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(Original Signature of Member)

117TH CONGRESS  
1ST SESSION

**H. R.** \_\_\_\_\_

To amend title XIX of the Social Security Act to expand access to home and community-based services (HCBS) under Medicaid, and for other purposes.

\_\_\_\_\_  
IN THE HOUSE OF REPRESENTATIVES

Mrs. DINGELL introduced the following bill; which was referred to the Committee on \_\_\_\_\_

\_\_\_\_\_  
**A BILL**

To amend title XIX of the Social Security Act to expand access to home and community-based services (HCBS) under Medicaid, 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Better Care Better Jobs Act”.

6 (b) TABLE OF CONTENTS.—The table of contents for  
7 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Definitions.

TITLE I—EXPANDING ACCESS TO MEDICAID HOME AND COMMUNITY-BASED SERVICES

- Sec. 101. HCBS infrastructure improvement planning grants.
- Sec. 102. HCBS Infrastructure Improvement Program.
- Sec. 103. Reports; technical assistance; other administrative requirements.
- Sec. 104. Quality measurement and improvement.

TITLE II—OTHER PROVISIONS

- Sec. 201. MACPAC study and report on Appendix K emergency home and community-based services (HCBS) 1915(e) waivers.
- Sec. 202. Making permanent the State option to extend protection under Medicaid for recipients of home and community-based services against spousal impoverishment.
- Sec. 203. Permanent extension of Money Follows the Person Rebalancing demonstration.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) APPROPRIATE COMMITTEES OF CON-  
 4 GRESS.—The term “appropriate committees of Con-  
 5 gress” means the Committee on Energy and Com-  
 6 merce of the House of Representatives, the Com-  
 7 mittee on Education and Labor of the House of  
 8 Representatives, the Committee on Finance of the  
 9 Senate, the Committee on Health, Education, Labor  
 10 and Pensions of the Senate, and the Special Com-  
 11 mittee on Aging of the Senate.

12 (2) DIRECT CARE WORKER; DIRECT CARE  
 13 WORKFORCE.—The terms “direct care worker” and  
 14 “direct care workforce” mean—

- 15 (A) a direct support professional;
- 16 (B) a personal care attendant;
- 17 (C) a direct care worker;

1 (D) a home health aide; and

2 (E) any other relevant worker, as deter-  
3 mined by the Secretary.

4 (3) ELIGIBLE INDIVIDUAL.—The term “eligible  
5 individual” means an individual who is eligible for  
6 and enrolled for medical assistance under a State  
7 Medicaid program and includes an individual who  
8 becomes eligible for medical assistance under a State  
9 Medicaid program when removed from a waiting list.

10 (4) HEALTH PLAN.—The term “health plan”  
11 means a group health plan or health insurance  
12 issuer (as such terms are defined in section 2791 of  
13 the Public Health Service Act (42 U.S.C. 300gg–  
14 91)).

15 (5) HCBS PROGRAM IMPROVEMENT STATE.—  
16 The term “HCBS program improvement State”  
17 means a State with an HCBS infrastructure im-  
18 provement plan approved by the Secretary under  
19 section 101(d).

20 (6) HOME AND COMMUNITY-BASED SERV-  
21 ICES.—The term “home and community-based serv-  
22 ices” means any of the following (whether provided  
23 on a fee-for-service, risk, or other basis):

1 (A) Home health care services authorized  
2 under paragraph (7) of section 1905(a) of the  
3 Social Security Act (42 U.S.C. 1396d(a)).

4 (B) Personal care services authorized  
5 under paragraph (24) of such section.

6 (C) PACE services authorized under para-  
7 graph (26) of such section.

8 (D) Home and community-based services  
9 authorized under subsections (b), (c), (i), (j),  
10 and (k) of section 1915 of such Act (42 U.S.C.  
11 1396n), such services authorized under a waiver  
12 under section 1115 of such Act (42 U.S.C.  
13 1315), and such services provided through cov-  
14 erage authorized under section 1937 of such  
15 Act (42 U.S.C. 1396u-7).

16 (E) Case management services authorized  
17 under section 1905(a)(19) of the Social Secu-  
18 rity Act (42 U.S.C. 1396d(a)(19)) and section  
19 1915(g) of such Act (42 U.S.C. 1396n(g)).

20 (F) Rehabilitative services, including those  
21 related to behavioral health, described in section  
22 1905(a)(13) of such Act (42 U.S.C.  
23 1396d(a)(13)).

24 (G) Such other services specified by the  
25 Secretary.

1 (7) INSTITUTIONAL SETTING.—The term “insti-  
2 tutional setting” means—

3 (A) a skilled nursing facility (as defined in  
4 section 1819(a) of the Social Security Act (42  
5 U.S.C. 1395i–3(a)));

6 (B) a nursing facility (as defined in section  
7 1919(a) of such Act (42 U.S.C. 1396r(a)));

8 (C) a long-term care hospital (as described  
9 in section 1886(d)(1)(B)(iv) of such Act (42  
10 U.S.C. 1395ww(d)(1)(B)(iv)));

11 (D) an institution (or distinct part thereof)  
12 described in section 1905(d) of such Act (42  
13 U.S.C. 1396d(d));

14 (E) an institution (or distinct part thereof)  
15 which is a psychiatric hospital (as defined in  
16 section 1861(f) of such Act (42 U.S.C.  
17 1395x(f))) or that provides inpatient psychiatric  
18 services in another residential setting specified  
19 by the Secretary;

20 (F) an institution (or distinct part thereof)  
21 described in section 1905(i) of such Act (42  
22 U.S.C. 1396d(i)); and

23 (G) any other relevant facility, as deter-  
24 mined by the Secretary.

1           (8) MEDICAID PROGRAM.—The term “Medicaid  
2           program” means, with respect to a State, the State  
3           program under title XIX of the Social Security Act  
4           (42 U.S.C. 1396 et seq.) (including any waiver or  
5           demonstration under such title or under section  
6           1115 of such Act (42 U.S.C. 1315) relating to such  
7           title).

8           (9) SECRETARY.—The term “Secretary” means  
9           the Secretary of Health and Human Services.

10          (10) STATE.—The term “State” has the mean-  
11          ing given such term for purposes of title XIX of the  
12          Social Security Act (42 U.S.C. 1396 et seq.).

