of services furnished and conduct the evaluation described in subsection (c); and

''(v) meets such additional requirements as the Secretary may find necessary.

''(B) OPIOID USE DISORDER TREATMENT SERVICES.—The term 'opioid use disorder

treatment services' means items and services that are furnished by an opioid treatment program for the treatment of opioid use disorder, including—

''(i) opioid agonist and antagonist treatment medications (including oral, injected, or implanted versions) that are approved by the Food and Drug Administration under section 505 of the Federal Food, Drug and Cosmetic Act for use in the treatment of opioid use disorder;

''(ii) dispensing and administration of such medications, if applicable;

''(iii) substance use counseling by a professional to the extent authorized under State law to furnish such services;

''(iv) individual and group therapy with a physician or psychologist (or other mental health professional to the extent authorized under State law);

''(v) toxicology testing; and

''(vi) other items and services that the Secretary determines are appropriate (but in no case to include meals or transportation).

''(3) BUNDLED PAYMENT UNDER PART B.—

''(A) IN GENERAL.—The Secretary shall pay, from the Federal Supplementary Medical Insurance Trust Fund under section 1841, to an opioid treatment program participating in the demonstration a bundled payment as determined by the Secretary for opioid use disorder treatment services that are furnished by such treatment program to an individual under part B during an episode of care (as defined by the Secretary).

''(B) CONSIDERATIONS.—The Secretary may implement this paragraph through one or more bundles based on the type of medication provided (such as buprenorphine, methadone, naltrexone, or a new innovative drug), the frequency of services furnished, the scope of services furnished, characteristics of the individuals furnished such services, or other factors as the Secretary determine appropriate. In developing such bundles, the Secretary may consider payment rates paid to opioid treatment programs for comparable services under State plans under title XIX or under the TRICARE pro-

gram under chapter 55 of title 10 of the United States Code.

''(b) IMPLEMENTATION.—

''(1) DURATION.—The demonstration shall be conducted for a period of 5 years, beginning not later than January 1, 2021.

''(2) SCOPE.—In carrying out the demonstration, the Secretary shall limit the number of beneficiaries that may participate at any one time in the demonstration to 2,000.

''(3) WAIVER.—The Secretary may waive such provisions of this title and title XI as the Secretary determines necessary in order to implement the demonstration.

''(4) ADMINISTRATION.—Chapter 35 of title 44, United States Code, shall not apply to this section.

''(c) EVALUATION AND REPORT.—

''(1) EVALUATION.—The Secretary shall conduct an evaluation of the demonstration. Such evaluation shall include analyses of—

''(A) the impact of the demonstration on—

''(i) utilization of health care items and services related to opioid use disorder, including hospitalizations and emergency department visits;

''(ii) beneficiary health outcomes related to opioid use disorder, including opioid overdose deaths; and

''(iii) overall expenditures under this title; and

''(B) the performance of opioid treatment programs participating in the demonstration with respect to applicable quality and cost metrics, including whether any additional quality measures related to opioid use disorder treatment are needed with respect to such programs under this title.

''(2) REPORT.—Not later than 2 years after the completion of the demonstration, the Secretary shall submit to Congress a report containing the results of the evaluation conducted under paragraph (1), together with recommendations for such legislation and administrative action as the Secretary determines appropriate.

''(d) FUNDING.—For purposes of administering and carrying out the demonstration, in addition to funds otherwise appropriated, there shall be transferred to the Secretary for the Center for Medicare & Medicaid Services Program Management Account from the Federal Supple-

mentary Medical Insurance Trust Fund under section 1841 $5,000,000, to remain available until expended.''.

SEC. 110. ENCOURAGING APPROPRIATE PRESCRIBING UNDER MEDICARE FOR VICTIMS OF OPIOID OVERDOSE.

Section 1860D–4(c)(5)(C) of the Social Security Act (42 U.S.C. 1395w–104(c)(5)(C)) is amended—

(1) in clause (i), in the matter preceding subclause (I), by striking ''For purposes'' and inserting ''Except as provided in clause (v), for purposes''; and

(2) by adding at the end the following new clause:

''(v) TREATMENT OF ENROLLEES WITH A HISTORY OF OPIOID-RELATED OVERDOSE.—

''(I) IN GENERAL.—For plan years beginning not later than January 1, 2021, a part D eligible individual who is not an exempted individual described in clause (ii) and who is identified under this clause as a part D eligible individual with a history of opioid-related overdose (as defined by the Secretary) shall be in-

cluded as a potentially at-risk beneficiary for prescription drug abuse under the drug management program under this paragraph.

''(II) IDENTIFICATION AND NOTICE.—For purposes of this clause, the Secretary shall—

''(aa) identify part D eligible individuals with a history of opioid-related overdose (as so defined); and

''(bb) notify the PDP sponsor of the prescription drug plan in which such an individual is enrolled of such identification.''.

SEC. 111. AUTOMATIC ESCALATION TO EXTERNAL REVIEW UNDER A MEDICARE PART D DRUG MANAGEMENT PROGRAM FOR AT-RISK BENEFICIARIES.

