

117TH CONGRESS
1ST SESSION

H. R. 2611

To amend title XIX of the Social Security Act to remove the exclusion from medical assistance under the Medicaid Program of items and services for patients in an institution for mental diseases, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 16, 2021

Mrs. NAPOLITANO introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To amend title XIX of the Social Security Act to remove the exclusion from medical assistance under the Medicaid Program of items and services for patients in an institution for mental diseases, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Increasing Behavioral
5 Health Treatment Act”.

1 **SEC. 2. REMOVAL OF MEDICAID EXCLUSION FROM MED-**
 2 **ICAL ASSISTANCE OF ITEMS AND SERVICES**
 3 **FURNISHED TO PATIENTS IN AN INSTITU-**
 4 **TION FOR MENTAL DISEASES IF STATE SUB-**
 5 **MITTS PLAN FOR PROVIDING APPROPRIATE**
 6 **OUTPATIENT CARE TO SUCH PATIENTS.**

7 (a) REMOVAL OF EXCLUSION.—

8 (1) IN GENERAL.—The first sentence of section
 9 1905(a) of the Social Security Act (42 U.S.C.
 10 1396d(a)) is amended, in the matter following para-
 11 graph (30)—

12 (A) by striking “such term does not in-
 13 clude—” and all that follows through “(A) any”
 14 and inserting “such term does not include any”;

15 (B) by striking “; or” and inserting a pe-
 16 riod; and

17 (C) by striking subparagraph (B).

18 (2) CONFORMING AMENDMENTS TO PERMIT
 19 MEDICAL ASSISTANCE FOR IMD PATIENTS UNDER 65
 20 YEARS OF AGE.—The following provisions of such
 21 Act are each amended by striking “65 years of age
 22 or older” and “65 years of age or over” each place
 23 it appears:

24 (A) Paragraphs (20) and (21) of section
 25 1902(a) (42 U.S.C. 1396a(a)).

1 (B) Section 1905(a)(14) (42 U.S.C.
2 1396d(a)(14)).

3 (C) Section 1919(e)(7)(B)(i)(I) (42 U.S.C.
4 1396r(e)(7)(B)(i)(I)).

5 (b) REPORTING AND PLAN REQUIREMENT.—Section
6 1902(a)(20) of the Social Security Act (42 U.S.C.
7 1396a(a)(20)) is amended—

8 (1) in subparagraph (B), by striking at the end
9 “and”;

10 (2) by adding at the end the following new sub-
11 paragraphs:

12 “(D) provide for a plan to achieve (and for
13 the annual submission to the Secretary of ac-
14 tions taken by the State, and progress with re-
15 spect to such actions, to achieve)—

16 “(i) increased access to outpatient and
17 community-based behavioral health care,
18 with respect to individuals furnished serv-
19 ices in an institution for mental diseases,
20 especially for individuals transitioning from
21 such an institution;

22 “(ii) increased availability of services
23 made available through crisis call centers,
24 mobile crisis units, coordinated community
25 crisis response that involves law enforce-

1 ment and other first responders, observa-
2 tion or assessment centers, and on-going
3 community-based services (such as inten-
4 sive outpatient services, assertive commu-
5 nity treatment, and services in integrated
6 care settings such as the Certified Commu-
7 nity Behavioral Health Clinic model) (such
8 services referred to as crisis stabilization
9 services) for individuals experiencing a se-
10 rious mental illness (as such term is de-
11 fined for purposes of title V of the Public
12 Health Service Act), serious emotional dis-
13 turbance, or substance use disorder crisis;

14 “(iii) improved data sharing and co-
15 ordination between physical health, mental
16 health, and addiction treatment providers
17 (including hospitals and community-based
18 behavioral health facilities) and first re-
19 sponders to improve health outcomes for
20 individuals furnished services in an institu-
21 tion for mental diseases, who are experi-
22 encing a serious mental illness (as so de-
23 fined), serious emotional disturbance, or
24 substance use disorder crisis;

25 “(E) provide for the demonstration of—

1 “(i) State policies to ensure individ-
2 uals receiving medical assistance under the
3 State plan who receive care in psychiatric
4 hospitals and residential treatment settings
5 are consistently screened for co-morbid
6 physical health conditions and substance
7 use disorders prior to or upon admission,
8 and that participating facilities have the
9 capacity to address co-morbid physical
10 health conditions during stays in such psy-
11 chiatric hospitals and residential treatment
12 settings either through on-site medical
13 services or external referrals and care co-
14 ordination;

15 “(ii) established strategies of the
16 State for identifying and engaging individ-
17 uals, particularly adolescents and young
18 adults, experiencing a serious mental ill-
19 ness (as such term is defined for purposes
20 of title V of the Public Health Service
21 Act), serious emotional disturbance, or
22 substance use disorder crisis; and

23 “(iii) established utilization review
24 policies of the State Medicaid agency or
25 Medicaid managed care organizations, as

1 applicable, to ensure individuals receiving
2 medical assistance under the State plan re-
3 ceive treatment at clinically appropriate
4 levels of care and services are generally de-
5 livered in the least restrictive environment;
6 and

7 “(F) reporting to the Secretary (in a form
8 and manner specified by the Secretary) of, with
9 respect to each year beginning on or after the
10 date of the enactment of this subparagraph—

11 “(i) in the aggregate and by facility
12 type, costs and utilization for institutions
13 for mental diseases and inpatient psy-
14 chiatric hospitals that are not such institu-
15 tions;

16 “(ii) the number of individuals experi-
17 encing a serious mental illness (as such
18 term is defined for purposes of title V of
19 the Public Health Service Act), serious
20 emotional disturbance, or substance use
21 disorder crisis who received medical assist-
22 ance under the State plan during the year;

23 “(iii) the length of the stay of each
24 such individual in an institution for mental
25 disease; and

1 “(iv) the type of outpatient treatment,
2 including medication assisted treatment,
3 each such individual received after being
4 discharged from such institution;”.

5 (c) EFFECTIVE DATE.—

6 (1) IN GENERAL.—Subject to paragraph (2),
7 the amendments made by this section shall take ef-
8 fect on the date of the enactment of this Act and
9 shall apply to State plans beginning on such date.

10 (2) EXCEPTION IF STATE LEGISLATION RE-
11 QUIRED.—In the case of a State plan for medical as-
12 sistance under title XIX of the Social Security Act
13 which the Secretary of Health and Human Services
14 determines requires State legislation (other than leg-
15 islation appropriating funds) in order for the plan to
16 meet the additional requirement imposed by the
17 amendments made by this section, the State plan
18 shall not be regarded as failing to comply with the
19 requirements of such title solely on the basis of its
20 failure to meet this additional requirement before
21 the first day of the first calendar quarter beginning
22 after the close of the first regular session of the
23 State legislature that begins after the date of the en-
24 actment of this Act. For purposes of the previous
25 sentence, in the case of a State that has a 2-year

1 legislative session, each year of such session shall be
2 deemed to be a separate regular session of the State
3 legislature.

○