

**AMENDMENT IN THE NATURE OF A SUBSTITUTE  
TO H.R. 5306  
OFFERED BY MR. GUTHRIE OF KENTUCKY**

Strike all after the enacting clause and insert the following:

**1 SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Ensuring Medicaid  
3 Provides Opportunities for Widespread Equity, Resources,  
4 and Care Act” or the “EMPOWER Care Act”.

**5 SEC. 2. EXTENSION OF DEMONSTRATION.**

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

8 (1) in paragraph (1)—

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

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

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

14 “(F) \$450,000,000 for each of fiscal years  
15 2018 through 2019.”; and

16 (2) in paragraph (2), by striking “2016” and  
17 inserting “2019”.

1 (b) RESEARCH AND EVALUATION.—Section 6071(g)  
2 of the Deficit Reduction Act of 2005 (42 U.S.C. 1396a  
3 note) is amended—

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

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

8 **SEC. 3. CHANGES TO INSTITUTIONAL RESIDENCY PERIOD**  
9 **REQUIREMENT.**

10 Section 6071(b)(2) of the Deficit Reduction Act of  
11 2005 (42 U.S.C. 1396a note) is amended—

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

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

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

17 Section 6071(c) of the Deficit Reduction Act of 2005  
18 (42 U.S.C. 1396a note) is amended—

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

21 (2) in paragraph (7)—

22 (A) in the paragraph heading, by striking  
23 “REBALANCING” and inserting “EXPENDI-  
24 TURES”; and

25 (B) in subparagraph (B)—

1 (i) in clause (i), by striking “and”  
2 after the semicolon;

3 (ii) in clause (ii), by striking the pe-  
4 riod at the end and inserting a semicolon;  
5 and

6 (iii) by adding at the end the fol-  
7 lowing:

8 “(iii) include a work plan that describes  
9 for each Federal fiscal year that occurs during  
10 the proposed MFP demonstration project—

11 “(I) the use of grant funds for each  
12 proposed initiative that is designed to ac-  
13 complish the objective described in sub-  
14 section (a)(1), including a funding source  
15 for each activity that is part of each such  
16 proposed initiative;

17 “(II) an evaluation plan that identi-  
18 fies expected results for each such pro-  
19 posed initiative; and

20 “(III) a sustainability plan for compo-  
21 nents of such proposed initiatives that are  
22 intended to improve transitions, which  
23 shall be updated with actual expenditure  
24 information for each Federal fiscal year

1           that occurs during the MFP demonstration  
2           project; and

3           “(iv) contain assurances that grant funds  
4           used to accomplish the objective described in  
5           subsection (a)(1) shall be obligated not later  
6           than 24 months after the date on which the  
7           funds are awarded and shall be expended not  
8           later than 60 months after the date on which  
9           the funds are awarded (unless the Secretary ap-  
10          proves a waiver of either such requirement).”;  
11          and

12          (3) in paragraph (13)—

13                 (A) in subparagraph (A), by striking “;  
14                 and” and inserting “, and in such manner as  
15                 will meet the reporting requirements set forth  
16                 for the Transformed Medicaid Statistical Man-  
17                 agement Information System (T-MSIS);”;

18                 (B) by redesignating subparagraph (B) as  
19                 subparagraph (D); and

20                 (C) by inserting after subparagraph (A)  
21                 the following:

22                         “(B) the State shall report on a quarterly  
23                         basis on the use of grant funds by distinct ac-  
24                         tivity, as described in the approved work plan,

1 and by specific population as targeted by the  
2 State;

3 “(C) if the State fails to report the infor-  
4 mation required under subparagraph (B), fails  
5 to report such information on a quarterly basis,  
6 or fails to make progress under the approved  
7 work plan, the State shall implement a correc-  
8 tive action plan and any lack of progress under  
9 the approved work plan may result in with-  
10 holding of grant funds made available to the  
11 State; and”.

