

106TH CONGRESS  
2D SESSION

# H. R. 4825

To amend title XIX of the Social Security Act to provide families of disabled children with the opportunity to purchase coverage under the Medicaid Program for such children, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 12, 2000

Mr. SESSIONS (for himself, Mr. WAXMAN, Mr. UPTON, Mr. BARRETT of Wisconsin, Ms. PRYCE of Ohio, Mr. STRICKLAND, Mr. HAYWORTH, Mr. BROWN of Ohio, Mr. DREIER, Mr. LAZIO, Mr. DINGELL, Mr. DOGGETT, Mr. RAMSTAD, Mr. NUSSLE, Mr. NETHERCUTT, Mr. GILCHREST, and Mr. TAUZIN) introduced the following bill; which was referred to the Committee on Commerce

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## A BILL

To amend title XIX of the Social Security Act to provide families of disabled children with the opportunity to purchase coverage under the Medicaid Program for such children, 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 “Family Opportunity Act of 2000”.

1 (b) TABLE OF CONTENTS.—The table of contents of  
 2 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Opportunity for families of disabled children to purchase medicaid coverage for such children.
- Sec. 3. Treatment of inpatient psychiatric hospital services for individuals under age 21 in home or community-based services waivers.
- Sec. 4. Demonstration of coverage under the medicaid program of children with potentially severe disabilities.
- Sec. 5. Development and support of family-to-family health information centers.
- Sec. 6. Restoration of medicaid eligibility for certain SSI beneficiaries.

3 **SEC. 2. OPPORTUNITY FOR FAMILIES OF DISABLED CHILD-**  
 4 **DREN TO PURCHASE MEDICAID COVERAGE**  
 5 **FOR SUCH CHILDREN.**

6 (a) STATE OPTION TO ALLOW FAMILIES OF DIS-  
 7 ABLED CHILDREN TO PURCHASE MEDICAID COVERAGE  
 8 FOR SUCH CHILDREN.—

9 (1) IN GENERAL.—Section 1902 of the Social  
 10 Security Act (42 U.S.C. 1396a), as amended by the  
 11 Foster Care Independence Act of 1999 (Public Law  
 12 106–169; 113 Stat. 1822) and the Ticket to Work  
 13 and Work Incentives Improvement Act of 1999  
 14 (Public Law 106–170; 113 Stat. 1860), is  
 15 amended—

16 (A) in subsection (a)(10)(A)(ii)—

17 (i) by striking “or” at the end of sub-  
 18 clause (XVI);

19 (ii) by adding “or” at the end of sub-  
 20 clause (XVII); and

1 (iii) by adding at the end the fol-  
2 lowing new subclause:

3 “(XVIII) who are disabled chil-  
4 dren described in subsection (aa);”;  
5 and

6 (B) by adding at the end the following new  
7 subsection:

8 “(aa)(1) Individuals described in this subsection are  
9 individuals—

10 “(A) who have not attained 21 years of age;

11 “(B) who would be considered disabled under  
12 section 1614(a)(3)(C) (determined without regard to  
13 the reference to age in that section) but for having  
14 family income or resources (as determined under  
15 title XVI for children) that exceed the requirements  
16 for receipt of supplemental security income benefits;  
17 and

18 “(C) whose family income (as so determined)  
19 does not exceed—

20 “(i) 600 percent of the income official pov-  
21 erty line (as defined by the Office of Manage-  
22 ment and Budget, and revised annually in ac-  
23 cordance with section 673(2) of the Omnibus  
24 Budget Reconciliation Act of 1981) applicable  
25 to a family of the size involved; or

1           “(ii) such higher percent of such poverty  
2           line as a State may establish, except that no  
3           Federal financial participation shall be provided  
4           under section 1903(a) for any medical assist-  
5           ance provided to an individual who would not be  
6           described in this subsection but for this clause.

7           “(2) A State shall provide the same amount, dura-  
8           tion, and scope of medical assistance under the State plan  
9           to an individual described in paragraph (1) who has at-  
10          tained age 18 but has not attained age 21 as the State  
11          provides under the State plan to an individual who has  
12          not attained age 18.”.

