

111TH CONGRESS
1ST SESSION

S. 82

To amend title XXI of the Social Security Act to reauthorize the State Children’s Health Insurance Program, to limit income eligibility expansions under that program until the lowest income eligible individuals are enrolled, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 6, 2009

Mr. VITTER introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend title XXI of the Social Security Act to reauthorize the State Children’s Health Insurance Program, to limit income eligibility expansions under that program until the lowest income eligible individuals are enrolled, 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 “Enhancing Health Care Coverage for Children Act”.

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

- Sec. 1. Short title; table of contents.
 Sec. 2. Reauthorization through Fiscal Year 2014.
 Sec. 3. Requiring outreach and coverage before expansion of eligibility.
 Sec. 4. Application of DRA Medicaid citizenship documentation requirements to SCHIP.
 Sec. 5. Phase-out of coverage for nonpregnant adults under SCHIP.
 Sec. 6. Requirement that individuals who are eligible for SCHIP and employer-sponsored coverage use the employer-sponsored coverage instead of SCHIP.

1 **SEC. 2. REAUTHORIZATION THROUGH FISCAL YEAR 2014.**

2 (a) IN GENERAL.—Section 2104 of the Social Secu-
 3 rity Act (42 U.S.C. 1397dd(a)), as amended by section
 4 201(a)(1) of the Medicare, Medicaid, and SCHIP Exten-
 5 sion Act of 2007 (Public Law 110–173) is amended—

6 (1) in subsection (a)—

7 (A) by striking “and” at the end of para-
 8 graph (10);

9 (B) in paragraph (11)—

10 (i) by striking “each of fiscal years
 11 2008 and 2009” and inserting “fiscal year
 12 2008”; and

13 (ii) by striking the period at the end
 14 and inserting a semicolon; and

15 (C) by adding at the end the following new
 16 paragraphs:

17 “(12) for fiscal year 2009, \$7,000,000,000;

18 “(13) for fiscal year 2010, \$8,000,000,000; and

19 “(14) for each of fiscal years 2011 through
 20 2014, \$9,000,000,000.”; and

1 (2) in subsection (c)(4)(B), by striking “2009”
2 and inserting “2014”.

3 (b) REPEAL OF LIMITATION ON AVAILABILITY OF
4 FUNDING FOR FISCAL YEARS 2008 AND 2009.—Section
5 201 of the Medicare, Medicaid, and SCHIP Extension Act
6 of 2007 (Public Law 110–173) is amended—

7 (1) in subsection (a), by striking paragraph (2)
8 and redesignating paragraphs (3) and (4), as para-
9 graphs (2) and (3) respectively; and

10 (2) in subsection (b), by striking paragraph (2)
11 and redesignating paragraph (3) as paragraph (2).

12 **SEC. 3. REQUIRING OUTREACH AND COVERAGE BEFORE**
13 **EXPANSION OF ELIGIBILITY.**

14 (a) STATE PLAN REQUIRED TO SPECIFY HOW IT
15 WILL ACHIEVE COVERAGE FOR 85 PERCENT OF TAR-
16 GETED LOW-INCOME CHILDREN.—

17 (1) IN GENERAL.—Section 2102(a) of the So-
18 cial Security Act (42 U.S.C. 1397bb(a)) is amend-
19 ed—

20 (A) in paragraph (6), by striking “and” at
21 the end;

22 (B) in paragraph (7), by striking the pe-
23 riod at the end and inserting “; and”; and

24 (C) by adding at the end the following new
25 paragraph:

1 “(8) how the eligibility and benefits provided
2 for under the plan for each fiscal year (beginning
3 with fiscal year 2010) will allow for the State’s an-
4 nual funding allotment to cover at least 85 percent
5 of the eligible targeted low-income children in the
6 State.”.

7 (2) EFFECTIVE DATE.—The amendments made
8 by paragraph (1) shall apply to State child health
9 plans for fiscal years beginning with fiscal year
10 2010.

11 (b) LIMITATION ON PROGRAM EXPANSIONS UNTIL
12 LOWEST INCOME ELIGIBLE INDIVIDUALS ENROLLED.—
13 Section 2105(c) of such Act (42 U.S.C. 1397dd(c)) is
14 amended by adding at the end the following new para-
15 graph:

16 “(8) LIMITATION ON INCREASED COVERAGE OF
17 HIGHER INCOME CHILDREN.—For child health as-
18 sistance furnished in any fiscal year beginning with
19 fiscal year 2010:

20 “(A) NO PAYMENT FOR CHILDREN WITH
21 FAMILY INCOME ABOVE 250 PERCENT OF POV-
22 ERTY LINE.—Payment shall not be made under
23 this section for child health assistance for a tar-
24 geted low-income child in a family the income

1 of which exceeds 250 percent of the poverty line
 2 applicable to a family of the size involved.

