

113TH CONGRESS
1ST SESSION

S. 1517

To amend the Public Health Services Act and the Social Security Act to extend health information technology assistance eligibility to behavioral health, mental health, and substance abuse professionals and facilities, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 18, 2013

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

A BILL

To amend the Public Health Services Act and the Social Security Act to extend health information technology assistance eligibility to behavioral health, mental health, and substance abuse professionals and facilities, and for other purposes.

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 “Behavioral Health In-
5 formation Technology Act of 2013”.

1 **SEC. 2. EXTENSION OF HEALTH INFORMATION TECH-**
 2 **NOLOGY ASSISTANCE FOR BEHAVIORAL**
 3 **HEALTH AND MENTAL HEALTH AND SUB-**
 4 **STANCE ABUSE.**

5 Section 3000(3) of the Public Health Services Act
 6 (42 U.S.C. 300jj(3)) is amended by inserting “a behav-
 7 ioral or mental health professional (as defined in section
 8 331(a)(3)(E)(i)), a substance abuse professional, a psy-
 9 chiatric hospital (as defined in section 1861(f) of the So-
 10 cial Security Act), a community mental health center that
 11 meets the criteria specified in section 1913(c) (including
 12 community mental health centers that are operated by
 13 county behavioral health agencies), a residential or out-
 14 patient mental health or substance abuse treatment facil-
 15 ity,” before “and any other category”.

16 **SEC. 3. EXTENSION OF ELIGIBILITY FOR MEDICARE AND**
 17 **MEDICAID HEALTH INFORMATION TECH-**
 18 **NOLOGY IMPLEMENTATION ASSISTANCE.**

19 (a) PAYMENT INCENTIVES FOR ELIGIBLE PROFES-
 20 SIONALS UNDER THE MEDICARE PROGRAM.—Section
 21 1848 of the Social Security Act (42 U.S.C. 1395w-4) is
 22 amended—

23 (1) in subsection (a)(7)—

24 (A) in subparagraph (E), by adding at the
 25 end the following new clause:

1 “(iv) ADDITIONAL ELIGIBLE PROFES-
2 SIONAL.—The term ‘additional eligible pro-
3 fessional’ means either of the following:

4 “(I) A clinical psychologist pro-
5 viding qualified psychologist services
6 (as defined in section 1861(ii)).

7 “(II) A clinical social worker (as
8 defined in section 1861(hh)(1)).”; and

9 (B) by adding at the end the following new
10 subparagraph:

11 “(F) APPLICATION TO ADDITIONAL ELIGI-
12 BLE PROFESSIONALS.—The Secretary shall
13 apply the provisions of this paragraph with re-
14 spect to an additional eligible professional in
15 the same manner as such provisions apply to an
16 eligible professional, except in applying sub-
17 paragraph (A)—

18 “(i) in clause (i), the reference to
19 2015 shall be deemed a reference to 2019;

20 “(ii) in clause (ii), the references to
21 2015, 2016, and 2017 shall be deemed ref-
22 erences to 2019, 2020, and 2021, respec-
23 tively; and

1 “(iii) in clause (iii), the reference to
2 2018 shall be deemed a reference to
3 2022.”; and

4 (2) in subsection (o)—

5 (A) in paragraph (5), by adding at the end
6 the following new subparagraph:

7 “(D) ADDITIONAL ELIGIBLE PROFES-
8 SIONAL.—The term ‘additional eligible profes-
9 sional’ means either of the following:

10 “(i) A clinical psychologist providing
11 qualified psychologist services (as defined
12 in section 1861(ii)).

13 “(ii) A clinical social worker (as de-
14 fined in section 1861(hh)(1)).”; and

15 (B) by adding at the end the following new
16 paragraph:

17 “(6) APPLICATION TO ADDITIONAL ELIGIBLE
18 PROFESSIONALS.—The Secretary shall apply the
19 provisions of this subsection with respect to an addi-
20 tional eligible professional in the same manner as
21 such provisions apply to an eligible professional, ex-
22 cept in applying—

23 “(A) paragraph (1)(A)(ii), the reference to
24 2016 shall be deemed a reference to 2020;

1 “(B) paragraph (1)(B)(ii), the references
2 to 2011 and 2012 shall be deemed references to
3 2015 and 2016, respectively;

4 “(C) paragraph (1)(B)(iii), the references
5 to 2013 shall be deemed references to 2017;

6 “(D) paragraph (1)(B)(v), the references
7 to 2014 shall be deemed references to 2018;
8 and

9 “(E) paragraph (1)(E), the reference to
10 2011 shall be deemed a reference to 2015.”.

