

# Union Calendar No. 373

110TH CONGRESS  
2D SESSION

# H. R. 5613

[Report No. 110-600]

To extend certain moratoria and impose additional moratoria on certain Medicaid regulations through April 1, 2009.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 13, 2008

Mr. DINGELL (for himself and Mr. TIM MURPHY of Pennsylvania) introduced the following bill; which was referred to the Committee on Energy and Commerce

APRIL 22, 2008

Additional sponsors: Mr. PALLONE, Mr. ALLEN, Ms. SCHAKOWSKY, Mr. ENGEL, Mr. KING of New York, Mr. WAXMAN, Mr. TOWNS, Mr. BOUCHER, Mr. ROSS, Ms. ESHOO, Mr. GORDON of Tennessee, Mrs. MALONEY of New York, Mr. HARE, Ms. SUTTON, Mr. McDERMOTT, Mr. BOSWELL, Mr. MARKEY, Mr. GOODE, Mr. HOLT, Mr. HOEKSTRA, Ms. BERKLEY, Mr. McNULTY, Mr. BRALEY of Iowa, Mr. FARR, Mrs. CAPPS, Mr. GENE GREEN of Texas, Mr. REYES, Mr. RUPPERSBERGER, Mr. SARBANES, Mr. INSLEE, Ms. HARMAN, Mr. FERGUSON, Mr. CAPUANO, Mr. WELCH of Vermont, Mr. DOYLE, Mr. CUMMINGS, Ms. MATSUI, Mr. WU, Mr. STARK, Ms. DEGETTE, Mr. MARSHALL, Ms. SOLIS, Ms. CASTOR, Mr. RODRIGUEZ, Mr. JOHNSON of Georgia, Mr. VAN HOLLEN, Mr. FRANK of Massachusetts, Mr. ABERCROMBIE, Mr. KILDEE, Mr. DELAHUNT, Mr. ALTMIRE, Mr. KAGEN, Mr. STUPAK, Mr. TIERNEY, Mr. CARDOZA, Mr. WYNN, Mr. NEAL of Massachusetts, Ms. ROYBAL-ALLARD, Ms. BALDWIN, Ms. MCCOLLUM of Minnesota, Ms. CLARKE, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. OLVER, Mr. MCGOVERN, Mr. SPRATT, Mr. DAVIS of Alabama, Mr. MCCOTTER, Mr. PRICE of North Carolina, Mr. ISRAEL, Mr. MILLER of North Carolina, Mr. FATTAH, Ms. MOORE of Wisconsin, Mr. PASCARELL, Ms. KAPTUR, Mr. SAM JOHNSON of Texas, Mr. MEEKS of New York, Mrs. WILSON of New Mexico, Ms. WOOLSEY, Ms. DELAURO, Mrs. MCCARTHY of New York, Mr. SCOTT of Virginia, Ms. RICHARDSON, Mr. HALL of New York, Mr. BISHOP of Georgia, Mr. WEXLER, Mr. LANGEVIN, Mr. PASTOR, Mr. MORAN of Kansas, Mr.