13           (2) INTERACTION WITH EMPLOYER-SPONSORED  
14          FAMILY COVERAGE.—Section 1902(aa) of the Social  
15          Security Act (42 U.S.C. 1396a(aa)), as added by  
16          paragraph (1), is amended by adding at the end the  
17          following new paragraph:

18          “(3)(A) If an employer of a parent or caretaker rel-  
19          ative of an individual described in paragraph (1) offers  
20          family coverage under a group health plan (as defined in  
21          section 2791(a) of the Public Health Service Act), the  
22          State may—

23                 “(i) require such parent or caretaker relative to  
24                 apply for, enroll in, and pay premiums for, such cov-  
25                 erage as a condition of such parent’s or caretaker

1 relative's child being or remaining eligible for med-  
2 ical assistance under subsection  
3 (a)(10)(A)(ii)(XVIII) if the parent or caretaker rel-  
4 ative is determined eligible for such coverage and the  
5 employer contributes at least 50 percent of the total  
6 cost of annual premiums for such coverage; and

7 “(ii) if such coverage is obtained—

8 “(I) subject to paragraph (2) of section  
9 1916(h), reduce the premium imposed by the  
10 State under that section (if any) in an amount  
11 that reasonably reflects the premium contribu-  
12 tion made by the family for private coverage on  
13 behalf of a child with a disability; and

14 “(II) treat such coverage as a third party  
15 liability under subsection (a)(25).

16 “(B) In the case of a parent or caretaker relative to  
17 which subparagraph (A) applies—

18 “(i) if the family income (as so determined) of  
19 such parent or caretaker relative does not exceed  
20 300 percent of the income official poverty line (as so  
21 defined), a State may provide for payment of any  
22 portion of the annual premium for such family cov-  
23 erage that the parent or caretaker relative is re-  
24 quired to pay; and

1           “(ii) any payments made by the State under  
2           clause (i) shall be considered, for purposes of section  
3           1903(a), to be payments for medical assistance.”.

4           (b) STATE OPTION TO IMPOSE INCOME-RELATED  
5 PREMIUMS.—Section 1916 of the Social Security Act (42  
6 U.S.C. 1396o), as amended by the Ticket to Work and  
7 Work Incentives Improvement Act of 1999 (Public Law  
8 106–170; 113 Stat. 1860), is amended—

9           (1) in subsection (a), by striking “subsection  
10           (g)” and inserting “subsections (g) and (h)”; and

11           (2) by adding at the end the following new sub-  
12           section:

13           “(h)(1) With respect to disabled children provided  
14           medical           assistance           under           section  
15           1902(a)(10)(A)(ii)(XVIII), subject to paragraph (2), a  
16           State may (in a uniform manner for such children) require  
17           the families of such children to pay monthly premiums set  
18           on a sliding scale based on family income (as determined  
19           under title XVI for children).

20           “(2) A premium requirement imposed under para-  
21           graph (1) may only apply to the extent that—

22           “(A) the aggregate amount of such premium  
23           and any premium that the parent or caretaker rel-  
24           ative is required to pay for family coverage under

1 section 1902(aa)(3)(A)(i) does not exceed 5 percent  
2 of the family’s income; and

3 “(B) the requirement is imposed consistent with  
4 section 1902(aa)(3)(A)(ii)(I).

5 “(3) A State shall not require prepayment of a pre-  
6 mium imposed pursuant to paragraph (1) and shall not  
7 terminate eligibility of a child under section  
8 1902(a)(10)(A)(ii)(XVIII) for medical assistance under  
9 this title on the basis of failure to pay any such premium  
10 until such failure continues for a period of not less than  
11 60 days from the date on which the premium became past  
12 due. The State may waive payment of any such premium  
13 in any case where the State determines that requiring  
14 such payment would create an undue hardship.”.

15 (c) INCREASED FEDERAL FINANCIAL ASSISTANCE  
16 FOR ADMINISTRATIVE COSTS.—Section 1903(a)(7) of the  
17 Social Security Act (42 U.S.C. 1396b(a)(7)) is amended—

18 (1) by inserting “(A)” after “(7)”;

19 (2) by striking the period and inserting “,  
20 and”;

21 (3) by adding at the end the following new sub-  
22 paragraph:

23 “(B) 90 percent of the sums expended during  
24 such a quarter within the twelve-quarter period be-

1       ginning with the first quarter in which a payment is  
2       made to the State pursuant to this subparagraph.”.

