H. R. 4153

To amend title XIX of the Social Security Act to permit Medicaid beneficiaries the choice of self-directed personal assistance services through a cash and counseling program under the Medicaid Program.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 26, 2005

Mr. STEARNS introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To amend title XIX of the Social Security Act to permit Medicaid beneficiaries the choice of self-directed personal assistance services through a cash and counseling program under the Medicaid Program.

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 “Medicaid Cash and
5 Counseling Program Act of 2005”.
SEC. 2. OPTIONAL CHOICE OF SELF-DIRECTED PERSONAL
ASSISTANCE SERVICES (CASH AND COUNSELING).

(a) EXEMPTION FROM CERTAIN REQUIREMENTS.—
Section 1915 of the Social Security Act (42 U.S.C. 1396n) is amended by adding at the end the following new subsection:

“(i)(1) A State may provide, as ‘medical assistance’, payment for part or all of the cost of self-directed personal assistance services (other than room and board) under the plan which are provided pursuant to a written plan of care to individuals with respect to whom there has been a determination that, but for the provision of such services, the individuals would require and receive personal care services under the plan, or home and community-based services provided pursuant to a waiver under sub-section (c). Self-directed personal assistance services may not be provided under this subsection to individuals who reside in a home or property that is owned, operated, or controlled by a provider of services, not related by blood or marriage.

“(2) The Secretary shall not grant approval for a State self-directed personal assistance services program under this section unless the State provides assurances satisfactory to the Secretary of the following:
“(A) Necessary safeguards have been taken to protect the health and welfare of individuals provided services under the program, and to assure financial accountability for funds expended with respect to such services.

“(B) The State will provide, with respect to individuals who—

“(i) are entitled to medical assistance for personal care services under the plan, or receive home and community-based services under a waiver granted under subsection (c);

“(ii) may require self-directed personal assistance services; and

“(iii) may be eligible for self-directed personal assistance services,

an evaluation of the need for personal care under the plan, or personal services under a waiver granted under subsection (c).

“(C) Such individuals who are determined to be likely to require personal care under the plan, or home and community-based services under a waiver granted under subsection (c) are informed of the feasible alternatives, if available under the State’s self-directed personal assistance services program, at the choice of such individuals, to the provision of
personal care services under the plan, or personal assistance services under a waiver granted under subsection (c).

“(D) The State will provide for a support system that ensures participants in the self-directed personal assistance services program are appropriately assessed and counseled prior to enrollment and are able to manage their budgets. Additional counseling and management support may be provided at the request of the participant.

“(E) The State will provide to the Secretary an annual report on the number of individuals served and total expenditures on their behalf in the aggregate. The State shall also provide an evaluation of overall impact on the health and welfare of participating individuals compared to non-participants every three years.

“(3) A State may provide self-directed personal assistance services under the State plan without regard to the requirements of section 1902(a)(1) and may limit the population eligible to receive these services and limit the number of persons served without regard to section 1902(a)(10)(B).

“(4)(A) For purposes of this subsection, the term ‘self-directed personal assistance services’ means personal
care and related services, or home and community-based
services otherwise available under the plan under this title
or subsection (c), that are provided to an eligible partici-
pant under a self-directed personal assistance services pro-
gram under this section, under which individuals, within
an approved self-directed services plan and budget, pur-
chase personal assistance and related services, and per-
mits participants to hire, fire, supervise, and manage the
individuals providing such services.

“(B) At the election of the State—

“(i) a participant may choose to use any indi-
vidual capable of providing the assigned tasks in-
cluding legally liable relatives as paid providers of
the services; and

“(ii) the individual may use the individual’s
budget to acquire items that increase independence
or substitute (such as a microwave oven or an acces-
sibility ramp) for human assistance, to the extent
that expenditures would otherwise be made for the
human assistance.

“(5) For purpose of this section, the term ‘approved
self-directed services plan and budget’ means, with respect
to a participant, the establishment of a plan and budget
for the provision of self-directed personal assistance serv-
ices, consistent with the following requirements:
“(A) **Self-direction.**—The participant (or in the case of a participant who is a minor child, the participant’s parent or guardian, or in the case of an incapacitated adult, another individual recognized by state law to act on behalf of the participant) exercises choice and control over the budget, planning, and purchase of self-directed personal assistance services, including the amount, duration, scope, provider and location of service provision.

“(B) **Assessment of needs.**—There is an assessment of the needs, strengths, and preferences of the participants for such services.

“(C) **Service plan.**—A plan for such services (and supports for such services) for the participant has been developed and approved by the State based on such assessment through a person-centered process that—

“(i) builds upon the participant’s capacity to engage in activities that promote community life and that respects the participant’s preferences, choices and abilities; and

“(ii) involves families, friends, and professionals in the planning or delivery of services or supports as desired or required by the participant.
“(D) Service Budget.—A budget for such services and supports for the participant has been developed and approved by the State based on such assessment and plan and on a methodology that uses valid, reliable cost data, is open to public inspection, and includes a calculation of the expected cost of such services if those services were not self-directed. The budget may not restrict access to other medically necessary care and services furnished under the plan and approved by the state but not included in the budget.

“(E) Application of Quality Assurance and Risk Management.—There are appropriate quality assurance and risk management techniques used in establishing and implementing such plan and budget that recognize the roles and responsibilities in obtaining services in a self-directed manner and assure the appropriateness of such plan and budget based upon the participant’s resources and capabilities.

“(6) A State may employ a financial management entity to make payments to providers, track costs, and make reports under the program. Payment for the activities of the financial management entity shall be at the administrative rate established in section 1903(a).”.
(b) **Effective Date.**—The amendment made by subsection (a) shall apply to services furnished on or after January 1, 2006.