HONDA, Mr. LEWIS of Georgia, Mr. GEORGE MILLER of California, Mr. RANGEL, Mr. GONZALEZ, Mr. PERLMUTTER, Mr. GRIJALVA, Mr. BECERRA, Ms. LEE, Mr. UDALL of New Mexico, Mr. WALSH of New York, Mr. WALZ of Minnesota, Mr. LYNCH, Mr. LOEBSACK, Ms. VELÁZQUEZ, Ms. LINDA T. SÁNCHEZ of California, Mr. HINCHEY, Mr. ELLISON, Mr. CLAY, Mr. THOMPSON of California, Mr. KENNEDY, Mr. NADLER, Mr. FILNER, Mrs. LOWEY, Mr. ACKERMAN, Mr. PLATTS, Mr. OBERSTAR, Ms. NORTON, Mr. CROWLEY, Mrs. GILLIBRAND, Mr. MICHAUD, Ms. HOOLEY, Mr. HIGGINS, Mr. SERRANO, Mr. BERMAN, Mrs. DAVIS of California, Mr. HAYES, Mr. GERLACH, Mrs. TAUSCHER, Mr. RAMSTAD, Ms. GIFFORDS, Mr. DENT, Mr. AL GREEN of Texas, Mr. RAHALL, Mr. MCHUGH, Mr. MATHESON, Mr. SCOTT of Georgia, Ms. TSONGAS, Mr. ARCURI, Mr. KUHLMANN of New York, Mr. SKELTON, Ms. SLAUGHTER, Mr. MCNERNEY, Mr. THOMPSON of Mississippi, Mr. YARMUTH, Mr. DAVIS of Illinois, Ms. ZOE LOFGREN of California, Mr. SHERMAN, Mr. BISHOP of New York, Mrs. NAPOLITANO, Mr. CHANDLER, Ms. SCHWARTZ, Ms. PRYCE of Ohio, Mr. PAYNE, Mr. ENGLISH of Pennsylvania, Mr. YOUNG of Alaska, Mr. BARROW, Mr. HODES, Mr. DOGGETT, Mr. MURPHY of Connecticut, Mr. MORAN of Virginia, Mrs. DRAKE, Mr. LATOURETTE, Mr. SHAYS, Ms. WATERS, Mr. GUTIERREZ, Mr. BILIRAKIS, Mr. SESTAK, Mr. WEINER, Mr. UDALL of Colorado, Mr. ALEXANDER, Mr. SIRES, Mr. REYNOLDS, Mr. DICKS, Mr. TIBERI, Ms. WASSERMAN SCHULTZ, Mr. SNYDER, Mr. FOSSELLA, Mr. BUTTERFIELD, Mr. EDWARDS, Mr. TERRY, Ms. LORETTA SANCHEZ of California, Mr. LOBIONDO, Mr. BRADY of Pennsylvania, Mr. KLEIN of Florida, Mr. LINCOLN DIAZ-BALART of Florida, Mr. MELANCON, Mr. RUSH, Mr. COHEN, Mr. BACA, Mr. HINOJOSA, Mr. COURTNEY, Mr. RYAN of Ohio, Mr. KUCINICH, Mr. LIPINSKI, Mr. LARSON of Connecticut, Mr. RENZI, Mr. CARNEY, Mrs. BONO MACK, Mr. COSTELLO, Mr. COSTA, Mr. ORTIZ, Mr. SCHIFF, Ms. WATSON, Mrs. EMERSON, and Mr. HOBSON

APRIL 22, 2008

Reported with amendments, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italie*]

[For text of the introduced bill, see bill as introduced on March 13, 2008]

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## A BILL

To extend certain moratoria and impose additional moratoria on certain Medicaid regulations through April 1, 2009.

1        *Be it enacted by the Senate and House of Representa-*  
 2        *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 *This Act may be cited as the “Protecting the Medicaid*  
3 *Safety Net Act of 2008”.*

4 **SEC. 2. MORATORIA ON CERTAIN MEDICAID REGULATIONS.**

5 *(a) EXTENSION OF CERTAIN MORATORIA IN PUBLIC*  
6 *LAW 110–28.—Section 7002(a)(1) of the U.S. Troop Readi-*  
7 *ness, Veterans’ Care, Katrina Recovery, and Iraq Account-*  
8 *ability Appropriations Act, 2007 (Public Law 110–28) is*  
9 *amended—*

10 *(1) by striking “prior to the date that is 1 year*  
11 *after the date of enactment of this Act” and inserting*  
12 *“prior to April 1, 2009”;*

13 *(2) in subparagraph (A), by inserting after*  
14 *“Federal Regulations)” the following: “or in the final*  
15 *regulation, relating to such parts, published on May*  
16 *29, 2007 (72 Federal Register 29748)”;* and

17 *(3) in subparagraph (C), by inserting before the*  
18 *period at the end the following: “, including the pro-*  
19 *posed regulation published on May 23, 2007 (72 Fed-*  
20 *eral Register 28930)”.*

21 *(b) EXTENSION OF CERTAIN MORATORIA IN PUBLIC*  
22 *LAW 110–173.—Section 206 of the Medicare, Medicaid, and*  
23 *SCHIP Extension Act of 2007 (Public Law 110–173) is*  
24 *amended—*

25 *(1) by striking “June 30, 2008” and inserting*  
26 *“April 1, 2009”;*

1           (2) by inserting “, including the proposed regu-  
2           lation published on August 13, 2007 (72 Federal Reg-  
3           ister 45201),” after “rehabilitation services”; and

4           (3) by inserting “, including the final regulation  
5           published on December 28, 2007 (72 Federal Register  
6           73635),” after “school-based transportation”.

