



H.R. 5797 – The Individuals in Medicaid Deserve Care that is Appropriate and Responsible in its Delivery Act IMD CARE (Walters, R-CA)

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FLOOR SCHEDULE:

Scheduled for consideration on June 20, 2018, under a structured [rule](#). The rule makes in order three amendments, which are described below.

The rule would consider as adopted an [amendment](#) from the bill sponsor that would provide an incentive for states to voluntarily adopt a medical loss ratio requirement for their Medicaid managed care organizations at a rate of 85 percent. The amendment fully offsets the cost of the legislation at a level of \$2.575 billion over Fiscal Years 2018-2028.

TOPLINE SUMMARY:

[H.R. 5797](#) would allow states to use Medicaid funds to allow certain individuals with opioid use disorder in mental institutions to receive treatment

COST:

The [Congressional Budget Office](#) estimates that enacting H.R. 5797 would increase direct spending by \$991 million over the 2019-2028 period.

CONSERVATIVE CONCERNS:

- **Expand the Size and Scope of the Federal Government?** This legislation would expand Medicaid coverage for people with opioid use disorder who are in institutions for mental disease (IMDs) for up to 30 days per year.
- **Encroach into State or Local Authority?** Some conservatives may believe these services would be more appropriately provided by state and local governments, or by civil society.
- **Delegate Any Legislative Authority to the Executive Branch?** No.
- **Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?** No.

DETAILED SUMMARY AND ANALYSIS:

H.R. 5797 would allow States to provide treatment services under Medicaid for certain individuals with opioid use disorder in institutions for mental diseases.

According to [CBO](#), “Under a current-law policy known as the IMD exclusion, the federal government generally does not make matching payments to state Medicaid programs for most services provided by IMDs to adults between the ages of 21 and 64. Recent administrative changes have made federal financing for IMDs available in limited circumstances, but the statutory prohibition remains in place.”

This legislation would allow state Medicaid programs to remove the Institutions for Mental Disease (IMD) exclusion for Medicaid beneficiaries aged 21 to 64 with an opioid use disorder for up to 30 days per year for fiscal years 2019-2023.

Additionally, this legislation would require that States provide the Secretary of Health and Human Services a plan on how the State will improve access to outpatient care, including the process by which eligible individuals with opioid use disorders will make the transition from receiving inpatient services in an institution for mental diseases to appropriate outpatient care; and the process that the State will undertake to ensure individuals with opioid use disorder are provided care in the most integrated setting appropriate to the needs of the individuals.

Finally, this legislation would require that not sooner than December 31, 2024, the State to send a report to the Secretary of Health and Human Services that includes: 1) the number of eligible individuals with opioid use disorders who received services; 2) the length of the stay of each such individual in an institution for mental diseases; and 3) the type of outpatient treatment including medication-assisted treatment, each such individual received after being discharged from such institution.

AMENDMENTS

1. [Rep. Rush \(D-IL\)](#) – This amendment would strike “eligible individuals with opioid use disorders” and insert “eligible individuals with targeted SUDS” in each place. This amendment would amend the legislation to provide for treatment options for certain individuals with cocaine use disorder, including crack cocaine.
2. [Rep. Kildee \(D-MI\)](#) – This amendment would add two additional criteria for the report that States must send to the Secretary. The additional criteria include: 1) the number of eligible individuals with any co-occurring disorders and the co-occurring disorders from which they suffer; and 2) information regarding the effects of a State plan amendment on access to community care for individuals suffering from a mental disease other than substance use disorder.
3. [Rep. Fitzpatrick \(R-PA\)](#) – Provides flexibility for States to allow the State plan amendment to include assessments to determine level of care and length of stay recommendations based upon criteria established or endorsed by a State agency pursuant to 1932(b)(1)(A)(i) of the Public Health Service Act.