(a) IN GENERAL.—Section 1860D–4(c)(5) of the Social Security Act (42 U.S.C. 1395ww–10(c)(5)) is amended—

(1) in subparagraph (B), in each of clauses (ii)(III) and (iii)(IV), by striking ''and the option of an automatic escalation to external review'' and in-

serting ", including notice that if on reconsideration a PDP sponsor affirms its denial, in whole or in part, the case shall be automatically forwarded to the independent, outside entity contracted with the Secretary for review and resolution"; and

(2) in subparagraph (E), by striking "and the option" and all that follows and inserting the following: "and if on reconsideration a PDP sponsor affirms its denial, in whole or in part, the case shall be automatically forwarded to the independent, outside entity contracted with the Secretary for review and resolution.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply beginning not later January 1, 2021.

SEC. 112. MEDICARE IMPROVEMENT FUND.

Section 1898(b)(1) of the Social Security Act (42 U.S.C. 1395iii(b)(1)) is amended by striking "fiscal year 2021, $0" and inserting "fiscal year 2023, $50,000,000".

TITLE II—MEDICAID

SEC. 201. CARING RECOVERY FOR INFANTS AND BABIES.

(a) STATE PLAN AMENDMENT.—Section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)) is amended—

(1) in paragraph (82), by striking ''and'' after the semicolon;

(2) in paragraph (83), by striking the period at the end and inserting ''; and''; and

(3) by inserting after paragraph (83), the following new paragraph:

''(84) provide, at the option of the State, for making medical assistance available on an inpatient or outpatient basis at a residential pediatric recovery center (as defined in subsection (nn)) to infants with neonatal abstinence syndrome.''.

(b) RESIDENTIAL PEDIATRIC RECOVERY CENTER DEFINED.—Section 1902 of such Act (42 U.S.C. 1396a) is amended by adding at the end the following new subsection:

''(nn) RESIDENTIAL PEDIATRIC RECOVERY CENTER DEFINED.—

''(1) IN GENERAL.—For purposes of section 1902(a)(84), the term 'residential pediatric recovery center' means a center or facility that furnishes items and services for which medical assistance is available under the State plan to infants with the diagnosis of neonatal abstinence syndrome without any other significant medical risk factors.

''(2) COUNSELING AND SERVICES.—A residential pediatric recovery center may offer counseling and other services to mothers (and other appropriate family members and caretakers) of infants receiving treatment at such centers if such services are otherwise covered under the State plan under this title or under a waiver of such plan. Such other services may include the following:

''(A) Counseling or referrals for services.

''(B) Activities to encourage caregiver-infant bonding.

''(C) Training on caring for such infants.''.

(c) EFFECTIVE DATE.—The amendments made by this section take effect on the date of enactment of this Act and shall apply to medical assistance furnished on or after that date, without regard to final regulations to carry out such amendments being promulgated as of such date.

SEC. 202. PEER SUPPORT ENHANCEMENT AND EVALUATION REVIEW.

(a) IN GENERAL.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Energy and Commerce of the House of Representatives, the Committee on Finance of the Senate, and the Committee on Health, Education, Labor, and Pensions of the

Senate a report on the provision of peer support services under the Medicaid program.

(b) CONTENT OF REPORT.—

(1) IN GENERAL.—The report required under subsection (a) shall include the following information:

(A) Information on State coverage of peer support services under Medicaid, including—

(i) the mechanisms through which States may provide such coverage, including through existing statutory authority or through waivers;

(ii) the populations to which States have provided such coverage;

(iii) the payment models, including any alternative payment models, used by States to pay providers of such services; and

(iv) where available, information on Federal and State spending under Medicaid for peer support services.

(B) Information on selected State experiences in providing medical assistance for peer support services under State Medicaid plans

and whether States measure the effects of providing such assistance with respect to—

(i) improving access to behavioral health services;

(ii) improving early detection, and preventing worsening, of behavioral health disorders;

(iii) reducing chronic and comorbid conditions; and

(iv) reducing overall health costs.

(2) RECOMMENDATIONS.—The report required under subsection (a) shall include recommendations, including recommendations for such legislative and administrative actions related to improving services, including peer support services, and access to peer support services under Medicaid as the Comptroller General of the United States determines appropriate.

SEC. 203. MEDICAID SUBSTANCE USE DISORDER TREATMENT VIA TELEHEALTH.

(a) DEFINITIONS.—In this section:

(1) COMPTROLLER GENERAL.—The term ''Comptroller General'' means the Comptroller General of the United States.

(2) SCHOOL-BASED HEALTH CENTER.—The term ''school-based health center'' has the meaning given that term in section 2110(c)(9) of the Social Security Act (42 U.S.C. 1397jj(c)(9)).

(3) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

(4) TELEHEATH SERVICES.—The term ''telehealth services'' includes remote patient monitoring and other key modalities such as live video or synchronous telehealth, store-and-forward or asynchronous telehealth, mobile health, telephonic consultation, and electronic consult including provider-to-provider e-consults.

(5) UNDERSERVED AREA.—The term ''underserved area'' means a health professional shortage area (as defined in section 332(a)(1)(A) of the Public Health Service Act (42 U.S.C. 254e(a)(1)(A))) and a medically underserved area (according to a designation under section 330(b)(3)(A) of the Public Health Service Act (42 U.S.C. 254b(b)(3)(A))).

