

MOTION TO RECOMMIT H.R. 5797

M____. _____ moves to recommit the bill H.R. 5797 to the Committee on Energy and Commerce with instructions to report the same back to the House forthwith with the following amendment:

Strike all that follows after section 1 and insert the following:

1 **SEC. 2. MEDICAID STATE PLAN OPTION TO PROVIDE SERV-**
2 **ICES FOR CERTAIN INDIVIDUALS WITH SUB-**
3 **STANCE USE DISORDERS IN QUALIFIED IN-**
4 **STITUTIONS FOR MENTAL DISEASES.**

5 Section 1915 of the Social Security Act (42 U.S.C.
6 1396n) is amended by adding at the end the following new
7 subsection:

8 “(1) STATE PLAN OPTION TO PROVIDE SERVICES
9 FOR CERTAIN INDIVIDUALS IN QUALIFIED INSTITUTIONS
10 FOR MENTAL DISEASES.—

11 “(1) IN GENERAL.—With respect to calendar
12 quarters beginning during the period beginning Jan-
13 uary 1, 2019, and ending December 31, 2023, a
14 State may elect, through a State plan amendment,
15 to, notwithstanding section 1905(a), provide medical

1 assistance for addiction treatment services and other
2 medically necessary services furnished to eligible in-
3 dividuals with substance use disorders who are pa-
4 tients in qualified institutions for mental diseases, in
5 accordance with the requirements of this subsection.

6 “(2) PAYMENTS.—

7 “(A) IN GENERAL.—Subject to subpara-
8 graph (B), amounts expended under a State
9 plan amendment under paragraph (1) for serv-
10 ices described in such paragraph furnished,
11 with respect to a 12-month period, to an eligible
12 individual with a substance use disorder who is
13 a patient in a qualified institution for mental
14 diseases shall be treated as medical assistance
15 for which payment is made under section
16 1903(a) but only to the extent that such serv-
17 ices are furnished for not more than a period
18 of 30 days (whether or not consecutive) during
19 such 12-month period.

20 “(B) CONDITIONS.—As a condition of re-
21 ceiving payment under this paragraph, a State
22 shall satisfy each of the following:

23 “(i) COVERAGE OF CONTINUUM OF
24 CARE RECOMMENDED BY ASAM.—Provide
25 medical assistance under the State plan for

1 all nine levels of the continuum of care rec-
2 ommended, as of the date of the enactment
3 of this section, by the American Society of
4 Addiction Medicine.

5 “(ii) COVERAGE OF NEWLY ELIGIBLE
6 INDIVIDUALS.—Provide for making med-
7 ical assistance available under the State
8 plan to all individuals described in sub-
9 clause (VIII) of section 1902(a)(10)(A)(i).

10 “(C) CLARIFICATION.—Payment made
11 under this paragraph for expenditures under a
12 State plan amendment under this subsection
13 with respect to services described in paragraph
14 (1) furnished to an eligible individual with a
15 substance use disorder shall not affect payment
16 that would otherwise be made under section
17 1903(a) for expenditures under the State plan
18 (or waiver of such plan) for medical assistance
19 for such individual.

20 “(3) DEFINITIONS.—In this subsection:

21 “(A) ADDICTION TREATMENT SERVICES.—
22 The term ‘addiction treatment services’ means,
23 with respect to a State and eligible individuals
24 with substance use disorders who are patients
25 in qualified institutions for mental diseases,

1 services that are offered as part of a full con-
2 tinuum of evidence-based treatment services
3 under the State plan (or a waiver of such plan),
4 including residential, non-residential, and com-
5 munity-based care, for such individuals.

6 “(B) ELIGIBLE INDIVIDUAL WITH A SUB-
7 STANCE USE DISORDER.—The term ‘eligible in-
8 dividual with a substance use disorder’ means
9 an individual who—

10 “(i) with respect to a State, is en-
11 rolled for medical assistance under the
12 State plan (or a waiver of such plan);

13 “(ii) is at least 21 years of age;

14 “(iii) has not attained 65 years of
15 age; and

16 “(iv) has been diagnosed with at least
17 one substance use disorder.

