

118TH CONGRESS  
2D SESSION

# H. R. 8106

To amend title XIX of the Social Security Act to increase transparency and expand coverage options with respect to home and community-based services under a Medicaid waiver.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 23, 2024

Mrs. RODGERS of Washington (for herself and Mr. PALLONE) introduced the following bill; which was referred to the Committee on Energy and Commerce

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## A BILL

To amend title XIX of the Social Security Act to increase transparency and expand coverage options with respect to home and community-based services under a Medicaid waiver.

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. INCREASING TRANSPARENCY AND EXPANDING**

4                               **HCBS COVERAGE OPTIONS.**

5       Section 1915(c) of the Social Security Act (42 U.S.C.

6       1396n(c)) is amended—

7                       (1) in paragraph (2)—

8                               (A) in subparagraph (E)—

1 (i) by inserting “, not less frequently  
2 than” before “annually”; and

3 (ii) by inserting “(including, with re-  
4 spect to such information provided on or  
5 after January 1, 2028, the information  
6 specified in paragraph (12))” before the  
7 period at the end; and

8 (B) by adding at the end the following  
9 flush sentence:

10 “The Secretary shall make all information provided under  
11 subparagraph (E) on or after January 1, 2028, publicly  
12 available on the website of the Centers for Medicare &  
13 Medicaid Services.”; and

14 (2) by adding at the end the following new  
15 paragraphs:

16 “(11)(A) Notwithstanding paragraph (1), the  
17 Secretary may approve a waiver under this sub-  
18 section for a State to include as medical assistance  
19 under the State plan of such State payment for part  
20 or all of the cost of home or community-based serv-  
21 ices (other than room and board (as described in  
22 such paragraph)) approved by the Secretary which  
23 are provided pursuant to a written plan of care to  
24 individuals other than individuals described in such

1 paragraph if such State meets the requirements  
2 specified in subparagraph (B).

3 “(B) For purposes of paragraph (1), the re-  
4 quirements specified in this paragraph are, with re-  
5 spect to a State, the following:

6 “(i) As of the date that such State re-  
7 quests a waiver under this subsection to provide  
8 home or community-based services to individ-  
9 uals with respect to whom there has not been  
10 a determination described in such paragraph  
11 made, all other waivers (if any) granted under  
12 this subsection with respect to the State plan  
13 meet the requirements of this subsection.

14 “(ii) The State demonstrates to the Sec-  
15 retary that approval of a waiver under this sub-  
16 section with respect to individuals described in  
17 clause (i) will have no material impact on the  
18 average amount of time that individuals with  
19 respect to whom a determination described in  
20 paragraph (1) has been made will need to wait  
21 to receive home or community-based services  
22 under any waiver granted under this subsection.

23 “(iii) The State provides to the Sec-  
24 retary—

1           “(I) an estimate of the number of in-  
2           dividuals described in clause (i) that the  
3           State will make such services available to  
4           under a waiver under this subsection; and

5           “(II) a description of how the types  
6           and quantities of such services furnished to  
7           such individuals under such a waiver may  
8           differ from the types and quantities of  
9           such services furnished to individuals not  
10          described in clause (i) under such a waiver.

11          “(12) For purposes of paragraph (2)(E), the  
12          information specified in this paragraph is the fol-  
13          lowing:

14                 “(A) In the case of a State that limits the  
15                 number of individuals who may be provided  
16                 home or community-based services under a  
17                 waiver granted under this subsection—

18                         “(i) a description of how the State  
19                         maintains its list of individuals who have  
20                         applied to receive such services under such  
21                         waiver but who, due to such limit, have not  
22                         yet been approved to receive such services;

23                         “(ii) information on whether the State  
24                         screens individuals on such list to deter-

1 mine whether such individuals are eligible  
2 to receive such services under such waiver;

3 “(iii) information on whether (and, if  
4 applicable, how often) the State periodi-  
5 cally re-screens such individuals to deter-  
6 mine whether such individuals are so eligi-  
7 ble; and

8 “(iv) the average amount of time that  
9 individuals approved to receive such serv-  
10 ices were on such list.

11 “(B) A description of the types of services  
12 furnished under waivers under this subsection,  
13 including the following:

14 “(i) The average amount of time from  
15 when such services are initially approved  
16 for an individual to when such individual  
17 begins receiving such services.

18 “(ii) With respect to the most recent  
19 1-year period ending on the date that such  
20 information is provided to the Secretary  
21 for which data is available (or such other  
22 period as may be specified by the Sec-  
23 retary), the average percentage of hours of  
24 home or community-based services author-  
25 ized under written plans of care for indi-

1           viduals receiving such services under a  
2           waiver granted under this subsection that  
3           are actually furnished to such individual.

4           “(C) Information regarding access to  
5           homemaker services, home health aide services,  
6           and personal care services under waivers under  
7           this subsection, including the following:

8                   “(i) With respect to the most recent  
9                   1-year period ending on the date that such  
10                  information is provided to the Secretary  
11                  for which data is available, the average  
12                  amount of time from when homemaker  
13                  services, home health aide services, or per-  
14                  sonal care services are initially approved to  
15                  be furnished to individuals under such a  
16                  waiver to when services began.

17                  “(ii) With respect to the period de-  
18                  scribed in clause (i), the average percent-  
19                  age of hours of homemaker services, home  
20                  health aide services, and personal care  
21                  services authorized under written plans of  
22                  care for individuals receiving such services  
23                  under a waiver granted under this sub-  
24                  section that are actually furnished to such  
25                  individual.”.

1 **SEC. 2. CMS GUIDANCE TO STATES ON INTERIM COVERAGE**  
2 **UNDER WAIVER.**

3 Not later than January 1, 2025, the Secretary of  
4 Health and Human Services shall issue guidance to the  
5 States to clarify how a State with a waiver in effect under  
6 section 1915(c) of the Social Security Act (42 U.S.C.  
7 1396n(c)) may provide, with respect to an individual who  
8 is eligible for home and community-based services (as such  
9 term is described in such section) under such waiver, up  
10 to 60 days of coverage of such services under an interim  
11 care plan for the period beginning on the date such eligi-  
12 bility is determined and ending on the date that a written  
13 plan of care (as such term is described in such section)  
14 with respect to such individual is finalized.

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