(b) GUIDANCE TO STATES REGARDING FEDERAL REIMBURSEMENT FOR FURNISHING SERVICES AND TREATMENT FOR SUBSTANCE USE DISORDERS UNDER MEDICAID USING TELEHEALTH SERVICES, INCLUDING IN SCHOOL-BASED HEALTH CENTERS.—Not later than 1

year after the date of enactment of this Act, the Secretary, acting through the Administrator of the Centers for Medicare & Medicaid Services, shall issue guidance to States on the following:

(1) State options for Federal reimbursement of expenditures under Medicaid for furnishing services and treatment for substance use disorders, including assessment, medication-assisted treatment, counseling, and medication management, using telehealth services. Such guidance shall also include guidance on furnishing services and treatments that address the needs of high risk individuals, including at least the following groups:

(A) American Indians and Alaska Natives.

(B) Adults under the age of 40.

(C) Individuals with a history of nonfatal overdose.

(2) State options for Federal reimbursement of expenditures under Medicaid for education directed to providers serving Medicaid beneficiaries with substance use disorders using the hub and spoke model, through contracts with managed care entities, through administrative claiming for disease management activities, and under Delivery System Reform Incentive Payment (''DSRIP'') programs.

(3) State options for Federal reimbursement of expenditures under Medicaid for furnishing services and treatment for substance use disorders for individuals enrolled in Medicaid in a school-based health center using telehealth services.

(c) GAO EVALUATION OF CHILDREN'S ACCESS TO SERVICES AND TREATMENT FOR SUBSTANCE USE DISORDERS UNDER MEDICAID.—

(1) STUDY.—The Comptroller General shall evaluate children's access to services and treatment for substance use disorders under Medicaid. The evaluation shall include an analysis of State options for improving children's access to such services and treatment and for improving outcomes, including by increasing the number of Medicaid providers who offer services or treatment for substance use disorders in a school-based health center using telehealth services, particularly in rural and underserved areas. The evaluation shall include an analysis of Medicaid provider reimbursement rates for services and treatment for substance use disorders.

(2) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall submit to Congress a report containing the results of the evaluation conducted under paragraph

(1), together with recommendations for such legislation and administrative action as the Comptroller General determines appropriate.

(d) REPORT ON REDUCING BARRIERS TO USING TELEHEALTH SERVICES AND REMOTE PATIENT MONITORING FOR PEDIATRIC POPULATIONS UNDER MEDICAID.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary, acting through the Administrator of the Centers for Medicare & Medicaid Services, shall issue a report to the Committee on Finance of the Senate and the Committee on Energy and Commerce of the House of Representative identifying best practices and potential solutions for reducing barriers to using telehealth services to furnish services and treatment for substance use disorders among pediatric populations under Medicaid. The report shall include—

(A) analyses of the best practices, barriers, and potential solutions for using telehealth services to diagnose and provide services and treatment for children with substance use disorders, including opioid use disorder; and

(B) identification and analysis of the differences, if any, in furnishing services and

treatment for children with substance use disorders using telehealth services and using services delivered in person, such as, and to the extent feasible, with respect to—

(i) utilization rates;

(ii) costs;

(iii) avoidable inpatient admissions and readmissions;

(iv) quality of care; and

(v) patient, family, and provider satisfaction.

(2) PUBLICATION.—The Secretary shall publish the report required under paragraph (1) on a public Internet website of the Department of Health and Human Services.

SEC. 204. ENHANCING PATIENT ACCESS TO NON-OPIOID TREATMENT OPTIONS.

Not later than January 1, 2019, the Secretary of Health and Human Services, acting through the Administrator of the Centers for Medicare & Medicaid Services, shall issue 1 or more final guidance documents, or update existing guidance documents, to States regarding mandatory and optional items and services that may be provided under a State plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.), or under a waiver of such

a plan, for non-opioid treatment and management of pain, including, but not limited to, evidence-based non-opioid pharmacological therapies and non-pharmacological therapies.

SEC. 205. ASSESSING BARRIERS TO OPIOID USE DISORDER TREATMENT.

(a) STUDY.—

(1) IN GENERAL.—The Comptroller General of the United States (in this section referred to as the ''Comptroller General'') shall conduct a study regarding the barriers to providing medication used in the treatment of substance use disorders under Medicaid distribution models such as the ''buy-and-bill'' model, and options for State Medicaid programs to remove or reduce such barriers. The study shall include analyses of each of the following models of distribution of substance use disorder treatment medications, particularly buprenorphine, naltrexone, and buprenorphine-naloxone combinations:

(A) The purchasing, storage, and administration of substance use disorder treatment medications by providers.

(B) The dispensing of substance use disorder treatment medications by pharmacists.

(C) The ordering, prescribing, and obtaining substance use disorder treatment medications on demand from specialty pharmacies by providers.

(2) REQUIREMENTS.—For each model of distribution specified in paragraph (1), the Comptroller General shall evaluate how each model presents barriers or could be used by selected State Medicaid programs to reduce the barriers related to the provision of substance use disorder treatment by examining what is known about the effects of the model of distribution on—

(A) Medicaid beneficiaries' access to substance use disorder treatment medications;

(B) the differential cost to the program between each distribution model for medication assisted treatment; and

(C) provider willingness to provide or prescribe substance use disorder treatment medications.