18 “(C) QUALIFIED INSTITUTION FOR MEN-
19 TAL DISEASES.—

20 “(i) IN GENERAL.—The term ‘quali-
21 fied institution for mental diseases’ means
22 an institution described in section 1905(i)
23 that—

24 “(I) has fewer than 40 beds;

1 “(II) is accredited for the treat-
2 ment of substance use disorders by
3 the Joint Commission on Accredita-
4 tion of Healthcare Organizations, the
5 Commission on Accreditation of Reha-
6 bilitation Facilities, the Council on
7 Accreditation, or any other accrediting
8 agency that the Secretary deems ap-
9 propriate as necessary to ensure na-
10 tionwide applicability, including quali-
11 fied national organizations and State-
12 level accrediting agencies; and

13 “(III) employs at least one pro-
14 vider who, for purposes of treating eli-
15 gible individuals with a substance use
16 disorder—

17 “(aa) is licensed to prescribe
18 at least one form of each type of
19 medication-assisted treatment
20 specified in clause (ii);

21 “(bb) provides, with respect
22 to the prescription of any such
23 medication-assisted treatment,
24 counseling services and behav-
25 ioral therapy; and

1 “(cc) can discuss with any
2 such individual the risks, bene-
3 fits, and alternatives of any such
4 medication-assisted treatment so
5 prescribed.

6 “(ii) TYPES OF MEDICATION-ASSISTED
7 TREATMENT SPECIFIED.—For purposes of
8 clause (i), the types of medication-assisted
9 treatment specified in this clause are each
10 of the following:

11 “(I) Methadone.

12 “(II) Buprenorphine.

13 “(III) Naltrexone.

14 “(D) OTHER MEDICALLY NECESSARY
15 SERVICES.—The term ‘other medically nec-
16 essary services’ means, with respect to an eligi-
17 ble individual with a substance use disorder who
18 is a patient in a qualified institution for mental
19 diseases, items and services that are provided to
20 such individual outside of such institution to
21 the extent that such items and services would
22 be treated as medical assistance for such indi-
23 vidual if such individual were not a patient in
24 such institution.”.

1 **SEC. 3. PROMOTING VALUE IN MEDICAID MANAGED CARE.**

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

5 “(7)(A) With respect to expenditures described in
6 subparagraph (B) that are incurred by a State for any
7 fiscal year after fiscal year 2020 (and before fiscal year
8 2025), in determining the pro rata share to which the
9 United States is equitably entitled under subsection
10 (d)(3), the Secretary shall substitute the Federal medical
11 assistance percentage that applies for such fiscal year to
12 the State under section 1905(b) (without regard to any
13 adjustments to such percentage applicable under such sec-
14 tion or any other provision of law) for the percentage that
15 applies to such expenditures under section 1905(y).

16 “(B) Expenditures described in this subparagraph,
17 with respect to a fiscal year to which subparagraph (A)
18 applies, are expenditures incurred by a State for payment
19 for medical assistance provided to individuals described in
20 subclause (VIII) of section 1902(a)(10)(A)(i) by a man-
21 aged care entity, or other specified entity (as defined in
22 subparagraph (D)(iii)), that are treated as remittances be-
23 cause the State—

24 “(i) has satisfied the requirement of section
25 438.8 of title 42, Code of Federal Regulations (or
26 any successor regulation), by electing—

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

7 “(II) in the case of a State not described
8 in subparagraph (C), to apply a minimum med-
9 ical loss ratio that is equal to 85 percent; and

10 “(ii) recovered all or a portion of the expendi-
11 tures as a result of the entity’s failure to meet such
12 ratio.

13 “(C) For purposes of subparagraph (B), a State de-
14 scribed in this subparagraph is a State that as of May
15 31, 2018, applied a minimum medical loss ratio (as cal-
16 culated under subsection (d) of section 438.8 of title 42,
17 Code of Federal Regulations (as in effect on June 1,
18 2018)) for payment for services provided by entities de-
19 scribed in such subparagraph under the State plan under
20 this title (or a waiver of the plan) that is equal to or great-
21 er than 85 percent.

22 “(D) For purposes of this paragraph:

23 “(i) The term ‘managed care entity’ means a
24 medicaid managed care organization described in
25 section 1932(a)(1)(B)(i).

1 “(ii) The term ‘minimum medical loss ratio’
2 means, with respect to a State, a minimum medical
3 loss ratio (as calculated under subsection (d) of sec-
4 tion 438.8 of title 42, Code of Federal Regulations
5 (as in effect on June 1, 2018)) for payment for serv-
6 ices provided by entities described in subparagraph
7 (B) under the State plan under this title (or a waiv-
8 er of the plan).

9 “(iii) The term ‘other specified entity’ means—
10 “(I) a prepaid inpatient health plan, as de-
11 fined in section 438.2 of title 42, Code of Fed-
12 eral Regulations (or any successor regulation);
13 and
14 “(II) a prepaid ambulatory health plan, as
15 defined in such section (or any successor regu-
16 lation).”.