3       (d) CONFORMING AMENDMENT.—Section 1903(f)(4)  
4 of the Social Security Act (42 U.S.C. 1396b(f)(4)) is  
5 amended in the matter preceding subparagraph (A) by in-  
6 serting “1902(a)(10)(A)(ii)(XVIII)” before “1905(p)(1)”.

7       (e) EFFECTIVE DATE.—The amendments made by  
8 this section shall apply to medical assistance for items and  
9 services furnished on or after October 1, 2000.

10 **SEC. 3. TREATMENT OF INPATIENT PSYCHIATRIC HOS-**  
11 **PITAL SERVICES FOR INDIVIDUALS UNDER**  
12 **AGE 21 IN HOME OR COMMUNITY-BASED**  
13 **SERVICES WAIVERS.**

14       (a) IN GENERAL.—Section 1915(c) of the Social Se-  
15 curity Act (42 U.S.C. 1396n(c)) is amended—

16               (1) in paragraph (1)—

17                       (A) in the first sentence, by inserting “, or  
18                       inpatient psychiatric hospital services for indi-  
19                       viduals under age 21,” after “intermediate care  
20                       facility for the mentally retarded”; and

21                       (B) in the second sentence, by inserting “,  
22                       or inpatient psychiatric hospital services for in-  
23                       dividuals under age 21” before the period;

24               (2) in paragraph (2)(B), by striking “or serv-  
25       ices in an intermediate care facility for the mentally

1       retarded” each place it appears and inserting “,  
2       services in an intermediate care facility for the men-  
3       tally retarded, or inpatient psychiatric hospital serv-  
4       ices for individuals under age 21”;

5               (3) by striking paragraph (2)(C) and inserting  
6       the following:

7               “(C) such individuals who are determined to be  
8       likely to require the level of care provided in a hos-  
9       pital, nursing facility, or intermediate care facility  
10       for the mentally retarded, or inpatient psychiatric  
11       hospital services for individuals under age 21, are  
12       informed of the feasible alternatives, if available  
13       under the waiver, at the choice of such individuals,  
14       to the provision of inpatient hospital services, nurs-  
15       ing facility services, services in an intermediate care  
16       facility for the mentally retarded, or inpatient psy-  
17       chiatric hospital services for individuals under age  
18       21;”;

19               (4) in paragraph (7)(A)—

20               (A) by inserting “, or inpatient psychiatric  
21       hospital services for individuals under age 21,”  
22       after “intermediate care facility for the men-  
23       tally retarded”; and

1 (B) by inserting “, or who would require  
 2 inpatient psychiatric hospital services for indi-  
 3 viduals under age 21” before the period.

4 (b) EFFECTIVE DATE.—The amendments made by  
 5 subsection (a) apply with respect to medical assistance  
 6 provided on or after October 1, 2000.

7 **SEC. 4. DEMONSTRATION OF COVERAGE UNDER THE MED-**  
 8 **ICAID PROGRAM OF CHILDREN WITH POTEN-**  
 9 **TIALLY SEVERE DISABILITIES.**

10 (a) STATE APPLICATION.—A State may apply to the  
 11 Secretary of Health and Human Services (in this section  
 12 referred to as the “Secretary”) for approval of a dem-  
 13 onstration project (in this section referred to as a “dem-  
 14 onstration project”) under which up to a specified max-  
 15 imum number of children with a potentially severe dis-  
 16 ability (as defined in subsection (b)) are provided medical  
 17 assistance under the State medicaid plan under title XIX  
 18 of the Social Security Act (42 U.S.C. 1396 et seq.).

19 (b) CHILD WITH A POTENTIALLY SEVERE DIS-  
 20 ABILITY DEFINED.—

21 (1) IN GENERAL.—In this section, the term  
 22 “child with a potentially severe disability” means,  
 23 with respect to a demonstration project, an indi-  
 24 vidual who—

25 (A) has not attained 6 years of age;

1 (B) has a physical or mental condition,  
2 disease, disorder (including a congenital birth  
3 defect), injury, or developmental disability that  
4 was incurred before the individual attained such  
5 age; and

6 (C) is reasonably expected, but for the re-  
7 ceipt of medical assistance under the State  
8 medicaid plan, to reach the level of disability  
9 defined under section 1614(a)(3) of the Social  
10 Security Act (42 U.S.C. 1382c(a)(3)), (deter-  
11 mined without regard to the reference to age in  
12 subparagraph (C) of that section).

