

Breaking Addiction Act of 2014, H.R. 5136:

A Section-by-Section Analysis

Sponsored by Rep. Fudge (D-OH), Rep. Ryan (D-OH), Rep. Cummings (D-MD), Rep. Lee (D-CA), Rep. Norton (D-DC), Rep. Richmond (D-LA), Rep. Hastings (D-FL), Rep. Clarke (D-NY)

Section 1: Short Title

This section identifies the bill as the “Breaking Addiction Act of 2014” (H.R. 5136).

Section 2: Medicaid Community-Based Inpatient Substance Use Disorder Treatment Demonstration Project

This section authorizes the Secretary of Health and Human Services (HHS) to establish a **five-year demonstration project where participating States will receive payments to reimburse for substance use disorder treatment provided in a community-based institution for mental diseases (IMD)**. States are eligible to participate if the State’s Medicaid State Plan provides reimbursement for community-based inpatient substance use disorder treatment services. States interested in applying will submit an application to the Secretary of HHS, who will select States and ensure that selected participants represent an equitable geographic distribution.

The Secretary of HHS will waive the limitation on Medicaid payment for care or services for individuals between the ages of 21 and 65 who qualify for Medicaid and who receive treatment for a substance use disorder in an IMD. The Secretary of HHS may waive other sections of the Social Security Act if necessary to carry out the project.

The **Secretary of HHS will also conduct an evaluation of the demonstration project**, specifically on the effect of the project on the health and substance use disorder systems and on individuals enrolled in Medicaid. The evaluation will assess the level of access individuals have to substance use disorder treatment services under the demonstration project, including the average lengths of stay and emergency room visits. The evaluation will also assess discharge planning by providers in the project, assess the impact of the project on the costs of the full range of health care services, and analyze the percentage of individuals enrolled in Medicaid plans that are admitted to community-based IMDs as a result of the project. The Secretary of HHS will submit a report to Congress by December 31, 2020 that presents the findings of the evaluation and makes **recommendations on whether the limitation on care provided by IMDs is a barrier to care** and whether the demonstration project should be continued and/or expanded on a national basis.

The Secretary of HHS will determine how funds will be allocated to participating States. Quarterly payments will be made to States that are equal to the “Federal medical assistance percentage of the amount expended during such quarter for the medical assistance” provided under the demonstration project. Payments made to States may not exceed \$300 million and must be made before December 31, 2024.

This section authorizes \$300 million for fiscal year 2015 and instructs that the funds be available over ten years, through December 31, 2024.

The IMD Exclusion: Under current law (Title XIX of the Social Security Act, 42 U.S.C. 1396d), Medicaid cannot reimburse for services provided to individuals aged 22 to 64 in an inpatient Institution for Mental Diseases (IMD) with more than 16 beds. An IMD is defined as “a hospital, nursing facility, or other institution of more than 16 beds, that is primarily engaged in providing diagnosis, treatment, or care of persons with mental diseases, including medical attention, nursing care, and related services.” The regulations define “mental disease” using the International Classification of Diseases (ICD-9-CM) which classifies substance use disorders as mental disorders. In addition, the Department of Health and Human Services (HHS) State Medicaid Manual states that facilities may be classified as an IMD if more than 50% of its patients are admitted or “institutionalized” for treatment of a mental disease. The Manual goes on to say that if the services provided are “psychological in nature, the services are considered medical treatment of a mental disease. Chemically dependent patients admitted for such treatment are counted as mentally ill under the 50 percent guideline. Facilities with more than 16 beds that are providing this type of treatment to the majority of their patients are IMDs.” (Legal Action Center fact sheet)