

108TH CONGRESS
1ST SESSION

S. 622

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.

IN THE SENATE OF THE UNITED STATES

MARCH 13, 2003

Mr. GRASSLEY (for himself, Mr. KENNEDY, Mr. BAUCUS, Ms. SNOWE, Mr. DASCHLE, Mr. SMITH, Mr. KERRY, Mr. THOMAS, Mr. BINGAMAN, Mr. BUNNING, Mr. ROCKEFELLER, Mrs. LINCOLN, Mr. JEFFORDS, Mr. ENZI, Mr. SARBANES, Mr. DOMENICI, Mr. JOHNSON, Mr. ENSIGN, Mrs. MURRAY, Mr. HOLLINGS, Ms. STABENOW, Mr. CORZINE, Mr. BENNETT, Mr. SCHUMER, Mr. WARNER, Mr. REID, Mr. DEWINE, Mr. REED, Ms. COLLINS, Mr. MILLER, Mr. LUGAR, Mr. LIEBERMAN, Mr. LEAHY, Mr. CHAFEE, Mr. KOHL, Mr. GRAHAM of South Carolina, Mr. EDWARDS, Mr. MCCAIN, Mr. DORGAN, Mr. ROBERTS, Mr. DODD, Mr. DAYTON, Ms. CANTWELL, Mr. BREAUX, Mr. BIDEN, Ms. MIKULSKI, Mr. LEVIN, Ms. LANDRIEU, Mr. INOUE, Mr. HARKIN, Mr. DURBIN, Mrs. CLINTON, Mrs. BOXER, Mr. BAYH, and Mr. AKAKA) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

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,*

1 **SECTION 1. SHORT TITLE; AMENDMENTS TO SOCIAL SECUR-**
 2 **RITY ACT; TABLE OF CONTENTS.**

3 (a) SHORT TITLE.—This Act may be cited as the
 4 “Family Opportunity Act of 2003” or the “Dylan Lee
 5 James Act”.

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

12 (c) TABLE OF CONTENTS.—The table of contents of
 13 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.

14 **SEC. 2. OPPORTUNITY FOR FAMILIES OF DISABLED CHILD-**
 15 **DREN TO PURCHASE MEDICAID COVERAGE**
 16 **FOR SUCH CHILDREN.**

17 (a) STATE OPTION TO ALLOW FAMILIES OF DIS-
 18 ABLED CHILDREN TO PURCHASE MEDICAID COVERAGE
 19 FOR SUCH CHILDREN.—

20 (1) IN GENERAL.—Section 1902 (42 U.S.C.
 21 1396a) is amended—

22 (A) in subsection (a)(10)(A)(ii)—

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

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

5 (iii) by adding at the end the fol-
 6 lowing new subclause:

7 “(XIX) who are disabled children
 8 described in subsection (cc)(1);”;

9 (B) by adding at the end the following new
 10 subsection:

11 “(cc)(1) Individuals described in this paragraph are
 12 individuals—

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

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

20 “(C) whose family income does not exceed such
 21 income level as the State establishes and does not
 22 exceed—

23 “(i) 250 percent of the income official pov-
 24 erty line (as defined by the Office of Manage-
 25 ment and Budget, and revised annually in ac-

cordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved; or

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

“(I) any medical assistance provided to an individual whose family income exceeds 250 percent of such poverty line may only be provided with State funds; and

“(II) no Federal financial participation shall be provided under section 1903(a) for any medical assistance provided to such an individual.”.

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

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

“(i) require such parent to apply for, enroll in, and pay premiums for, such coverage as a condition of such parent’s child being or remaining eligible for

1 medical assistance under subsection
 2 (a)(10)(A)(ii)(XIX) if the parent is determined eligi-
 3 ble for such coverage and the employer contributes
 4 at least 50 percent of the total cost of annual pre-
 5 miums for such coverage; and

6 “(ii) if such coverage is obtained—

7 “(I) subject to paragraph (2) of section
 8 1916(h), reduce the premium imposed by the
 9 State under that section in an amount that rea-
 10 sonably reflects the premium contribution made
 11 by the parent for private coverage on behalf of
 12 a child with a disability; and

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

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

22 (b) STATE OPTION TO IMPOSE INCOME-RELATED
 23 PREMIUMS.—Section 1916 (42 U.S.C. 1396o) is amend-
 24 ed—

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

3 (2) by adding at the end the following new sub-
4 section:

5 “(h)(1) With respect to disabled children provided
6 medical assistance under section 1902(a)(10)(A)(ii)(XIX),
7 subject to paragraph (2), a State may (in a uniform man-
8 ner for such children) require the families of such children
9 to pay monthly premiums set on a sliding scale based on
10 family income.

11 “(2) A premium requirement imposed under para-
12 graph (1) may only apply to the extent that—

13 “(A) the aggregate amount of such premium
14 and any premium that the parent is required to pay
15 for family coverage under section 1902(cc)(2)(A)(i)
16 does not exceed 5 percent of the family’s income;
17 and

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

20 “(3) A State shall not require prepayment of a pre-
21 mium imposed pursuant to paragraph (1) and shall not
22 terminate eligibility of a child under section
23 1902(a)(10)(A)(ii)(XIX) for medical assistance under this
24 title on the basis of failure to pay any such premium until
25 such failure continues for a period of not less than 60 days

1 from the date on which the premium became past due.
 2 The State may waive payment of any such premium in
 3 any case where the State determines that requiring such
 4 payment would create an undue hardship.”.

