



**CONSORTIUM FOR CITIZENS  
WITH DISABILITIES**

June 19, 2018

Dear Member of Congress:

The undersigned co-chairs of the Consortium for Citizens with Disabilities (CCD) Health, Long-Term Services and Supports, and Rights Task Forces write in opposition to H.R. 5797 which expands coverage of institutional services in Medicaid without addressing gaps in Medicaid community services. CCD is the largest coalition of national organizations working together to advocate for Federal public policy that ensures the self-determination, independence, empowerment, integration and inclusion of children and adults with disabilities in all aspects of society.

CCD has advocated over the past several decades to eliminate the institutional bias in Medicaid and has worked with Members of Congress on bipartisan legislative proposals to help ensure Medicaid incentivizes states to enhance community-based alternatives to institutional services. H.R. 5797 would enshrine additional institutional bias into Medicaid.<sup>1</sup> The bill, a partial repeal of Medicaid's Institutions for Mental Diseases (IMD) exclusion, would allow states to obtain federal funds to provide services up to thirty or more days<sup>2</sup> for individuals who have "opioid use disorder" in IMDs for the next five years. This provision incentivizes states to increase their institutional capacity for an extremely limited diagnostic category with no comparable incentive to increase access to community-based services, which should form the backbone of any effective substance use disorder (SUD) treatment continuum. This kind of institutional bias represents an unacceptable step backwards for Medicaid. While we appreciate the bill's recognition that "access to outpatient care" is important, the bill does not expand access to necessary community-based services, nor does it provide any new funding for such services.

People with SUD often find themselves unable to access intensive community-based behavioral health services when they need it. Likewise, many cannot access services in the community when they are discharged following a crisis. The proposal before the committee will likely create an over-reliance on institutional treatment and may exacerbate the dearth of community-based behavioral health services. Expanding inpatient care can actually increase opioid overdoses—the very harm Congress is seeking to prevent. Experts have raised specific concerns with this bill's institutional focus because "recent data suggest that inpatient detoxification is an important predictor of overdose, largely because many who receive inpatient care aren't then connected to community-based treatment programs or put on a medication, leaving them extremely vulnerable

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<sup>1</sup> H.R. 5797, <https://docs.house.gov/meetings/IF/IF14/20180517/108343/BILLS-1155797ih-U1.pdf>.

<sup>2</sup> Section (1)(2)(B) could be interpreted to permit states to use federal matching funds for IMD stays beyond thirty days that are "medically necessary," rendering the thirty day limit moot.

to relapse and overdose.”<sup>3</sup> Expanding access to residential treatment in a vacuum would undermine overall efforts to ensure the availability of SUD treatment that meets all patients’ needs.

Additional federal resources and funding should prioritize improving access to community-based services and ensuring that people with disabilities and SUD not only have access to the services they need, but also can also have lives, employment, and families in the community like everyone else.<sup>4</sup> The Congressional Budget Office has scored this bill at \$991 million.<sup>5</sup> We strenuously object to any efforts to offset this cost with cuts to other Medicaid services or eligibility and we also would urge Congress invest this money in community-based behavioral health services that are currently unavailable.<sup>6</sup>

We ask all Members of Congress to reject proposals to expand institutional services in Medicaid and instead work toward bipartisan solutions that ensure that all people with disabilities have access to the comprehensive healthcare they need.

Sincerely,

Health Task Force Co-Chairs

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<sup>3</sup> The Hill, Michael Botticelli and Richard Frank, *Congress needs a broader approach to address opioid epidemic* (Jun 10, 2018), <http://thehill.com/opinion/healthcare/391544-congress-needs-a-broader-approach-to-address-opioid-epidemic>.

<sup>4</sup> Jennifer Lav, Nat’l Health Law Prog. Policy Implications of Repealing the IMD Exclusion (April 23, 2018), <http://www.healthlaw.org/publications/browse-all-publications/policy-implications-repealing-imd-exclusion#.Wt4VNojwYdV>

<sup>5</sup> H.R. Rep. No. 115-723, at 9 (2018).

<sup>6</sup> Lav, *supra* note 4.

Rights Co-Chairs

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