

108TH CONGRESS  
1ST SESSION

# S. 1004

To ensure that children at highest risk for asthma, vision, hearing, and other health problems are identified and treated.

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IN THE SENATE OF THE UNITED STATES

MAY 6, 2003

Mr. DURBIN (for himself, Ms. COLLINS, and Mrs. CLINTON) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To ensure that children at highest risk for asthma, vision, hearing, and other health problems are identified and treated.

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 “Healthy Children  
5 Learn Act”.

1 **SEC. 2. ASTHMA, VISION, AND HEARING SCREENING FOR**  
 2 **EARLY HEAD START AND HEAD START PRO-**  
 3 **GRAMS.**

4 (a) EARLY HEAD START PROGRAMS.—Section 645A  
 5 of the Head Start Act (42 U.S.C. 9840a) is amended by  
 6 adding at the end the following:

7 “(h) ASTHMA, VISION, AND HEARING SCREENING.—

8 “(1) IN GENERAL.—An entity that receives as-  
 9 sistance under this section may carry out a program  
 10 under which the entity—

11 “(A) determines whether a child eligible to  
 12 participate in the program described in sub-  
 13 section (a)(1) has received each of an asthma,  
 14 vision, and hearing screening test using a test  
 15 that is appropriate for age and risk factors on  
 16 the enrollment of the child in the program; and

17 “(B) in the case of a child who has not re-  
 18 ceived each of an asthma, and vision, and hear-  
 19 ing screening test, ensures that the enrolled  
 20 child receives such a test either by referral or  
 21 by performing the test (under contract or other-  
 22 wise).

23 “(2) REIMBURSEMENT.—

24 “(A) IN GENERAL.—On the request of an  
 25 entity that performs or arranges for the per-  
 26 formance of an asthma, vision, or hearing

1 screening test under paragraph (1) on a child  
2 who is eligible for or receiving medical assist-  
3 ance under a State plan under title XIX of the  
4 Social Security Act (42 U.S.C. 1396 et seq.),  
5 the Secretary of Health and Human Services,  
6 notwithstanding any other provision of, or limi-  
7 tation under, title XIX of the Social Security  
8 Act, shall reimburse the entity, from funds that  
9 are made available under that title, for 100 per-  
10 cent of the cost of the test and data reporting.

11 “(B) COSTS.—The costs of a test con-  
12 ducted under this subsection—

13 “(i) shall include reimbursement for  
14 testing devices and associated supplies ap-  
15 proved for sale by the Food and Drug Ad-  
16 ministration and used in compliance with  
17 section 353 of the Public Health Service  
18 Act (42 U.S.C. 263a); and

19 “(ii) shall include reimbursement for  
20 administering the tests and related serv-  
21 ices, as determined appropriate by the  
22 State agency.

23 “(3) HEAD START.—This subsection shall apply  
24 to Head Start programs that include coverage, di-

1 rectly or indirectly, for infants and toddlers under  
2 the age of 3 years.”.

3 (b) HEAD START PROGRAMS.—Section 642(b) of the  
4 Head Start Act (42 U.S.C. 9837(b)) is amended—

5 (1) in paragraph (10), by striking “and” at the  
6 end;

7 (2) in paragraph (11), by striking the period at  
8 the end and inserting “; and”; and

9 (3) by adding at the end the following:

10 “(12) with respect to an agency that elects to  
11 carry out a program under section 645(h), comply  
12 with the requirements of such section 645A(h) in the  
13 case of each child eligible to participate in the Head  
14 Start program to be carried out by the agency.”.

15 **SEC. 3. ASTHMA, VISION, AND HEARING SCREENING AND**  
16 **TREATMENT FOR CHILDREN ENROLLED IN**  
17 **PUBLIC SCHOOLS.**

18 Part B of title III of the Public Health Service Act  
19 (42 U.S.C. 243 et seq.) is amended by adding at the end  
20 the following:

21 **“SEC. 320B. ASTHMA, VISION, AND HEARING SCREENING**  
22 **AND TREATMENT FOR CHILDREN ENROLLED**  
23 **IN PUBLIC SCHOOLS.**

24 “(a) GRANTS.—The Secretary shall award grants to  
25 eligible local educational agencies to enable such agencies

1 to carry out asthma, vision, hearing, or other health  
2 screening and case management programs determined ap-  
3 propriate by the Secretary in accordance with the program  
4 elements described in subsection (d).

5 “(b) ELIGIBILITY.—To be eligible to receive a grant  
6 under subsection (a), a local educational agency shall pre-  
7 pare and submit to the Secretary an application at such  
8 time, in such manner, and containing such information as  
9 the Secretary may require.

10 “(c) PREFERENCE.—In awarding grants under this  
11 section, the Secretary shall give preference to local edu-  
12 cational agencies serving schools that are located in areas  
13 with a high incidence of childhood asthma or a high death  
14 rate associated with childhood asthma.

15 “(d) PROGRAM ELEMENTS.—

16 “(1) ASTHMA.—Under an asthma program op-  
17 erated under a grant under this section, a local edu-  
18 cational agency shall—

19 “(A) determine whether a child enrolled in  
20 a school in which the program is in effect has  
21 received an asthma screening test using a test  
22 that is appropriate for age and risk factors on  
23 the enrollment of the child in the school;

24 “(B) in the case of a child who has not re-  
25 ceived an asthma screening test, ensure that

1 the child receives such a test either by referral  
2 or by performing the test (under contract or  
3 otherwise); and

4 “(C) in the case of a child determined to  
5 have asthma, provide treatment or refer the  
6 child for treatment (including case manage-  
7 ment) and education in the management of  
8 asthma.

9 “(2) VISION AND HEARING.—Under a vision  
10 and hearing program operated under a grant under  
11 this section, a local educational agency shall—

12 “(A) elect to provide vision and hearing  
13 screening tests—

14 “(i) to all children enrolled in a school  
15 who are most likely to suffer from vision or  
16 hearing loss; or

17 “(ii) to all children enrolled in a  
18 school;

19 “(B) ensure that the category of children  
20 elected under subparagraph (A) receive such  
21 tests, either by referral or by performing the  
22 test (under contract or otherwise), that are ap-  
23 propriate for the age and risk factors of the  
24 children, based on the enrollment of the chil-  
25 dren in the school; and

1           “(C) in the case of any child determined to  
2           have a vision or hearing impairment, provide  
3           the child with such eyewear and hearing aids as  
4           are appropriate to correct the child’s vision or  
5           hearing, to the extent that such correction is  
6           feasible.

7           “(3) OTHER HEALTH SCREENING PROGRAMS.—  
8           The Secretary shall determine the program elements  
9           that shall be applicable to other health screening  
10          programs operated under a grant under this section.

11          “(e) REIMBURSEMENT.—

12                 “(1) CHILDREN ENROLLED IN OR ELIGIBLE  
13                 FOR MEDICAID.—

14                         “(A) IN GENERAL.—With respect to a  
15                         child who is eligible for or receiving medical as-  
16                         sistance under a State plan under title XIX of  
17                         the Social Security Act (42 U.S.C. 1396 et  
18                         seq.) and who receives, or is provided, a test,  
19                         treatment, education, corrective eyewear, or  
20                         hearing aid under a program established under  
21                         subsection (a), the Secretary, notwithstanding  
22                         any other provision of, or limitation under, such  
23                         title XIX, including the payment limitation  
24                         commonly known as the ‘free care rule’, shall  
25                         reimburse the local educational agency admin-

1           istering such program from funds that are  
2           made available under such title XIX for 100  
3           percent of the cost of the performance, arrange-  
4           ment, or provision and data reporting.

5           “(B) COSTS.—The costs of a test con-  
6           ducted under this section shall include reim-  
7           bursement for—

8                   “(i) testing devices and associated  
9                   supplies approved for sale by the Food and  
10                  Drug Administration and used in compli-  
11                  ance with section 353; and

12                  “(ii) administering the tests and re-  
13                  lated services, as determined appropriate  
14                  by the State agency responsible for the ad-  
15                  ministration of title XIX of the Social Se-  
16                  curity Act (42 U.S.C. 1396 et seq.).

17           “(2) CHILDREN ENROLLED IN OR ELIGIBLE  
18           FOR SCHIP.—

19                   “(A) IN GENERAL.—With respect to a  
20                   child who is eligible for or receiving child health  
21                   assistance under a State plan under title XXI  
22                   of the Social Security Act (42 U.S.C. 1397aa et  
23                   seq.) and who receives, or is provided, a test,  
24                   treatment, education, corrective eyewear, or  
25                   hearing aid under a program established under



1 subsection (a), the Secretary, notwithstanding  
2 any other provision of, or limitation under, such  
3 title XXI, or any other provision of law (includ-  
4 ing the payment limitation under title XIX  
5 commonly known as the ‘free care rule’ to the  
6 extent, if any, such limitation applies to the  
7 State children’s health insurance program es-  
8 tablished under title XXI of that Act), shall re-  
9 imburse the local educational agency admin-  
10 istering such program from funds that are  
11 made available under such title XXI for 100  
12 percent of the cost of the performance, arrange-  
13 ment, or provision and data reporting.

14 “(B) COSTS.—The costs shall include the  
15 costs described in paragraph (1)(B).

16 “(f) DEFINITIONS.—In this section, the terms ‘local  
17 educational agency’ and ‘elementary and secondary school’  
18 shall have the meanings given such terms in section 14101  
19 of the Elementary and Secondary Education Act of 1965  
20 (20 U.S.C. 8801).

21 “(g) AUTHORIZATION OF APPROPRIATIONS.—There  
22 is authorized to be appropriated to carry out this section  
23 with respect to a child, and any data reporting with re-  
24 spect to the child, who is not eligible for coverage under

1 title XIX or XXI of the Social Security Act, or is not oth-  
 2 erwise covered under a health insurance plan—

3 “(1) \$10,000,000 for each of fiscal years 2004  
 4 through 2009 to carry out asthma programs;

5 “(2) \$10,000,000 for each of fiscal years 2004  
 6 through 2009 to carry out vision and hearing pro-  
 7 grams; and

8 “(3) such sums as may be necessary for each  
 9 of fiscal years 2004 through 2009 to carry out other  
 10 health screening programs.

11 “(h) EVALUATIONS.—Not later than 4 years after the  
 12 date of enactment of this section, the Secretary shall pre-  
 13 pare and submit to the appropriate committees of Con-  
 14 gress a report containing data related to whether grants  
 15 provided under this section have ensured that children at  
 16 the highest risk for asthma, vision, hearing, and other  
 17 health problems are identified and treated.”.

18 **SEC. 4. PAYMENTS FOR SCREENING AND TREATMENT PRO-**  
 19 **VIDED TO CHILDREN ELIGIBLE UNDER FED-**  
 20 **ERAL HEALTH PROGRAMS.**

21 Nothing in any provision of law relating to a Federal  
 22 program that provides, directly or indirectly, health bene-  
 23 fits coverage for children (including the programs estab-  
 24 lished under titles XIX and XXI of the Social Security  
 25 Act (42 U.S.C. 1396 et seq. and 1397aa et seq.)) and

1 including the payment limitation commonly known as the  
2 “free care rule”, shall be construed as prohibiting or re-  
3 stricting, or authorizing the Secretary of Health and  
4 Human Services to prohibit or restrict, payment under  
5 any such program for medical assistance for covered serv-  
6 ices furnished to a child who is eligible for or receiving  
7 medical assistance under such program and who receives  
8 an asthma, vision, hearing, or other health screening test,  
9 or is provided treatment, education in disease manage-  
10 ment, corrective eyewear, or hearing aids, through a public  
11 elementary or secondary school, whether directly or indi-  
12 rectly, and regardless of whether the school participates  
13 in a program established under subsection (a) or (b) of  
14 section 1120C of the Elementary and Secondary Edu-  
15 cation Act of 1965.

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