

109TH CONGRESS
2^D SESSION

H. R. 5795

To amend title XIX of the Social Security Act to expand access to contraceptive services for women and men under the Medicaid program, help low income women and couples prevent unintended pregnancies and reduce abortion, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 13, 2006

Mrs. LOWEY (for herself, Mr. WAXMAN, Mrs. CAPPS, Mr. RYAN of Ohio, Mr. CROWLEY, Ms. MCCOLLUM of Minnesota, Mrs. MALONEY, Mr. PAYNE, Mr. GEORGE MILLER of California, Mr. OWENS, Ms. BALDWIN, Mr. FARR, Mr. NADLER, Ms. SLAUGHTER, Ms. SCHAKOWSKY, Mr. LANTOS, Mr. BROWN of Ohio, Mr. ALLEN, Mr. STARK, Ms. SOLIS, and Mr. CONYERS) 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 expand access to contraceptive services for women and men under the Medicaid program, help low income women and couples prevent unintended pregnancies and reduce abortion, 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.**

4 This Act may be cited as the “Unintended Pregnancy
5 Reduction Act of 2006”.

1 **SEC. 2. FINDINGS.**

2 Congress makes the following findings:

3 (1) Rates of unintended pregnancy in the
4 United States increased by nearly 30 percent among
5 low-income women between 1994 and 2002, and a
6 low-income woman today is 4 times as likely to have
7 an unintended pregnancy as her higher income coun-
8 terpart.

9 (2) Abortion rates decreased among higher in-
10 come women but increased among low income
11 women between 1994 and 2002, and a low income
12 woman is more than 4 times as likely to have an
13 abortion as her higher income counterpart.

14 (3) Contraceptive use reduces a woman's prob-
15 ability of having an abortion by 85 percent.

16 (4) Levels of contraceptive use among low-in-
17 come women at risk of unintended pregnancy de-
18 clined significantly between 1994 and 2002, from 92
19 percent to 86 percent.

20 (5) Publicly funded contraceptive services have
21 been shown to prevent 1,300,000 unintended preg-
22 nancies each year, and in the absence of these serv-
23 ices the United States abortion rate would likely be
24 40 percent higher than it is.

25 (6) By helping couples avoid unintended preg-
26 nancy, Medicaid-funded contraceptive services are

1 highly cost-effective, and every public dollar spent on
2 family planning saves \$3 in the cost of pregnancy-
3 related care alone.

4 (7) Federal law requires State Medicaid pro-
5 grams to cover pregnancy-related care for women
6 with incomes up to 133 percent of poverty, and 17
7 States have expanded this coverage to women with
8 incomes up to 200 percent of poverty.

9 (8) 18 States have expanded Medicaid coverage
10 for family planning services to the same level at
11 which they provide Medicaid funded pregnancy-re-
12 lated care.

13 (9) Equalizing the eligibility levels for family
14 planning and pregnancy-related care nationwide
15 would maximize the cost-savings to both the Federal
16 and State Governments.

17 (10) A woman should have equal access to con-
18 traceptive services to help prevent an unintended
19 pregnancy and to pregnancy-related care if she does
20 become pregnant.

21 **SEC. 3. CLARIFICATION OF COVERAGE OF FAMILY PLAN-**
22 **NING SERVICES AND SUPPLIES.**

23 Section 1937(b) of the Social Security Act (42 U.S.C.
24 1396u-7(b)) is amended by adding at the end the fol-
25 lowing:

1 “(5) COVERAGE OF FAMILY PLANNING SERV-
2 ICES AND SUPPLIES.—Notwithstanding the previous
3 provisions of this section, a State may not provide
4 for medical assistance through enrollment of an indi-
5 vidual with benchmark coverage or benchmark-equiv-
6 alent coverage under this section unless that cov-
7 erage includes family planning services and supplies
8 as described in section 1905(a)(4)(C).”.

9 **SEC. 4. EXPANSION OF FAMILY PLANNING SERVICES.**

10 (a) COVERAGE AS MANDATORY CATEGORICALLY
11 NEEDY GROUP.—

12 (1) IN GENERAL.—Section 1902(a)(10)(A)(i) of
13 the Social Security Act (42 U.S.C.
14 1396a(a)(10)(A)(i)) is amended—

15 (A) in subclause (VI), by striking “or” at
16 the end;

17 (B) in subclause (VII), by adding “or” at
18 the end; and

19 (C) by adding at the end the following new
20 subclause:

21 “(VIII) who are described in sub-
22 section (dd) (relating to individuals
23 who meet the income standards for
24 pregnant women);”.

