

111TH CONGRESS
2^D SESSION

H. R. 5364

To amend title XIX of the Social Security Act to require States to provide oral health services to aged, blind, or disabled individuals under the Medicaid Program, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 20, 2010

Mr. STUPAK 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 require States to provide oral health services to aged, blind, or disabled individuals under the Medicaid Program, 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; FINDINGS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Special Care Dentistry Act of 2010”.

6 (b) **FINDINGS.**—Congress finds the following:

7 (1) According to the United States Surgeon
8 General’s Report on Oral Health in America:

1 (A) No less than a silent epidemic of oral
2 diseases is affecting our most vulnerable citi-
3 zens, including low income elderly, individuals
4 with disabilities, and many members of racial
5 and ethnic minority groups.

6 (B) Oral diseases and conditions affect
7 health and well-being throughout life. The bur-
8 den of oral problems is extensive and may be
9 particularly severe in vulnerable populations.

10 (C) Oral diseases and conditions are asso-
11 ciated with other health problems. Associations
12 between chronic oral infections and other health
13 problems, including diabetes, heart disease, and
14 adverse pregnancy outcomes have been re-
15 ported.

16 (2) Providing appropriate and necessary oral
17 health benefits under Medicaid to individuals classi-
18 fied as aged, blind, or disabled would prevent unnec-
19 essary emergency room visits, hospitalizations, and
20 downstream health care costs, reducing Medicaid
21 spending.

22 (3) While 28 percent of the people enrolled in
23 Medicaid are aged, blind, or disabled, the high cost
24 of medical expenditures for these populations con-

1 sumes 72 percent of the total Medicaid budget. This
2 is not the case with dental benefits.

3 (4) For the aged, blind, or disabled, oral health
4 services are deemed “optional” by the Federal Gov-
5 ernment and most States provide little to no Med-
6 icaid coverage for these services. Many of these vul-
7 nerable citizen’s mouths are infected with no hope of
8 receiving access to even basic dental care.

9 (5) In 2003, adult aged, blind, and disabled
10 Medicaid recipients received basic oral health serv-
11 ices in only 6 States (Connecticut, New Jersey, New
12 York, North Dakota, Pennsylvania, and Wisconsin).

13 (6) Appropriate and necessary oral health serv-
14 ices for adult aged, blind, and disabled people will
15 help reduce not only Medicaid costs for these popu-
16 lations, but also down-stream Medicare expenditures,
17 which together total almost \$600,000,000,000 annu-
18 ally.

19 (7) Dental office overhead averages over 65
20 percent. Unfortunately, Medicaid reimbursement
21 rates fall far short of covering these expenses.

22 (8) Additional Federal investment for the deliv-
23 ery of oral health services is needed to ensure vul-
24 nerable adults receive oral health benefits.

1 ence of a suspected illness or condition consistent with rea-
2 sonable standards of dental practice (taking into account
3 the increased needs and oral health complexities of the
4 population) as determined by the Secretary after consulta-
5 tion with national professional dental organizations.

6 “(b) AGED, BLIND, OR DISABLED INDIVIDUALS DE-
7 SCRIBED.—For purposes of subsection (a), an aged, blind,
8 or disabled individual described in this subsection is an
9 individual—

10 “(1) who is eligible for medical assistance under
11 subclause (I) or (II) of section 1902(a)(10)(A)(i)
12 (but only, in the case of subclause (I), with respect
13 to an individual who is so eligible on the basis of re-
14 ceiving aid or assistance under any plan of the State
15 approved under title I, X, XIV, or XVI); and

16 “(2) who would be considered an aged, blind, or
17 disabled individual under section 1614 (without re-
18 gard to whether the individual satisfies the income
19 and resource requirements for receiving supple-
20 mental security income benefits under title XVI) and
21 is otherwise eligible for medical assistance under the
22 State plan or under a waiver of such plan.

23 “(c) TRANSPORTATION.—The State shall provide
24 transportation for aged, blind, or disabled individuals de-
25 scribed in subsection (b) to dental offices, hospitals, clin-

1 ics, or other treatment centers for the provision of oral
2 health services to the same extent that transportation is
3 provided under the State plan for children eligible for
4 medical assistance.”.

5 (b) DEFINITION OF ORAL HEALTH SERVICES.—

6 (1) IN GENERAL.—Section 1905 of the Social
7 Security Act (42 U.S.C. 1396d), as amended by the
8 Patient Protection and Affordable Care Act (Public
9 Law 111–148), is amended—

10 (A) in subsection (a), by amending para-
11 graph (10) to read as follows:

12 “(10) oral health services (as defined in sub-
13 section (dd)); and”;

14 (B) by adding at the end the following:

15 “(dd)(1) For purposes of this title, the term ‘oral
16 health services’ means—

17 “(A) relief of pain and infections;

18 “(B) restoration or replacement of teeth;

19 “(C) periodontal treatment;

20 “(D) dental health preventive services, including
21 adult fluoride application;

22 “(E) in-patient and out-patient dental surgical,
23 evaluation, and examination services;

24 “(F) dentures or partial denture care;

1 “(G) per patient house call and long term care
2 facility visits;

3 “(H) sedation and anesthesia; and

4 “(I) behavior management services.

5 “(2) For the purpose of this subsection:

6 “(A) The term ‘long term care facility’ means—

7 “(i) a nursing facility;

8 “(ii) an assisted living facility or a resident
9 care program facility (as such terms are defined
10 by the Secretary);

11 “(iii) a board and care facility (as defined
12 in section 1903(q)(4)(B), including a mental re-
13 tardation group home);

14 “(iv) an intermediate care facility for the
15 mentally retarded; and

16 “(v) any other facility that is licensed or
17 certified by the State and is determined appro-
18 priate by the Secretary, such as a community
19 mental health center that meets the require-
20 ments of section 1913(e) of the Public Health
21 Service Act, a psychiatric health facility, and a
22 mental health rehabilitation center.