3 “(B) SPECIAL RULES FOR PAYMENT FOR
 4 CHILDREN WITH FAMILY INCOME ABOVE 200
 5 PERCENT OF POVERTY LINE.—In the case of
 6 child health assistance for a targeted low-in-
 7 come child in a family the income of which ex-
 8 ceeds 200 percent (but does not exceed 250
 9 percent) of the poverty line applicable to a fam-
 10 ily of the size involved no payment shall be
 11 made under this section for such assistance un-
 12 less the State demonstrates to the satisfaction
 13 of the Secretary that—

14 “(i) the State has met the 85 percent
 15 retrospective coverage test specified in sub-
 16 paragraph (C)(i) for the previous fiscal
 17 year; and

18 “(ii) the State will meet the 85 per-
 19 cent prospective coverage test specified in
 20 subparagraph (C)(ii) for the fiscal year.

21 “(C) 85 PERCENT COVERAGE TESTS.—

22 “(i) RETROSPECTIVE TEST.—The 85
 23 percent retrospective coverage test speci-
 24 fied in this clause is, for a State for a fis-
 25 cal year, that on average during the fiscal

1 year, the State has enrolled under this title
2 or title XIX at least 85 percent of the indi-
3 viduals residing in the State who—

4 “(I) are children under 19 years
5 of age (or are pregnant women) and
6 are eligible for medical assistance
7 under title XIX; or

8 “(II) are targeted low-income
9 children whose family income does not
10 exceed 200 percent of the poverty line
11 and who are eligible for child health
12 assistance under this title.

13 “(ii) PROSPECTIVE TEST.—The 85
14 percent prospective test specified in this
15 clause is, for a State for a fiscal year, that
16 on average during the fiscal year, the State
17 will enroll under this title or title XIX at
18 least 85 percent of the individuals residing
19 in the State who—

20 “(I) are children under 19 years
21 of age (or are pregnant women) and
22 are eligible for medical assistance
23 under title XIX; or

24 “(II) are targeted low-income
25 children whose family income does not

1 exceed such percent of the poverty
 2 line (in excess of 200 percent) as the
 3 State elects consistent with this para-
 4 graph and who are eligible for child
 5 health assistance under this title.

6 “(D) TREATMENT OF PREGNANT
 7 WOMEN.—In this paragraph and sections
 8 2102(a)(8) and 2104(a)(2), the term ‘targeted
 9 low-income child’ includes an individual under
 10 age 19, including the period from conception to
 11 birth, who is eligible for child health assistance
 12 under this title by virtue of the definition of the
 13 term ‘child’ under section 457.10 of title 42,
 14 Code of Federal Regulations.”.

15 (c) STANDARDIZATION OF INCOME DETERMINA-
 16 TIONS.—

17 (1) IN GENERAL.—Section 2110(d) of such Act
 18 (42 U.S.C. 1397jj) is amended by adding at the end
 19 the following new subsection:

20 “(d) STANDARDIZATION OF INCOME DETERMINA-
 21 TIONS.—In determining family income under this title (in-
 22 cluding in the case of a State child health plan that pro-
 23 vides health benefits coverage in the manner described in
 24 section 2101(a)(2)), a State shall base such determination
 25 on gross income (including amounts that would be in-

1 cluded in gross income if they were not exempt from in-
2 come taxation) and may only take into consideration such
3 income disregards as the Secretary shall develop and
4 specify on a uniform national basis.”.

5 (2) EFFECTIVE DATE.—(A) Subject to subpara-
6 graph (B), the amendment made by paragraph (1)
7 shall apply to determinations (and redeterminations)
8 of income made on or after October 1, 2009.

9 (B) In the case of a State child health plan
10 under title XXI of the Social Security Act which the
11 Secretary of Health and Human Services determines
12 requires State legislation (other than legislation ap-
13 propriating funds) in order for the plan to meet the
14 additional requirement imposed by the amendment
15 made by paragraph (1), the State child health plan
16 shall not be regarded as failing to comply with the
17 requirements of such title solely on the basis of its
18 failure to meet this additional requirement before
19 the first day of the first calendar quarter beginning
20 after the close of the first regular session of the
21 State legislature that begins after the date of the en-
22 actment of this Act. For purposes of the previous
23 sentence, in the case of a State that has a 2-year
24 legislative session, each year of such session shall be

1 deemed to be a separate regular session of the State
2 legislature.

