

115TH CONGRESS  
2D SESSION

# S. 3383

To amend title XIX of the Social Security Act to provide for a demonstration project to increase substance use provider capacity under the Medicaid program.

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## IN THE SENATE OF THE UNITED STATES

AUGUST 23, 2018

Mr. CARDIN introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend title XIX of the Social Security Act to provide for a demonstration project to increase substance use provider capacity under the Medicaid program.

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 “Rural Development  
5 of Opioid Capacity Services Act” or the “Rural DOCS  
6 Act”.

1 **SEC. 2. DEMONSTRATION PROJECT TO INCREASE SUB-**  
2 **STANCE USE PROVIDER CAPACITY UNDER**  
3 **THE MEDICAID PROGRAM.**

4 Section 1903 of the Social Security Act (42 U.S.C.  
5 1396b) is amended by adding at the end the following new  
6 subsection:

7 “(aa) DEMONSTRATION PROJECT TO INCREASE SUB-  
8 STANCE USE PROVIDER CAPACITY.—

9 “(1) IN GENERAL.—Not later than the date  
10 that is 180 days after the date of the enactment of  
11 this section, the Secretary shall conduct a 5-year  
12 demonstration project for the purpose described in  
13 paragraph (2) under which the Secretary shall—

14 “(A) for the first 18-month period of such  
15 project, award planning grants described in  
16 paragraph (3); and

17 “(B) for the remaining 42-month period of  
18 such project, provide to each State selected  
19 under paragraph (4) payments in accordance  
20 with paragraph (5).

21 “(2) PURPOSE.—The purpose described in this  
22 paragraph is for each State selected under para-  
23 graph (4) to increase the treatment capacity of pro-  
24 viders participating under the State plan (or a waiv-  
25 er of such plan) to provide substance use disorder

1 treatment or recovery services under such plan (or  
2 waiver) through the following activities:

3 “(A) For the purpose described in para-  
4 graph (3)(C)(i), activities that support an ongo-  
5 ing assessment of the behavioral health treat-  
6 ment needs of the State, taking into account  
7 the matters described in subclauses (I) through  
8 (IV) of such paragraph.

9 “(B) Activities that, taking into account  
10 the results of the assessment described in sub-  
11 paragraph (A), support the recruitment, train-  
12 ing, and provision of technical assistance for  
13 providers participating under the State plan (or  
14 a waiver of such plan) that offer substance use  
15 disorder treatment or recovery services.

16 “(C) Improved reimbursement for and ex-  
17 pansion of, through the provision of education,  
18 training, and technical assistance, the number  
19 or treatment capacity of providers participating  
20 under the State plan (or waiver) that—

21 “(i) are authorized to dispense drugs  
22 approved by the Food and Drug Adminis-  
23 tration for individuals with a substance use  
24 disorder who need withdrawal management

1 or maintenance treatment for such dis-  
2 order;

3 “(ii) have in effect a registration or  
4 waiver under section 303(g) of the Con-  
5 trolled Substances Act for purposes of dis-  
6 pensing narcotic drugs to individuals for  
7 maintenance treatment or detoxification  
8 treatment and are in compliance with any  
9 regulation promulgated by the Assistant  
10 Secretary for Mental Health and Sub-  
11 stance Use for purposes of carrying out  
12 the requirements of such section 303(g); or

13 “(iii) are qualified under applicable  
14 State law to provide substance use disorder  
15 treatment or recovery services.

16 “(D) Improved reimbursement for and ex-  
17 pansion of, through the provision of education,  
18 training, and technical assistance, the number  
19 or treatment capacity of providers of substance  
20 use disorder treatment or recovery services par-  
21 ticipating under the State plan (or waiver), in-  
22 cluding providers that have the qualifications to  
23 address the treatment or recovery needs of—

24 “(i) individuals enrolled under the  
25 State plan (or a waiver of such plan) who

1 have neonatal abstinence syndrome, in ac-  
2 cordance with guidelines issued by the  
3 American Academy of Pediatrics and  
4 American College of Obstetricians and  
5 Gynecologists relating to maternal care  
6 and infant care with respect to neonatal  
7 abstinence syndrome;

8 “(ii) pregnant women, postpartum  
9 women, and infants, particularly the con-  
10 current treatment, as appropriate, and  
11 comprehensive case management of preg-  
12 nant women, postpartum women and in-  
13 fants, enrolled under the State plan (or a  
14 waiver of such plan);

15 “(iii) adolescents and young adults be-  
16 tween the ages of 12 and 21 enrolled  
17 under the State plan (or a waiver of such  
18 plan); or

19 “(iv) American Indian and Alaska Na-  
20 tive individuals enrolled under the State  
21 plan (or a waiver of such plan).