7           (c) *ADDITIONAL MORATORIA.*—

8           (1) *IN GENERAL.*—Notwithstanding any other  
9           provision of law, the Secretary of Health and Human  
10          Services shall not, prior to April 1, 2009, take any  
11          action (through promulgation of regulation, issuance  
12          of regulatory guidance, use of Federal payment audit  
13          procedures, or other administrative action, policy, or  
14          practice, including a Medical Assistance Manual  
15          transmittal or letter to State Medicaid directors) to  
16          impose any restrictions relating to a provision de-  
17          scribed in subparagraph (A), (B), or (C) of para-  
18          graph (2) if such restrictions are more restrictive in  
19          any aspect than those applied to the respective provi-  
20          sion as of the date specified in paragraph (3) for such  
21          provision.

22          (2) *PROVISIONS DESCRIBED.*—

23                  (A) *PORTION OF INTERIM FINAL REGULA-*  
24                  *TION RELATING TO MEDICAID TREATMENT OF OP-*  
25                  *TIONAL CASE MANAGEMENT SERVICES.*—

1           (i) *IN GENERAL.*—Subject to clause  
2           (ii), the provision described in this subpara-  
3           graph is the interim final regulation relat-  
4           ing to optional State plan case management  
5           services under the Medicaid program pub-  
6           lished on December 4, 2007 (72 Federal  
7           Register 68077) in its entirety.

8           (ii) *EXCEPTION.*—The provision de-  
9           scribed in this subparagraph does not in-  
10          clude the portion of such regulation as re-  
11          lates directly to implementing section  
12          1915(g)(2)(A)(ii) of the Social Security Act,  
13          as amended by section 6052 of the Deficit  
14          Reduction Act of 2005 (Public Law 109–  
15          171), through the definition of case manage-  
16          ment services and targeted case manage-  
17          ment services contained in proposed section  
18          440.169 of title 42, Code of Federal Regula-  
19          tions, but only to the extent that such por-  
20          tion is not more restrictive than the policies  
21          set forth in the Dear State Medicaid Direc-  
22          tor letter on case management issued on  
23          January 19, 2001 (SMDL #01–013), and  
24          with respect to community transition case  
25          management, the Dear State Medicaid Di-

1            *rector letter issued on July 25, 2000*  
2            *(Olmstead Update 3).*

3            *(B) PROPOSED REGULATION RELATING TO*  
4            *REDEFINITION OF MEDICAID OUTPATIENT HOS-*  
5            *PITAL SERVICES.—The provision described in*  
6            *this subparagraph is the proposed regulation re-*  
7            *lating to clarification of outpatient clinic and*  
8            *hospital facility services definition and upper*  
9            *payment limit under the Medicaid program pub-*  
10           *lished on September 28, 2007 (72 Federal Reg-*  
11           *ister 55158) in its entirety.*

12           *(C) PORTION OF PROPOSED REGULATION*  
13           *RELATING TO MEDICAID ALLOWABLE PROVIDER*  
14           *TAXES.—*

15           *(i) IN GENERAL.—Subject to clause*  
16           *(ii), the provision described in this subpara-*  
17           *graph is the final regulation relating to*  
18           *health-care-related taxes under the Medicaid*  
19           *program published on February 22, 2008*  
20           *(73 Federal Register 9685) in its entirety.*

21           *(ii) EXCEPTION.—The provision de-*  
22           *scribed in this subparagraph does not in-*  
23           *clude the portions of such regulation as re-*  
24           *late to the following:*

(I) *REDUCTION IN THRESHOLD.*—

The reduction from 6 percent to 5.5 percent in the threshold applied under section 433.68(f)(3)(i) of title 42, Code of Federal Regulations, for determining whether or not there is an indirect guarantee to hold a taxpayer harmless, as required to carry out section 1903(w)(4)(C)(ii) of the Social Security Act, as added by section 403 of the Medicare Improvement and Extension Act of 2006 (division B of Public Law 109–432).

(II) *CHANGE IN DEFINITION OF*

*MANAGED CARE.*—The change in the definition of managed care as proposed in the revision of section 433.56(a)(8) of title 42, Code of Federal Regulations, as required to carry out section 1903(w)(7)(A)(viii) of the Social Security Act, as amended by section 6051 of the Deficit Reduction Act of 2005 (Public Law 109–171).

