

Committee Print

[SHOWING THE TEXT OF H.R. 5306, AS FORWARDED BY THE SUBCOMMITTEE
ON HEALTH ON SEPTEMBER 7, 2018]

115TH CONGRESS
2D SESSION

H. R. 5306

To reauthorize the Money Follows the Person Demonstration Program.

IN THE HOUSE OF REPRESENTATIVES

MARCH 15, 2018

Mr. GUTHRIE (for himself and Mrs. DINGELL) introduced the following bill;
which was referred to the Committee on Energy and Commerce

A BILL

To reauthorize the Money Follows the Person Demonstration
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 “Ensuring Medicaid
5 Provides Opportunities for Widespread Equity, Resources,
6 and Care Act” or the “EMPOWER Care Act”.

1 **SEC. 2. EXTENSION OF DEMONSTRATION.**

2 (a) **FUNDING.**—Section 6071(h) of the Deficit Re-
3 duction Act of 2005 (42 U.S.C. 1396a note) is amended—

4 (1) in paragraph (1)—

5 (A) in subparagraph (D), by striking
6 “and” after the semicolon;

7 (B) in subparagraph (E), by striking the
8 period at the end and inserting “; and”; and

9 (C) by adding at the end the following:

10 “(F) \$450,000,000 for each of fiscal years
11 2018 through 2019.”; and

12 (2) in paragraph (2), by striking “2016” and
13 inserting “2019”.

14 (b) **RESEARCH AND EVALUATION.**—Section 6071(g)
15 of the Deficit Reduction Act of 2005 (42 U.S.C. 1396a
16 note) is amended—

17 (1) in paragraph (2), by striking “2016” and
18 inserting “2019”; and

19 (2) in paragraph (3), by inserting “and for each
20 of fiscal years 2018 through 2019,” after “2016,”.

21 **SEC. 3. CHANGES TO INSTITUTIONAL RESIDENCY PERIOD**
22 **REQUIREMENT.**

23 Section 6071(b)(2) of the Deficit Reduction Act of
24 2005 (42 U.S.C. 1396a note) is amended—

25 (1) in subparagraph (A)(i), by striking “90”
26 and inserting “60”; and

1 (2) by striking the flush sentence after subpara-
2 graph (B).

3 **SEC. 4. UPDATES TO STATE APPLICATION REQUIREMENTS.**

4 Section 6071(c) of the Deficit Reduction Act of 2005
5 (42 U.S.C. 1396a note) is amended—

6 (1) in paragraph (3), by striking “, which shall
7 include” and all that follows through “2007”;

8 (2) in paragraph (7)—

9 (A) in the paragraph heading, by striking
10 “REBALANCING” and inserting “EXPENDI-
11 TURES”; and

12 (B) in subparagraph (B)—

13 (i) in clause (i), by striking “and”
14 after the semicolon;

15 (ii) in clause (ii), by striking the pe-
16 riod at the end and inserting a semicolon;
17 and

18 (iii) by adding at the end the fol-
19 lowing:

20 “(iii) include a work plan that describes
21 for each Federal fiscal year that occurs during
22 the proposed MFP demonstration project—

23 “(I) the use of grant funds for each
24 proposed initiative that is designed to ac-
25 complish the objective described in sub-

1 section (a)(1), including a funding source
2 for each activity that is part of each such
3 proposed initiative;

4 “(II) an evaluation plan that identi-
5 fies expected results for each such pro-
6 posed initiative; and

7 “(III) a sustainability plan for compo-
8 nents of such proposed initiatives that are
9 intended to improve transitions, which
10 shall be updated with actual expenditure
11 information for each Federal fiscal year
12 that occurs during the MFP demonstration
13 project; and

14 “(iv) contain assurances that grant funds
15 used to accomplish the objective described in
16 subsection (a)(1) shall be obligated not later
17 than 24 months after the date on which the
18 funds are awarded and shall be expended not
19 later than 60 months after the date on which
20 the funds are awarded (unless the Secretary ap-
21 proves a waiver of either such requirement).”;

22 and

23 (3) in paragraph (13)—

24 (A) in subparagraph (A), by striking “;
25 and” and inserting “, and in such manner as

1 will meet the reporting requirements set forth
2 for the Transformed Medicaid Statistical Man-
3 agement Information System (T-MSIS);”;

4 (B) by redesignating subparagraph (B) as
5 subparagraph (D); and

6 (C) by inserting after subparagraph (A)
7 the following:

8 “(B) the State shall report on a quarterly
9 basis on the use of grant funds by distinct ac-
10 tivity, as described in the approved work plan,
11 and by specific population as targeted by the
12 State;

13 “(C) if the State fails to report the infor-
14 mation required under subparagraph (B), fails
15 to report such information on a quarterly basis,
16 or fails to make progress under the approved
17 work plan, the State shall implement a correc-
18 tive action plan and any lack of progress under
19 the approved work plan may result in with-
20 holding of grant funds made available to the
21 State; and”.

1 **SEC. 5. FUNDING FOR QUALITY ASSURANCE AND IMPROVE-**
2 **MENT; TECHNICAL ASSISTANCE; OVERSIGHT.**

3 Section 6071(f) of the Deficit Reduction Act of 2005
4 (42 U.S.C. 1396a note) is amended by striking paragraph
5 (2) and inserting the following:

6 “(2) FUNDING.—From the amounts appro-
7 priated under subsection (h)(1)(F) for each of fiscal
8 years 2018 through 2019, \$1,000,000 shall be avail-
9 able to the Secretary for each such fiscal year to
10 carry out this subsection.”.