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

14 Section 6071(f) of the Deficit Reduction Act of 2005  
15 (42 U.S.C. 1396a note) is amended by striking paragraph  
16 (2) and inserting the following:

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

22 **SEC. 6. BEST PRACTICES EVALUATION.**

23 Section 6071 of the Deficit Reduction Act of 2005  
24 (42 U.S.C. 1396a note) is amended by adding at the end  
25 the following:

1 “(i) BEST PRACTICES.—

2 “(1) REPORT.—The Secretary, directly or  
3 through grant or contract, shall submit a report to  
4 the President and Congress not later than January  
5 1, 2020, that contains findings and conclusions on  
6 best practices from the State MFP demonstration  
7 projects carried out with grants made under this  
8 section. The report shall include information and  
9 analyses with respect to the following:

10 “(A) The most effective State strategies  
11 for transitioning beneficiaries from institutional  
12 to qualified community settings carried out  
13 under the State MFP demonstration projects  
14 and how such strategies may vary for different  
15 types of beneficiaries, such as beneficiaries who  
16 are aged, physically disabled, intellectually or  
17 developmentally disabled, or individuals with se-  
18 rious mental illnesses, and other targeted waiv-  
19 er beneficiary populations.

20 “(B) The most common and the most ef-  
21 fective State uses of grant funds carried out  
22 under the State MFP demonstration projects  
23 for transitioning beneficiaries from institutional  
24 to qualified community settings and improving  
25 health outcomes, including differentiating fund-

1           ing for current initiatives that are designed for  
2           such purpose and funding for proposed initia-  
3           tives that are designed for such purpose.

4           “(C) The most effective State approaches  
5           carried out under State MFP demonstration  
6           projects for improving person-centered care and  
7           planning.

8           “(D) Identification of program, financing,  
9           and other flexibilities available under the State  
10          MFP demonstration projects, that are not  
11          available under the traditional Medicaid pro-  
12          gram, and which directly contributed to suc-  
13          cessful transitions and improved health out-  
14          comes under the State MFP demonstration  
15          projects.

16          “(E) State strategies and financing mecha-  
17          nisms for effective coordination of housing fi-  
18          nanced or supported under State MFP dem-  
19          onstration projects with local housing authori-  
20          ties and other resources.

21          “(F) Effective State approaches for deliv-  
22          ering Money Follows the Person transition serv-  
23          ices through managed care entities.

24          “(G) Other best practices and effective  
25          transition strategies demonstrated by States

1 with approved MFP demonstration projects, as  
2 determined by the Secretary.

3 “(H) Identification and analyses of oppor-  
4 tunities and challenges to integrating effective  
5 Money Follows the Person practices and State  
6 strategies into the traditional Medicaid pro-  
7 gram.

8 “(2) COLLABORATION.—In preparing the report  
9 required under this subsection, the Secretary shall  
10 collect and incorporate information from States with  
11 approved MFP demonstration projects and bene-  
12 ficiaries participating in such projects, and providers  
13 participating in such projects.

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

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

20 Section 6071 of the Deficit Reduction Act of 2005  
21 (42 U.S.C. 1396a note), as amended by section 6, is  
22 amended by adding at the end the following:

23 “(j) MACPAC REPORT.—Prior to the final imple-  
24 mentation date established by the Secretary for the cri-  
25 teria established for home and community-based settings



1 in section 441.301(c)(4) of title 42, Code of Federal Regu-  
2 lations, as part of final implementation of the Home and  
3 Community Based Services (HCBS) Final Rule published  
4 on January 16, 2014 (79 Fed. Reg. 2948) (referred to  
5 in this subsection as the ‘HCBS final rule’), the Medicaid  
6 and CHIP Payment and Access Commission (MACPAC)  
7 shall submit to Congress a report that—

8 “(1) identifies the types of home and commu-  
9 nity-based settings and associated services that are  
10 available to eligible individuals in both the MFP  
11 demonstration program and sites in compliance with  
12 the HCBS final rule, including regional variation in  
13 the type and accessibility of such settings; and

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

18 **SEC. 8. TECHNICAL AMENDMENT.**

19 Section 6071(b) of the Deficit Reduction Act of 2005  
20 (42 U.S.C. 1396a note) is amended by adding at the end  
21 the following:

22 “(10) SECRETARY.—The term ‘Secretary’  
23 means the Secretary of Health and Human Serv-  
24 ices.”.

1 **SEC. 9. EFFECTIVE DATES; APPLICATION TO CURRENT**  
2 **PROJECTS.**

3 (a) EFFECTIVE DATES.—

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

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

11 (b) APPLICATION TO CURRENT PROJECTS.—Not  
12 later than 1 year after the date of enactment of this Act,  
13 any State with an approved MFP demonstration project  
14 under section 6071 of the Deficit Reduction Act of 2005  
15 (42 U.S.C. 1396a note) on the date of enactment of this  
16 Act shall submit a revised application to the Secretary  
17 that contains the same information and assurances as are  
18 required for any new State applicant under the amend-  
19 ments made by this Act.