(3) *DATE SPECIFIED.*—The date specified in this paragraph for the provision described in—

1           (A) subparagraph (A) of paragraph (2) is  
2           December 3, 2007;

3           (B) subparagraph (B) of such paragraph is  
4           September 27, 2007; or

5           (C) subparagraph (C) of such paragraph is  
6           February 21, 2008.

7 **SEC. 3. FUNDS TO REDUCE MEDICAID FRAUD AND ABUSE.**

8           (a) *IN GENERAL.*—For purposes of reducing fraud and  
9           abuse in the Medicaid program under title XIX of the So-  
10           cial Security Act, there is appropriated to the Secretary  
11           of Health and Human Services, out of any money in the  
12           Treasury not otherwise appropriated, \$25,000,000, for each  
13           fiscal year (beginning with fiscal year 2009). Amounts ap-  
14           propriated under this section shall remain available for ex-  
15           penditure until expended and shall be in addition to any  
16           other amounts appropriated or made available to the Sec-  
17           retary for such purposes with respect to the Medicaid pro-  
18           gram.

19           (b) *ANNUAL REPORT.*—Not later than September 30  
20           of 2009 and of each subsequent year, the Secretary of Health  
21           and Human Services shall submit to the Committee on En-  
22           ergy and Commerce of the House of Representatives and  
23           the Committee on Finance of the Senate a report on the  
24           activities (and the results of such activities) funded under  
25           subsection (a) to reduce waste, fraud, and abuse in the Med-

1    icaid program under title XIX of the Social Security Act  
2    during the previous 12 month period, including the amount  
3    of funds appropriated under such subsection (a) for each  
4    such activity and an estimate of the savings to the Medicaid  
5    program resulting from each such activity.

6    **SEC. 4. STUDY AND REPORTS TO CONGRESS.**

7           (a) *SECRETARIAL REPORT IDENTIFYING PROBLEMS.*—  
8    Not later than July 1, 2008, the Secretary of Health and  
9    Human Services shall submit to the Committee on Energy  
10   and Commerce of the House of Representatives and the  
11   Committee on Finance of the Senate a report that—

12           (1) outlines the specific problems the Medicaid  
13    regulations referred to in the amendments made by  
14    subsections (a) and (b) of section 2 and in the provi-  
15    sions described in subsection (c)(2) of such section  
16    were intended to address;

17           (2) detailing how these regulations were designed  
18    to address these specific problems; and

19           (3) cites the legal authority for such regulations.

20           (b) *INDEPENDENT COMPREHENSIVE STUDY AND RE-*  
21    *PORT.*—

22           (1) *IN GENERAL.*—Not later than July 1, 2008,  
23    the Secretary of Health and Human Services shall  
24    enter into a contract with an independent organiza-  
25    tion for the purpose of—

1           (A) *producing a comprehensive report on*  
2 *the prevalence of the problems outlined in the re-*  
3 *port submitted under subsection (a);*

4           (B) *identifying strategies in existence to ad-*  
5 *dress these problems; and*

6           (C) *assessing the impact of each regulation*  
7 *referred to in such subsection on each State and*  
8 *the District of Columbia.*

9           (2) *ADDITIONAL MATTER.*—*The report under*  
10 *paragraph (1) shall also include—*

11           (A) *an identification of which claims for*  
12 *items and services (including administrative ac-*  
13 *tivities) under title XIX of the Social Security*  
14 *Act are not processed through systems described*  
15 *in section 1903(r) of such Act;*

16           (B) *an examination of the reasons why*  
17 *these claims for such items and services are not*  
18 *processed through such systems; and*

19           (C) *recommendations on actions by the Fed-*  
20 *eral government and the States that can make*  
21 *claims for such items and services more accurate*  
22 *and complete consistent with such title.*

23           (3) *DEADLINE.*—*The report under paragraph (1)*  
24 *shall be submitted to the Committee on Energy and*  
25 *Commerce of the House of Representatives and the*

1        *Committee on Finance of the Senate not later than*  
2        *March 1, 2009.*