11 **SEC. 6. BEST PRACTICES EVALUATION.**

12 Section 6071 of the Deficit Reduction Act of 2005
13 (42 U.S.C. 1396a note) is amended by adding at the end
14 the following:

15 “(i) BEST PRACTICES.—

16 “(1) REPORT.—The Secretary, directly or
17 through grant or contract, shall submit a report to
18 the President and Congress not later than January
19 1, 2020, that contains findings and conclusions on
20 best practices from the State MFP demonstration
21 projects carried out with grants made under this
22 section. The report shall include information and
23 analyses with respect to the following:

24 “(A) The most effective State strategies
25 for transitioning beneficiaries from institutional
26 to qualified community settings carried out

1 under the State MFP demonstration projects
2 and how such strategies may vary for different
3 types of beneficiaries, such as beneficiaries who
4 are aged, physically disabled, intellectually or
5 developmentally disabled, or individuals with se-
6 rious mental illnesses, and other targeted waiv-
7 er beneficiary populations.

8 “(B) The most common and the most ef-
9 fective State uses of grant funds carried out
10 under the State MFP demonstration projects
11 for transitioning beneficiaries from institutional
12 to qualified community settings and improving
13 health outcomes, including differentiating fund-
14 ing for current initiatives that are designed for
15 such purpose and funding for proposed initia-
16 tives that are designed for such purpose.

17 “(C) The most effective State approaches
18 carried out under State MFP demonstration
19 projects for improving person-centered care and
20 planning.

21 “(D) Identification of program, financing,
22 and other flexibilities available under the State
23 MFP demonstration projects, that are not
24 available under the traditional Medicaid pro-
25 gram, and which directly contributed to suc-

1 cessful transitions and improved health out-
2 comes under the State MFP demonstration
3 projects.

4 “(E) State strategies and financing mecha-
5 nisms for effective coordination of housing fi-
6 nanced or supported under State MFP dem-
7 onstration projects with local housing authori-
8 ties and other resources.

9 “(F) Effective State approaches for deliv-
10 ering Money Follows the Person transition serv-
11 ices through managed care entities.

12 “(G) Other best practices and effective
13 transition strategies demonstrated by States
14 with approved MFP demonstration projects, as
15 determined by the Secretary.

16 “(H) Identification and analyses of oppor-
17 tunities and challenges to integrating effective
18 Money Follows the Person practices and State
19 strategies into the traditional Medicaid pro-
20 gram.

21 “(2) COLLABORATION.—In preparing the report
22 required under this subsection, the Secretary shall
23 collect and incorporate information from States with
24 approved MFP demonstration projects and bene-

1 ficiaries participating in such projects, and providers
2 participating in such projects.

3 “(3) FUNDING.—From the amounts appro-
4 priated under subsection (h)(1) for fiscal year 2019,
5 not more than \$300,000 shall be available to the
6 Secretary to carry out this subsection.”.

7 **SEC. 7. MACPAC REPORT ON QUALIFIED SETTINGS CRI-**
8 **TERIA.**

9 Section 6071 of the Deficit Reduction Act of 2005
10 (42 U.S.C. 1396a note), as amended by section 6, is
11 amended by adding at the end the following:

12 “(j) MACPAC REPORT.—Prior to the final imple-
13 mentation date established by the Secretary for the cri-
14 teria established for home and community-based settings
15 in section 441.301(c)(4) of title 42, Code of Federal Regu-
16 lations, as part of final implementation of the Home and
17 Community Based Services (HCBS) Final Rule published
18 on January 16, 2014 (79 Fed. Reg. 2948) (referred to
19 in this subsection as the ‘HCBS final rule’), the Medicaid
20 and CHIP Payment and Access Commission (MACPAC)
21 shall submit to Congress a report that—

22 “(1) identifies the types of home and commu-
23 nity-based settings and associated services that are
24 available to eligible individuals in both the MFP
25 demonstration program and sites in compliance with

1 the HCBS final rule, including regional variation in
2 the type and accessibility of such settings; and

3 “(2) recommends policies to align the criteria
4 for a qualified residence under subsection (b)(6) (as
5 in effect on October 1, 2017) with the criteria in the
6 HCBS final rule.”.

7 **SEC. 8. TECHNICAL AMENDMENT.**

8 Section 6071(b) of the Deficit Reduction Act of 2005
9 (42 U.S.C. 1396a note) is amended by adding at the end
10 the following:

11 “(10) SECRETARY.—The term ‘Secretary’
12 means the Secretary of Health and Human Serv-
13 ices.”.

14 **SEC. 9. EFFECTIVE DATES; APPLICATION TO CURRENT**
15 **PROJECTS.**

16 (a) EFFECTIVE DATES.—

17 (1) IN GENERAL.—Except as provided in para-
18 graph (2), the amendments made by this Act shall
19 take effect as if enacted on October 1, 2017.

20 (2) CHANGES TO INSTITUTIONAL RESIDENCY
21 PERIOD REQUIREMENT.—The amendments made by
22 section 3 shall take effect on the date that is 30
23 days after the date of enactment of this Act.

24 (b) APPLICATION TO CURRENT PROJECTS.—Not
25 later than 1 year after the date of enactment of this Act,

1 any State with an approved MFP demonstration project
2 under section 6071 of the Deficit Reduction Act of 2005
3 (42 U.S.C. 1396a note) on the date of enactment of this
4 Act shall submit a revised application to the Secretary
5 that contains the same information and assurances as are
6 required for any new State applicant under the amend-
7 ments made by this Act.