

118TH CONGRESS
2D SESSION

S. 5112

To amend title XVIII of the Social Security Act to provide payment for crisis stabilization services under the prospective payment system for hospital outpatient department services.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 19, 2024

Ms. CORTEZ MASTO (for herself and Mr. CORNYN) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend title XVIII of the Social Security Act to provide payment for crisis stabilization services under the prospective payment system for hospital outpatient department services.

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 “Crisis Care Access Act
5 of 2024”.

1 **SEC. 2. PAYMENT FOR CRISIS STABILIZATION SERVICES**
 2 **UNDER PROSPECTIVE PAYMENT SYSTEM FOR**
 3 **HOSPITAL OUTPATIENT DEPARTMENT SERV-**
 4 **ICES.**

5 (a) IN GENERAL.—Section 1833(t) of the Social Se-
 6 curity Act (42 U.S.C. 1395l(t)) is amended—

7 (1) in paragraph (1)(B)—

8 (A) in clause (iv), by striking “and” at the
 9 end;

10 (B) in clause (v), by striking the period at
 11 the end and inserting “; and”; and

12 (C) by adding at the end the following new
 13 clause:

14 “(vi) includes crisis stabilization serv-
 15 ices (as defined in paragraph (23)) fur-
 16 nished on or after January 1, 2027.”; and

17 (2) by adding at the end the following new
 18 paragraph:

19 “(23) CRISIS STABILIZATION SERVICES.—

20 “(A) CRISIS STABILIZATION SERVICES DE-
 21 FINED.—In this subsection, the term ‘crisis sta-
 22 bilization services’ means applicable items and
 23 services (as defined in subparagraph (B)) that
 24 are furnished to an eligible individual who is ex-
 25 periencing a mental health or substance use dis-

1 order crisis, subject to the requirements under
 2 subparagraph (C).

3 “(B) APPLICABLE ITEMS AND SERVICES
 4 DEFINED.—

5 “(i) IN GENERAL.—For purposes of
 6 subparagraph (A), the term ‘applicable
 7 items and services’ means items and serv-
 8 ices described in clause (ii) that are—

9 “(I) covered under this part; and

10 “(II)(aa) reasonable and nec-
 11 essary for the diagnosis and active
 12 treatment of the individual’s mental
 13 health or substance use disorder con-
 14 dition; or

15 “(bb) reasonably expected to sup-
 16 port the de-escalation of the individ-
 17 ual’s mental health or substance use
 18 disorder crisis.

19 “(ii) ITEMS AND SERVICES DE-
 20 SCRIBED.—The following items and serv-
 21 ices are described in this clause:

22 “(I) Observation services and su-
 23 pervised care for individuals in severe
 24 distress for up to 23 consecutive
 25 hours.

1 “(II) Screening for suicide risk,
2 including comprehensive suicide risk
3 assessments and planning when clini-
4 cally indicated.

5 “(III) Screening for violence risk,
6 including comprehensive violence risk
7 assessments and planning when clini-
8 cally indicated.

9 “(IV) Assessment of immediate
10 physical health needs and delivery of
11 care for physical health needs that are
12 within the capability of the hospital.

13 “(V) Such other items and serv-
14 ices as the Secretary determines ap-
15 propriate.

16 “(C) REQUIREMENTS FOR PAYMENT.—In
17 order to receive payment for crisis stabilization
18 services under this subsection, a hospital must
19 document, in a form and manner determined
20 appropriate by the Secretary, that—

21 “(i) the hospital accepts referrals,
22 within the capability of the hospital, for
23 crisis stabilization services;

24 “(ii) the hospital is capable of pro-
25 viding referrals for health, social, and

1 other services and supports, as needed,
2 that are not provided as part of crisis sta-
3 bilization services;