1 (2) GROUP DESCRIBED.—Section 1902 of the
2 Social Security Act (42 U.S.C. 1396a) is amended
3 by adding at the end the following new subsection:

4 “(dd)(1) Individuals described in this subsection are
5 individuals who—

6 “(A) meet at least the income eligibility stand-
7 ards established under the State plan as of May 1,
8 2006, for pregnant women or such higher income
9 eligibility standard for such women as the State may
10 establish; and

11 “(B) are not pregnant.

12 “(2) At the option of a State, individuals described
13 in this subsection may include individuals who are deter-
14 mined to meet the income eligibility standards referred to
15 in paragraph (1)(A) under the terms and conditions appli-
16 cable to making eligibility determinations for medical as-
17 sistance under this title under a waiver to provide the ben-
18 efits described in clause (XV) of the matter following sub-
19 paragraph (G) of section 1902(a)(10) granted to the State
20 under section 1115 as of May 1, 2006.”.

21 (3) LIMITATION ON BENEFITS.—Section
22 1902(a)(10) of the Social Security Act (42 U.S.C.
23 1396a(a)(10)) is amended in the matter following
24 subparagraph (G)—

1 (A) by striking “and (XIV)” and inserting
2 “(XIV)”; and

3 (B) by inserting “, and (XV) the medical
4 assistance made available to an individual de-
5 scribed in subsection (dd) who is eligible for
6 medical assistance only because of subpara-
7 graph (A)(10)(i)(VIII) shall be limited to family
8 planning services and supplies described in
9 1905(a)(4)(C) and, at the State’s option, med-
10 ical diagnosis or treatment services that are
11 provided in conjunction with a family planning
12 service in a family planning setting provided
13 during the period in which such an individual is
14 eligible;” after “cervical cancer”.

15 (4) CONFORMING AMENDMENTS.—Section
16 1905(a) of the Social Security Act (42 U.S.C.
17 1396d(a)) is amended in the matter preceding para-
18 graph (1)—

19 (A) in clause (xii), by striking “or” at the
20 end;

21 (B) in clause (xii), by adding “or” at the
22 end; and

23 (C) by inserting after clause (xiii) the fol-
24 lowing:

1 “(xiv) individuals described in section
2 1902(dd),”.

3 (b) PRESUMPTIVE ELIGIBILITY.—

4 (1) IN GENERAL.—Title XIX of the Social Se-
5 curity Act (42 U.S.C. 1396 et seq.) is amended by
6 inserting after section 1920B the following:

7 “PRESUMPTIVE ELIGIBILITY FOR FAMILY PLANNING
8 SERVICES

9 “SEC. 1920C. (a) STATE OPTION.—A State plan ap-
10 proved under section 1902 may provide for making med-
11 ical assistance available to an individual described in sec-
12 tion 1902(dd) (relating to individuals who meet the in-
13 come eligibility standard for pregnant women in the State)
14 during a presumptive eligibility period. In the case of an
15 individual described in section 1902(dd) who is eligible for
16 medical assistance only because of subparagraph
17 (A)(10)(i)(VIII), such medical assistance may be limited
18 to family planning services and supplies described in
19 1905(a)(4)(C) and, at the State’s option, medical diag-
20 nosis or treatment services that are provided in conjunc-
21 tion with a family planning service in a family planning
22 setting provided during the period in which such an indi-
23 vidual is eligible.

24 “(b) DEFINITIONS.—For purposes of this section:

25 “(1) PRESUMPTIVE ELIGIBILITY PERIOD.—The
26 term ‘presumptive eligibility period’ means, with re-

1 spect to an individual described in subsection (a),
2 the period that—

3 “(A) begins with the date on which a
4 qualified entity determines, on the basis of pre-
5 liminary information, that the individual is de-
6 scribed in section 1902(dd); and

7 “(B) ends with (and includes) the earlier
8 of—

9 “(i) the day on which a determination
10 is made with respect to the eligibility of
11 such individual for services under the State
12 plan; or

13 “(ii) in the case of such an individual
14 who does not file an application by the last
15 day of the month following the month dur-
16 ing which the entity makes the determina-
17 tion referred to in subparagraph (A), such
18 last day.