3            (4) *COOPERATION OF STATES.*—*If the Secretary*  
4        *of Health and Human Services determines that a*  
5        *State or the District of Columbia has not cooperated*  
6        *with the independent organization for purposes of the*  
7        *report under this subsection, the Secretary shall re-*  
8        *duce the amount paid to the State or District under*  
9        *section 1903(a) of the Social Security Act (42 U.S.C.*  
10       *1396b(a)) by \$25,000 for each day on which the Sec-*  
11       *retary determines such State or District has not so*  
12       *cooperated. Such reduction shall be made through a*  
13       *process that permits the State or District to challenge*  
14       *the Secretary’s determination.*

15        (c) *FUNDING.*—

16            (1) *IN GENERAL.*—*Out of any money in the*  
17        *Treasury of the United States not otherwise appro-*  
18        *priated, there are appropriated to the Secretary with-*  
19        *out further appropriation, \$5,000,000 to carry out*  
20        *this section.*

21            (2) *AVAILABILITY; AMOUNTS IN ADDITION TO*  
22        *OTHER AMOUNTS APPROPRIATED FOR SUCH ACTIVI-*  
23        *TIES.*—*Amounts appropriated pursuant to paragraph*  
24        (1) *shall—*

25            (A) *remain available until expended; and*



1           “(B) provide for implementation of such  
2 program for eligibility determinations and rede-  
3 terminations made on or after 6 months after the  
4 deadline established for submittal of such plan  
5 amendment.

6           “(3) PHASE-IN.—

7           “(A) IN GENERAL.—

8           “(i) IMPLEMENTATION IN CURRENT  
9 ASSET VERIFICATION DEMO STATES.—The  
10 Secretary shall require those States specified  
11 in subparagraph (C) (to which an asset  
12 verification program has been applied be-  
13 fore the date of the enactment of this sec-  
14 tion) to implement an asset verification  
15 program under this subsection by the end of  
16 fiscal year 2009.

17           “(ii) IMPLEMENTATION IN OTHER  
18 STATES.—The Secretary shall require other  
19 States to submit and implement an asset  
20 verification program under this subsection  
21 in such manner as is designed to result in  
22 the application of such programs, in the ag-  
23 gregate for all such other States, to enroll-  
24 ment of approximately, but not less than,  
25 the following percentage of enrollees, in the

1                   *aggregate for all such other States, by the*  
2                   *end of the fiscal year involved:*

3                   “(I) 12.5 percent by the end of fis-  
4                   cal year 2009.

5                   “(II) 25 percent by the end of fis-  
6                   cal year 2010.

7                   “(III) 50 percent by the end of fis-  
8                   cal year 2011.

9                   “(IV) 75 percent by the end of fis-  
10                  cal year 2012.

11                  “(V) 100 percent by the end of fis-  
12                  cal year 2013.

13                  “(B) *CONSIDERATION.*—*In selecting States*  
14                  *under subparagraph (A)(ii), the Secretary shall*  
15                  *consult with the States involved and take into*  
16                  *account the feasibility of implementing asset*  
17                  *verification programs in each such State.*

18                  “(C) *STATES SPECIFIED.*—*The States speci-*  
19                  *fied in this subparagraph are California, New*  
20                  *York, and New Jersey.*

21                  “(D) *CONSTRUCTION.*—*Nothing in subpara-*  
22                  *graph (A)(ii) shall be construed as preventing a*  
23                  *State from requesting, and the Secretary approv-*  
24                  *ing, the implementation of an asset verification*

1           *program in advance of the deadline otherwise es-*  
2           *tablished under such subparagraph.*

3           “(4) *EXEMPTION OF TERRITORIES.*—*This section*  
4           *shall only apply to the 50 States and the District of*  
5           *Columbia.*

6           “(b) *ASSET VERIFICATION PROGRAM.*—

7           “(1) *IN GENERAL.*—*For purposes of this section,*  
8           *an asset verification program means a program de-*  
9           *scribed in paragraph (2) under which a State—*

10           “(A) *requires each applicant for, or recipi-*  
11           *ent of, medical assistance under the State plan*  
12           *under this title on the basis of being aged, blind,*  
13           *or disabled to provide authorization by such ap-*  
14           *plicant or recipient (and any other person whose*  
15           *resources are material to the determination of*  
16           *the eligibility of the applicant or recipient for*  
17           *such assistance) for the State to obtain (subject*  
18           *to the cost reimbursement requirements of section*  
19           *1115(a) of the Right to Financial Privacy Act*  
20           *but at no cost to the applicant or recipient) from*  
21           *any financial institution (within the meaning of*  
22           *section 1101(1) of such Act) any financial record*  
23           *(within the meaning of section 1101(2) of such*  
24           *Act) held by the institution with respect to the*  
25           *applicant or recipient (and such other person, as*