22 “(3) PLANNING GRANTS.—

23 “(A) IN GENERAL.—The Secretary shall,  
24 with respect to the first 18-month period of the  
25 demonstration project conducted under para-

1 graph (1), award planning grants to at least 10  
2 States selected in accordance with subpara-  
3 graph (B) for purposes of preparing an applica-  
4 tion described in paragraph (4)(C) and carrying  
5 out the activities described in subparagraph  
6 (C).

7 “(B) SELECTION.—In selecting States for  
8 purposes of this paragraph, the Secretary  
9 shall—

10 “(i) select States that have a State  
11 plan (or waiver of the State plan) approved  
12 under this title;

13 “(ii) select States in a manner that  
14 ensures geographic diversity; and

15 “(iii) give preference to States with a  
16 prevalence of substance use disorders (in  
17 particular opioid use disorders) that is  
18 comparable to or higher than the national  
19 average prevalence, as measured by aggre-  
20 gate per capita drug overdoses, or any  
21 other measure that the Secretary deems  
22 appropriate.

23 “(C) ACTIVITIES DESCRIBED.—Activities  
24 described in this subparagraph are, with respect  
25 to a State, each of the following:

1           “(i) Activities that support the devel-  
2           opment of an initial assessment of the be-  
3           havioral health treatment needs of the  
4           State to determine the extent to which pro-  
5           viders are needed (including the types of  
6           such providers and geographic area of  
7           need) to improve the network of providers  
8           that treat substance use disorders under  
9           the State plan (or waiver), including the  
10          following:

11                   “(I) An estimate of the number  
12                   of individuals enrolled under the State  
13                   plan (or a waiver of such plan) who  
14                   have a substance use disorder.

15                   “(II) Information on the capacity  
16                   of providers to provide substance use  
17                   disorder treatment or recovery serv-  
18                   ices to individuals enrolled under the  
19                   State plan (or waiver), including in-  
20                   formation on providers who provide  
21                   such services and their participation  
22                   under the State plan (or waiver).

23                   “(III) Information on the gap in  
24                   substance use disorder treatment or  
25                   recovery services under the State plan

1 (or waiver) based on the information  
2 described in subclauses (I) and (II).

3 “(IV) Projections regarding the  
4 extent to which the State partici-  
5 pating under the demonstration  
6 project would increase the number of  
7 providers offering substance use dis-  
8 order treatment or recovery services  
9 under the State plan (or waiver) dur-  
10 ing the period of the demonstration  
11 project.

12 “(ii) Activities that, taking into ac-  
13 count the results of the assessment de-  
14 scribed in clause (i), support the develop-  
15 ment of State infrastructure to, with re-  
16 spect to the provision of substance use dis-  
17 order treatment or recovery services under  
18 the State plan (or a waiver of such plan),  
19 recruit prospective providers and provide  
20 training and technical assistance to such  
21 providers.

22 “(D) FUNDING.—For purposes of subpara-  
23 graph (A), there is appropriated, out of any  
24 funds in the Treasury not otherwise appro-

1            pried, \$50,000,000, to remain available until  
2            expended.

3            “(4) POST-PLANNING STATES.—

4                    “(A) IN GENERAL.—The Secretary shall,  
5                    with respect to the remaining 42-month period  
6                    of the demonstration project conducted under  
7                    paragraph (1), select not more than 5 States in  
8                    accordance with subparagraph (B) for purposes  
9                    of carrying out the activities described in para-  
10                   graph (2) and receiving payments in accordance  
11                   with paragraph (5).

12                   “(B) SELECTION.—In selecting States for  
13                   purposes of this paragraph, the Secretary  
14                   shall—

15                           “(i) select States that received a plan-  
16                           ning grant under paragraph (3);

17                           “(ii) select States that submit to the  
18                           Secretary an application in accordance  
19                           with the requirements in subparagraph  
20                           (C), taking into consideration the quality  
21                           of each such application;

22                           “(iii) select States in a manner that  
23                           ensures geographic diversity; and

24                           “(iv) give preference to States with a  
25                           prevalence of substance use disorders (in

1 particular opioid use disorders) that is  
2 comparable to or higher than the national  
3 average prevalence, as measured by aggregate  
4 per capita drug overdoses, or any  
5 other measure that the Secretary deems  
6 appropriate.