13 (2) EXCEPTION.—Such term does not include  
14 an individual who would be considered disabled  
15 under section 1614(a)(3)(C) of the Social Security  
16 Act (42 U.S.C. 1382c(a)(3)(C)) (determined without  
17 regard to the reference to age in that section).

18 (c) APPROVAL OF DEMONSTRATION PROJECTS.—

19 (1) IN GENERAL.—Subject to paragraph (3),  
20 the Secretary shall approve applications under sub-  
21 section (a) that meet the requirements of paragraph  
22 (2) and such additional terms and conditions as the  
23 Secretary may require. The Secretary may waive the  
24 requirement of section 1902(a)(1) of the Social Se-

1 security Act (42 U.S.C. 1396a(a)(1)) to allow for sub-  
2 State demonstrations.

3 (2) TERMS AND CONDITIONS OF DEMONSTRA-  
4 TION PROJECTS.—The Secretary may not approve a  
5 demonstration project under this section unless the  
6 State provides assurances satisfactory to the Sec-  
7 retary that the following conditions are or will be  
8 met:

9 (A) INDEPENDENT EVALUATION.—The  
10 State provides for an independent evaluation of  
11 the project to be conducted during fiscal year  
12 2005.

13 (B) CONSULTATION FOR DEVELOPMENT  
14 OF CRITERIA.—The State consults with appro-  
15 priate pediatric health professionals in estab-  
16 lishing the criteria for determining whether a  
17 child has a potentially severe disability.

18 (C) ANNUAL REPORT.—The State submits  
19 an annual report to the Secretary (in a uniform  
20 form and manner established by the Secretary)  
21 on the use of funds provided under the grant  
22 that includes the following:

23 (i) Enrollment and financial statistics

24 on—

1 (I) the total number of children  
2 with a potentially severe disability en-  
3 rolled in the demonstration project,  
4 disaggregated by disability;

5 (II) the services provided by cat-  
6 egory or code and the cost of each  
7 service so categorized or coded; and

8 (III) the number of children en-  
9 rolled in the demonstration project  
10 who also receive services through pri-  
11 vate insurance.

12 (ii) With respect to the report sub-  
13 mitted for fiscal year 2005, the results of  
14 the independent evaluation conducted  
15 under subparagraph (A).

16 (iii) Such additional information as  
17 the Secretary may require.

18 (3) LIMITATIONS ON FEDERAL FUNDING.—

19 (A) APPROPRIATION.—

20 (i) IN GENERAL.—Out of any funds in  
21 the Treasury not otherwise appropriated,  
22 there is appropriated to carry out this sec-  
23 tion \$16,667,000 for each of fiscal years  
24 2001 through 2006.

1 (ii) BUDGET AUTHORITY.—Clause (i)  
2 constitutes budget authority in advance of  
3 appropriations Acts and represents the ob-  
4 ligation of the Federal Government to pro-  
5 vide for the payment of the amounts ap-  
6 propriated under clause (i).

7 (B) LIMITATION ON PAYMENTS.—In no  
8 case may—

9 (i) the aggregate amount of payments  
10 made by the Secretary to States under this  
11 section exceed \$100,000,000;

12 (ii) the aggregate amount of payments  
13 made by the Secretary to States for ad-  
14 ministrative expenses relating to the eval-  
15 uations and annual reports required under  
16 subparagraphs (B) and (D) of paragraph  
17 (2) exceed \$2,000,000 of such  
18 \$100,000,000; or

19 (iii) payments be provided by the Sec-  
20 retary for a fiscal year after fiscal year  
21 2009.

22 (C) FUNDS ALLOCATED TO STATES.—

23 (i) IN GENERAL.—The Secretary shall  
24 allocate funds to States based on their ap-  
25 plications and the availability of funds. In

1 making such allocations, the Secretary  
2 shall ensure an equitable distribution of  
3 funds among States with large populations  
4 and States with small populations.

5 (ii) AVAILABILITY.—Funds allocated  
6 to a State under a grant made under this  
7 section for a fiscal year shall remain avail-  
8 able until expended.

9 (D) FUNDS NOT ALLOCATED TO STATES.—  
10 Funds not allocated to States in the fiscal year  
11 for which they are appropriated shall remain  
12 available in succeeding fiscal years for alloca-  
13 tion by the Secretary using the allocation for-  
14 mula established under this section.