13       **TITLE I—EXPANDING ACCESS TO**  
14       **MEDICAID HOME AND COM-**  
15       **MUNITY-BASED SERVICES**

16       **SEC. 101. HCBS INFRASTRUCTURE IMPROVEMENT PLAN-**  
17       **NING GRANTS.**

18          (a) IN GENERAL.—Not later than 12 months after  
19          the date of enactment of this Act, the Secretary shall  
20          award planning grants to States for the purpose of ex-  
21          panding access to home and community-based services and  
22          strengthening the direct care workforce that provides such  
23          services by developing HCBS infrastructure improvement  
24          plans that meet the requirements of subsections (b) and  
25          (c).

1 (b) CONTENT REQUIREMENTS.—In order to meet the  
2 requirements of this subsection, an HCBS infrastructure  
3 improvement plan shall include, with respect to a State,  
4 the following:

5 (1) EXISTING MEDICAID HCBS LANDSCAPE.—

6 (A) ELIGIBILITY AND BENEFITS.—A de-  
7 scription of—

8 (i) the existing standards, pathways,  
9 and methodologies for eligibility for home  
10 and community-based services, including  
11 limits on assets and income;

12 (ii) the home and community-based  
13 services available under the State Medicaid  
14 program; and

15 (iii) utilization management standards  
16 for such services.

17 (B) ACCESS.—An assessment of the extent  
18 to which home and community-based services  
19 are available to eligible individuals in the State,  
20 including—

21 (i) estimates of the number of eligible  
22 individuals who are on a waitlist for such  
23 services;

24 (ii) estimates of the number of indi-  
25 viduals who would be eligible individuals

1 but are not enrolled in the State Medicaid  
2 program or on a waitlist for such services;

3 (iii) a description of the home and  
4 community-based services not available  
5 under the State Medicaid program;

6 (iv) a description of the populations  
7 for which the State is unable to provide  
8 home and community-based services under  
9 the State Medicaid program that are pro-  
10 vided under the Medicaid programs of  
11 other States; and

12 (v) a description of barriers to access-  
13 ing home and community-based services  
14 identified by eligible individuals and fami-  
15 lies of such individuals.

16 (C) UTILIZATION.—An assessment of the  
17 utilization of home and community-based serv-  
18 ices in the State.

19 (D) SERVICE DELIVERY STRUCTURES.—A  
20 description of the service delivery structures for  
21 providing home and community-based services  
22 in the State, including with respect to the use  
23 and models of self-direction, the provision of  
24 services by agencies, the ownership of service  
25 provider agencies, the use of managed care



1           versus fee-for-service to provide such services,  
2           and the supports provided for family caregivers.

3           (E) WORKFORCE.—A description of the  
4           characteristics of the direct care workforce that  
5           provides home and community-based services,  
6           including the number of full- and part-time di-  
7           rect care workers, the average and range of di-  
8           rect care worker wages, the benefits provided to  
9           direct care workers, the turnover and vacancy  
10          rates of direct care worker positions, the mem-  
11          bership of direct care workers in labor organiza-  
12          tions or professional organizations, and the  
13          race, ethnicity, and gender of such workforce.

14          (F) PAYMENT RATES.—A description of  
15          the payment rates for home and community-  
16          based services, including when such rates were  
17          last updated, an assessment of the extent to  
18          which authorized services are not delivered as a  
19          result of such rates being insufficient, and the  
20          extent to which payment rates are passed  
21          through to direct care worker wages.

22          (G) QUALITY.—A description of how the  
23          quality of home and community-based services  
24          is measured and monitored, including how the  
25          State uses beneficiary and family caregiver ex-

1           perience of care surveys to assess the quality of  
2           home and community-based services provided  
3           by the State.

4           (H) LONG-TERM SERVICES AND SUPPORTS  
5           PROVIDED IN INSTITUTIONAL SETTINGS.—A de-  
6           scription of—

7                   (i) the extent to which eligible individ-  
8                   uals receive long-term services and sup-  
9                   ports in institutional settings in the State;  
10                  and

11                   (ii) the populations provided such  
12                  services and supports.

13           (I) HCBS SHARE OF OVERALL MEDICAID  
14           LTSS SPENDING.—For the most recent fiscal  
15           year for which data is available, the percentage  
16           of expenditures made by the State under the  
17           State Medicaid program for long-term services  
18           and supports that are for home and community-  
19           based services.

20           (J) DEMOGRAPHIC DATA.—Each assess-  
21           ment required under subparagraphs (B) and  
22           (C), and the description required under sub-  
23           paragraph (H)(ii) shall include, to the extent  
24           available, data disaggregated by disability sta-  
25           tus, age, income, gender, race, ethnicity, geog-

1 raphy, primary language, sexual orientation,  
2 gender identity, and type of service setting.

3 (2) ANNUAL MEASURES AND REPORTS.—A de-  
4 scription of the State plan for—

5 (A) annually measuring and reporting  
6 on—

7 (i) the availability and utilization of  
8 home and community-based services;

9 (ii) the characteristics of the direct  
10 care workforce that provides home and  
11 community-based services and the race,  
12 ethnicity, and gender of such workforce;

13 (iii) changes in payment rates for  
14 home and community-based services; and

15 (iv) progress with respect to imple-  
16 mentation of the activities, benchmarks,  
17 and improvement activities provided under  
18 subsection (jj) of section 1905 of the So-  
19 cial Security Act (as added under section  
20 102); and

21 (B) collecting and reporting disaggregated  
22 data by disability status, age, income, gender,  
23 race, ethnicity, geography, primary language,  
24 sexual orientation, gender identity, and type of

1 service setting for the information required by  
2 clause (i) of subparagraph (A).

