

109TH CONGRESS
2^D SESSION

S. 4021

To amend title XVIII of the Social Security Act to provide for comprehensive health benefits for the relief of individuals whose health was adversely affected by the 9/11 disaster.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 29, 2006

Mrs. CLINTON (for herself, Mr. SCHUMER, and Mr. KENNEDY) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend title XVIII of the Social Security Act to provide for comprehensive health benefits for the relief of individuals whose health was adversely affected by the 9/11 disaster.

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.**

4 This Act may be cited as the “9/11 Comprehensive
5 Health Benefits Act of 2006”.

1 **SEC. 2. MEDICARE-BASED ELIGIBILITY AND BENEFITS FOR**
 2 **INDIVIDUALS WITH A 9/11 DISASTER-CON-**
 3 **NECTED HEALTH CONDITION.**

4 (a) IN GENERAL.—Title XVIII of the Social Security
 5 Act is amended by inserting after section 1808 the fol-
 6 lowing new section:

7 “BENEFITS FOR INDIVIDUALS WITH A 9/11 DISASTER-
 8 CONNECTED HEALTH CONDITION

9 “SEC. 1809. (a) IN GENERAL.—Every 9/11 impacted
 10 individual (as defined in subsection (b)(1)(A)) who has a
 11 9/11 disaster-connected health condition (as defined in
 12 subsection (b)(2))—

13 “(1) is entitled to 9/11-related benefits (as de-
 14 fined in subsection (c)(1)) under this title without
 15 payment of any premium; and

16 “(2) if the individual is not otherwise entitled
 17 to benefits under part A (or enrolled under part B),
 18 is eligible to enroll under subsection (d) for benefits
 19 under parts A, B, and D that are in addition to the
 20 9/11-related benefits provided under paragraph (1).

21 Paragraph (1) shall apply regardless of whether or not
 22 the individual is otherwise entitled to benefits under part
 23 A, B, or D. Paragraph (2) shall apply regardless of wheth-
 24 er the individual is covered under a group health plan or
 25 otherwise has other health insurance or benefits coverage.

26 “(b) ELIGIBILITY.—

1 “(1) 9/11 IMPACTED INDIVIDUAL DEFINED.—

2 “(A) IN GENERAL.—For purposes of this
3 section, the term ‘9/11 impacted individual’
4 means any of the following:

5 “(i) EMERGENCY SERVICES OR RES-
6 CUE AND RECOVERY PERSONNEL.—Any
7 emergency services or rescue and recovery
8 personnel who responded to the 9/11 New
9 York terrorist attacks at any time during
10 the period beginning on September 11,
11 2001, and ending on August 31, 2002.

12 “(ii) INDIVIDUALS EXPOSED TO HAZ-
13 ARDOUS SUBSTANCES, POLLUTANTS, OR
14 CONTAMINANTS.—Any individual exposed
15 in New York City to hazardous substances,
16 pollutants, or contaminants released from
17 the collapse of the World Trade Center
18 that occurred in the 9/11 New York ter-
19 rorist attacks or from the fires that oc-
20 curred, or from the handling of resulting
21 debris, thereafter.

22 “(iii) OTHER INDIVIDUALS.—Any
23 other individual whom the Secretary deter-
24 mines to be appropriate.

1 “(B) EMERGENCY SERVICES OR RESCUE
2 AND RECOVERY PERSONNEL INCLUDED.—For
3 purposes of this paragraph, the term ‘emer-
4 gency services personnel or rescue and recovery
5 personnel’ includes any of the following:

6 “(i) A Federal, State, or city employee
7 who responded to the 9/11 New York ter-
8 rorist attacks.

9 “(ii) An individual who, as a worker
10 or volunteer, was involved in clean-up, re-
11 pair, or infrastructure restoration activities
12 related to the 9/11 New York terrorist at-
13 tacks.