15 (E) PAYMENTS TO STATES.—The Sec-  
16 retary shall pay to each State with a dem-  
17 onstration project approved under this section,  
18 from its allocation under subparagraph (C), an  
19 amount for each quarter equal to the Federal  
20 medical assistance percentage (as defined in  
21 section 1905(b) of the Social Security Act (42  
22 U.S.C. 1395d(b))) of expenditures in the quar-  
23 ter for medical assistance provided to children  
24 with a potentially severe disability.

1 (d) RECOMMENDATION.—Not later than October 1,  
2 2004, the Secretary shall submit a recommendation to the  
3 Committee on Commerce of the House of Representatives  
4 and the Committee on Finance of the Senate regarding  
5 whether the demonstration project established under this  
6 section should be continued after fiscal year 2006.

7 (e) STATE DEFINED.—In this section, the term  
8 “State” has the meaning given such term for purposes of  
9 title XIX of the Social Security Act (42 U.S.C. 1396 et  
10 seq.).

11 **SEC. 5. DEVELOPMENT AND SUPPORT OF FAMILY-TO-FAM-**  
12 **ILY HEALTH INFORMATION CENTERS.**

13 Section 501 of the Social Security Act (42 U.S.C.  
14 701) is amended by adding at the end the following new  
15 subsection:

16 “(c)(1)(A) In addition to amounts appropriated  
17 under subsection (a) and retained under section 502(a)(1)  
18 for the purpose of carrying out activities described in sub-  
19 section (a)(2), there is appropriated to the Secretary, out  
20 of any money in the Treasury not otherwise appropriated,  
21 for the purpose of enabling the Secretary (through grants,  
22 contracts, or otherwise) to provide for special projects of  
23 regional and national significance for the development and  
24 support of family-to-family health information centers de-

1 scribed in paragraph (2), \$10,000,000 for each of fiscal  
2 years 2001 through 2006.

3 “(B) Funds appropriated under subparagraph (A)  
4 shall remain available until expended.

5 “(2) The family-to-family health information centers  
6 described in this paragraph are centers that—

7 “(A) assist families of children with disabilities  
8 or special health care needs to make informed  
9 choices about health care in order to promote good  
10 treatment decisions, cost-effectiveness, and improved  
11 health outcomes for such children;

12 “(B) provide information regarding the health  
13 care needs of, and resources available for, children  
14 with disabilities or special health care needs;

15 “(C) identify successful health delivery models  
16 for such children;

17 “(D) develop with representatives of health care  
18 providers, managed care organizations, health care  
19 purchasers, and appropriate State agencies a model  
20 for collaboration between families of such children  
21 and health professionals;

22 “(E) provide training and guidance regarding  
23 caring for such children;

1           “(F) conduct outreach activities to the families  
2 of such children, health professionals, schools, and  
3 other appropriate entities and individuals; and

4           “(G) are staffed by families of children with  
5 disabilities or special health care needs who have ex-  
6 pertise in Federal and State public and private  
7 health care systems and health professionals.

8           “(3) The provisions of this title that are applicable  
9 to the funds made available to the Secretary under section  
10 502(a)(1) apply in the same manner to funds made avail-  
11 able to the Secretary under paragraph (1).”.

12 **SEC. 6. RESTORATION OF MEDICAID ELIGIBILITY FOR CER-**  
13 **TAIN SSI BENEFICIARIES.**

14           (a) IN GENERAL.—Section 1902(a)(10)(A)(i)(II) of  
15 the Social Security Act (42 U.S.C.  
16 1396a(a)(10)(A)(i)(II)) is amended—

17           (1) by inserting “(aa)” after “(II)”;

18           (2) by striking “or who are” and inserting  
19 “(bb) who are”; and

20           (3) by inserting before the comma at the end  
21 the following: “, or (cc) who are under 21 years of  
22 age and with respect to whom supplemental security  
23 income benefits would be paid under title XVI but  
24 for section 1611(c)(7)”.

1       (b) EFFECTIVE DATE.—The amendments made by  
2 subsection (a) apply to medical assistance for items and  
3 services furnished on or after October 1, 2000, except that  
4 a State may elect to apply such amendments to items and  
5 services furnished on or after any date after the date of  
6 the enactment of this Act and before October 1, 2000.

○