7 “(C) APPLICATIONS.—

8 “(i) IN GENERAL.—A State seeking to  
9 be selected for purposes of this paragraph  
10 shall submit to the Secretary, at such time  
11 and in such form and manner as the Secretary  
12 requires, an application that includes  
13 such information, provisions, and  
14 assurances, as the Secretary may require,  
15 in addition to the following:

16 “(I) A proposed process for carrying  
17 out the ongoing assessment described  
18 in paragraph (2)(A), taking  
19 into account the results of the initial  
20 assessment described in paragraph  
21 (3)(C)(i).

22 “(II) A review of reimbursement  
23 methodologies and other policies related  
24 to substance use disorder treatment  
25 or recovery services under the

1 State plan (or waiver) that may create  
2 barriers to increasing the number of  
3 providers delivering such services.

4 “(III) The development of a plan,  
5 taking into account activities carried  
6 out under paragraph (3)(C)(ii), that  
7 will result in long-term and sustain-  
8 able provider networks under the  
9 State plan (or waiver) that will offer  
10 a continuum of care for substance use  
11 disorders. Such plan shall include the  
12 following:

13 “(aa) Specific activities to  
14 increase the number of providers  
15 (including providers that spe-  
16 cialize in providing substance use  
17 disorder treatment or recovery  
18 services, hospitals, health care  
19 systems, federally qualified health  
20 centers, and, as applicable, cer-  
21 tified community behavioral  
22 health clinics) that offer sub-  
23 stance use disorder treatment, re-  
24 covery, or support services, in-  
25 cluding short-term detoxification

1 services, outpatient substance use  
2 disorder services, and evidence-  
3 based peer recovery services.

4 “(bb) Strategies that will  
5 incentivize providers described in  
6 subparagraphs (C) and (D) of  
7 paragraph (2) to obtain the nec-  
8 essary training, education, and  
9 support to deliver substance use  
10 disorder treatment or recovery  
11 services in the State.

12 “(cc) Milestones and timeli-  
13 ness for implementing activities  
14 set forth in the plan.

15 “(dd) Specific measurable  
16 targets for increasing the sub-  
17 stance use disorder treatment  
18 and recovery provider network  
19 under the State plan (or a waiver  
20 of such plan).

21 “(IV) A proposed process for re-  
22 porting the information required  
23 under paragraph (6)(A), including in-  
24 formation to assess the effectiveness  
25 of the efforts of the State to expand

1 the capacity of providers to deliver  
2 substance use disorder treatment or  
3 recovery services during the period of  
4 the demonstration project under this  
5 subsection.

6 “(V) The expected financial im-  
7 pact of the demonstration project  
8 under this subsection on the State.

9 “(VI) A description of all funding  
10 sources available to the State to pro-  
11 vide substance use disorder treatment  
12 or recovery services in the State.

13 “(VII) A preliminary plan for  
14 how the State will sustain any in-  
15 crease in the capacity of providers to  
16 deliver substance use disorder treat-  
17 ment or recovery services resulting  
18 from the demonstration project under  
19 this subsection after the termination  
20 of such demonstration project.

21 “(VIII) A description of how the  
22 State will coordinate the goals of the  
23 demonstration project with any waiver  
24 that the State has applied for under,  
25 or received pursuant to, section 1115

1 for the delivery of substance use serv-  
2 ices under the State plan, as applica-  
3 ble.

4 “(ii) CONSULTATION.—In completing  
5 an application under clause (i), a State  
6 shall consult with relevant stakeholders, in-  
7 cluding Medicaid managed care plans,  
8 health care providers, and Medicaid bene-  
9 ficiary advocates, and include in such ap-  
10 plication a description of such consultation.

11 “(5) PAYMENT.—

12 “(A) IN GENERAL.—For each quarter oc-  
13 ccurring during the period for which the dem-  
14 onstration project is conducted (after the first  
15 18 months of such period), the Secretary shall  
16 pay under this subsection, subject to subpara-  
17 graph (C), to each State selected under para-  
18 graph (4) an amount equal to 90 percent of so  
19 much of the qualified sums expended during  
20 such quarter.

