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111TH CONGRESS
1ST SESSION

H. R. 2829

To ensure prompt access to Supplemental Security Income, Social Security disability, and Medicaid benefits for persons released from certain public institutions.

IN THE HOUSE OF REPRESENTATIVES

JUNE 11, 2009

Mr. CARSON of Indiana (for himself, Mr. KENNEDY, Mr. STARK, Mr. DAVIS of Illinois, Ms. NORTON, Mr. RUSH, Mr. GUTIERREZ, Ms. JACKSON-LEE of Texas, Mr. LEWIS of Georgia, Mr. AL GREEN of Texas, Ms. LEE of California, Ms. FUDGE, Ms. EDWARDS of Maryland, and Mr. MEEKS of New York) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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A BILL

To ensure prompt access to Supplemental Security Income, Social Security disability, and Medicaid benefits for persons released from certain public institutions.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Recidivism Reduction Act".

SEC. 2. FINDINGS.

The Congress finds as follows:

(1) There are an estimated 300,000 mentally ill individuals in State and Federal prisons.

(2) According to the Bureau of Justice Statistics, nearly 15 percent of men and 31 percent of women in jails have serious mental illnesses.

(3) According to surveys completed by the Bureau of Justice Statistics, 16.3 percent of jail inmates self-reported a ''mental health condition'' or an overnight stay in a ''mental hospital'' in their lifetime and 60.5 percent of local jail inmates self-reported they had symptoms of a mental illness.

(4) Access to Federal disability and health care benefits is a critical component of the successful re-entry into the community of indigent individuals with disabilities who are released from jail, prison, juvenile detention, or other correctional facilities.

(5) As a matter of public safety, individuals with disabilities released from correctional facilities must be reinstated in the Federal benefit programs that are designed to provide the health services and financial supports on which they rely.

(6) Individuals with disabilities who live in extreme poverty and who are too disabled to work after release from correctional facilities require gov-

ernment supports such as Social Security Disability Insurance (SSDI), Supplemental Security Income (SSI), or Medicaid to maintain health and to safely transition from correctional facilities into the community.

(7) It is the policy of the United States to provide individuals with disabilities assistance in leading healthy and productive lives.

(8) On average, mentally ill inmates serve 103.4 months in State prison until their release, as compared to 88.2 months for other inmates. Yet, their SSI benefits terminate after 12 consecutive months of their incarceration. On average, it takes 93 days to reinstate those benefits.

(9) Health care benefits are especially important to low-income individuals with disabilities who often cannot afford private market insurance and who are at great risk of incurring exorbitant costs for health care. SSI beneficiaries who lose benefits because of incarceration may also lose Medicaid coverage.

(10) Without prompt access to Federal disability benefits on their release, individuals with psychiatric disabilities who come into contact with the criminal justice system often become trapped in

many cycles of arrest, release, destitution, deterioration, and re-arrest.

(11) Recidivism rates for mentally ill offenders are very high. A Bureau of Justice Statistics report found that over ¾ of mentally ill inmates had been sentenced to time in prison or jail or were on probation at least once before their current sentence.

(12) Among the mentally ill, 52 percent of State prison inmates, 54 percent of jail inmates, and 49 percent of Federal prison inmates reported 3 or more prior sentences to probation or incarceration.

SEC. 3. SUPPLEMENTAL SECURITY INCOME BENEFITS.

(a) REINSTATEMENT OR RESUMPTION OF BENEFITS ON RELEASE OF INMATE FROM INCARCERATION.—Section 1631 of the Social Security Act (42 U.S.C. 1383) is amended by adding at the end the following:

''(q)(1)(A)(i) Eligibility for benefits under this title shall be reinstated in any case where the Commissioner determines that an individual described in clause (ii) has filed a request for reinstatement meeting the requirements of subparagraph (B)(i) during the period described in clause (iii). Reinstatement of eligibility shall be in accordance with the terms of this paragraph.