(b) REPORT.—Not later than 15 months after the date of the enactment of this Act, the Comptroller General shall submit to Congress a report containing the results of the study conducted under subsection (a), together with

recommendations for such legislation and administrative action as the Comptroller General determines appropriate.

SEC. 206. HELP FOR MOMS AND BABIES.

(a) MEDICAID STATE PLAN.—Section 1905(a) of the Social Security Act (42 U.S.C. 1396d(a)) is amended by adding at the end the following new sentence: ''In the case of a woman who is eligible for medical assistance on the basis of being pregnant (including through the end of the month in which the 60-day period beginning on the last day of her pregnancy ends), who is a patient in an institution for mental diseases for purposes of receiving treatment for a substance use disorder, and who was enrolled for medical assistance under the State plan immediately before becoming a patient in an institution for mental diseases or who becomes eligible to enroll for such medical assistance while such a patient, the exclusion from the definition of 'medical assistance' set forth in the subdivision (B) following paragraph (29) of the first sentence of this subsection shall not be construed as prohibiting Federal financial participation for medical assistance for items or services that are provided to the woman outside of the institution.''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by subsection (a)

shall take effect on the date of enactment of this Act.

(2) RULE FOR CHANGES REQUIRING STATE LEGISLATION.—In the case of a State plan under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirements imposed by the amendment made by subsection (a), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

SEC. 207. SECURING FLEXIBILITY TO TREAT SUBSTANCE USE DISORDERS.

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) Payment shall be made under this title to a State for expenditures for capitation payments described in section 438.6(e) of title 42, Code of Federal Regulations (or any successor regulation).''.

SEC. 208. MACPAC STUDY AND REPORT ON MAT UTILIZATION CONTROLS UNDER STATE MEDICAID PROGRAMS.

(a) STUDY.—The Medicaid and CHIP Payment and Access Commission shall conduct a study and analysis of utilization control policies applied to medication-assisted treatment for substance use disorders under State Medicaid programs, including policies and procedures applied both in fee-for-service Medicaid and in risk-based managed care Medicaid, which shall—

(1) include an inventory of such utilization control policies and related protocols for ensuring access to medically necessary treatment;

(2) determine whether managed care utilization control policies and procedures for medication assisted treatment for substance use disorders are consistent with section 438.210(a)(4)(ii) of title 42, Code of Federal Regulations; and

(3) identify policies that—

(A) limit an individual's access to medication-assisted treatment for a substance use dis-

order by limiting the quantity of medication-assisted treatment prescriptions, or the number of refills for such prescriptions, available to the individual as part of a prior authorization process or similar utilization protocols; and

(B) apply without evaluating individual instances of fraud, waste, or abuse.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Medicaid and CHIP Payment and Access Commission shall make publicly available a report containing the results of the study conducted under subsection (a).

SEC. 209. OPIOID ADDICTION TREATMENT PROGRAMS ENHANCEMENT.

(a) T–MSIS SUBSTANCE USE DISORDER DATA BOOK.—

(1) IN GENERAL.—Not later than the date that is 12 months after the date of enactment of this Act, the Secretary of Health and Human Services (in this section referred to as the ''Secretary'') shall publish on the public website of the Centers for Medicare & Medicaid Services a report with comprehensive data on the prevalence of substance use disorders in the Medicaid beneficiary population and services pro-

vided for the treatment of substance use disorders under Medicaid.

(2) CONTENT OF REPORT.—The report required under paragraph (1) shall include, at a minimum, the following data for each State (including, to the extent available, for the District of Columbia, Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa):

(A) The number and percentage of individuals enrolled in the State Medicaid plan or waiver of such plan in each of the major enrollment categories (as defined in a public letter from the Medicaid and CHIP Payment and Access Commission to the Secretary) who have been diagnosed with a substance use disorder and whether such individuals are enrolled under the State Medicaid plan or a waiver of such plan, including the specific waiver authority under which they are enrolled, to the extent available.

(B) A list of the substance use disorder treatment services by each major type of service, such as counseling, medication assisted treatment, peer support, residential treatment, and inpatient care, for which beneficiaries in

each State received at least 1 service under the State Medicaid plan or a waiver of such plan.

(C) The number and percentage of individuals with a substance use disorder diagnosis enrolled in the State Medicaid plan or waiver of such plan who received substance use disorder treatment services under such plan or waiver by each major type of service under subparagraph (B) within each major setting type, such as outpatient, inpatient, residential, and other home and community-based settings.

(D) The number of services provided under the State Medicaid plan or waiver of such plan per individual with a substance use disorder diagnosis enrolled in such plan or waiver for each major type of service under subparagraph (B).

(E) The number and percentage of individuals enrolled in the State Medicaid plan or waiver, by major enrollment category, who received substance use disorder treatment through—

(i) a medicaid managed care entity (as defined in section 1932(a)(1)(B) of the Social Security Act (42 U.S.C. 1396u–2(a)(1)(B))), including the number of such

individuals who received such assistance through a prepaid inpatient health plan or a prepaid ambulatory health plan;

(ii) a fee-for-service payment model; or

(iii) an alternative payment model, to the extent available.