14 “(iii) An individual participating in a
15 search and rescue team, or who assisted in
16 the recovery of human remains, after the
17 9/11 New York terrorist attacks.

18 “(iv) Any other relief or rescue worker
19 who the Secretary determines to be appro-
20 priate.

21 “(C) PRESUMPTION OF EXPOSURE TO
22 HAZARDOUS SUBSTANCES, POLLUTANTS, OR
23 CONTAMINANTS.—

24 “(i) IN GENERAL.—An individual
25 shall be treated as described in subpara-

1 graph (A)(ii) if the individual resided,
2 owned a business, was employed, or at-
3 tended school, child care, or adult day care
4 in a building that was exposed to haz-
5 ardous substances, pollutants, or contami-
6 nants released from the collapse of the
7 World Trade Center that occurred during
8 such attacks on or after September 11,
9 2001 or from the fires that occurred, or
10 from the handling of resulting debris,
11 thereafter.

12 “(ii) TREATMENT OF BUILDINGS.—
13 For purposes of clause (i), any building in
14 Manhattan, Brooklyn, Queens, Staten Is-
15 land, or Northern New Jersey (as delin-
16 eated by the Secretary) shall be treated as
17 being described in such clause if there is
18 evidence that the building was exposed to
19 hazardous substances, pollutants, or con-
20 taminants released from the collapse of the
21 World Trade Center or from the fires that
22 occurred thereafter at any time during the
23 period beginning on September 11, 2001,
24 and ending on December 31, 2001.

1 “(2) 9/11 DISASTER-CONNECTED HEALTH CON-
2 DITION DEFINED.—

3 “(A) IN GENERAL.—For purposes of this
4 section, the term ‘9/11 disaster-connected
5 health condition’ means an adverse health con-
6 dition (including the exacerbation of a pre-exist-
7 ing health condition), which also may be an ad-
8 verse mental health condition, that, in the judg-
9 ment of a qualified medical practitioner (includ-
10 ing a therapist in the case of an adverse mental
11 health condition), can reasonably be considered
12 to be associated with exposure to the 9/11 New
13 York terrorist attacks.

14 “(B) 9/11 NEW YORK TERRORIST ATTACKS
15 DEFINED.—For purposes of this section, the
16 term ‘9/11 New York terrorist attacks’ means
17 the terrorist attacks that occurred on Sep-
18 tember 11, 2001, in New York City, New York.

19 “(C) TREATMENT OF ADVERSE MENTAL
20 HEALTH CONDITION.—For purposes of sub-
21 paragraph (A), an individual shall be considered
22 to have a 9/11 disaster-connected health condi-
23 tion if the individual has an adverse emotional
24 or psychological health impact that—

1 “(i) has been formally diagnosed by a
2 qualified medical practitioner or therapist;
3 and

4 “(ii) can be reasonably considered, in
5 the judgment of such practitioner or thera-
6 pist, to be associated with exposure to the
7 9/11 New York terrorist attacks.

8 “(3) CRITERIA.—Not later than 30 days after
9 the date of establishment of the Consortium estab-
10 lished under section 3 of the 9/11 Comprehensive
11 Health Benefits Act of 2006, the Secretary, in con-
12 sultation with such Consortium, shall initially de-
13 velop standardized criteria for medical practitioners
14 to consult with for assistance in their determination
15 of whether an individual has a 9/11 disaster-con-
16 nected health condition consistent with this sub-
17 section. The Secretary shall periodically review such
18 criteria and may, from time to time and in consulta-
19 tion with the Consortium, modify such criteria as
20 the Secretary determines appropriate.

21 “(4) APPEALS PROCESS.—The Secretary shall
22 specify a process for the appeal of a determination
23 that an individual is not eligible for benefits under
24 this section. Such process shall be consistent with
25 the process under section 1869 for the appeal of a

1 determination that an individual is entitled to bene-
2 fits under parts A and B.