23 “(B) The term ‘house call’ means the delivery
24 of dental services in long term care facilities needed

1 to overcome mobility impairments and transpor-
2 tation barriers.

3 “(C) The term ‘behavior management’ means
4 services needed to accommodate physical or behav-
5 ioral impairment.”.

6 (c) CONFORMING AMENDMENTS.—

7 (1) TERMINOLOGY.—Section
8 1902(a)(43)(D)(iii) of the Social Security Act (42
9 U.S.C. 1396a(a)(43)(D)(iii)) is amended by striking
10 “dental” and inserting “oral health” each place it
11 appears.

12 (2) STATE PLAN.—Section 1902(a) of such Act
13 (42 U.S.C. 1396a(a)), as amended by the Patient
14 Protection and Affordable Care Act, is amended—

15 (A) in paragraph (81), by striking “and”
16 at the end;

17 (B) in paragraph (82), by striking the pe-
18 riod at the end and inserting “; and”; and

19 (C) by inserting after paragraph (82) the
20 following:

21 “(83) provide for—

22 “(A) making oral health services available
23 to aged, blind, or disabled individuals described
24 in subsection (b) of section 1944 in accordance
25 with the requirements of that section;

1 “(B) informing all persons in the State
2 who are aged, blind, or disabled and have been
3 determined to be eligible for medical assistance
4 including oral health services (as defined in sec-
5 tion 1905(dd)), of the availability of such serv-
6 ices;

7 “(C) providing or arranging for the provi-
8 sion of such services in all cases where they are
9 requested;

10 “(D) arranging for (directly or through re-
11 ferral to appropriate agencies, organizations, or
12 individuals) corrective treatment the need for
13 which is disclosed by such services; and

14 “(E) reporting to the Secretary (in a uni-
15 form form and manner established by the Sec-
16 retary, by aged, blind, or disabled group and by
17 basis of eligibility for medical assistance, and by
18 not later than April 1 after the end of each fis-
19 cal year, beginning with fiscal year 2011) the
20 information relating to oral health services pro-
21 vided under the plan during each fiscal year
22 consisting of—

23 “(i) the number of aged, blind, or dis-
24 abled individuals who reside in the State;

1 “(ii) the number of aged, blind, or
2 disabled individuals provided oral health
3 services;

4 “(iii) the number of such individuals
5 referred for corrective treatment (the need
6 for which is disclosed by such services);

7 “(iv) the amount of, and type of, pre-
8 ventive oral health services needed and
9 provided;

10 “(v) the amount of, and type of, sur-
11 gical restorative oral health services needed
12 and provided; and

13 “(vi) the amount of, and type of,
14 other oral health services needed and pro-
15 vided, disaggregated into whether the serv-
16 ices were—

17 “(I) emergency;

18 “(II) preventive;

19 “(III) surgical;

20 “(IV) restorative;

21 “(V) periodontal;

22 “(VI) endodontic; or

23 “(VII) prosthodontic.”.

24 (3) NURSING FACILITIES.—Section
25 1919(b)(4)(A)(vi) of such Act (42 U.S.C.

1 1396r(b)(4)(A)(vi) is amended by inserting, “oral
2 health services (as defined in section 1905(dd)) for
3 an aged, blind, or disabled individual described in
4 section 1944(b) who is a resident of the nursing fa-
5 cility,” after “plan”).

6 (d) FEDERAL FUNDING FOR COST OF COVERING
7 AGED, BLIND, OR DISABLED.—Section 1905 of the Social
8 Security Act (42 U.S.C. 1396d), as amended by sub-
9 section (b)(1), is amended—

10 (1) in subsection (b), in the first sentence, by
11 inserting “subsection (dd) and” before “section
12 1933(d)” ; and

13 (2) by adding at the end the following new sub-
14 section:

15 “(ee) INCREASED FMAP FOR MEDICAL ASSISTANCE
16 FOR AGED, BLIND, AND DISABLED INDIVIDUALS.—The
17 Federal medical assistance percentage determined for a
18 State that is one of the 50 States or the District of Colum-
19 bia for each fiscal year with respect to amounts expended
20 for medical assistance for aged, blind and disabled individ-
21 uals described in section 1944(b) shall be equal to 100
22 percent.”.

23 (e) EFFECTIVE DATE.—

24 (1) IN GENERAL.—Except as provided in para-
25 graph (2), the amendments made by this section

1 shall apply to calendar quarters beginning on or
2 after October 1, 2010, without regard to whether or
3 not final regulations to carry out such amendments
4 have been promulgated by such date.

5 (2) DELAY PERMITTED FOR STATE PLAN
6 AMENDMENT.—In the case of a State plan for med-
7 ical assistance under title XIX of the Social Security
8 Act which the Secretary of Health and Human Serv-
9 ices determines requires State legislation (other than
10 legislation appropriating funds) in order for the plan
11 to meet the additional requirements imposed by the
12 amendments made by this section, the State plan
13 shall not be regarded as failing to comply with the
14 requirements of such title solely on the basis of its
15 failure to meet these additional requirements before
16 the first day of the first calendar quarter beginning
17 after the close of the first regular session of the
18 State legislature that begins after the date of enact-
19 ment of this Act. For purposes of the previous sen-
20 tence, in the case of a State that has a 2-year legis-
21 lative session, each year of such session shall be
22 deemed to be a separate regular session of the State
23 legislature.

○