(F) The number and percentage of individuals with a substance use disorder who receive substance use disorder treatment services in an outpatient or home and community-based setting after receiving treatment in an inpatient or residential setting, and the number of services received by such individuals in the outpatient or home and community-based setting.

(3) ANNUAL UPDATES.—The Secretary shall issue an updated version of the report required under paragraph (1) not later than January 1 of each calendar year through 2024.

(4) USE OF T–MSIS DATA.—The report required under paragraph (1) and updates required under paragraph (3) shall—

(A) use data and definitions from the Transformed Medicaid Statistical Information System (''T–MSIS'') data set that is no more

than 12 months old on the date that the report or update is published; and

(B) as appropriate, include a description with respect to each State of the quality and completeness of the data and caveats describing the limitations of the data reported to the Secretary by the State that is sufficient to communicate the appropriate uses for the information.

(b) MAKING T–MSIS DATA ON SUBSTANCE USE DISORDERS AVAILABLE TO RESEARCHERS.—

(1) IN GENERAL.—The Secretary shall publish in the Federal Register a system of records notice for the data specified in paragraph (2) for the Transformed Medicaid Statistical Information System, in accordance with section 552a(e)(4) of title 5, United States Code. The notice shall outline policies that protect the security and privacy of the data that, at a minimum, meet the security and privacy policies of SORN 09-70-0541 for the Medicaid Statistical Information System.

(2) REQUIRED DATA.—The data covered by the systems of records notice required under paragraph (1) shall be sufficient for researchers and States to analyze the prevalence of substance use disorders in the Medicaid beneficiary population and the treat-

ment of substance use disorders under Medicaid across all States (including the District of Columbia, Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa), forms of treatment, and treatment settings.

(3) INITIATION OF DATA-SHARING ACTIVITIES.—Not later than January 1, 2019, the Secretary shall initiate the data-sharing activities outlined in the notice required under paragraph (1).

SEC. 210. BETTER DATA SHARING TO COMBAT THE OPIOID CRISIS.

(a) IN GENERAL.—Section 1903(m) of the Social Security Act (42 U.S.C. 1396b(m)), as amended by section 207, is amended by adding at the end the following new paragraph:

''(8)(A) The State agency administering the State plan under this title may have reasonable access, as determined by the State, to 1 or more prescription drug monitoring program databases administered or accessed by the State to the extent the State agency is permitted to access such databases under State law.

''(B) Such State agency may facilitate reasonable access, as determined by the State, to 1 or more prescription drug monitoring program databases administered or accessed by the State, to same extent that the State agen-

cy is permitted under State law to access such databases, for—

''(i) any provider enrolled under the State plan to provide services to Medicaid beneficiaries; and

''(ii) any managed care entity (as defined under section 1932(a)(1)(B)) that has a contract with the State under this subsection or under section 1905(t)(3).

''(C) Such State agency may share information in such databases, to the same extent that the State agency is permitted under State law to share information in such databases, with—

''(i) any provider enrolled under the State plan to provide services to Medicaid beneficiaries; and

''(ii) any managed care entity (as defined under section 1932(a)(1)(B)) that has a contract with the State under this subsection or under section 1905(t)(3).''.

(b) SECURITY AND PRIVACY.—All applicable State and Federal security and privacy protections and laws shall apply to any State agency, individual, or entity accessing 1 or more prescription drug monitoring program databases or obtaining information in such databases in accordance with section 1903(m)(8) of the Social Security

Act (42 U.S.C. 1396b(m)(8)) (as added by subsection (a)).

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of enactment of this Act.

SEC. 211. MANDATORY REPORTING WITH RESPECT TO ADULT BEHAVIORAL HEALTH MEASURES.

Section 1139B of the Social Security Act (42 U.S.C. 1320b–9b) is amended—

(1) in subsection (b)—

(A) in paragraph (3)—

(i) by striking ''Not later than January 1, 2013'' and inserting the following:

''(A) VOLUNTARY REPORTING.—Not later than January 1, 2013''; and

(ii) by adding at the end the following:

''(B) MANDATORY REPORTING WITH RESPECT TO BEHAVIORAL HEALTH MEASURES.—Beginning with the State report required under subsection (d)(1) for 2024, the Secretary shall require States to use all behavioral health measures included in the core set of adult health quality measures and any updates or changes to such measures to report information, using the

standardized format for reporting information and procedures developed under subparagraph (A), regarding the quality of behavioral health care for Medicaid eligible adults.'';

(B) in paragraph (5), by adding at the end the following new subparagraph:

''(C) BEHAVIORAL HEALTH MEASURES.—Beginning with respect to State reports required under subsection (d)(1) for 2024, the core set of adult health quality measures maintained under this paragraph (and any updates or changes to such measures) shall include behavioral health measures.''; and

(2) in subsection (d)(1)(A)—

(A) by striking ''the such plan'' and inserting ''such plan''; and

(B) by striking ''subsection (a)(5)'' and inserting ''subsection (b)(5) and, beginning with the report for 2024, all behavioral health measures included in the core set of adult health quality measures maintained under such subsection (b)(5) and any updates or changes to such measures (as required under subsection (b)(3))''.