3 “(5) TREATMENT OF NONRESIDENTS AND UN-
4 DOCUMENTED ALIENS.—Nothing in this section
5 shall be construed as making an individual ineligible
6 for benefits under this section because the individual
7 is not a resident of New York or the United States
8 or because the individual is an alien or is not au-
9 thorized to reside in the United States. Nothing in
10 this paragraph shall be construed to provide for any
11 benefits under this title for items and services fur-
12 nished outside the United States, except as may oth-
13 erwise be authorized under this title.

14 “(c) 9/11-RELATED BENEFITS DEFINED.—

15 “(1) IN GENERAL.—For purposes of this sec-
16 tion, the term ‘9/11-related benefits’ means benefits
17 under parts A, B, and D for the treatment of any
18 9/11 disaster-related health condition, subject to the
19 following modifications with respect to such treat-
20 ment:

21 “(A) NO COST-SHARING.—No deductibles,
22 coinsurance, copayments, or other cost-sharing
23 shall be applicable.

24 “(B) ELIMINATION OF DAY OR DOLLAR
25 LIMITATIONS.—Any day or dollar limitations on

1 coverage with respect to such treatment, includ-
2 ing such limitations under sections 1812,
3 1833(g), and 1860D–2(b)(3), shall not be ap-
4 plicable.

5 “(2) ENTITLEMENT WITHOUT PREMIUMS.—An
6 individual entitled to 9/11-related benefits under this
7 section is deemed to be entitled to benefits under
8 parts A, B, and D with respect to such 9/11-related
9 benefits without requirement for payment for any
10 premium. The entitlement to such benefits shall
11 begin on the date that the individual is determined
12 to be eligible for such benefits, but in no case before
13 the date of the enactment of this section.

14 “(3) RELATION TO PART C.—Except in the case
15 of an individual enrolled under part A or B under
16 subsection (d) or otherwise, 9/11-related benefits are
17 not available through enrollment in a Medicare Ad-
18 vantage plan under part C.

19 “(d) ENROLLMENT OPTION FOR ADDITIONAL MEDI-
20 CARE BENEFITS.—

21 “(1) IN GENERAL.—With respect to the enroll-
22 ment option described in subsection (a)(2), an eligi-
23 ble individual may enroll under part A or B (or
24 both), and under part D, in a manner and form pre-

1 scribed in regulations. Such regulations shall provide
2 for continuous open enrollment for such individuals.

3 “(2) PREMIUMS.—

4 “(A) IN GENERAL.—Except as provided in
5 this paragraph, the premium for enrollment
6 under part A under this subsection shall be the
7 same as the premium established under sub-
8 section (d) of section 1818 for enrollment under
9 such section, subject to any reduction provided
10 under such subsection.

11 “(B) ELIMINATION OF PREMIUM BASED
12 ON QUARTERS OF COVERAGE.—No premium
13 shall be imposed under subparagraph (A) in the
14 case of an individual if the individual would be
15 entitled, based solely on the number of quarters
16 of coverage under title II, to benefits under
17 part A under section 226(a), 226(b), or 226A.

18 “(C) NO LATE ENROLLMENT PENALTY.—
19 An individual enrolling under part A, B, or D
20 under this subsection shall not be subject to
21 any late enrollment penalty, including under
22 sections 1839(b) and 1860D–13(b).

23 “(3) ENROLLMENT UNDER PARTS B AND D.—

24 For purposes of parts B and D, in the case of an
25 individual eligible to enroll under this subsection, the

1 individual's initial enrollment period under such
2 parts shall be treated as beginning on the date of
3 such eligibility and having no end date.

4 “(4) COVERAGE.—

5 “(A) IN GENERAL.—The period (in this
6 subsection referred to as a ‘coverage period’)
7 during which an individual enrolled under this
8 subsection is entitled to benefits under the re-
9 spective part shall begin on the first day of the
10 first month that begins at least 15 days after
11 the date of the individual's enrollment under
12 such part.

