

109<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 1052

To amend titles XVIII and XIX of the Social Security Act to provide for coverage under the Medicare and Medicaid Programs of incontinence undergarments.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 2, 2005

Mr. FRANK of Massachusetts introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend titles XVIII and XIX of the Social Security Act to provide for coverage under the Medicare and Medicaid Programs of incontinence undergarments.

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. MEDICARE COVERAGE OF INCONTINENCE UN-**  
4       **DERGARMENTS.**

5       (a) COVERAGE.—Section 1861(s)(2) of the Social Se-  
6       curity Act (42 U.S.C. 1395x(s)(2)) is amended—

7               (1) in subparagraph (Y), by striking “and” at  
8       the end;

1           (2) in subparagraph (Z), by adding “and” at  
2           the end; and

3           (3) by inserting after subparagraph (Z) the fol-  
4           lowing new subparagraph:

5           “(AA) incontinence undergarments (such as  
6           adult diapers);”.

7           (b) EFFECTIVE DATE.—The amendments made by  
8           subsection (a) shall apply to items furnished on or after  
9           January 1, 2006.

10   **SEC. 2. MEDICAID COVERAGE OF INCONTINENCE UNDER-**  
11                           **GARMENTS.**

12           (a) REQUIREMENT.—The first sentence of section  
13           1905(a) of the Social Security Act (42 U.S.C. 1396d(a))  
14           is amended—

15           (1) by striking “and” at the end of paragraph  
16           (27);

17           (2) by striking the period at the end of para-  
18           graph (28) and inserting “; and”; and

19           (3) by inserting after paragraph (28) the fol-  
20           lowing new paragraph:

21           “(29) incontinence undergarments (such as  
22           adult diapers).”.

23           (b) EFFECTIVE DATE.—The amendment made by  
24           subsection (a) shall apply to items furnished on or after  
25           January 1, 2006.

1           (c) STATE COMPLIANCE.—In the case of a State plan  
2 for medical assistance under title XIX of the Social Secu-  
3 rity Act which the Secretary of Health and Human Serv-  
4 ices determines requires State legislation (other than legis-  
5 lation authorizing or appropriating funds) in order for the  
6 plan to meet the additional requirement imposed by the  
7 amendment made by subsection (a), the State plan shall  
8 not be regarded as failing to comply with the requirements  
9 of such title solely on the basis of its failure to meet this  
10 additional requirement before the first day of the first cal-  
11 endar quarter beginning after the close of the first regular  
12 session of the State legislature that begins after the date  
13 of the enactment of this Act. For purposes of the previous  
14 sentence, in the case of a State that has a 2-year legisla-  
15 tive session, each year of such session shall be deemed to  
16 be a separate regular session of the State legislature.

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