11 (b) ELIGIBLE HOSPITALS.—Section 1886 of the So-
12 cial Security Act (42 U.S.C. 1395ww) is amended—

13 (1) in subsection (b)(3)(B)(ix), by adding at the
14 end the following new subclause:

15 “(V) The Secretary shall apply
16 the provisions of this subsection with
17 respect to an additional eligible hos-
18 pital (as defined in subsection
19 (n)(6)(C)) in the same manner as
20 such provisions apply to an eligible
21 hospital except in applying—

22 “(aa) subclause (I), the ref-
23 erences to 2015, 2016, and 2017
24 shall be deemed references to

1 2019, 2020, and 2021, respec-
2 tively; and

3 “(bb) subclause (III), the
4 reference to 2015 shall be
5 deemed a reference to 2019.”;
6 and

7 (2) in subsection (n)—

8 (A) in paragraph (6), by adding at the end
9 the following new subparagraph:

10 “(C) ADDITIONAL ELIGIBLE HOSPITAL.—
11 The term ‘additional eligible hospital’ means an
12 inpatient hospital that is a psychiatric hospital
13 (as defined in section 1861(f)).”; and

14 (B) by adding at the end the following new
15 paragraph:

16 “(7) APPLICATION TO ADDITIONAL ELIGIBLE
17 HOSPITALS.—The Secretary shall apply the provi-
18 sions of this subsection with respect to an additional
19 eligible hospital in the same manner as such provi-
20 sions apply to an eligible hospital, except in apply-
21 ing—

22 “(A) paragraph (2)(E)(ii), the references
23 to 2013 and 2015 shall be deemed references to
24 2017 and 2019, respectively; and

1 “(B) paragraph (2)(G)(i), the reference to
2 2011 shall be deemed a reference to 2015.”.

3 (c) MEDICAID PROVIDERS.—Section 1903(t) of the
4 Social Security Act (42 U.S.C. 1396b(t)) is amended—

5 (1) in paragraph (2)(B)—

6 (A) in clause (i), by striking “, or” and in-
7 serting a semicolon;

8 (B) in clause (ii), by striking the period at
9 the end and inserting “; or”; and

10 (C) by adding at the end the following new
11 clause:

12 “(iii) an additional Medicaid provider.”;

13 (2) in paragraph (3)—

14 (A) in subparagraph (B), by inserting after
15 and below clause (v) the following new sentence:

16 “Such term includes an additional eligible pro-
17 fessional.”; and

18 (B) by adding at the end the following new
19 subparagraphs:

20 “(G) The term ‘additional eligible profes-
21 sional’ means—

22 “(i) a clinical psychologist providing
23 qualified psychologist services (as defined
24 in section 1861(ii)), if such clinical psy-

1 chologist is practicing in an outpatient set-
2 ting that—

3 “**(I)** is led by a clinical psycholo-
4 gist; and

5 “**(II)** is not otherwise receiving
6 payment under paragraph (1) as a
7 Medicaid provider described in para-
8 graph (2)(B); and

9 “(ii) a clinical social worker (as de-
10 fined in section 1861(hh)(1)), if such clin-
11 ical social worker is practicing in an out-
12 patient clinic that—

13 “**(I)** is led by a clinical social
14 worker; and

15 “**(II)** is not otherwise receiving
16 payment under paragraph (1) as a
17 Medicaid provider described in para-
18 graph (2)(B).