SEC. 212. REPORT ON INNOVATIVE STATE INITIATIVES AND STRATEGIES TO PROVIDE HOUSING-RELATED SERVICES AND SUPPORTS TO INDIVIDUALS STRUGGLING WITH SUBSTANCE USE DISORDERS UNDER MEDICAID.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of Health and Human Services shall issue a report to Congress describing innovative State initiatives and strategies for providing housing-related services and supports under a State Medicaid program to individuals with substance use disorders who are experiencing or at risk of experiencing homelessness.

(b) CONTENT OF REPORT.—The report required under subsection (a) shall describe the following:

(1) Existing methods and innovative strategies developed and adopted by State Medicaid programs that have achieved positive outcomes in increasing housing stability among Medicaid beneficiaries with substance use disorders who are experiencing or at risk of experiencing homelessness, including Medicaid beneficiaries with substance use disorders who are—

(A) receiving treatment for substance use disorders in inpatient, residential, outpatient, or home and community-based settings;

(B) transitioning between substance use disorder treatment settings; or

(C) living in supportive housing or another model of affordable housing.

(2) Strategies employed by Medicaid managed care organizations, primary care case managers, hospitals, accountable care organizations, and other care coordination providers to deliver housing-related services and supports and to coordinate services provided under State Medicaid programs across different treatment settings.

(3) Innovative strategies and lessons learned by States with Medicaid waivers approved under section 1115 or 1915 of the Social Security Act (42 U.S.C. 1315, 1396n), including—

(A) challenges experienced by States in designing, securing, and implementing such waivers or plan amendments;

(B) how States developed partnerships with other organizations such as behavioral health agencies, State housing agencies, housing providers, health care services agencies and providers, community-based organizations, and health insurance plans to implement waivers or State plan amendments; and

(C) how and whether States plan to provide Medicaid coverage for housing-related services and supports in the future, including by covering such services and supports under State Medicaid plans or waivers.

(4) Existing opportunities for States to provide housing-related services and supports through a Medicaid waiver under sections 1115 or 1915 of the Social Security Act (42 U.S.C. 1315, 1396n) or through a State Medicaid plan amendment, such as the Assistance in Community Integration Service pilot program, which promotes supportive housing and other housing-related supports under Medicaid for individuals with substance use disorders and for which Maryland has a waiver approved under such section 1115 to conduct the program.

(5) Innovative strategies and partnerships developed and implemented by State Medicaid programs or other entities to identify and enroll eligible individuals with substance use disorders who are experiencing or at risk of experiencing homelessness in State Medicaid programs.

SEC. 213. TECHNICAL ASSISTANCE AND SUPPORT FOR INNOVATIVE STATE STRATEGIES TO PROVIDE HOUSING-RELATED SUPPORTS UNDER MEDICAID.

(a) IN GENERAL.—The Secretary of Health and Human Services shall provide technical assistance and support to States regarding the development and expansion of innovative State strategies (including through State Medicaid demonstration projects) to provide housing-related supports and services and care coordination services under Medicaid to individuals with substance use disorders.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall issue a report to Congress detailing a plan of action to carry out the requirements of subsection (a).

TITLE III—HUMAN SERVICES

SEC. 301. SUPPORTING FAMILY-FOCUSED RESIDENTIAL TREATMENT.

(a) DEFINITIONS.—In this section:

(1) FAMILY-FOCUSED RESIDENTIAL TREATMENT PROGRAM.—The term ''family-focused residential treatment program'' means a trauma-informed residential program primarily for substance use disorder treatment for pregnant and postpartum women and parents and guardians that allows chil-

dren to reside with such women or their parents or guardians during treatment to the extent appropriate and applicable.

(2) MEDICAID PROGRAM.—The term ''Medicaid program'' means the program established under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

(3) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

(4) TITLE IV–E PROGRAM.—The term ''title IV–E program'' means the program for foster care, prevention, and permanency established under part E of title IV of the Social Security Act (42 U.S.C. 670 et seq.).

(b) GUIDANCE ON FAMILY-FOCUSED RESIDENTIAL TREATMENT PROGRAMS.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary, in consultation with divisions of the Department of Health and Human Services administering substance use disorder or child welfare programs, shall develop and issue guidance to States identifying opportunities to support family-focused residential treatment programs for the provision of substance use disorder treatment. Before issuing such

guidance, the Secretary shall solicit input from representatives of States, health care providers with expertise in addiction medicine, obstetrics and gynecology, neonatology, child trauma, and child development, health plans, recipients of family-focused treatment services, and other relevant stakeholders.

(2) ADDITIONAL REQUIREMENTS.—The guidance required under paragraph (1) shall include descriptions of the following:

(A) Existing opportunities and flexibilities under the Medicaid program, including under waivers authorized under section 1115 or 1915 of the Social Security Act (42 U.S.C. 1315, 1396n), for States to receive Federal Medicaid funding for the provision of substance use disorder treatment for pregnant and postpartum women and parents and guardians and, to the extent applicable, their children, in family-focused residential treatment programs.

(B) How States can employ and coordinate funding provided under the Medicaid program, the title IV-E program, and other programs administered by the Secretary to support the provision of treatment and services provided by a family-focused residential treatment facility

such as substance use disorder treatment and services, including medication-assisted treatment, family, group, and individual counseling, case management, parenting education and skills development, the provision, assessment, or coordination of care and services for children, including necessary assessments and appropriate interventions, non-emergency transportation for necessary care provided at or away from a program site, transitional services and supports for families leaving treatment, and other services.