''(ii) An individual is described in this clause if—

"(I) before the month in which the individual files a request for reinstatement—

"(aa) the individual was eligible for benefits under this title on the basis of disability; and

"(bb) the individual thereafter was ineligible for such benefits because the individual was an inmate of a jail, prison, penal institution, or correctional facility for a period of 12 or more consecutive months;

"(II) the individual is blind or disabled, and the individual's blindness or disability renders the individual unable to perform substantial gainful activity; and

"(III) the individual meets the nonmedical requirements for eligibility for benefits under this title.

"(iii)(I) Except as provided in subclause (II), the period prescribed in this clause with respect to an individual is 36 consecutive months beginning with the month following the most recent month for which the individual was ineligible for benefits under this title before the period of ineligibility described in clause (ii)(I)(bb).

"(II) In the case of an individual who fails to file a reinstatement request within the period described in subclause (I), the Commissioner may extend the period if the

Commissioner determines that the individual had good cause for the failure to so file.

"(B)(i)(I) A request for reinstatement shall be filed on such form, and contain such information, as the Commissioner may prescribe.

"(II) A request for reinstatement shall include express declarations by the individual stating that the individual meets the requirements specified in subclauses (II) and (III) of subparagraph (A)(ii).

"(III) A request for reinstatement shall include an express declaration by a health care professional that the individual is blind or disabled.

"(ii) A request for reinstatement filed in accordance with this paragraph may constitute an application for benefits in the case of any individual who the Commissioner determines is not eligible for reinstated benefits under this paragraph.

"(C) In determining whether an individual meets the requirement of subparagraph (A)(ii)(II), the provisions of section 1614(a)(4) shall apply.

"(D)(i) Eligibility for benefits reinstated under this paragraph shall commence with the benefit payable for the month in which—

"(I) a request for reinstatement is filed; or

"(II) if the request is filed before the individual is discharged or released from a jail, prison, detention center, or correctional facility, the individual is so discharged or released.

"(ii)(I) Subject to subclause (II), the amount of benefit payable for any month pursuant to the reinstatement of eligibility under this paragraph shall be determined in accordance with the provisions of this title.

"(II) The benefit under this title payable for any month pursuant to a request for reinstatement filed in accordance with subparagraph (B) shall be reduced by the amount of any provisional benefit paid to the individual for the month under subparagraph (G).

"(E) Whenever an individual's eligibility for benefits under this title is reinstated under this paragraph, eligibility for the benefits shall be reinstated with respect to the individual's spouse if the spouse was previously an eligible spouse of the individual under this title and the Commissioner determines that the spouse satisfies all the requirements for eligibility for the benefits except requirements related to the filing of an application. The provisions of subparagraph (D) shall apply to the reinstated eligibility of the spouse to the same extent that they apply to the reinstated eligibility of the individual.

"(F) An individual to whom benefits are payable under this title pursuant to a reinstatement of eligibility under this paragraph for 12 months shall, with respect to benefits so payable after such 12th month, be deemed for purposes of subparagraph (A)(ii)(II)(aa) to be eligible for such benefits on the basis of an application filed therefor.

"(G)(i) An individual described in subparagraph (A)(ii) who files a request for reinstatement in accordance with the provisions of subparagraph (B)(i) shall be eligible for provisional benefits payable in accordance with this subparagraph, unless the Commissioner determines that the individual does not meet the requirements of subparagraph (A)(ii)(I) or that the individual's declaration under subparagraph (B)(i)(II) is false. Any such determination by the Commissioner shall be final and not subject to review under paragraph (1) or (3) of subsection (c).

"(ii) The amount of the provisional benefit shall equal the amount of the benefit that was payable to the individual under this title for the month before the most recent period of ineligibility described in subparagraph (A)(ii)(I)(aa).

"(iii) Provisional benefits shall end when the Commissioner makes a determination regarding the individual's eligibility for reinstated benefits.

"(iv) In any case in which the Commissioner determines that an individual is not eligible for reinstated benefits, any provisional benefits paid to the individual under this subparagraph shall not be considered a liability or subject to recovery as an overpayment, unless the Commissioner determines that the individual knew that the individual did not meet the requirements of subparagraph (A)(ii).

"(2) In the case of an individual whose benefits under this title are suspended because the individual is an inmate of a jail, prison, penal institution, or correctional facility, payment of such benefits shall resume on the date the individual is released from the jail, prison, penal institution, or correctional facility.