19 “**(H)** The term ‘additional Medicaid pro-
20 vider’ means—

21 “(i) a public hospital that is prin-
22 cipally a psychiatric hospital (as defined in
23 section 1861(f));

24 “(ii) a private hospital that is prin-
25 cipally a psychiatric hospital (as defined in

1 section 1861(f)) and that has at least 10
2 percent of its patient volume (as estimated
3 in accordance with a methodology estab-
4 lished by the Secretary) attributable to in-
5 dividuals who are receiving medical assist-
6 ance under this title;

7 “(iii) a community mental health cen-
8 ter meeting the criteria specified in section
9 1913(e) of the Public Health Service Act;
10 or

11 “(iv) a residential or outpatient men-
12 tal health or substance abuse treatment fa-
13 cility that—

14 “(I) is accredited by the Joint
15 Commission on Accreditation of
16 Healthcare Organizations, the Com-
17 mission on Accreditation of Rehabili-
18 tation Facilities, the Council on Ac-
19 creditation, or any other national ac-
20 crediting agency recognized by the
21 Secretary; and

22 “(II) has at least 10 percent of
23 its patient volume (as estimated in ac-
24 cordance with a methodology estab-
25 lished by the Secretary) attributable

1 to individuals who are receiving med-
2 ical assistance under this title.”; and

3 (3) by adding at the end the following new
4 paragraph:

5 “(11)(A) The Secretary shall apply the provi-
6 sions of this subsection and subsection (a)(3)(F)
7 with respect to an additional eligible professional
8 who is a Medicaid provider described in paragraph
9 (2)(A) in the same manner as such provisions apply
10 to any other eligible professional who is a Medicaid
11 provider described in paragraph (2)(A), except in
12 applying—

13 “(i) paragraph (4)(A)(i), the reference to
14 2016 shall be deemed a reference to 2020; and

15 “(ii) paragraph (4)(A)(iii), the reference to
16 2021 shall be deemed a reference to 2025.

17 “(B) The Secretary shall apply the provisions of
18 this subsection and subsection (a)(3)(F) with respect
19 to an additional Medicaid provider in the same man-
20 ner as such provisions apply to any other Medicaid
21 provider described in paragraph (2)(B), except in
22 applying paragraph (4)(D)(i), the reference to 2016
23 shall be deemed a reference to 2020.”.

1 (d) MEDICARE ADVANTAGE ORGANIZATIONS.—Sec-
2 tion 1853 of the Social Security Act (42 U.S.C. 1395w-
3 23) is amended—

4 (1) in subsection (l)—

5 (A) in paragraph (1)—

6 (i) by inserting “or additional eligible
7 professionals (as described in paragraph
8 (9))” after “paragraph (2)”; and

9 (ii) by inserting “and additional eligi-
10 ble professionals” before “under such sec-
11 tions”;

12 (B) in paragraph (3)(B)—

13 (i) in clause (i) in the matter pre-
14 ceding subclause (I), by inserting “or an
15 additional eligible professional described in
16 paragraph (9)” after “paragraph (2)”; and

17 (ii) in clause (ii)—

18 (I) in the matter preceding sub-
19 clause (I), by inserting “or an addi-
20 tional eligible professional described in
21 paragraph (9)” after “paragraph
22 (2)”; and

23 (II) in subclause (I), by inserting
24 “or an additional eligible professional,

1 respectively,” after “eligible profes-
2 sional”;

3 (C) in paragraph (3)(C), by inserting “and
4 additional eligible professionals” after “all eligi-
5 ble professionals”;

6 (D) in paragraph (4)(D), by adding at the
7 end the following new sentence: “In the case
8 that a qualifying MA organization attests that
9 not all additional eligible professionals of the
10 organization are meaningful EHR users with
11 respect to an applicable year, the Secretary
12 shall apply the payment adjustment under this
13 paragraph based on the proportion of all such
14 additional eligible professionals of the organiza-
15 tion that are not meaningful EHR users for
16 such year.”;

17 (E) in paragraph (6)(A), by inserting
18 “and, as applicable, each additional eligible pro-
19 fessional described in paragraph (9)” after
20 “paragraph (2)”;

21 (F) in paragraph (6)(B), by inserting
22 “and, as applicable, each additional eligible hos-
23 pital described in paragraph (9)” after “sub-
24 section (m)(1)”;