3 (3) IMPLEMENTATION AND GOALS FOR HCBS  
4 IMPROVEMENTS.—A description of how the State  
5 will—

6 (A) conduct the activities, benchmarks,  
7 and improvement activities provided under sub-  
8 section (jj) of section 1905 of the Social Secu-  
9 rity Act (as added under section 102), including  
10 how the State plans to meet the benchmarks  
11 described in paragraph (5) of such subsection  
12 and, if applicable, the additional HCBS im-  
13 provement efforts described in paragraph (3) of  
14 such subsection;

15 (B) identify and reduce barriers to access-  
16 ing home and community-based services, includ-  
17 ing for individuals in institutional settings, indi-  
18 viduals experiencing homelessness or housing  
19 instability, and individuals in regions with low  
20 or no access to such services;

21 (C) identify and reduce disparities in ac-  
22 cess to, and utilization of, home and commu-  
23 nity-based services by disability status, age, in-  
24 come, gender, race, ethnicity, geography, pri-

1           mary language, sexual orientation, gender iden-  
2           tity, and type of service setting;

3           (D) coordinate implementation of the  
4           HCBS infrastructure improvement plan among  
5           the State Medicaid agency, agencies serving in-  
6           dividuals with disabilities, the elderly, and other  
7           relevant State and local agencies; and

8           (E) facilitate access to related supports by  
9           coordinating with State and local agencies and  
10          organizations that provide housing, transpor-  
11          tation, employment, nutrition, and other serv-  
12          ices and supports.

13          (c) DEVELOPMENT AND SUBMISSION REQUIRE-  
14          MENTS.—In order to meet the requirements of this sub-  
15          section, an HCBS infrastructure improvement plan  
16          shall—

17           (1) be developed with input from stakeholders  
18           through a public notice and comment process that  
19           includes consultation with eligible individuals who  
20           are recipients of home and community-based serv-  
21           ices, family caregivers of such recipients, providers,  
22           health plans, direct care workers, chosen representa-  
23           tives of direct care workers, and aging, disability,  
24           and workforce advocates;

1           (2) be submitted for approval by the Secretary  
2 not later than 24 months after the date on which  
3 the State was awarded the planning grant under this  
4 section; and

5           (3) be publicly available in the final version  
6 submitted to the Secretary on a State Internet  
7 website.

8 (d) APPROVAL; PUBLICATION.—

9           (1) IN GENERAL.—The Secretary shall approve  
10 an HCBS infrastructure improvement plan if the  
11 plan—

12           (A) is complete; and

13           (B) provides assurances to the satisfaction  
14 of the Secretary that the State will meet the re-  
15 quirements of the HCBS Infrastructure Im-  
16 provement Program established under sub-  
17 section (jj) of section 1905 of the Social Secu-  
18 rity Act (42 U.S.C. 1396d), as added by section  
19 102, and achieve the benchmarks for improve-  
20 ment established by such program.

21           (2) PUBLICATION.—The Secretary, acting  
22 through the Administrator of the Centers for Medi-  
23 care & Medicaid Services, shall make publicly avail-  
24 able on an Internet website—

1 (A) the final version of each approved  
2 HCBS infrastructure improvement plan; and

3 (B) in the case of any HCBS infrastruc-  
4 ture improvement plan submitted for approval  
5 that is not approved—

6 (i) the submitted plan;

7 (ii) the decision not approving such  
8 plan; and

9 (iii) information relating to why the  
10 plan was not approved.

11 (e) CONTINUATION OF AMERICAN RESCUE PLAN ACT  
12 INCREASED FMAP FOR HCBS FOR STATES AWARDED A  
13 PLANNING GRANT.—

14 (1) FMAP.—

15 (A) IN GENERAL.—Notwithstanding sub-  
16 sections (b) or (ff) of section 1905 of the Social  
17 Security Act (42 U.S.C. 1396d), subject to sub-  
18 paragraph (C), in the case of a State that is  
19 awarded a planning grant under this section  
20 and meets the maintenance of effort require-  
21 ments under paragraph (2), the Federal med-  
22 ical assistance percentage determined for the  
23 State under such subsection (b) (or such sub-  
24 section (ff), if applicable) and, if applicable, as  
25 increased under subsection (y), (z), (aa), or (ii)

1 of such section, section 1915(k) of such Act (42  
2 U.S.C. 1396n(k)), or section 6008 of the Fami-  
3 lies First Coronavirus Response Act (Public  
4 Law 116–127), shall be increased by 10 per-  
5 centage points (but not to exceed 95 percent)  
6 with respect to amounts expended by the State  
7 Medicaid program for medical assistance for  
8 home and community-based services that are  
9 provided during HCBS planning period (as de-  
10 fined in subparagraph (B)).

11 (B) HCBS PLANNING PERIOD.—In this  
12 paragraph, the term “HCBS planning period”  
13 means, with respect to a State, the period—

14 (i) beginning on the date on which the  
15 State is awarded a planning grant under  
16 this section; and

17 (ii) ending on the earlier of—

18 (I) the first day of the first fiscal  
19 quarter for which the State is an  
20 HCBS program improvement State;  
21 and

22 (II) the date that is 3 years after  
23 the date on which the State is award-  
24 ed such a grant.



1 (C) RULE OF APPLICATION IN CASE OF  
2 OVERLAP WITH PERIOD FOR AMERICAN RESCUE  
3 PLAN INCREASE.—If the HCBS planning period  
4 for a State begins during the HCBS program  
5 improvement period (as defined under sub-  
6 section (a)(2)(A) of section 9817 of the Amer-  
7 ican Rescue Plan Act (Public Law 117–2)), and  
8 the State meets the HCBS program require-  
9 ments under subsection (b) of such section, the  
10 increase in the Federal medical assistance per-  
11 centage that would otherwise apply to the State  
12 under subparagraph (A) of this paragraph shall  
13 not apply during any portion of the HCBS pro-  
14 gram improvement period (as defined under  
15 subsection (a)(2)(A) of section 9817 of the  
16 American Rescue Plan Act (Public Law 117–  
17 2)) for which the State receives an increase in  
18 the Federal medical assistance percentage in  
19 accordance with that section.

20 (D) NONAPPLICATION OF TERRITORIAL  
21 FUNDING CAPS.—Any payment made to Puerto  
22 Rico, the Virgin Islands, Guam, the Northern  
23 Mariana Islands, or American Samoa for ex-  
24 penditures on medical assistance that are sub-  
25 ject to the Federal medical assistance percent-

1 age increase specified under subparagraph (A)  
2 shall not be taken into account for purposes of  
3 applying payment limits under subsections (f)  
4 and (g) of section 1108 of the Social Security  
5 Act (42 U.S.C. 1308).