OUTSIDE GROUP SUPPORT:

- Academy of Managed Care Pharmacy
- ACO Health Partners
- Aetna
- American Association on Health and Disability
- American Health Information Management Association
- American Hospital Association
- American Psychiatric Association
- American Society of Addiction Medicine
- American Society of Anesthesiologists
- America's Essential Hospitals
- America's Health Insurance Plans

- AMGA
- AMITA Health
- Anthem, Inc.
- Ascension Health
- Association for Ambulatory Behavioral Healthcare
- Association for Behavioral Health and Wellness
- Association for Community Affiliated Plans
- Avera Health
- Banner Health
- Baptist Healthcare System
- Beacon Health Options
- BlueCross BlueShield Association
- Bon Secours Health System, Inc.
- Catholic Health Association of the U.S.
- Catholic Health Initiatives
- Centene Corporation
- Center for Health Affairs/Northeast Ohio Hospital Opioid Consortium
- Centerstone
- Cerner
- Change Healthcare
- Cigna
- College of Healthcare Information Management Executives (CHIME)
- Confidentiality Coalition
- Employee Assistance Professionals Association
- Excellus BlueCross BlueShield
- Franciscan Sisters of Christian Charity Sponsored Ministries, Inc.
- Global Alliance for Behavioral Health and Social Justice
- Greater New York Hospital Association
- Hazelden Betty Ford Foundation
- Health IT Now
- Healthcare Leadership Council
- Henry Ford Health System
- HHS Substance Abuse and Mental Health Administration
- Howe Home Designers
- InfoMC
- Johns Hopkins Medicine
- Kennedy Forum
- Kern Health Systems
- Leidos
- Lycoming County
- Magellan Health
- Marshfield Clinic Health System
- Medicaid Health Plans of America
- Mental Health America
- Mental Health America of Indiana
- MetroHealth System
- Mosaic Life Care
- NAMI (National Alliance on Mental Illness)
- NAMI DC
- NAMI Delaware
- NAMI Greene County Tennessee
- NAMI Helena
- NAMI Jefferson County, Washington
- NAMI Kaufman County
- NAMI Kershaw County
- NAMI Lewistown
- NAMI Lexington
- NAMI of Howard County, MD
- NAMI of the Pee Dee (South Carolina)
- NAMI Piedmont Tri-County
- NAMI Sarasota County
- NAMI South Suburbs of Chicago
- NAMI Sussex, Inc.
- NAMI Temple Area
- NAMI Texas
- NAMI Utah
- NAMI Valley of the Sun
- National Alliance on Mental Illness
- National Alliance on Mental Illness (NAMI)
- National Alliance on Mental Illness (NAMI) Texas
- National Association for Behavioral Healthcare
- National Association of ACOs
- National Association of Addiction Treatment Providers
- National Association of Counties
- National Association of Counties (NACo)
- National Association of Medicaid Directors
- National Association of State Mental Health Program Directors (NASMHPD)

- National Governors' Association
- Netsmart
- New Directions Behavioral Health
- OCHIN
- OPEN MINDS
- Optum
- Oregon Association of Hospitals and Health Systems
- Oregon Community Health Information Network (OCHIN)
- Otsuka
- Partnership to Amend Part 2
- PCMA
- PerformCare
- Port Gamble S'Klallam Tribe
- Premier Healthcare Alliance
- Providence St. Joseph Health
- SCAN Health Plan
- Shatterproof
- Society of Hospital Medicine
- SSM Health
- Texas Health Resources
- The Center for Health Affairs/Northeast Ohio Hospital Opioid Consortium
- The Joint Commission
- The MetroHealth System
- Trinity Health
- University of Tennessee Medical Center
- Valley Health System
- Vizient
- Washington State Legislature
- Wayne Meriwether

COMMITTEE ACTION:

This bill was introduced by Representative Walters on May 15, 2018, and was referred to the House Committee on Energy and Commerce. The Committee marked up and reported the bill on June 6, 2018, by voice vote.

ADMINISTRATION POSITION:

According to the [Statement of Administration Policy](#), “The administration supports House passage of H.R. 5797... and looks forward to working with the Congress to address the opioid crisis as the legislative process continues.”

CONSTITUTIONAL AUTHORITY:

“Congress has the power to enact this legislation pursuant to the following: Article 1, Section 8 of the United States Constitution”

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