19 “(2) QUALIFIED ENTITY.—

20 “(A) IN GENERAL.—Subject to subpara-
21 graph (B), the term ‘qualified entity’ means
22 any entity that—

23 “(i) is eligible for payments under a
24 State plan approved under this title; and

1 “(ii) is determined by the State agen-
2 cy to be capable of making determinations
3 of the type described in paragraph (1)(A).

4 “(B) REGULATIONS.—The Secretary may
5 issue regulations further limiting those entities
6 that may become qualified entities in order to
7 prevent fraud and abuse and for other reasons.

8 “(C) RULE OF CONSTRUCTION.—Nothing
9 in this paragraph shall be construed as pre-
10 venting a State from limiting the classes of en-
11 tities that may become qualified entities, con-
12 sistent with any limitations imposed under sub-
13 paragraph (B).

14 “(c) ADMINISTRATION.—

15 “(1) IN GENERAL.—The State agency shall pro-
16 vide qualified entities with—

17 “(A) such forms as are necessary for an
18 application to be made by an individual de-
19 scribed in subsection (a) for medical assistance
20 under the State plan; and

21 “(B) information on how to assist such in-
22 dividuals in completing and filing such forms.

23 “(2) NOTIFICATION REQUIREMENTS.—A quali-
24 fied entity that determines under subsection
25 (b)(1)(A) that an individual described in subsection

1 (a) is presumptively eligible for medical assistance
2 under a State plan shall—

3 “(A) notify the State agency of the deter-
4 mination within 5 working days after the date
5 on which determination is made; and

6 “(B) inform such individual at the time
7 the determination is made that an application
8 for medical assistance is required to be made by
9 not later than the last day of the month fol-
10 lowing the month during which the determina-
11 tion is made.

12 “(3) APPLICATION FOR MEDICAL ASSIST-
13 ANCE.—In the case of an individual described in
14 subsection (a) who is determined by a qualified enti-
15 ty to be presumptively eligible for medical assistance
16 under a State plan, the individual shall apply for
17 medical assistance by not later than the last day of
18 the month following the month during which the de-
19 termination is made.

20 “(d) PAYMENT.—Notwithstanding any other provi-
21 sion of this title, medical assistance that—

22 “(1) is furnished to an individual described in
23 subsection (a)—

24 “(A) during a presumptive eligibility pe-
25 riod;

1 “(B) by a entity that is eligible for pay-
2 ments under the State plan; and

3 “(2) is included in the care and services covered
4 by the State plan, shall be treated as medical assist-
5 ance provided by such plan for purposes of clause
6 (4) of the first sentence of section 1905(b).”.

7 (2) CONFORMING AMENDMENTS.—

8 (A) Section 1902(a)(47) of the Social Se-
9 curity Act (42 U.S.C. 1396a(a)(47)) is amend-
10 ed by inserting before the semicolon at the end
11 the following: “and provide for making medical
12 assistance available to individuals described in
13 subsection (a) of section 1920C during a pre-
14 sumptive eligibility period in accordance with
15 such section.”.

16 (B) Section 1903(u)(1)(D)(v) of such Act
17 (42 U.S.C. 1396b(u)(1)(D)(v)) is amended—

18 (i) by striking “or for” and inserting
19 “, for”; and

20 (ii) by inserting before the period the
21 following: “, or for medical assistance pro-
22 vided to an individual described in sub-
23 section (a) of section 1920C during a pre-
24 sumptive eligibility period under such sec-
25 tion”.

1 **SEC. 5. EFFECTIVE DATE.**

2 (a) **IN GENERAL.**—Except as provided in paragraph
3 (2), the amendments made by this Act take effect on Octo-
4 ber 1, 2006.

5 (b) **EXTENSION OF EFFECTIVE DATE FOR STATE**
6 **LAW AMENDMENT.**—In the case of a State plan under
7 title XIX of the Social Security Act (42 U.S.C. 1396 et
8 seq.) which the Secretary of Health and Human Services
9 determines requires State legislation in order for the plan
10 to meet the additional requirements imposed by the
11 amendments made by this Act, the State plan shall not
12 be regarded as failing to comply with the requirements of
13 such title solely on the basis of its failure to meet these
14 additional requirements before the first day of the first
15 calendar quarter beginning after the close of the first reg-
16 ular session of the State legislature that begins after the
17 date of enactment of this Act. For purposes of the pre-
18 vious sentence, in the case of a State that has a 2-year
19 legislative session, each year of the session is considered
20 to be a separate regular session of the State legislature.

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