6 (2) MAINTENANCE OF EFFORT REQUIRE-  
7 MENTS.—For purposes of paragraph (1)(A), the re-  
8 quirements of this paragraph are, with respect to  
9 the period for which a State is awarded a planning  
10 grant under this section, the State shall not—

11 (A) lower the amount, duration, or scope  
12 of home and community-based services available  
13 under the State Medicaid program (relative to  
14 the services available under the program as of  
15 the date on which the State was awarded such  
16 grant); or

17 (B) adopt more restrictive standards,  
18 methodologies, or procedures for determining  
19 eligibility, benefits, or services for receipt of  
20 home and community-based services under the  
21 State Medicaid program, including with respect  
22 to utilization management or cost-sharing, than  
23 the standards, methodologies, or procedures ap-  
24 plicable as of the date on which the State was  
25 awarded such grant.

1 (f) FUNDING.—

2 (1) IN GENERAL.—Out of any funds in the  
3 Treasury not otherwise appropriated, there is appro-  
4 priated to the Secretary for purposes of awarding  
5 planning grants under this section, \$100,000,000  
6 for fiscal year 2022, to remain available until ex-  
7 pended.

8 (2) TECHNICAL ASSISTANCE AND GUIDANCE.—  
9 The Secretary shall reserve \$5,000,000 of the  
10 amount appropriated under paragraph (1) for pur-  
11 poses of issuing guidance and providing technical as-  
12 sistance to States seeking or awarded a planning  
13 grant under this section.

14 **SEC. 102. HCBS INFRASTRUCTURE IMPROVEMENT PRO-**  
15 **GRAM.**

16 (a) ENHANCED FMAP FOR HCBS PROGRAM IM-  
17 PROVEMENT STATES.—Section 1905 of the Social Secu-  
18 rity Act (42 U.S.C. 1396d) is amended—

19 (1) in subsection (b), by striking “and (ii)” and  
20 inserting “(ii), and (jj)”; and

21 (2) by adding at the end the following new sub-  
22 section:

23 “(jj) ENHANCED FEDERAL MEDICAL ASSISTANCE  
24 PERCENTAGE FOR HCBS PROGRAM IMPROVEMENT  
25 STATES.—

1 “(1) IN GENERAL.—

2 “(A) INCREASED FEDERAL FINANCIAL  
3 PARTICIPATION.—Subject to paragraph (5), in  
4 the case of a State that is an HCBS program  
5 improvement State and meets the requirements  
6 described in paragraphs (2) and (4), for each  
7 fiscal year quarter that begins on or after the  
8 first date on which a State is an HCBS pro-  
9 gram improvement State—

10 “(i) notwithstanding subsection (b) or  
11 (ff), subject to subparagraph (B), with re-  
12 spect to amounts expended during the  
13 quarter by such State for medical assist-  
14 ance for home and community-based serv-  
15 ices, the Federal medical assistance per-  
16 centage for such State and quarter (as de-  
17 termined for the State under subsection  
18 (b) and, if applicable, increased under sub-  
19 section (y), (z), (aa), or (ii), or section  
20 6008(a) of the Families First Coronavirus  
21 Response Act) shall be increased by 10  
22 percentage points (but not to exceed 95  
23 percent); and

24 “(ii) notwithstanding the per centum  
25 specified in section 1903(a)(7), with re-

1           spect to amounts expended during the  
2           quarter and before October 1, 2031, for  
3           administrative costs for expanding and en-  
4           hancing home and community-based serv-  
5           ices, including for enhancing the Medicaid  
6           data and technology infrastructure, modi-  
7           fying rate setting processes, adopting,  
8           using, and reporting quality measures and  
9           beneficiary and family caregiver experience  
10          surveys, adopting or improving training  
11          programs for direct care workers and fam-  
12          ily caregivers, and adopting, carrying out,  
13          or enhancing programs that register quali-  
14          fied direct care workers or connect bene-  
15          ficiaries to qualified direct care workers,  
16          such per centum shall be increased to 80  
17          percent.

18               “(B) ADDITIONAL HCBS IMPROVEMENT  
19          EFFORTS.—Subject to paragraph (5), in addi-  
20          tion to the increase to the Federal medical as-  
21          sistance percentage under subparagraph (A)(i),  
22          with respect to amounts expended for medical  
23          assistance during the first 4 fiscal quarters  
24          throughout which an HCBS program improve-  
25          ment State has implemented a program to sup-

1 port self-directed care that meets the require-  
2 ments of paragraph (3) (in addition to meeting  
3 the requirements described in paragraph (2)),  
4 the Federal medical assistance percentage for  
5 such State and each such quarter with respect  
6 to such amounts shall be further increased by  
7 2 percentage points (but not to exceed 95 per-  
8 cent).

9 “(C) NONAPPLICATION OF TERRITORIAL  
10 FUNDING CAPS.—Any payment made to Puerto  
11 Rico, the Virgin Islands, Guam, the Northern  
12 Mariana Islands, or American Samoa for ex-  
13 penditures that are subject to an increase in the  
14 Federal medical assistance percentage under  
15 subparagraph (A)(i) or (B), or an increase in  
16 an applicable Federal matching percentage  
17 under subparagraph (A)(ii), shall not be taken  
18 into account for purposes of applying payment  
19 limits under subsections (f) and (g) of section  
20 1108.

21 “(2) REQUIREMENTS.—The requirements de-  
22 scribed in this paragraph, with respect to a State  
23 and a fiscal year quarter, are the following:

24 “(A) MAINTENANCE OF EFFORT.—

1                   “(i) IN GENERAL.—Except as pro-  
2                   vided under clause (ii), the State does  
3                   not—

4                   “(I) lower the amount, duration,  
5                   or scope of home and community-  
6                   based services available under the  
7                   State plan or waiver (relative to the  
8                   home and community-based services  
9                   available under the plan or waiver as  
10                  of the date on which the State was  
11                  awarded a planning grant under sec-  
12                  tion 101 of the Better Care Better  
13                  Jobs Act); or

14                  “(II) adopt more restrictive  
15                  standards, methodologies, or proce-  
16                  dures for determining eligibility, bene-  
17                  fits, or services for receipt of home  
18                  and community-based services, includ-  
19                  ing with respect to utilization manage-  
20                  ment or cost-sharing and the amount,  
21                  duration, and scope of available home  
22                  and community-based services, than  
23                  the standards, methodologies, or pro-  
24                  cedures applicable as of such date.