(C) How States can employ and coordinate funding provided under the Medicaid program and the title IV–E program (including as amended by the Family First Prevention Services Act enacted under title VII of division E of Public Law 115–123, and particularly with respect to the authority under subsections (a)(2)(C) and (j) of section 472 and section 474(a)(1) of the Social Security Act (42 U.S.C. 672, 674(a)(1)) (as amended by section 50712 of Public Law 115–123) to provide foster care maintenance payments for a child placed with a parent who is receiving treatment in a licensed

residential family-based treatment facility for a substance use disorder) to support placing children with their parents in family-focused residential treatment programs.

SEC. 302. IMPROVING RECOVERY AND REUNIFYING FAMILIES.

Section 435 of the Social Security Act (42 U.S.C. 629e) is amended by adding at the end the following:

''(e) FAMILY RECOVERY AND REUNIFICATION PROGRAM REPLICATION PROJECT.—

''(1) PURPOSE.—The purpose of this subsection is to provide resources to the Secretary to support the conduct and evaluation of a family recovery and reunification program replication project (referred to in this subsection as the 'project') and to determine the extent to which such programs may be appropriate for use at different intervention points (such as when a child is at risk of entering foster care or when a child is living with a guardian while a parent is in treatment). The family recovery and reunification program conducted under the project shall use a recovery coach model that is designed to help reunify families and protect children by working with parents or guardians with a substance use disorder who have temporarily lost custody of their children.

''(2) PROGRAM COMPONENTS.—The family recovery and reunification program conducted under the project shall adhere closely to the elements and protocol determined to be most effective in other recovery coaching programs that have been rigorously evaluated and shown to increase family reunification and protect children and, consistent with such elements and protocol, shall provide such items and services as—

''(A) assessments to evaluate the needs of the parent or guardian;

''(B) assistance in receiving the appropriate benefits to aid the parent or guardian in recovery;

''(C) services to assist the parent or guardian in prioritizing issues identified in assessments, establishing goals for resolving such issues that are consistent with the goals of the treatment provider, child welfare agency, courts, and other agencies involved with the parent or guardian or their children, and making a coordinated plan for achieving such goals;

''(D) home visiting services coordinated with the child welfare agency and treatment

provider involved with the parent or guardian or their children;

''(E) case management services to remove barriers for the parent or guardian to participate and continue in treatment, as well as to re-engage a parent or guardian who is not participating or progressing in treatment;

''(F) access to services needed to monitor the parent's or guardian's compliance with program requirements;

''(G) frequent reporting between the treatment provider, child welfare agency, courts, and other agencies involved with the parent or guardian or their children to ensure appropriate information on the parent's or guardian's status is available to inform decision-making; and

''(H) assessments and recommendations provided by a recovery coach to the child welfare caseworker responsible for documenting the parent's or guardian's progress in treatment and recovery as well as the status of other areas identified in the treatment plan for the parent or guardian, including a recommendation regarding the expected safety of the child if the child is returned to the custody of the

parent or guardian that can be used by the caseworker and a court to make permanency decisions regarding the child.

''(3) RESPONSIBILITIES OF THE SECRETARY.—

''(A) IN GENERAL.—The Secretary shall, through a grant or contract with 1 or more entities, conduct and evaluate the family recovery and reunification program under the project.

''(B) REQUIREMENTS.—In identifying 1 or more entities to conduct the evaluation of the family recovery and reunification program, the Secretary shall—

''(i) determine that the area or areas in which the program will be conducted have sufficient substance use disorder treatment providers and other resources (other than those provided with funds made available to carry out the project) to successfully conduct the program;

''(ii) determine that the area or areas in which the program will be conducted have enough potential program participants, and will serve a sufficient number of parents or guardians and their children, so as to allow for the formation of a control

group, evaluation results to be adequately powered, and preliminary results of the evaluation to be available within 4 years of the program's implementation;

''(iii) provide the entity or entities with technical assistance for the program design, including by working with 1 or more entities that are or have been involved in recovery coaching programs that have been rigorously evaluated and shown to increase family reunification and protect children so as to make sure the program conducted under the project adheres closely to the elements and protocol determined to be most effective in such other recovery coaching programs;

''(iv) assist the entity or entities in securing adequate coaching, treatment, child welfare, court, and other resources needed to successfully conduct the family recovery and reunification program under the project; and

''(v) ensure the entity or entities will be able to monitor the impacts of the program in the area or areas in which it is

conducted for at least 5 years after parents or guardians and their children are randomly assigned to participate in the program or to be part of the program's control group.

''(4) EVALUATION REQUIREMENTS.—

''(A) IN GENERAL.—The Secretary, in consultation with the entity or entities conducting the family recovery and reunification program under the project, shall conduct an evaluation to determine whether the program has been implemented effectively and resulted in improvements for children and families. The evaluation shall have 3 components: a pilot phase, an impact study, and an implementation study.