"(3) For purposes of this subsection, the term 'benefits under this title' includes State supplementary payments made pursuant to an agreement under section 1616(a) of this Act or section 212(b) of Public Law 93–66.".

(b) COOPERATION OF PENAL INSTITUTIONS IN PROVIDING NOTICE OF PENDING RELEASE OF INMATE AND IN ASSISTING SOON TO BE RELEASED INMATES IN HAVING BENEFITS RESUMED.—

(1) IN GENERAL.—Section 1611(e)(1)(I)(i) of such Act (42 U.S.C. 1382(e)(1)(I)(i)) is amended—

(A) in subclause (I), by inserting ''and scheduled release'' after ''commencement''; and

(B) in subclause (II)—

(i) by inserting ''(other than scheduled release information)'' before ''to the Commissioner'';

(ii) by inserting ''(other than scheduled release information)'' before ''after 30 days''; and

(iii) by inserting ''except that the Commissioner shall not make a payment under this subclause to an institution if the institution does not furnish scheduled release information at least 30 days before the scheduled release or does not have in place personnel and procedures to inform and assist inmates scheduled to be released in applying to have their benefits under this title resumed'' before the period.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect 1 year after the date of the enactment of this Act.

(3) NOTICE OF REQUIREMENT TO FURNISH INFORMATION ABOUT SCHEDULED RELEASE OF INMATES.—The Commissioner of Social Security shall

notify each institution with which the Commissioner has entered into an agreement under section 1611(e)(1)(I)(i) of the Social Security Act of the payment restriction added by paragraph (1) of this subsection.

(c) NOTICE AND TRAINING RELATED TO PRE-RELEASE AGREEMENTS.—Section 1611(e)(1)(I) of such Act (42 U.S.C. 1382(e)(1)(I)) is amended by adding at the end the following:

''(v) The Commissioner shall biennially notify each State or local institution comprising a jail, prison, penal institution, or correctional facility, and any other State or local institution a purpose of which is to confine individuals as described in section 202(x)(1)(A)(ii) of the availability of the agreements provided for in this subparagraph.

''(vi) The Commissioner shall, from time to time, offer institutions described in clause (v) training in entering into the agreements provided for in this subparagraph.

''(vii) Within 6 months after the end of each fiscal year, the Commissioner shall submit to the Congress a written report on the activities conducted pursuant to this subparagraph during the fiscal year.''.

(d) EFFECTIVE DATE.—Except as provided in subsection (b)(2), the amendments made by this section shall

take effect on the date of the enactment of this Act, and shall apply to benefits payable for months beginning after such date.

SEC. 4. SOCIAL SECURITY BENEFITS.

(a) PRE-RELEASE PROCEDURES FOR DISABLED PRISONERS AND OTHER INDIVIDUALS.—

(1) IN GENERAL.—Section 202(x) of the Social Security Act (42 U.S.C. 402(x)) is amended by adding at the end the following new paragraph:

''(4) The Commissioner shall develop a system under which an individual whose disability insurance benefits under section 223 or other benefits under this section based on disability have been suspended under this subsection by reason of confinement in an institution comprising a jail, prison, penal institution, or correctional facility, or comprising any other institution a purpose of which is to confine individuals as described in paragraph (1)(A)(ii), can apply for resumption of such benefits prior to cessation of such confinement.''.

(2) EFFECTIVE DATE.—The Commissioner of Social Security shall implement the system described in section 202(x)(4) of the Social Security Act (as added by this subsection) not later than 180 days after the date of the enactment of this Act.

(b) COOPERATION OF PENAL INSTITUTIONS IN PROVIDING NOTICE OF PENDING RELEASE OF INMATE AND IN ASSISTING SOON TO BE RELEASED INMATES IN HAVING BENEFITS RESUMED.—

(1) IN GENERAL.—Section 202(x)(3)(B)(i) of such Act (42 U.S.C. 402(x)(3)(B)(i)) is amended—

(A) in subclause (I), by inserting ''and scheduled release'' after ''commencement''; and

(B) in subclause (II)—

(i) by inserting ''(other than scheduled release information)'' before ''to the Commissioner'';

(ii) by inserting ''(other than scheduled release information)'' before ''after 30 days''; and

(iii) by inserting ''except that the Commissioner shall not make a payment under this subclause to an institution if the institution does not furnish scheduled release information at least 30 days before the scheduled release or does not have in place personnel and procedures to inform and assist inmates scheduled to be released in applying to have their benefits under this title resumed'' before the period.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect 1 year after the date of the enactment of this Act.