1                   “(ii) EXCEPTION.—On or after Octo-  
2                   ber 1, 2028, a State may modify such  
3                   standards, methodologies, or procedures if  
4                   the State demonstrates that such modifica-  
5                   tions shall not result in—

6                   “(I) home and community-based  
7                   services that are less comprehensive  
8                   or lower in amount, duration, or  
9                   scope;

10                   “(II) fewer individuals (overall  
11                   and within particular beneficiary pop-  
12                   ulations) receiving home and commu-  
13                   nity-based services; or

14                   “(III) increased cost-sharing for  
15                   home and community-based services.

16                   “(B) ACCESS TO SERVICES.—The State  
17                   enhances, expands, or strengthens home and  
18                   community-based services by doing all of the  
19                   following:

20                   “(i) Addressing access barriers and  
21                   disparities in access or utilization identified  
22                   in the State HCBS infrastructure improve-  
23                   ment plan.



1                   “(ii) Expanding financial eligibility  
2                   criteria for home and community-based  
3                   services up to Federal limits.

4                   “(iii) Requiring coverage of personal  
5                   care services for all eligible populations re-  
6                   ceiving home and community-based serv-  
7                   ices in the State.

8                   “(iv) Using ‘no wrong door’ programs,  
9                   providing presumptive eligibility for home  
10                  and community-based services, and improv-  
11                  ing home and community-based services  
12                  counseling and education programs.

13                  “(v) Expanding access to behavioral  
14                  health services and coordination with em-  
15                  ployment, housing, and transportation sup-  
16                  ports.

17                  “(vi) Providing supports to family  
18                  caregivers, which shall include providing  
19                  respite care, and may include providing  
20                  such services as caregiver assessments,  
21                  peer supports, or paid family caregiving.

22                  “(vii) Adopting, expanding eligibility  
23                  for, or improving coverage provided under  
24                  a Medicaid buy-in program authorized

1 under subclause (XIII), (XV), or (XVI) of  
2 section 1902(a)(10)(A)(ii).

3 “(C) STRENGTHENED AND EXPANDED  
4 WORKFORCE.—

5 “(i) IN GENERAL.—The State  
6 strengthens and expands the direct care  
7 workforce that provides home and commu-  
8 nity-based services by—

9 “(I) adopting processes to ensure  
10 that payments for home and commu-  
11 nity-based services are sufficient to  
12 ensure that care and services are  
13 available to the extent described in the  
14 State HCBS infrastructure improve-  
15 ment plan; and

16 “(II) updating, developing, and  
17 adopting qualification standards and  
18 training opportunities for the con-  
19 tinuum of providers of home and com-  
20 munity-based services, including pro-  
21 grams for independent providers of  
22 such services and agency direct care  
23 workers, as well as unique programs  
24 and resources for family caregivers.

1                   “(ii) PAYMENT RATES.—In carrying  
2 out clause (i)(I), the State shall—

3                   “(I) address insufficient payment  
4 rates for delivery of home and com-  
5 munity-based services, with an empha-  
6 sis on supporting the recruitment and  
7 retention of the direct care workforce,  
8 as identified during the period in  
9 which the State HCBS infrastructure  
10 improvement plan was developed and  
11 during subsequent years;

12                   “(II) update payment rates for  
13 home and community-based services  
14 at least every 2 years through a trans-  
15 parent process involving meaningful  
16 input from stakeholders, including re-  
17 cipients of home and community-  
18 based services, family caregivers of  
19 such recipients, providers, health  
20 plans, direct care workers, chosen rep-  
21 resentatives of direct care workers,  
22 and aging, disability, and workforce  
23 advocates; and

1 “(III) ensure that increases in  
2 the payment rates for home and com-  
3 munity-based services are—

4 “(aa) at a minimum, propor-  
5 tionately passed through to direct  
6 care workers and in a manner  
7 that is determined with input  
8 from the stakeholders described  
9 in subclause (II); and

10 “(bb) incorporated into pay-  
11 ment rates for home and commu-  
12 nity-based services provided  
13 under this title by a managed  
14 care entity (as defined in section  
15 1932(a)(1)(B)) or a prepaid in-  
16 patient health plan or prepaid  
17 ambulatory health plan, as de-  
18 fined in section 438.2 of title 42,  
19 Code of Federal Regulations (or  
20 any successor regulation)), under  
21 a contract with the State.

22 “(3) HCBS IMPROVEMENT TO SUPPORT SELF-  
23 DIRECTED MODELS FOR THE DELIVERY OF SERV-  
24 ICES.—For purposes of paragraph (1)(B), the re-  
25 quirements of this paragraph, with respect to a

1 State and a fiscal year quarter, are that the State  
2 establishes directly or by contract with 1 or more  
3 non-profit entities, a program for the performance of  
4 all of the following functions:

5 “(A) Registering qualified direct care  
6 workers and assisting beneficiaries in finding  
7 direct care workers.

8 “(B) Undertaking activities to recruit and  
9 train independent providers to enable bene-  
10 ficiaries to direct their own care, including by  
11 providing or coordinating training for bene-  
12 ficiaries on self-directed care.

13 “(C) Ensuring the safety of, and sup-  
14 porting the quality of, care provided to bene-  
15 ficiaries, such as by conducting background  
16 checks and addressing complaints reported by  
17 recipients of home and community-based serv-  
18 ices.

19 “(D) Facilitating coordination between  
20 State and local agencies and direct care workers  
21 for matters of public health, training opportuni-  
22 ties, changes in program requirements, work-  
23 place health and safety, or related matters.

24 “(E) Supporting beneficiary hiring of inde-  
25 pendent providers of home and community-

1 based services through an agency with choice or  
2 similar model, including by processing applica-  
3 ble tax information, collecting and processing  
4 timesheets, submitting claims and processing  
5 payments to such providers.