1 (G) in paragraph (7)(A), by inserting
2 “and, as applicable, additional eligible profes-
3 sionals” after “eligible professionals”;

4 (H) in paragraph (7)(B), by inserting
5 “and, as applicable, additional eligible profes-
6 sionals” after “eligible professionals”;

7 (I) in paragraph (8)(B), by inserting “and
8 additional eligible professionals described in
9 paragraph (9)” after “paragraph (2)”; and

10 (J) by adding at the end the following new
11 paragraph:

12 “(9) ADDITIONAL ELIGIBLE PROFESSIONAL DE-
13 SCRIBED.—With respect to a qualifying MA organi-
14 zation, an additional eligible professional described
15 in this paragraph is an additional eligible profes-
16 sional (as defined for purposes of section 1848(o))
17 who—

18 “(A)(i) is employed by the organization; or

19 “(ii)(I) is employed by, or is a partner of,
20 an entity that through contract with the organi-
21 zation furnishes at least 80 percent of the enti-
22 ty’s Medicare patient care services to enrollees
23 of such organization; and

24 “(II) furnishes at least 80 percent of the
25 professional services of the additional eligible

1 professional covered under this title to enrollees
2 of the organization; and

3 “(B) furnishes, on average, at least 20
4 hours per week of patient care services.”; and
5 (2) in subsection (m)—

6 (A) in paragraph (1)—

7 (i) by inserting “or additional eligible
8 hospitals (as described in paragraph (7))”
9 after “paragraph (2)”; and

10 (ii) by inserting “and additional eligi-
11 ble hospitals” before “under such sec-
12 tions”;

13 (B) in paragraph (3)(A)(i), by inserting
14 “or additional eligible hospital” after “eligible
15 hospital”;

16 (C) in paragraph (3)(A)(ii), by inserting
17 “or an additional eligible hospital” after “eligi-
18 ble hospital” in each place it occurs;

19 (D) in paragraph (3)(B)—

20 (i) in clause (i), by inserting “or an
21 additional eligible hospital described in
22 paragraph (7)” after “paragraph (2)”; and

23 (ii) in clause (ii)—

24 (I) in the matter preceding sub-
25 clause (I), by inserting “or an addi-

1 tional eligible hospital described in
2 paragraph (7)” after “paragraph
3 (2)”;

4 (II) in subclause (I), by inserting
5 “or an additional eligible hospital, re-
6 spectively,” after “eligible hospital”;

7 (E) in paragraph (4)(A), by inserting “or
8 one or more additional eligible hospitals (as de-
9 fined in section 1886(n)), as appropriate,” after
10 “section 1886(n)(6)(A)”;

11 (F) in paragraph (4)(D), by adding at the
12 end the following new sentence: “In the case
13 that a qualifying MA organization attests that
14 not all additional eligible hospitals of the orga-
15 nization are meaningful EHR users with re-
16 spect to an applicable period, the Secretary
17 shall apply the payment adjustment under this
18 paragraph based on the methodology specified
19 by the Secretary, taking into account the pro-
20 portion of such additional eligible hospitals, or
21 discharges from such hospitals, that are not
22 meaningful EHR users for such period.”;

23 (G) in paragraph (5)(A), by inserting
24 “and, as applicable, each additional eligible hos-

1 pital described in paragraph (7)” after “para-
2 graph (2)”;

3 (H) in paragraph (5)(B), by inserting
4 “and additional eligible hospitals, as applica-
5 ble,” after “eligible hospitals”;

6 (I) in paragraph (6)(B), by inserting “and
7 additional eligible hospitals described in para-
8 graph (7)” after “paragraph (2)”; and

9 (J) by adding at the end the following new
10 paragraph:

11 “(7) ADDITIONAL ELIGIBLE HOSPITAL DE-
12 SCRIBED.—With respect to a qualifying MA organi-
13 zation, an additional eligible hospital described in
14 this paragraph is an additional eligible hospital (as
15 defined in section 1886(n)(6)(C)) that is under com-
16 mon corporate governance with such organization
17 and serves individuals enrolled under an MA plan of-
18 fered by such organization.”.

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