

Medicaid Services Restoration Act (S. 1217)

First introduced in the 110th Congress in response to a series of extremely restrictive Medicaid regulations, the Medicaid Services Restoration Act clarifies and protects vital Medicaid services for vulnerable populations such as children and youth involved in our nation's child welfare and foster care systems, individuals with disabilities, and children and adults with mental illness. The legislation also provides a transparent funding stream for the evidence-informed and highly effective placement for children and youth with serious medical, psychological, emotional and social needs known as therapeutic foster care (TFC).

Supports Therapeutic Foster Care (TFC):

Therapeutic Foster Care (TFC) provides medically necessary, evidence-based, intensive services in a least-restrictive, community-based environment for children with severe mental and behavioral health needs. Section 101 of S. 1217 creates a Medicaid service category under which therapeutic foster care (TFC) services could be reimbursed. While states currently rely on a patchwork of funding for TFC, creation of a medical assistance category within Medicaid for TFC would improve the quality of care for these children and youth by offering a streamlined, transparent system of reimbursement.

Protects and Supports Rehabilitative Services:

- Permits states to use reasonable and efficient payment methodologies for rehab services, including fee-for-service, case rates, daily rates, or other forms of capitated payment. This is to protect against proposed policy that would have required services to be billed in increments of 15 minutes or less. Such a policy would have increased administrative burden and taken critical time away from providing clinical treatment to individuals with significant physical and mental health needs. [Sec. 102]
- Amends the definition of rehab services to include not only restoration of an individual, but also attainment or retention of an individual's best possible functional status. This is essential for children, who due to the development process may simply not have been able to perform the task before and for those with serious disabilities, for whom maintenance is essential to not erase significant progress that has been made. [Sec. 103]
- Clarifies that Medicaid will reimburse for medical and surgical services for children receiving inpatient psychiatric services in psychiatric hospitals or psychiatric residential treatment centers, to ensure that Medicaid-eligible children under 21 receive EPSDT services as required by law [Sec. 104]
- Clarifies that non-medical programs including child welfare and foster care can continue drawing down Medicaid funds to provide important clinical rehab treatment to vulnerable children and youth in their care, so long as the State or local agency is complying with in-place third party liability rules [Sec. 105]

Protects and Supports Case Management Services:

- Permits states to use reasonable and efficient payment methodologies for case management and TCM services, including fee-for-service, case rates, daily rates, or other forms of capitated payment. This is to protect against proposed policy that would

have required services to be billed in increments of 15 minutes or less, increasing administrative burden and decreasing critical time with beneficiaries. [Sec. 202]

- Clarifies that Medicaid will continue to reimburse for TCM services offered by staff of non-medical programs or those who contract with non-medical programs, so long as they are qualified providers, the case management services are distinct from direct services of the non-medical program, and the State or local agency is complying with in-place third party liability rules [Sec. 201; Sec. 204]
- Codifies current policy known by many as the *Olmstead* policy that supports vital case management services for individuals transitioning to the community from an institution within the last 180 days of their stay (the *Olmstead* policy) [Sec. 204]
- Explicitly permits states to use multiple case managers when necessary. This is particularly important considering the complex needs of many Medicaid beneficiaries who are working with many different systems and caretakers at once. [Sec. 205]