5 (c) CONFORMING AMENDMENTS.—Section
 6 1903(f)(4) (42 U.S.C. 1396b(f)(4)) is amended
 7 in the matter preceding subparagraph (A),
 8 by inserting “1902(a)(10)(A)(ii)(XIX),” after
 9 “1902(a)(10)(A)(ii)(XVIII),”.

10 (d) EFFECTIVE DATE.—The amendments made by
 11 this section shall apply to medical assistance for items and
 12 services furnished on or after October 1, 2005.

13 **SEC. 3. TREATMENT OF INPATIENT PSYCHIATRIC HOS-**
 14 **PITAL SERVICES FOR INDIVIDUALS UNDER**
 15 **AGE 21 IN HOME OR COMMUNITY-BASED**
 16 **SERVICES WAIVERS.**

17 (a) IN GENERAL.—Section 1915(c) (42 U.S.C.
 18 1396n(c)) is amended—

19 (1) in paragraph (1)—

20 (A) in the first sentence, by inserting “, or
 21 would require inpatient psychiatric hospital
 22 services for individuals under age 21,” after
 23 “intermediate care facility for the mentally re-
 24 tarded”; and

1 (B) in the second sentence, by inserting “,
 2 or would require inpatient psychiatric hospital
 3 services for individuals under age 21” before
 4 the period;

5 (2) in paragraph (2)(B), by striking “or serv-
 6 ices in an intermediate care facility for the mentally
 7 retarded” each place it appears and inserting “serv-
 8 ices in an intermediate care facility for the mentally
 9 retarded, or inpatient psychiatric hospital services
 10 for individuals under age 21”;

11 (3) in paragraph (2)(C)—

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

17 (B) by striking “or services in an inter-
 18 mediate care facility for the mentally retarded”
 19 and inserting “services in an intermediate care
 20 facility for the mentally retarded, or inpatient
 21 psychiatric hospital services for individuals
 22 under age 21”; and

23 (4) in paragraph (7)(A)—

24 (A) by inserting “or would require inpa-
 25 tient psychiatric hospital services for individuals

1 under age 21,” after “intermediate care facility
2 for the mentally retarded,”; and

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

6 (b) EFFECTIVE DATE.—The amendments made by
7 subsection (a) apply with respect to medical assistance
8 provided on or after January 1, 2004.

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

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

13 “(c)(1)(A) For the purpose of enabling the Secretary
14 (through grants, contracts, or otherwise) to provide for
15 special projects of regional and national significance for
16 the development and support of family-to-family health in-
17 formation centers described in paragraph (2)—

18 “(i) there is appropriated to the Secretary, out
19 of any money in the Treasury not otherwise appro-
20 priated—

21 “(I) \$3,000,000 for fiscal year 2004;

22 “(II) \$4,000,000 for fiscal year 2005; and

23 “(III) \$5,000,000 for fiscal year 2006; and

1 “(ii) there is authorized to be appropriated to
2 the Secretary, \$5,000,000 for each of fiscal years
3 2007 and 2008.

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

6 “(i) be in addition to amounts appropriated
7 under subsection (a) and retained under section
8 502(a)(1) for the purpose of carrying out activities
9 described in subsection (a)(2); and

10 “(ii) remain available until expended.

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

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

18 “(B) provide information regarding the health
19 care needs of, and resources available for, children
20 with disabilities or special health care needs;

21 “(C) identify successful health delivery models
22 for such children;

23 “(D) develop with representatives of health care
24 providers, managed care organizations, health care
25 purchasers, and appropriate State agencies a model

1 for collaboration between families of such children
2 and health professionals;

3 “(E) provide training and guidance regarding
4 caring for such children;

5 “(F) conduct outreach activities to the families
6 of such children, health professionals, schools, and
7 other appropriate entities and individuals; and

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

12 “(3) The Secretary shall develop family-to-family
13 health information centers described in paragraph (2)
14 under this subsection in accordance with the following:

15 “(A) With respect to fiscal year 2004, such cen-
16 ters shall be developed in not less than 25 States.

17 “(B) With respect to fiscal year 2005, such
18 centers shall be developed in not less than 40 States.

19 “(C) With respect to fiscal year 2006, such cen-
20 ters shall be developed in not less than 50 States
21 and the District of Columbia.

22 “(4) The provisions of this title that are applicable
23 to the funds made available to the Secretary under section
24 502(a)(1) apply in the same manner to funds made avail-
25 able to the Secretary under paragraph (1)(A).

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

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

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

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

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

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

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

19 (b) EFFECTIVE DATE.—The amendments made by
 20 subsection (a) shall apply to medical assistance for items
 21 and services furnished on or after the first day of the first
 22 calendar quarter that begins after the date of enactment
 23 of this Act.