4 “(iii) the unit of the hospital that fur-
5 nishes crisis stabilization services is staffed
6 at all times (24 hours a day, 7 days a
7 week, 365 days a year) with a multidisci-
8 plinary team, which may include providers
9 such as a psychiatrist or psychiatric nurse
10 practitioner (who may be available by tele-
11 health for such staffing purposes), reg-
12 istered nurses, practitioners legally author-
13 ized to furnish such services under State
14 law (or the State regulatory mechanism
15 provided by State law) of the State in
16 which the services are furnished, and peer
17 support specialists (as defined in subpara-
18 graph (D)); and

19 “(iv) the unit of the hospital that fur-
20 nishes crisis stabilization services is capa-
21 ble—

22 “(I) of timely communication
23 with emergency response systems, cri-
24 sis intervention hotlines, and physi-
25 cians and practitioners furnishing mo-

1 bile crisis response team services (as
2 defined in subparagraph (D)); and

3 “(II) within the capacity of the
4 hospital, of accepting referrals of indi-
5 viduals from such entities for crisis
6 stabilization services.

7 “(D) DEFINITIONS.—In this paragraph:

8 “(i) MOBILE CRISIS RESPONSE SERV-
9 ICES.—The term ‘mobile crisis response
10 team services’ means physicians’ services
11 that are furnished outside of a hospital,
12 other facility setting, or physician office to
13 an individual experiencing a mental health
14 or substance use disorder crisis to—

15 “(I) provide screening and as-
16 sessment for the individual’s mental
17 health or substance use disorder cri-
18 sis;

19 “(II) support the de-escalation of
20 the individual’s mental health or sub-
21 stance use disorder crisis;

22 “(III) facilitate or support subse-
23 quent referral to health, social, and
24 other services, as determined appro-
25 priate by the Secretary; or

1 “(IV) otherwise address the indi-
2 vidual’s pressing behavioral health
3 needs, as determined appropriate by
4 the Secretary.

5 “(ii) PEER SUPPORT SPECIALIST.—
6 The term ‘peer support specialist’ means
7 an individual who—

8 “(I) is recovering from a mental
9 health or substance use condition; and

10 “(II) is certified as qualified to
11 furnish peer support services under a
12 certification process consistent with
13 the National Practice Guidelines for
14 Peer Supporters and inclusive of the
15 Substance Abuse and Mental Health
16 Services Administration Core Com-
17 petencies for Peer Workers in Behav-
18 ioral Health Settings (as established
19 by the State in which such individual
20 furnishes such services or under such
21 certification process determined ap-
22 propriate by the Secretary of Health
23 and Human Services.”.

24 (b) REPORT ON MEDICARE COVERAGE OF CRISIS
25 STABILIZATION FACILITY SERVICES.—Not later than 18

1 months after the date of the enactment of this Act, the
2 Secretary of Health and Human Services (referred to in
3 this subsection as the “Secretary”) shall submit to the
4 Committee on Finance of the Senate and the Committee
5 on Energy and Commerce and the Committee on Ways
6 and Means of the House of Representatives a report on
7 policy issues for consideration in relation to providing
8 Medicare coverage of crisis stabilization services (as de-
9 fined in section 1833(t)(23) of the Social Security Act,
10 as added by subsection (a)), when furnished by crisis sta-
11 bilization facilities that are not eligible to enroll in the
12 Medicare program as a subsection (d) hospital (as defined
13 in section 1886(d)(1)(B) of such Act (42 U.S.C.
14 1395ww(d)(1)(B))). Such report may include an assess-
15 ment of the following:

16 (1) Considerations relating to licensure and ac-
17 creditation of such facilities by States and accredita-
18 tion organizations to ensure care quality and pro-
19 gram integrity.

20 (2) Considerations relating to the development
21 of payment rates for such facilities, including collec-
22 tion of data on the costs that such facilities incur in
23 furnishing crisis stabilization services.

24 (3) Considerations relating to any program in-
25 tegrity risks associated with crisis stabilization facili-

1 ties and potential measures that could be imple-
2 mented to mitigate those risks.

3 (4) Other considerations determined appro-
4 priate by the Secretary.

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