6 “(F) To the extent a State permits bene-  
7 ficiaries to hire a family member or individual  
8 with whom they have an existing relationship to  
9 provide home and community-based services,  
10 providing support to beneficiaries who wish to  
11 hire a caregiver who is a family member or in-  
12 dividual with whom they have an existing rela-  
13 tionship, such as by facilitating enrollment of  
14 such family member or individual as a provider  
15 of home and community-based services under  
16 the State plan or a waiver of such plan.

17 “(G) Ensuring that program policies and  
18 procedures allow for cooperation with labor or-  
19 ganizations that bargain on behalf of direct  
20 care workers in the case of a State in which the  
21 direct care workers in the State have elected to  
22 join, or form, such a labor organization, or, in  
23 the case of a State in which such workers have  
24 not joined or formed such a labor organization,

1           are neutral with regard to such workers joining  
2           or forming such a labor organization.

3           “(4) QUALITY, REPORTING, AND OVERSIGHT.—  
4           The requirements described in this paragraph, with  
5           respect to a State and a fiscal year quarter, are the  
6           following:

7                   “(A) The State adopts the core quality  
8                   measures for home and community-based serv-  
9                   ices developed by the Secretary under section  
10                  104 of the Better Care Better Jobs Act, or an  
11                  alternate set of quality measures approved by  
12                  the Secretary, and, at the option of the State,  
13                  expands the use of beneficiary and family care-  
14                  giver experience surveys.

15                  “(B) The State designates an HCBS om-  
16                  budsman office that—

17                          “(i) operates independently from the  
18                          State Medicaid agency and managed care  
19                          entities;

20                          “(ii) provides direct assistance to  
21                          beneficiaries and their families; and

22                          “(iii) identifies and reports systemic  
23                          problems to State officials, the public, and  
24                          the Secretary.

1           “(C) Beginning with the 5th fiscal year  
2           quarter for which the State is an HCBS pro-  
3           gram improvement State, and annually there-  
4           after, the State reports on the components of  
5           the existing home and community-based serv-  
6           ices landscape reported in the State HCBS in-  
7           frastructure improvement plan, including with  
8           respect to—

9                   “(i) the availability and utilization of  
10                  home and community-based services,  
11                  disaggregated by disability status, age, in-  
12                  come, gender, race, ethnicity, geography,  
13                  primary language, sexual orientation, gen-  
14                  der identity, and type of service setting;

15                   “(ii) the characteristics of the direct  
16                  care workforce that provides home and  
17                  community-based services workforce and  
18                  the race, ethnicity, and gender of such  
19                  workforce;

20                   “(iii) changes in payment rates for  
21                  home and community-based services;

22                   “(iv) implementation of the activities  
23                  to strengthen and expand access to home  
24                  and community-based services and the di-  
25                  rect care workforce that provides such



1 services in accordance with the require-  
2 ments of subparagraphs (B) and (C) of  
3 paragraph (2);

4 “(v) if applicable, implementation of  
5 the activities described in paragraph (3);  
6 and

7 “(vi) the progress made with respect  
8 to meeting the benchmarks for dem-  
9 onstrating improvements required in para-  
10 graph (5).

11 “(5) BENCHMARKS FOR DEMONSTRATING IM-  
12 PROVEMENTS.—An HCBS program improvement  
13 State shall cease to be eligible for an increase in the  
14 Federal medical assistance percentage under para-  
15 graph (1)(A)(i) or (1)(B) or an increase in an appli-  
16 cable Federal matching percentage under paragraph  
17 (1)(A)(ii) beginning with the 29th fiscal year quar-  
18 ter that begins on or after the first date on which  
19 a State is an HCBS program improvement State,  
20 unless, not later than 90 days before the first day  
21 of such fiscal year quarter, the State submits to the  
22 Secretary a report demonstrating the following im-  
23 provements:

24 “(A) Increased availability of home and  
25 community-based services in the State relative

1 to such availability as reported in the State  
2 HCBS infrastructure improvement plan and ad-  
3 justed for demographic changes in the State  
4 since the submission of such plan.

5 “(B) Increased utilization and availability  
6 of home and community-based services by popu-  
7 lations with the lowest utilization and avail-  
8 ability of such services (as reported in the State  
9 HCBS infrastructure improvement plan) rel-  
10 ative to the utilization of such services by such  
11 populations as reported in such plan and ad-  
12 justed for demographic changes in the State  
13 since the submission of such plan.

14 “(C) Evidence that a majority of direct  
15 care workers receive competitive wages and ben-  
16 efits.

17 “(D) With respect to the percentage of ex-  
18 penditures made by the State for long-term  
19 services and supports that are for home and  
20 community-based services, in the case of an  
21 HCBS program improvement State for which  
22 such percentage (as reported in the State  
23 HCBS infrastructure improvement plan) was—

24 “(i) less than 50 percent, the State  
25 demonstrates that the percentage of such

1 expenditures has increased to at least 50  
2 percent since the plan was approved; and  
3 “(ii) at least 50 percent, the State  
4 demonstrates that such percentage has not  
5 decreased since the plan was approved.

6 “(6) DEFINITIONS.—In this subsection, the  
7 terms ‘direct care worker’, ‘direct care workforce’,  
8 ‘HCBS program improvement State’, and ‘home and  
9 community-based services’ have the meanings given  
10 those terms in section 2 of the Better Care Better  
11 Jobs Act.”.

12 **SEC. 103. REPORTS; TECHNICAL ASSISTANCE; OTHER AD-**  
13 **MINISTRATIVE REQUIREMENTS.**

14 (a) REPORTS.—The Secretary shall submit to the ap-  
15 propriate committees of Congress the following reports re-  
16 lating to the HCBS Infrastructure Improvement Program  
17 established under this title:

18 (1) INITIAL REPORT.—Not later than 4 years  
19 after the date of enactment of this Act, a report that  
20 includes the following:

21 (A) A description of the HCBS infrastruc-  
22 ture improvement plans approved by the Sec-  
23 retary under section 101(d).

24 (B) A description of the national landscape  
25 with respect to gaps in coverage of home and

1 community-based services, disparities in access  
2 to, and utilization of, such services, and bar-  
3 riers to accessing such services.