(3) NOTICE OF REQUIREMENT TO FURNISH INFORMATION ABOUT SCHEDULED RELEASE OF INMATES.—The Commissioner of Social Security shall notify each institution with which the Commissioner has entered into an agreement under section 202(x)(3)(B)(i) of the Social Security Act of the payment restriction added by paragraph (1) of this subsection.

(c) NOTICE AND TRAINING RELATED TO PRE-RELEASE AGREEMENTS.—Section 202(x)(3)(B) of such Act (42 U.S.C. 402(x)(3)(B)) is amended by adding at the end the following:

''(v) The Commissioner shall biennially notify each State or local institution comprising a jail, prison, penal institution, or correctional facility, and any other State or local institution a purpose of which is to confine individuals as described in paragraph (1)(A)(ii) of the availability of the agreements provided for in this subparagraph.

''(vi) The Commissioner shall, from time to time, offer institutions described in clause (v) training in entering into the agreements provided for in this subparagraph.

"(vii) Within 6 months after the end of each fiscal year, the Commissioner shall submit to the Congress a written report on the activities conducted pursuant to this subparagraph during the fiscal year.".

SEC. 5. MEDICAID BENEFITS.

(a) REINSTATEMENT OF MEDICAID ENROLLMENT.—

(1) IN GENERAL.—Section 1902(a) of the Social Security Act (42 U.S.C. l396b(a)) is amended—

(A) by striking "and" at the end of paragraph (72);

(B) by striking the period at the end of paragraph (73) and inserting "; and"; and

(C) by inserting after paragraph (73) the following new paragraph:

"(74) provide that in the case of any individual enrolled for medical assistance under the State plan immediately before becoming an inmate of a public institution—

"(A) the enrollment of such individual shall be reinstated upon release from such institution unless and until there is a determination that the individual is no longer eligible to be so enrolled; and

"(B) any period of continuous eligibility in effect on the date the individual became such

an inmate shall be reinstated as of the date of the release and the duration of such period shall be determined without regard to the period in which the individual was such an inmate;''.

(2) INCREASED FUNDING FOR STATE IMPLEMENTATION OF REINSTATEMENT SYSTEM.—Section 1903 of the Social Security Act (42 U.S.C. 1396b) is amended by adding at the end the following new subsection:

''(aa) INITIAL INCREASE IN FEDERAL MATCHING RATE FOR STATE IMPLEMENTING REINSTATEMENT SYSTEM.—For the first 4 calendar quarters beginning after the date a State modifies its computer system described in subsection (a)(3)(A)(i) so that it can easily provide for the reinstatement of medical assistance required under section 1902(a)(74), such subsection shall be applied as if the reference to '90 percent' were a reference to '95 percent'.''.

(3) CLARIFICATION OF TREATMENT OF CERTAIN ADMINISTRATIVE EXPENSES.—Nothing in section 1905(a) of the Social Security Act (42 U.S.C. 1396d(a)) shall be construed as prohibiting or preventing the provision of Federal financial participation under section 1903(a) of such Act (42 U.S.C.

1396b(a)) to States for reasonable administrative costs of determining eligibility status of individuals described in section 1902(a)(74) of such Act, as inserted by paragraph (1).

(4) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to individuals who are released from being an inmate of a public institution on or after the first day of the first calendar quarter beginning more than 90 days after the date of the enactment of this Act.

(b) AUTHORIZATION OF CASE MANAGEMENT SERVICES.—The first sentence of section 1915(g)(1) of the Social Security Act (42 U.S.C. 1396n(g)(1)) is amended by inserting before the period at the end the following: ''and for the purpose of providing no more than three case management services, without regard to the subdivision (A) following section 1905(a)(28), in order to engage in planning for services following release from a public institution''.

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