''(B) PILOT PHASE.—The pilot phase component of the evaluation shall consist of the Secretary providing technical assistance to the entity or entities conducting the family recovery and reunification program under the project to ensure—

''(i) the program's implementation adheres closely to the elements and protocol determined to be most effective in other recovery coaching programs that have been

rigorously evaluated and shown to increase family reunification and protect children; and

''(ii) random assignment of parents or guardians and their children to be participants in the program or to be part of the program's control group is being carried out.

''(C) IMPACT STUDY.—The impact study component of the evaluation shall determine the impacts of the family recovery and reunification program conducted under the project on the parents and guardians and their children participating in the program. The impact study component shall—

''(i) be conducted using an experimental design that uses a random assignment research methodology;

''(ii) consistent with previous studies of other recovery coaching programs that have been rigorously evaluated and shown to increase family reunification and protect children, measure outcomes for parents and guardians and their children over mul-

tiple time periods, including for a period of 5 years; and

''(iii) include measurements of family stability and parent, guardian, and child safety for program participants and the program control group that are consistent with measurements of such factors for participants and control groups from previous studies of other recovery coaching programs so as to allow results of the impact study to be compared with the results of such prior studies, including with respect to comparisons between program participants and the program control group regarding—

''(I) safe family reunification;

''(II) time to reunification;

''(III) permanency (such as through measures of reunification, adoption, or placement with guardians);

''(IV) safety (such as through measures of subsequent maltreatment);

"(V) parental or guardian treatment persistence and engagement;

"(VI) parental or guardian substance use;

"(VII) juvenile delinquency;

"(VIII) cost; and

"(IX) other measurements agreed upon by the Secretary and the entity or entities operating the family recovery and reunification program under the project.

"(D) IMPLEMENTATION STUDY.—The implementation study component of the evaluation shall be conducted concurrently with the conduct of the impact study component and shall include, in addition to such other information as the Secretary may determine, descriptions and analyses of—

"(i) the adherence of the family recovery and reunification program conducted under the project to other recovery coaching programs that have been rigorously evaluated and shown to increase family reunification and protect children; and

''(ii) the difference in services received or proposed to be received by the program participants and the program control group.

''(E) REPORT.—The Secretary shall publish on an internet website maintained by the Secretary the following information:

''(i) A report on the pilot phase component of the evaluation.

''(ii) A report on the impact study component of the evaluation.

''(iii) A report on the implementation study component of the evaluation.

''(iv) A report that includes—

''(I) analyses of the extent to which the program has resulted in increased reunifications, increased permanency, case closures, net savings to the State or States involved (taking into account both costs borne by States and the Federal government), or other outcomes, or if the program did not produce such outcomes, an analysis of why the replication of the program did not yield such results;

''(II) if, based on such analyses, the Secretary determines the program should be replicated, a replication plan; and

''(III) such recommendations for legislation and administrative action as the Secretary determines appropriate.

''(5) APPROPRIATION.—In addition to any amounts otherwise made available to carry out this subpart, out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated $15,000,000 for fiscal year 2019 to carry out the project, which shall remain available through fiscal year 2026.''.

SEC. 303. BUILDING CAPACITY FOR FAMILY-FOCUSED RESIDENTIAL TREATMENT.

(a) DEFINITIONS.—In this section:

(1) ELIGIBLE ENTITY.—The term ''eligible entity'' means a State, county, local, or tribal health or child welfare agency, a private nonprofit organization, a research organization, a treatment service provider, an institution of higher education (as defined under section 101 of the Higher Education Act

of 1965 (20 U.S.C. 1001)), or another entity specified by the Secretary.

(2) FAMILY-FOCUSED RESIDENTIAL TREATMENT PROGRAM.—The term ''family-focused residential treatment program'' means a trauma-informed residential program primarily for substance use disorder treatment for pregnant and postpartum women and parents and guardians that allows children to reside with such women or their parents or guardians during treatment to the extent appropriate and applicable.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

(b) SUPPORT FOR THE DEVELOPMENT OF EVIDENCE-BASED FAMILY-FOCUSED RESIDENTIAL TREATMENT PROGRAMS.—

(1) AUTHORITY TO AWARD GRANTS.—The Secretary shall award grants to eligible entities for purposes of developing, enhancing, or evaluating family-focused residential treatment programs to increase the availability of such programs that meet the requirements for promising, supported, or well-supported practices specified in section 471(e)(4)(C) of the Social Security Act (42 U.S.C. 671(e)(4)(C))) (as added by the Family First Prevention Services

Act enacted under title VII of division E of Public Law 115–123).

(2) EVALUATION REQUIREMENT.—The Secretary shall require any evaluation of a family-focused residential treatment program by an eligible entity that uses funds awarded under this section for all or part of the costs of the evaluation be designed to assist in the determination of whether the program may qualify as a promising, supported, or well-supported practice in accordance with the requirements of such section 471(e)(4)(C).

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section, $20,000,000 for fiscal year 2019, which shall remain available through fiscal year 2023.

Calendar No. 484

115TH CONGRESS
2D SESSION

S. 3120

[Report No. 115–284]

A BILL

To amend titles XVIII and XIX of the Social Security Act to help end addictions and lessen substance abuse disorders, and for other purposes.

JUNE 25, 2018

Read twice and placed on the calendar