4 (C) A description of the national landscape  
5 with respect to the direct care workforce that  
6 provides home and community-based services,  
7 including with respect to compensation, bene-  
8 fits, and challenges to the availability of such  
9 workers.

10 (2) SUBSEQUENT REPORTS.—Not later than 7  
11 years after the date of enactment of this Act, and  
12 every 3 years thereafter, a report that includes the  
13 following:

14 (A) The number of HCBS program im-  
15 provement States.

16 (B) A summary of the progress being  
17 made by such States with respect to strength-  
18 ening and expanding access to home and com-  
19 munity-based services and the direct care work-  
20 force that provides such services and meeting  
21 the benchmarks for demonstrating improve-  
22 ments required under section 1905(jj)(5) of the  
23 Social Security Act (as added by section 102).

24 (C) A summary of outcomes related to  
25 home and community-based services core qual-

1           ity measures and beneficiary and family care-  
2           giver surveys.

3                   (D) A summary of the challenges and best  
4           practices reported by States in expanding ac-  
5           cess to home and community-based services and  
6           supporting and expanding the direct care work-  
7           force that provides such services.

8           (b) TECHNICAL ASSISTANCE; GUIDANCE; REGULA-  
9   TIONS.—The Secretary shall provide HCBS program im-  
10   provement States with technical assistance related to car-  
11   rying out the HCBS infrastructure improvement plans ap-  
12   proved by the Secretary under section 101(d) and meeting  
13   the requirements and benchmarks for demonstrating im-  
14   provements required under section 1905(jj) of the Social  
15   Security Act (as added by section 102) and shall issue  
16   such guidance or regulations as necessary to carry out this  
17   title and the amendments made by this title, including  
18   guidance specifying how States shall assess and track the  
19   availability of home and community-based services over  
20   time.

21           (c) RECOMMENDATIONS TO GUIDE INFRASTRUCTURE  
22   IMPROVEMENT.—

23                   (1) IN GENERAL.—Not later than 18 months  
24           after the date of enactment of this Act, the Sec-  
25           retary shall coordinate with the Secretary of Labor

1 and the Administrator of the Centers for Medicare  
2 & Medicaid Services for purposes of issuing rec-  
3 ommendations for the Federal Government and for  
4 States to strengthen the direct care workforce that  
5 provides home and community-based services, in-  
6 cluding with respect to how the Federal Government  
7 should classify the direct care workforce, how such  
8 Administrator and State Medicaid programs can en-  
9 force and support the provision of competitive wages  
10 and benefits across the direct care workforce, includ-  
11 ing for workers with particular skills or expertise,  
12 and how State Medicaid programs can support  
13 training opportunities and other related efforts that  
14 support the provision of quality home and commu-  
15 nity-based services care.

16 (2) STAKEHOLDER CONSULTATION.—In devel-  
17 oping the recommendations required under para-  
18 graph (1), the Secretary shall ensure that such rec-  
19 ommendations are informed by consultation with re-  
20 cipients of home and community-based services, fam-  
21 ily caregivers of such recipients, providers, health  
22 plans, direct care workers, chosen representatives of  
23 direct care workers, and aging, disability, and work-  
24 force advocates.

1 (d) FUNDING.—Out of any funds in the Treasury not  
2 otherwise appropriated, there is appropriated to the Sec-  
3 retary for purposes of carrying out this section,  
4 \$10,000,000 for fiscal year 2022, to remain available until  
5 expended.

6 **SEC. 104. QUALITY MEASUREMENT AND IMPROVEMENT.**

7 (a) DEVELOPMENT AND PUBLICATION OF CORE AND  
8 SUPPLEMENTAL SETS OF HCBS QUALITY MEASURES.—

9 (1) IN GENERAL.—Not later than 2 years after  
10 the date of enactment of this Act, the Secretary  
11 shall identify and publish for general comment a rec-  
12 ommended core set and supplemental set of home  
13 and community-based services quality measures for  
14 use by State Medicaid programs, health plan and  
15 managed care entities that enter into contracts with  
16 such programs, and providers of items and services  
17 under such programs.

18 (2) REGULAR REVIEWS AND UPDATES.—The  
19 Secretary shall review and update the recommended  
20 core set and supplemental set of home and commu-  
21 nity-based services quality measures published under  
22 paragraph (1) not less frequently than once every  
23 year.

24 (3) REQUIREMENTS.—

1 (A) INTERAGENCY COLLABORATION;  
2 STAKEHOLDER INPUT.—In developing the rec-  
3 ommended core set and supplemental set of  
4 home and community-based services quality  
5 measures under paragraph (1), and subse-  
6 quently reviewing and updating such core and  
7 supplemental sets, the Secretary shall—

8 (i) collaborate with the Administrator  
9 of the Centers for Medicare & Medicaid  
10 Services, the Administrator of the Admin-  
11 istration for Community Living, the Direc-  
12 tor of the Agency for Healthcare Research  
13 and Quality, and the Administrator of the  
14 Substance Abuse and Mental Health Serv-  
15 ices Administration; and

16 (ii) ensure that such core and supple-  
17 mental sets are informed by input from  
18 stakeholders, including recipients of home  
19 and community-based services, family care-  
20 givers of such recipients, providers, health  
21 plans, direct care workers, chosen rep-  
22 resentatives of direct care workers, and  
23 aging, disability, and workforce advocates.

24 (B) REFLECTIVE OF FULL ARRAY OF  
25 SERVICES.—Such recommended core set and



1 supplemental set of home and community-based  
2 services quality measures shall—

3 (i) reflect the full array of home and  
4 community-based services and recipients of  
5 such services, including adults and chil-  
6 dren; and

7 (ii) include—

8 (I) outcomes-based measures;

9 (II) measures of availability of  
10 services;

11 (III) measures of provider capac-  
12 ity and availability;

13 (IV) measures related to person-  
14 centered care;

15 (V) measures specific to self-di-  
16 rected care;

17 (VI) measures related to transi-  
18 tions to and from institutional care;

19 and

20 (VII) beneficiary and family care-  
21 giver surveys.

22 (C) DEMOGRAPHICS.—Such recommended  
23 core set and supplemental set of home and com-  
24 munity-based services quality measures shall  
25 allow for the collection of data that is

1           disaggregated by disability status, age, income,  
2           gender, race, ethnicity, geography, primary lan-  
3           guage, sexual orientation, gender identity, and  
4           type of service setting .