1 applicable), whenever the State determines the  
2 record is needed in connection with a determina-  
3 tion with respect to such eligibility for (or the  
4 amount or extent of) such medical assistance;  
5 and

6 “(B) uses the authorization provided under  
7 subparagraph (A) to verify the financial re-  
8 sources of such applicant or recipient (and such  
9 other person, as applicable), in order to deter-  
10 mine or redetermine the eligibility of such appli-  
11 cant or recipient for medical assistance under  
12 the State plan.

13 “(2) PROGRAM DESCRIBED.—A program de-  
14 scribed in this paragraph is a program for verifying  
15 individual assets in a manner consistent with the ap-  
16 proach used by the Commissioner of Social Security  
17 under section 1631(e)(1)(B)(ii).

18 “(c) DURATION OF AUTHORIZATION.—Notwith-  
19 standing section 1104(a)(1) of the Right to Financial Pri-  
20 vacy Act, an authorization provided to a State under sub-  
21 section (b)(1) shall remain effective until the earliest of—

22 “(1) the rendering of a final adverse decision on  
23 the applicant’s application for medical assistance  
24 under the State’s plan under this title;

1           “(2) the cessation of the recipient’s eligibility for  
2           such medical assistance; or

3           “(3) the express revocation by the applicant or  
4           recipient (or such other person described in subsection  
5           (b)(1), as applicable) of the authorization, in a writ-  
6           ten notification to the State.

7           “(d) *TREATMENT OF RIGHT TO FINANCIAL PRIVACY*  
8 *ACT REQUIREMENTS.*—

9           “(1) An authorization obtained by the State  
10          under subsection (b)(1) shall be considered to meet the  
11          requirements of the *Right to Financial Privacy Act*  
12          for purposes of section 1103(a) of such Act, and need  
13          not be furnished to the financial institution, notwith-  
14          standing section 1104(a) of such Act.

15          “(2) The certification requirements of section  
16          1103(b) of the *Right to Financial Privacy Act* shall  
17          not apply to requests by the State pursuant to an au-  
18          thorization provided under subsection (b)(1).

19          “(3) A request by the State pursuant to an au-  
20          thorization provided under subsection (b)(1) is  
21          deemed to meet the requirements of section 1104(a)(3)  
22          of the *Right to Financial Privacy Act* and of section  
23          1102 of such Act, relating to a reasonable description  
24          of financial records.

1       “(e) *REQUIRED DISCLOSURE.*—*The State shall inform*  
2 *any person who provides authorization pursuant to sub-*  
3 *section (b)(1)(A) of the duration and scope of the authoriza-*  
4 *tion.*

5       “(f) *REFUSAL OR REVOCATION OF AUTHORIZATION.*—  
6 *If an applicant for, or recipient of, medical assistance*  
7 *under the State plan under this title (or such other person*  
8 *described in subsection (b)(1), as applicable) refuses to pro-*  
9 *vide, or revokes, any authorization made by the applicant*  
10 *or recipient (or such other person, as applicable) under sub-*  
11 *section (b)(1)(A) for the State to obtain from any financial*  
12 *institution any financial record, the State may, on that*  
13 *basis, determine that the applicant or recipient is ineligible*  
14 *for medical assistance.*

15       “(g) *USE OF CONTRACTOR.*—*For purposes of imple-*  
16 *menting an asset verification program under this section,*  
17 *a State may select and enter into a contract with a public*  
18 *or private entity meeting such criteria and qualifications*  
19 *as the State determines appropriate, consistent with re-*  
20 *quirements in regulations relating to general contracting*  
21 *provisions and with section 1903(i)(2). In carrying out ac-*  
22 *tivities under such contract, such an entity shall be subject*  
23 *to the same requirements and limitations on use and disclo-*  
24 *sure of information as would apply if the State were to*  
25 *carry out such activities directly.*

1       “(h) *TECHNICAL ASSISTANCE.*—*The Secretary shall*  
2 *provide States with technical assistance to aid in imple-*  
3 *mentation of an asset verification program under this sec-*  
4 *tion.*”