21 “(B) QUALIFIED SUMS DEFINED.—For  
22 purposes of subparagraph (A), the term ‘quali-  
23 fied sums’ means, with respect to a State and  
24 a quarter, the amount equal to the amount (if  
25 any) by which the sums expended by the State

1 during such quarter attributable to substance  
2 use treatment or recovery services furnished by  
3 providers participating under the State plan (or  
4 a waiver of such plan) exceeds  $\frac{1}{4}$  of such sums  
5 expended by the State during fiscal year 2018  
6 attributable to substance use treatment or re-  
7 covery services.

8 “(C) NON-DUPLICATION OF PAYMENT.—In  
9 the case that payment is made under subpara-  
10 graph (A) with respect to expenditures for sub-  
11 stance use treatment or recovery services fur-  
12 nished by providers participating under the  
13 State plan (or a waiver of such plan), payment  
14 may not also be made under subsection (a) with  
15 respect to expenditures for the same services so  
16 furnished.

17 “(6) REPORTS.—

18 “(A) STATE REPORTS.—A State receiving  
19 payments under paragraph (5) shall, for the pe-  
20 riod of the demonstration project under this  
21 subsection, submit to the Secretary a quarterly  
22 report, with respect to expenditures for sub-  
23 stance use treatment or recovery services for  
24 which payment is made to the State under this  
25 subsection, on the following:

1           “(i) The specific activities with re-  
2           spect to which payment under this sub-  
3           section was provided.

4           “(ii) The number of providers that de-  
5           livered substance use disorder treatment or  
6           recovery services in the State under the  
7           demonstration project compared to the es-  
8           timated number of providers that would  
9           have otherwise delivered such services in  
10          the absence of such demonstration project.

11          “(iii) The number of individuals en-  
12          rolled under the State plan (or a waiver of  
13          such plan) who received substance use dis-  
14          order treatment or recovery services under  
15          the demonstration project compared to the  
16          estimated number of such individuals who  
17          would have otherwise received such services  
18          in the absence of such demonstration  
19          project.

20          “(iv) Other matters as determined by  
21          the Secretary.

22          “(B) CMS REPORTS.—

23                 “(i) INITIAL REPORT.—Not later than  
24                 October 1, 2020, the Secretary shall sub-  
25                 mit to Congress an initial report on—

1 “(I) the States awarded planning  
2 grants under paragraph (3);

3 “(II) the criteria used in such se-  
4 lection; and

5 “(III) the activities carried out  
6 by such States under such planning  
7 grants.

8 “(ii) INTERIM REPORT.—Not later  
9 than October 1, 2022, the Secretary shall  
10 submit to Congress an interim report—

11 “(I) on activities carried out  
12 under the demonstration project  
13 under this subsection;

14 “(II) on the extent to which  
15 States selected under paragraph (4)  
16 have achieved the stated goals sub-  
17 mitted in their applications under sub-  
18 paragraph (C) of such paragraph;

19 “(III) with a description of the  
20 strengths and limitations of such dem-  
21 onstration project; and

22 “(IV) with a plan for the sustain-  
23 ability of such project.

1           “(iii) FINAL REPORT.—Not later than  
2           October 1, 2024, the Secretary shall sub-  
3           mit to Congress a final report—

4                   “(I) providing updates on the  
5                   matters reported in the interim report  
6                   under clause (ii);

7                   “(II) including a description of  
8                   any changes made with respect to the  
9                   demonstration project under this sub-  
10                  section after the submission of such  
11                  interim report; and

12                  “(III) evaluating such dem-  
13                  onstration project.

14           “(7) DATA SHARING AND BEST PRACTICES.—  
15           During the period of the demonstration project  
16           under this subsection, the Secretary shall, in collabo-  
17           ration with States selected under paragraph (4), fa-  
18           cilitate data sharing and the development of best  
19           practices between such States and States that were  
20           not so selected.

21           “(8) CMS FUNDING.—There is appropriated,  
22           out of any funds in the Treasury not otherwise ap-  
23           propriated, \$5,000,000 to the Centers for Medicare  
24           & Medicaid Services for purposes of implementing

1       this subsection. Such amount shall remain available  
2       until expended.”.

○