3 **SEC. 4. APPLICATION OF DRA MEDICAID CITIZENSHIP DOC-**
4 **UMENTATION REQUIREMENTS TO SCHIP.**

5 (a) IN GENERAL.—Section 2105(c) of the Social Se-
6 curity Act (42 U.S.C. 1397dd(c)), as amended by section
7 3(b), is amended by adding at the end the following new
8 paragraph:

9 “(9) APPLICATION OF CITIZENSHIP DOCU-
10 MENTATION REQUIREMENTS.—

11 “(A) IN GENERAL.—Subject to subpara-
12 graph (B), no payment may be made under this
13 section to a State with respect to amounts ex-
14 pended for child health assistance for an indi-
15 vidual who declares under section
16 1137(d)(1)(A) to be a citizen or national of the
17 United States for purposes of establishing eligi-
18 bility for benefits under this title, unless the re-
19 quirement of section 1903(x) is met.

20 “(B) TREATMENT OF PREGNANT
21 WOMEN.—For purposes of applying subpara-
22 graph (A) in the case of a pregnant woman who
23 qualifies for child health assistance by virtue of
24 the application of section 457.10 of title 42,
25 Code of Federal Regulations, the requirement

1 of section 1903(x) shall be deemed to be satis-
 2 fied by the presentation of documentation of
 3 personal identity described in section
 4 274A(b)(1)(D) of the Immigration and Nation-
 5 ality Act or any other documentation of per-
 6 sonal identity of such other type as the Sec-
 7 retary finds, by regulation, provides a reliable
 8 means of identification.”.

9 (b) EFFECTIVE DATE.—The amendment made by
 10 paragraph (1) shall apply to eligibility determinations and
 11 redeterminations made after the date of enactment of this
 12 Act.

13 **SEC. 5. PHASE-OUT OF COVERAGE FOR NONPREGNANT**
 14 **ADULTS UNDER SCHIP.**

15 (a) IN GENERAL.—Title XXI of the Social Security
 16 Act (42 U.S.C. 1397aa et seq.) is amended by adding at
 17 the end the following new section:

18 **“SEC. 2111. PHASE-OUT OF COVERAGE FOR NONPREGNANT**
 19 **ADULTS.**

20 **“(a) TERMINATION OF COVERAGE FOR NONPREG-**
 21 **NANT ADULTS.—**

22 **“(1) NO NEW SCHIP WAIVERS; AUTOMATIC EX-**
 23 **TENSIONS AT STATE OPTION THROUGH DECEMBER**
 24 **2009.—Notwithstanding section 1115 or any other**

1 provision of this title, except as provided in this sub-
2 section—

3 “(A) the Secretary shall not on or after the
4 date of the enactment of the Enhancing Health
5 Care Coverage for Children Act, approve or
6 renew a waiver, experimental, pilot, or dem-
7 onstration project that would allow funds made
8 available under this title to be used to provide
9 child health assistance or other health benefits
10 coverage to a nonpregnant adult; and

11 “(B) notwithstanding the terms and condi-
12 tions of an applicable existing waiver, the provi-
13 sions of paragraph (2) shall apply for purposes
14 of any period beginning on or after January 1,
15 2010, in determining the period to which the
16 waiver applies, the individuals eligible to be cov-
17 ered by the waiver, and the amount of the Fed-
18 eral payment under this title.

19 “(2) TERMINATION OF SCHIP COVERAGE
20 UNDER APPLICABLE EXISTING WAIVERS AT THE
21 END OF 2009.—

22 “(A) IN GENERAL.—No funds shall be
23 available under this title for child health assist-
24 ance or other health benefits coverage that is
25 provided to a nonpregnant adult under an ap-

1 applicable existing waiver after December 31,
2 2009.

3 “(B) EXTENSION UPON STATE RE-
4 QUEST.—If an applicable existing waiver de-
5 scribed in subparagraph (A) would otherwise
6 expire before January 1, 2010, and the State
7 requests an extension of such waiver, the Sec-
8 retary shall grant such an extension, but only
9 through December 31, 2009.

10 “(C) APPLICATION OF ENHANCED FMAP.—
11 The enhanced FMAP determined under section
12 2105(b) shall apply to expenditures under an
13 applicable existing waiver for the provision of
14 child health assistance or other health benefits
15 coverage to a nonpregnant childless adult dur-
16 ing the period beginning on the date of the en-
17 actment of this subsection and ending on De-
18 cember 31, 2009.