5       “(i) *REPORTS.*—*A State implementing an asset*  
6 *verification program under this section shall furnish to the*  
7 *Secretary such reports concerning the program, at such*  
8 *times, in such format, and containing such information as*  
9 *the Secretary determines appropriate.*”

10       “(j) *TREATMENT OF PROGRAM EXPENSES.*—*Notwith-*  
11 *standing any other provision of law, reasonable expenses*  
12 *of States in carrying out the program under this section*  
13 *shall be treated, for purposes of section 1903(a), in the same*  
14 *manner as State expenditures specified in paragraph (7)*  
15 *of such section.*”

16       “(b) *STATE PLAN REQUIREMENTS.*—*Section 1902(a) of*  
17 *such Act (42 U.S.C. 1396a(a)) is amended—*

18               (1) *in paragraph (69) by striking “and” at the*  
19 *end;*

20               (2) *in paragraph (70) by striking the period at*  
21 *the end and inserting “; and”; and*

22               (3) *by inserting after paragraph (70), as so*  
23 *amended, the following new paragraph:*

1           “(71) provide that the State will implement an  
2           asset verification program as required under section  
3           1940.”.

4           (c) *WITHHOLDING OF FEDERAL MATCHING PAYMENTS*  
5           *FOR NONCOMPLIANT STATES.*—Section 1903(i) of such Act  
6           (42 U.S.C. 1396b(i)) is amended—

7           (1) in paragraph (22) by striking “or” at the  
8           end;

9           (2) in paragraph (23) by striking the period at  
10          the end and inserting “; or”; and

11          (3) by adding after paragraph (23) the following  
12          new paragraph:

13          “(24) if a State is required to implement an  
14          asset verification program under section 1940 and  
15          fails to implement such program in accordance with  
16          such section, with respect to amounts expended by  
17          such State for medical assistance for individuals sub-  
18          ject to asset verification under such section, unless—

19                  “(A) the State demonstrates to the Sec-  
20                  retary’s satisfaction that the State made a good  
21                  faith effort to comply;

22                  “(B) not later than 60 days after the date  
23                  of a finding that the State is in noncompliance,  
24                  the State submits to the Secretary (and the Sec-

1           retary approves) a corrective action plan to rem-  
2           edy such noncompliance; and

3                   “(C) not later than 12 months after the date  
4           of such submission (and approval), the State ful-  
5           fills the terms of such corrective action plan.”.

6           (d) *REPEAL*.—Section 4 of Public Law 110–90 is re-  
7           pealed.

8           **SEC. 6. ADJUSTMENT TO PAQI FUND.**

9           Section 1848(l)(2) of the Social Security Act (42  
10           U.S.C. 1395w–4(l)(2)), as amended by section 101(a)(2) of  
11           the Medicare, Medicaid, and SCHIP Extension Act of 2007  
12           (Public Law 110–173), is amended—

13                   (1) in subparagraph (A)(i)—

14                           (A) in subclause (III), by striking  
15                           “\$4,960,000,000”                   and                   inserting  
16                           “\$3,790,000,000”; and

17                           (B) by adding at the end the following new  
18                           subclause:

19   “(IV) For expenditures during  
20   2014, an amount equal to  
21   \$3,690,000,000.”;

22                   (2) in subparagraph (A)(ii), by adding at the  
23                   end the following new subclause:

24   “(IV) 2014.—The amount avail-  
25   able for expenditures during 2014 shall

1                   *only be available for an adjustment to*  
2                   *the update of the conversion factor*  
3                   *under subsection (d) for that year.”;*  
4                   *and*

5                   *(3) in subparagraph (B)—*

6                   *(A) in clause (ii), by striking “and” at the*  
7                   *end;*

8                   *(B) in clause (iii), by striking the period at*  
9                   *the end and inserting “; and”; and*

10                   *(C) by adding at the end the following new*  
11                   *clause:*

12                   *“(iv) 2014 for payment with respect to*  
13                   *physicians’ services furnished during*  
14                   *2014.”.*

Amend the title so as to read: “A bill to extend certain moratoria and impose additional moratoria on certain Medicaid regulations through April 1, 2009, and for other purposes.”.



Union Calendar No. 373

110<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

**H. R. 5613**

[Report No. 110-600]

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## **A BILL**

To extend certain moratoria and impose additional moratoria on certain Medicaid regulations through April 1, 2009.

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APRIL 22, 2008

Reported with amendments, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed