

108TH CONGRESS  
2D SESSION

# S. 622

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## AN ACT

To amend title XIX of the Social Security Act to provide families of disabled children with the opportunity to purchase coverage under the medicaid program for such children, 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; AMENDMENTS TO SOCIAL SECU-**  
4 **RITY ACT; TABLE OF CONTENTS.**

5 (a) SHORT TITLE.—This Act may be cited as the  
6 “Family Opportunity Act of 2004” or the “Dylan Lee  
7 James Act”.

1 (b) AMENDMENTS TO SOCIAL SECURITY ACT.—Ex-  
 2 cept as otherwise specifically provided, whenever in this  
 3 Act an amendment is expressed in terms of an amendment  
 4 to or repeal of a section or other provision, the reference  
 5 shall be considered to be made to that section or other  
 6 provision of the Social Security Act.

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

- Sec. 1. Short title; amendments to Social Security Act; table of contents.
- Sec. 2. Opportunity for families of disabled children to purchase medicaid coverage for such children.
- Sec. 3. Treatment of inpatient psychiatric hospital services for individuals under age 21 in home or community-based services waivers.
- Sec. 4. Development and support of family-to-family health information centers.
- Sec. 5. Restoration of medicaid eligibility for certain SSI beneficiaries.

9 **SEC. 2. OPPORTUNITY FOR FAMILIES OF DISABLED CHIL-**  
 10 **DREN TO PURCHASE MEDICAID COVERAGE**  
 11 **FOR SUCH CHILDREN.**

12 (a) STATE OPTION TO ALLOW FAMILIES OF DIS-  
 13 ABLED CHILDREN TO PURCHASE MEDICAID COVERAGE  
 14 FOR SUCH CHILDREN.—

15 (1) IN GENERAL.—Section 1902 (42 U.S.C.  
 16 1396a) is amended—

17 (A) in subsection (a)(10)(A)(ii)—

18 (i) by striking “or” at the end of sub-  
 19 clause (XVII);

20 (ii) by adding “or” at the end of sub-  
 21 clause (XVIII); and

1 (iii) by adding at the end the fol-  
 2 lowing new subclause:

3 “(XIX) who are disabled children  
 4 described in subsection (cc)(1);” and

5 (B) by adding at the end the following new  
 6 subsection:

7 “(cc)(1) Individuals described in this paragraph are  
 8 individuals—

9 “(A) who have not attained 18 years of age;

10 “(B) who would be considered disabled under  
 11 section 1614(a)(3)(C) but for having earnings or  
 12 deemed income or resources (as determined under  
 13 title XVI for children) that exceed the requirements  
 14 for receipt of supplemental security income benefits;  
 15 and

16 “(C) whose family income does not exceed such  
 17 income level as the State establishes and does not  
 18 exceed—

19 “(i) 250 percent of the poverty line (as de-  
 20 fined in section 2110(c)(5)) applicable to a fam-  
 21 ily of the size involved; or

22 “(ii) such higher percent of such poverty  
 23 line as a State may establish, except that—

24 “(I) any medical assistance provided  
 25 to an individual whose family income ex-

1                   ceeds 250 percent of such poverty line may  
2                   only be provided with State funds; and

3                   “(II) no Federal financial participa-  
4                   tion shall be provided under section  
5                   1903(a) for any medical assistance pro-  
6                   vided to such an individual.”.

7                   (2) INTERACTION WITH EMPLOYER-SPONSORED  
8                   FAMILY COVERAGE.—Section 1902(cc) (42 U.S.C.  
9                   1396a(cc)), as added by paragraph (1)(B), is  
10                  amended by adding at the end the following new  
11                  paragraph:

12               “(2)(A) If an employer of a parent of an individual  
13               described in paragraph (1) offers family coverage under  
14               a group health plan (as defined in section 2791(a) of the  
15               Public Health Service Act), the State shall—

16               “(i) require such parent to apply for, enroll in,  
17               and pay premiums for, such coverage as a condition  
18               of such parent’s child being or remaining eligible for  
19               medical assistance under subsection  
20               (a)(10)(A)(ii)(XIX) if the parent is determined eligi-  
21               ble for such coverage and the employer contributes  
22               at least 50 percent of the total cost of annual pre-  
23               miums for such coverage; and

24               “(ii) if such coverage is obtained—

1 “(I) subject to paragraph (2) of section  
 2 1916(h), reduce the premium imposed by the  
 3 State under that section in an amount that rea-  
 4 sonably reflects the premium contribution made  
 5 by the parent for private coverage on behalf of  
 6 a child with a disability; and

7 “(II) treat such coverage as a third party  
 8 liability under subsection (a)(25).

9 “(B) In the case of a parent to which subparagraph  
 10 (A) applies, a State, subject to paragraph (1)(C)(ii), may  
 11 provide for payment of any portion of the annual premium  
 12 for such family coverage that the parent is required to  
 13 pay. Any payments made by the State under this subpara-  
 14 graph shall be considered, for purposes of section 1903(a),  
 15 to be payments for medical assistance.”.

16 (b) STATE OPTION TO IMPOSE INCOME-RELATED  
 17 PREMIUMS.—Section 1916 (42 U.S.C. 1396o) is  
 18 amended—

19 (1) in subsection (a), by striking “subsection  
 20 (g)” and inserting “subsections (g) and (h)”; and

21 (2) by adding at the end the following new sub-  
 22 section:

23 “(h)(1) With respect to disabled children provided  
 24 medical assistance under section 1902(a)(10)(A)(ii)(XIX),  
 25 subject to paragraph (2), a State may (in a uniform man-

ner for such children) require the families of such children to pay monthly premiums set on a sliding scale based on family income.

“(2) A premium requirement imposed under paragraph (1) may only apply to the extent that—

“(A) in the case of a disabled child described in that paragraph whose family income does not exceed 250 percent of the poverty line, the aggregate amount of such premium and any premium that the parent is required to pay for family coverage under section 1902(cc)(2)(A)(i) does not exceed 7.5 percent of the family’s income; and

“(B) the requirement is imposed consistent with section 1902(cc)(2)(A)(ii)(I).

“(3) A State shall not require prepayment of a premium imposed pursuant to paragraph (1) and shall not terminate eligibility of a child under section 1902(a)(10)(A)(ii)(XIX) for medical assistance under this title on the basis of failure to pay any such premium until such failure continues for a period of not less than 60 days from the date on which the premium became past due. The State may waive payment of any such premium in any case where the State determines that requiring such payment would create an undue hardship.”.

1 (c) CONFORMING AMENDMENT.—Section 1903(f)(4)  
 2 (42 U.S.C. 1396b(f)(4)) is amended in the matter pre-  
 3 ceding subparagraph (A), by inserting  
 4 “1902(a)(10)(A)(ii)(XIX),” after  
 5 “1902(a)(10)(A)(ii)(XVIII),”.

6 (d) RULE OF CONSTRUCTION.—Notwithstanding any  
 7 other provision of law, nothing in the amendments made  
 8 by this section shall be construed as permitting the appli-  
 9 cation of the enhanced FMAP (as defined in section  
 10 2105(b) of the Social Security Act (42 U.S.C. 1397ee(b))  
 11 to expenditures that are attributable to disabled children  
 12 provided medical assistance under section  
 13 1902(a)(10)(A)(ii)(XIX) of such Act (42 U.S.C.  
 14 1396a(a)(10)(A)(ii)(XIX)) (as added by subsection (a) of  
 15 this section).

16 (e) EFFECTIVE DATE.—The amendments made by  
 17 this section shall apply to medical assistance for items and  
 18 services furnished on or after October 1, 2006.

19 **SEC. 3. TREATMENT OF INPATIENT PSYCHIATRIC HOS-**  
 20 **PITAL SERVICES FOR INDIVIDUALS UNDER**  
 21 **AGE 21 IN HOME OR COMMUNITY-BASED**  
 22 **SERVICES WAIVERS.**

23 (a) IN GENERAL.—Section 1915(c) (42 U.S.C.  
 24 1396n(c)) is amended—

25 (1) in paragraph (1)—

1 (A) in the first sentence, by inserting “, or  
 2 would require inpatient psychiatric hospital  
 3 services for individuals under age 21,” after  
 4 “intermediate care facility for the mentally re-  
 5 tarded”; and

6 (B) in the second sentence, by inserting “,  
 7 or would require inpatient psychiatric hospital  
 8 services for individuals under age 21” before  
 9 the period;

10 (2) in paragraph (2)(B), by striking “or serv-  
 11 ices in an intermediate care facility for the mentally  
 12 retarded” each place it appears and inserting “serv-  
 13 ices in an intermediate care facility for the mentally  
 14 retarded, or inpatient psychiatric hospital services  
 15 for individuals under age 21”;

16 (3) in paragraph (2)(C)—

17 (A) by inserting “, or who are determined  
 18 to be likely to require inpatient psychiatric hos-  
 19 pital services for individuals under age 21,”  
 20 after “, or intermediate care facility for the  
 21 mentally retarded”; and

22 (B) by striking “or services in an inter-  
 23 mediate care facility for the mentally retarded”  
 24 and inserting “services in an intermediate care  
 25 facility for the mentally retarded, or inpatient



1 psychiatric hospital services for individuals  
 2 under age 21”; and

3 (4) in paragraph (7)(A)—

4 (A) by inserting “or would require inpa-  
 5 tient psychiatric hospital services for individuals  
 6 under age 21,” after “intermediate care facility  
 7 for the mentally retarded,”; and

8 (B) by inserting “or who would require in-  
 9 patient psychiatric hospital services for individ-  
 10 uals under age 21” before the period.

11 (b) EFFECTIVE DATE.—The amendments made by  
 12 subsection (a) apply with respect to medical assistance  
 13 provided on or after October 1, 2006.

14 **SEC. 4. DEVELOPMENT AND SUPPORT OF FAMILY-TO-FAM-**  
 15 **ILY HEALTH INFORMATION CENTERS.**

16 Section 501 (42 U.S.C. 701) is amended by adding  
 17 at the end the following new subsection:

18 “(c)(1)(A) For the purpose of enabling the Secretary  
 19 (through grants, contracts, or otherwise) to provide for  
 20 special projects of regional and national significance for  
 21 the development and support of family-to-family health in-  
 22 formation centers described in paragraph (2)—

23 “(i) there is appropriated to the Secretary, out  
 24 of any money in the Treasury not otherwise  
 25 appropriated—

1 “(I) \$3,000,000 for fiscal year 2006;

2 “(II) \$4,000,000 for fiscal year 2007; and

3 “(III) \$5,000,000 for fiscal year 2008; and

4 “(ii) there is authorized to be appropriated to  
5 the Secretary, \$5,000,000 for each of fiscal years  
6 2009 and 2010.

7 “(B) Funds appropriated or authorized to be appro-  
8 priated under subparagraph (A) shall—

9 “(i) be in addition to amounts appropriated  
10 under subsection (a) and retained under section  
11 502(a)(1) for the purpose of carrying out activities  
12 described in subsection (a)(2); and

13 “(ii) remain available until expended.

14 “(2) The family-to-family health information centers  
15 described in this paragraph are centers that—

16 “(A) assist families of children with disabilities  
17 or special health care needs to make informed  
18 choices about health care in order to promote good  
19 treatment decisions, cost-effectiveness, and improved  
20 health outcomes for such children;

21 “(B) provide information regarding the health  
22 care needs of, and resources available for, children  
23 with disabilities or special health care needs;

24 “(C) identify successful health delivery models  
25 for such children;

1           “(D) develop with representatives of health care  
2           providers, managed care organizations, health care  
3           purchasers, and appropriate State agencies a model  
4           for collaboration between families of such children  
5           and health professionals;

6           “(E) provide training and guidance regarding  
7           caring for such children;

8           “(F) conduct outreach activities to the families  
9           of such children, health professionals, schools, and  
10          other appropriate entities and individuals; and

11          “(G) are staffed by families of children with  
12          disabilities or special health care needs who have ex-  
13          pertise in Federal and State public and private  
14          health care systems and health professionals.

15          “(3) The Secretary shall develop family-to-family  
16          health information centers described in paragraph (2) in  
17          accordance with the following:

18               “(A) With respect to fiscal year 2006, such cen-  
19               ters shall be developed in not less than 25 States.

20               “(B) With respect to fiscal year 2007, such  
21               centers shall be developed in not less than 40 States.

22               “(C) With respect to fiscal year 2008, such cen-  
23               ters shall be developed in all States.

24          “(4) The provisions of this title that are applicable  
25          to the funds made available to the Secretary under section

1 502(a)(1) apply in the same manner to funds made avail-  
 2 able to the Secretary under paragraph (1)(A).

3 “(5) For purposes of this subsection, the term ‘State’  
 4 means each of the 50 States and the District of Colum-  
 5 bia.”.

6 **SEC. 5. RESTORATION OF MEDICAID ELIGIBILITY FOR CER-**  
 7 **TAIN SSI BENEFICIARIES.**

8 (a) IN GENERAL.—Section 1902(a)(10)(A)(i)(II) (42  
 9 U.S.C. 1396a(a)(10)(A)(i)(II)) is amended—

10 (1) by inserting “(aa)” after “(II)”;

11 (2) by striking “) and” and inserting “and”;

12 (3) by striking “section or who are” and insert-  
 13 ing “section), (bb) who are”; and

14 (4) by inserting before the comma at the end  
 15 the following: “, or (cc) who are under 21 years of  
 16 age and with respect to whom supplemental security  
 17 income benefits would be paid under title XVI if  
 18 subparagraphs (A) and (B) of section 1611(c)(7)  
 19 were applied without regard to the phrase ‘the first  
 20 day of the month following’”.

1       (b) EFFECTIVE DATE.—The amendments made by  
2 subsection (a) shall apply to medical assistance for items  
3 and services furnished on or after January 1, 2006.

Passed the Senate May 6, 2004.

Attest:

*Secretary.*

108TH CONGRESS  
2D SESSION

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## **AN ACT**

To amend title XIX of the Social Security Act to provide families of disabled children with the opportunity to purchase coverage under the medicaid program for such children, and for other purposes.