19 “(b) APPLICABLE EXISTING WAIVER.—For purposes
20 of this section—

21 “(1) IN GENERAL.—The term ‘applicable exist-
22 ing waiver’ means a waiver, experimental, pilot, or
23 demonstration project under section 1115, grand-
24 fathered under section 6102(c)(3) of the Deficit Re-

1 duction Act of 2005, or otherwise conducted under
2 authority that—

3 “(A) would allow funds made available
4 under this title to be used to provide child
5 health assistance or other health benefits cov-
6 erage to—

7 “(i) a parent of a targeted low-income
8 child;

9 “(ii) a nonpregnant childless adult; or

10 “(iii) individuals described in both
11 clauses (i) and (ii); and

12 “(B) was in effect on October 1, 2008.

13 “(2) DEFINITIONS.—The term ‘nonpregnant
14 adult’ means any individual who is not a targeted
15 low-income pregnant woman (as defined in section
16 2112(d)(2)) or a targeted low-income child.”.

17 (b) CONFORMING AMENDMENTS.—

18 (1) Section 2107(f) of such Act (42 U.S.C.
19 1397gg(f)) is amended—

20 (A) by striking “, the Secretary” and in-
21 serting “:

22 “(1) The Secretary”;

23 (B) in the first sentence, by striking
24 “childless”;

25 (C) by striking the second sentence; and

1 (D) by adding at the end the following new
2 paragraph:

3 “(2) The Secretary may not approve, extend,
4 renew, or amend a waiver, experimental, pilot, or
5 demonstration project with respect to a State after
6 the date of enactment of the Enhancing Health Care
7 Coverage for Children Act that would waive or mod-
8 ify the requirements of section 2111.”.

9 (2) Section 6102(c) of the Deficit Reduction
10 Act of 2005 (Public Law 109–171; 120 Stat. 131)
11 is amended by striking “Nothing” and inserting
12 “Subject to section 2111 of the Social Security Act,
13 as added by section 5 of the Enhancing Health Care
14 Coverage for Children Act, nothing”.

15 **SEC. 6. REQUIREMENT THAT INDIVIDUALS WHO ARE ELIGI-**
16 **BLE FOR SCHIP AND EMPLOYER-SPONSORED**
17 **COVERAGE USE THE EMPLOYER-SPONSORED**
18 **COVERAGE INSTEAD OF SCHIP.**

19 (a) IN GENERAL.—Section 2105(c) of the Social Se-
20 curity Act (42 U.S.C. 1397ee(c)), as amended by sections
21 3(b) and 4(a), is amended by adding at the end the fol-
22 lowing new paragraph:

23 “(10) REQUIREMENT REGARDING EMPLOYER-
24 SPONSORED COVERAGE.—

1 “(A) IN GENERAL.—Subject to subpara-
 2 graph (B), no payment may be made under this
 3 title with respect to an individual who is eligible
 4 for coverage under a group health plan or
 5 health insurance coverage offered through an
 6 employer, either as an individual or as part of
 7 family coverage.

8 “(B) STATE OPTION TO OFFER PREMIUM
 9 ASSISTANCE FOR HIGH-COST PLANS.—

10 “(i) IN GENERAL.—In the case of an
 11 individual who is otherwise eligible for cov-
 12 erage under this title but for the applica-
 13 tion of subparagraph (A) and who is eligi-
 14 ble for high-cost health insurance coverage,
 15 a State may elect to offer a premium as-
 16 sistance subsidy for such coverage.

17 “(ii) AMOUNT.—The amount of a pre-
 18 mium assistance subsidy under this para-
 19 graph shall be determined by the State but
 20 in no case shall exceed the lesser of—

21 “(I) an amount equal to the
 22 value of the coverage under this title
 23 that would otherwise apply with re-
 24 spect to the individual but for the ap-
 25 plication of subparagraph (A); or

1 “(II) an amount equal to the dif-
2 ference between—

3 “(aa) the amount of the em-
4 ployee’s share of the premium
5 costs for the high-cost health in-
6 surance coverage (for the family
7 or the individual, as the case may
8 be); and

9 “(bb) an amount equal to 20
10 percent of the total premium
11 costs for such coverage, including
12 both the employer and employee
13 share, (for the family or the indi-
14 vidual, as the case may be).

15 “(C) HIGH-COST HEALTH INSURANCE COV-
16 ERAGE.—For purposes of this paragraph, the
17 term ‘high-cost health insurance coverage’
18 means a group health plan or health insurance
19 coverage offered through an employer in which
20 the employee is required to pay more than 20
21 percent of the premium costs.

22 “(D) TREATMENT AS CHILD HEALTH AS-
23 SISTANCE.—Expenditures for the provision of
24 premium assistance subsidies under this para-
25 graph shall be considered child health assist-

1 ance described in paragraph (1)(C) of sub-
2 section (a) for purposes of making payments
3 under that subsection.”.

○