5           (4) FUNDING.—Out of any funds in the Treas-  
6           ury not otherwise appropriated, there is appro-  
7           priated to the Secretary for purposes of carrying out  
8           this subsection, \$5,000,000 for fiscal year 2022, to  
9           remain available until expended.

10          (b) STATE ADOPTION AND REPORTS.—

11           (1) IN GENERAL.—Not later than 2 years after  
12           the date on which the Secretary publishes the rec-  
13           ommended core set and supplemental set of home  
14           and community-based services quality measures  
15           under subsection (a)(1), and annually thereafter,  
16           each State Medicaid program shall use such core  
17           and supplemental sets (or an alternative set of qual-  
18           ity measures approved by the Secretary) to report  
19           information to the Secretary regarding the quality of  
20           home and community-based services provided under  
21           such program.

22           (2) PROCESS.—The information required under  
23           paragraph (1) shall be reported using a standardized  
24           format and procedures established by the Secretary.  
25           Such procedures shall allow a State Medicaid pro-

1       gram to report such information separately or as  
2       part of the annual reports required under sections  
3       1139A(c) and 1139B(d) of the Social Security Act  
4       (42 U.S.C. 1320b–9a, 1320b–9b).

5           (3) PUBLICATION OF QUALITY MEASURES.—  
6       Each State Medicaid program shall periodically  
7       make the information reported to the Secretary  
8       under paragraph (1) available to the public.

9           (4) INCREASED FEDERAL MATCHING RATE FOR  
10       ADOPTION AND REPORTING.—Section 1903(a)(3) of  
11       the Social Security Act (42 U.S.C. 1396b(a)(3)) is  
12       amended—

13           (A) in subparagraph (F)(ii), by striking  
14       “plus” after the semicolon and inserting “and”;  
15       and

16           (B) by inserting after subparagraph (F),  
17       the following:

18           “(G) 80 percent of so much of the sums  
19       expended during such quarter as are attrib-  
20       utable to the reporting of information regarding  
21       the quality of home and community-based serv-  
22       ices in accordance with section 104(b) of the  
23       Better Care Better Jobs Act; and”.

1     **TITLE II—OTHER PROVISIONS**

2     **SEC. 201. MACPAC STUDY AND REPORT ON APPENDIX K**  
3                   **EMERGENCY HOME AND COMMUNITY-BASED**  
4                   **SERVICES (HCBS) 1915(C) WAIVERS.**

5           (a) IN GENERAL.—The Medicaid and CHIP Payment  
6 and Access Commission (referred to in this section as  
7 “MACPAC”) shall conduct a study and submit to Con-  
8 gress a report on the accelerated changes and emergency  
9 amendments to home and community-based services waiv-  
10 ers under section 1915(c) of the Social Security Act (42  
11 U.S.C. 1396n(c)) approved for States during the COVID-  
12 19 pandemic using the Appendix K template issued by the  
13 Centers for Medicare & Medicaid Services on March 22,  
14 2020.

15          (b) REPORT.—The report submitted under subsection  
16 (a) shall—

17               (1) describe the specific types of flexibilities or  
18 other program changes adopted by States using the  
19 Appendix K template;

20               (2) evaluate the efficiency, management, and  
21 success and failures of such flexibilities and program  
22 changes; and

23               (3) include recommendations for legislative and  
24 administrative actions to continue specific flexibili-  
25 ties, program changes, and innovative service deliv-

1       ery models that increase access to care in home and  
2       community settings.

3       **SEC. 202. MAKING PERMANENT THE STATE OPTION TO EX-**  
4                               **TEND PROTECTION UNDER MEDICAID FOR**  
5                               **RECIPIENTS OF HOME AND COMMUNITY-**  
6                               **BASED SERVICES AGAINST SPOUSAL IMPOV-**  
7                               **ERISHMENT.**

8       (a) IN GENERAL.—Section 1924(h)(1)(A) of the So-  
9       cial Security Act (42 U.S.C. 1396r–5(h)(1)(A)) is amend-  
10      ed by striking “is described in section  
11      1902(a)(10)(A)(ii)(VI)” and inserting the following: “is  
12      eligible for medical assistance for home and community-  
13      based services provided under subsection (c), (d), or (i)  
14      of section 1915, under a waiver approved under section  
15      1115, or who is eligible for such medical assistance by rea-  
16      son of being determined eligible under section  
17      1902(a)(10)(C) or by reason of section 1902(f) or other-  
18      wise on the basis of a reduction of income based on costs  
19      incurred for medical or other remedial care, or who is eligi-  
20      ble for medical assistance for home and community-based  
21      attendant services and supports under section 1915(k)”.

22      (b) CONFORMING AMENDMENT.—Section 2404 of the  
23      Patient Protection and Affordable Care Act (42 U.S.C.  
24      1396r–5 note) is amended by striking “September 30,

1 2023” and inserting “the date of enactment of the Better  
2 Care Better Jobs Act”.

3 **SEC. 203. PERMANENT EXTENSION OF MONEY FOLLOWS**  
4 **THE PERSON REBALANCING DEMONSTRATION.**  
5 **TION.**

6 (a) IN GENERAL.—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 (I), by inserting  
10 “and” after the semicolon;

11 (B) by amending subparagraph (J) to read  
12 as follows:

13 “(G) \$450,000,000 for each fiscal year  
14 after fiscal year 2021.”; and

15 (C) by striking subparagraph (K); and

16 (2) in paragraph (2), by striking “September  
17 30, 2023” and inserting “September 30 of such fis-  
18 cal year”.

19 (b) REDISTRIBUTION OF UNEXPENDED GRANT  
20 AWARDS.—Section 6071(e)(2) of the Deficit Reduction  
21 Act of 2005 (42 U.S.C. 1396a note) is amended by adding  
22 at the end the following new sentence: “Any portion of  
23 a State grant award for a fiscal year under this section  
24 that is unexpended by the State at the end of the fourth  
25 succeeding fiscal year shall be rescinded by the Secretary

1 and added to the appropriation for the fifth succeeding  
2 fiscal year.”.