13 “(B) TERMINATION.—An individual's cov-
14 erage period under this subsection under a part
15 shall continue until the individual's enrollment
16 under such part is terminated as follows:

17 “(i) As of the month following the
18 month in which the individual files notice
19 that the individual no longer wishes to be
20 enrolled in the part under this subsection.

21 “(ii) For nonpayment of any applica-
22 ble premiums under such part.

23 “(iii) With respect to coverage under
24 part D, as of the month in which the indi-

1 vidual is neither enrolled in part A nor en-
2 rolled in part B.

3 The termination of a coverage period under
4 clause (ii) shall take effect on a date deter-
5 mined under regulations, which may be deter-
6 mined so as to provide a grace period in which
7 overdue premiums may be paid and coverage
8 continued. The grace period determined under
9 the preceding sentence shall not exceed 90 days;
10 except that it may be extended to not to exceed
11 180 days in any case where the Secretary deter-
12 mines that there was good cause for failure to
13 pay the overdue premiums within such 90-day
14 period.

15 “(e) PAYMENT-RELATED PROVISIONS.—

16 “(1) AUTHORIZATION OF APPROPRIATIONS TO
17 COVER ADDITIONAL BENEFITS.—There are author-
18 ized to be appropriated to the Federal Hospital In-
19 surance Trust Fund and the Federal Supplementary
20 Medical Insurance Trust Fund, and the Medicare
21 Prescription Drug Account in such Trust Fund,
22 such sums as may be necessary to cover the costs
23 under such Trust Funds and Account of providing
24 benefits under this section, net of any premiums

1 paid with respect to such benefits under subsection
2 (d).

3 “(2) REIMBURSEMENT OF PRESCRIPTION DRUG
4 PLANS AND MA PLANS FOR 9/11-RELATED BENE-
5 FITS.—With respect to benefits under a prescription
6 drug plan under part D or under a Medicare Advan-
7 tage plan under part C, the Secretary shall provide
8 for reimbursement to the plan from the appropriate
9 Trust Funds and Accounts under this title for the
10 cost of 9/11-related benefits provided under the plan
11 under this section, including costs related to the ap-
12 plication of the benefit modifications described in
13 subsection (c)(1).”.

14 (b) MEDICARE SECONDARY PAYOR FOR 9/11-RE-
15 LATED COVERAGE; NO DISCRIMINATION AGAINST INDI-
16 VIDUALS IN EMPLOYMENT-BASED HEALTH INSUR-
17 ANCE.—Section 1862(b) of such Act (42 U.S.C. 1395y(b))
18 is amended—

19 (1) by redesignating subparagraph (D) of para-
20 graph (1) as subparagraph (G) and by moving it to
21 the end of such paragraph;

22 (2) by inserting after subparagraph (C) of
23 paragraph (1) the following new subparagraph:

24 “(D) INDIVIDUALS WITH A 9/11-DISASTER
25 CONNECTED HEALTH CONDITION.—

1 “(i) IN GENERAL.—A group health
2 plan, individual health insurance coverage,
3 or any other form of health benefits cov-
4 erage—

5 “(I) may not take into account
6 that an individual who is covered
7 under the plan or coverage is entitled
8 to 9/11-related benefits under this
9 title under section 1809; and

10 “(II) shall provide that any cov-
11 ered individual shall be entitled to the
12 same benefits under the plan with re-
13 spect to treatment of a 9/11 disaster-
14 related health condition (as defined in
15 section 1809(b)(2)(A)) under the
16 same conditions as any similarly situ-
17 ated individual who is not so entitled.

18 “(ii) ENFORCEMENT.—

19 “(I) CIVIL MONEY PENALTIES.—
20 Any plan or coverage that violates
21 clause (i) is subject to a civil money
22 penalty of not to exceed \$25,000 for
23 each such violation. The provisions of
24 section 1128A (other than subsections
25 (a) and (b)) shall apply to a civil

1 money penalty under the previous sen-
 2 tence in the same manner as such
 3 provisions apply to a penalty or pro-
 4 ceeding under section 1128A(a).

5 “(II) PRIVATE CAUSE OF AC-
 6 TION.—An individual adversely af-
 7 fected by a violation of clause (i) may
 8 bring a private cause of action to en-
 9 join the violation and to obtain dam-
 10 ages (which shall be in an amount
 11 double the amount otherwise provided
 12 and may include reasonable attorney’s
 13 fees) resulting from such a violation.”;
 14 and

15 (3) in the second sentence of paragraph (2)(A),
 16 by inserting after “large group health plan” the fol-
 17 lowing: “or other coverage described in paragraph
 18 (1)(D)(i)”;

19 (4) in paragraph (2)(B)(vi), by inserting “or
 20 other coverage described in paragraph (1)(D)(i)”
 21 after “employer group health plan”; and

22 (5) in paragraph (3)(C)—

23 (A) in the heading by inserting “OR OTHER
 24 COVERAGE” after “LARGE GROUP HEALTH
 25 PLAN”; and

1 (B) by inserting “or other coverage de-
 2 scribed in paragraph (1)(D)(i)” after “large
 3 group health plan”.

4 (c) PROHIBITION OF DISCRIMINATION IN WORKERS’
 5 COMPENSATION AND EMPLOYMENT.—

6 (1) WORKERS’ COMPENSATION.—

7 (A) DISCRIMINATION PROHIBITED.—A
 8 workers’ compensation law or plan may not dis-
 9 criminate against an individual by virtue of the
 10 individual’s entitlement to benefits under title
 11 XVIII of the Social Security Act under section
 12 1809 of such Act, as inserted by subsection (a).

13 (B) PRIVATE CAUSE OF ACTION.—An indi-
 14 vidual adversely affected by a violation of sub-
 15 paragraph (A) may bring a private cause of ac-
 16 tion to enjoin the violation and to obtain dam-
 17 ages (which shall be in an amount double the
 18 amount such individual was otherwise entitled
 19 to under such law or plan and may include rea-
 20 sonable attorney’s fees) resulting from such a
 21 violation.

22 (2) EMPLOYMENT.—

23 (A) DISCRIMINATION PROHIBITED.—An
 24 employer may not discriminate against an indi-
 25 vidual in regards to hiring, advancement, com-

1 pensation, or other terms, conditions, and privi-
2 leges of employment by virtue of the individ-
3 ual's entitlement to benefits under title XVIII
4 of the Social Security Act under section 1809
5 of such Act, as inserted by subsection (a).

6 (B) ENFORCEMENT.—The powers, rem-
7 edies, and procedures provided in sections 705,
8 706, 707, 709, 710, and 711 of the Civil Rights
9 Act of 1964 (42 U.S.C. 2000e–4 et seq.) to the
10 Equal Employment Opportunity Commission,
11 the Attorney General, or any person, alleging a
12 violation of title VII of that Act (42 U.S.C.
13 2000e et seq.) shall be the powers, remedies,
14 and procedures this subsection provides to the
15 Equal Employment Opportunity Commission,
16 the Attorney General, or any person, respec-
17 tively, alleging discrimination in violation of
18 subparagraph (A), except that any employer
19 found by a court to have intentionally engaged
20 in discrimination in violation of subparagraph
21 (A) shall be additionally subject to a civil pen-
22 alty of not to exceed \$25,000 for each such vio-
23 lation.

24 (C) EMPLOYER DEFINED.—As used in this
25 paragraph, the term “employer” has the same

1 meaning given that term in section 101(5) of
2 the Americans with Disabilities Act of 1990 (42
3 U.S.C. 12112(5)).

4 (d) CONFORMING AMENDMENTS.—

5 (1) APPLICATION OF ENROLLMENT CORREC-
6 TION PROVISIONS.—Section 1837(h) of the Social
7 Security Act (42 U.S.C. 1395p(h)) is amended by
8 inserting “or section 1809(d)” after “1818”.

9 (2) CONFORMING REFERENCE.—The second
10 sentence of section 1818(a) of such Act (42 U.S.C.
11 1395i–2(a)) is amended by inserting “or 1809(d)”
12 after “1818A” .

13 (3) APPLICATION OF QMB PROVISIONS.—Sec-
14 tion 1905(p)(1)(A) of such Act (42 U.S.C.
15 1396d(p)(1)(A)) is amended by inserting “or
16 1809(d)” after “1818”.

17 **SEC. 3. CONSORTIUM TO CONDUCT SCREENING, MONI-**
18 **TORING, TREATMENT, AND RESEARCH RE-**
19 **GARDING 9/11 DISASTER-CONNECTED**
20 **HEALTH CONDITIONS.**

21 (a) ESTABLISHMENT OF CONSORTIUM.—

22 (1) IN GENERAL.—Not later than 90 days after
23 the date of the enactment of this Act, the Secretary
24 of Health and Human Services, in consultation with
25 the Director of the Centers for Disease Control and

1 Prevention and the Director of the National Insti-
2 tutes of Health, shall establish a consortium (in this
3 section referred to as the “Consortium”).

4 (2) COMPOSITION.—

5 (A) IN GENERAL.—The Consortium shall
6 consist of institutions, programs, and practi-
7 tioners that have provided, or are qualified to
8 provide, screening, clinical examinations, or
9 long-term health monitoring and analysis and
10 treatment regarding 9/11 disaster-connected
11 health conditions. The Consortium shall also in-
12 clude community-based organizations with ex-
13 pertise in providing outreach to hard-to-reach
14 affected communities.

15 (B) DIRECTOR.—The Consortium shall
16 have a director, appointed by the Secretary,
17 who shall be a Federal official responsible for
18 the administration of the Consortium, including
19 its governance and management. The director
20 also shall be the primary Federal official re-
21 sponsible for general health issues relating to
22 the 9/11 New York terrorist attacks.

23 (C) PUBLIC PARTICIPATION IN GOVERN-
24 ANCE.—The Secretary shall provide for public
25 participation, including representatives of af-

1 affected communities or members of affected pop-
2 ulations, in the governance of the Consortium.

3 (3) DUTIES.—

4 (A) IN GENERAL.—The Consortium shall
5 conduct and coordinate screening, monitoring,
6 treatment, and diagnostic research on the 9/11
7 disaster-connected health conditions.

8 (B) SPECIFIC DUTIES.—Specifically, the
9 Consortium shall—

10 (i) conduct outreach to hard-to-reach
11 affected communities;

12 (ii) develop diagnostic criteria for the
13 purposes of identifying latent and late-
14 onset 9/11 disaster-connected health condi-
15 tions;

16 (iii) develop treatments for 9/11 dis-
17 aster-connected health conditions; and

18 (iv) track the adverse health and men-
19 tal health conditions on historically under-
20 served populations, including children, the
21 elderly, and minority populations.

22 (4) CLINICAL FACILITY.—The Consortium shall
23 have a clinical facility located in Lower Manhattan,
24 New York City.

1 (b) ANNUAL REPORT BY NIH.—The Director of the
2 National Institutes of Health shall submit to Congress an
3 annual report describing the findings of research con-
4 ducted under this section.

5 (c) AUTHORIZATION OF APPROPRIATIONS.—There
6 are authorized to be appropriated such sums as may be
7 required to carry out this section.

8 (d) 9/11 DISASTER-CONNECTED HEALTH CONDI-
9 TION.—The term “9/11 disaster-connected health condi-
10 tion” has the meaning given such term in section
11 1809(b)(2)(A) of the Social Security Act, as inserted by
12 the amendment made by section 2(a).

○