

111TH CONGRESS
1ST SESSION

H. R. 747

To amend the Social Security Act to provide health insurance coverage for children and pregnant women throughout the United States by combining the children and pregnant woman health coverage under Medicaid and SCHIP into a new All Healthy Children Program, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 28, 2009

Mr. SCOTT of Virginia (for himself, Mr. WATT, Mr. THOMPSON of Mississippi, Mr. BISHOP of Georgia, Mr. JOHNSON of Georgia, Mr. SARBANES, Mr. ROTHMAN of New Jersey, Mr. GRIJALVA, and Ms. MCCOLLUM) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To amend the Social Security Act to provide health insurance coverage for children and pregnant women throughout the United States by combining the children and pregnant woman health coverage under Medicaid and SCHIP into a new All Healthy Children 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,*

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS; FINDINGS;**

2 **PURPOSE.**

3 (a) **SHORT TITLE.**—This Act may be cited as the “All
4 Healthy Children Act of 2009”.

5 (b) **TABLE OF CONTENTS.**—The table of contents of
6 this Act is as follows:

Sec. 1. Short title; table of contents; findings; purpose.

Sec. 2. Creation of new title XXII of the Social Security Act.

“TITLE XXII—ALL HEALTHY CHILDREN PROGRAM

“Sec. 2201. All Healthy Children Program.

“Sec. 2202. General contents of State All Healthy Children Plan; eligi-
bility; enrollment.

“Sec. 2203. Benefits; premiums; cost-sharing; provider payment rates.

“Sec. 2204. Payments to States.

“Sec. 2205. Application of SCHIP, medicaid and related SSA provisions;
waivers; administration.

“Sec. 2206. Definitions.

“Sec. 2207. Effective dates; transition.

Sec. 3. Commission on Children’s Health Coverage.

7 (c) **FINDINGS.**—Congress finds the following:

8 (1) More than nine million children in the
9 United States, one in nine, have no health insurance
10 coverage.

11 (2) Every 39 seconds, another baby is born un-
12 insured in the United States.

13 (3) Existing health care programs for low-in-
14 come children vary widely, with different standards
15 for eligibility, cost-sharing, and benefits in each of
16 the 50 States and the District of Columbia.

17 (4) More than six million uninsured children
18 are eligible for coverage under Medicaid or the State
19 Children’s Health Insurance Program (SCHIP), but

1 are not enrolled in existing programs because of dif-
2 ferent eligibility and enrollment barriers that make
3 it difficult to obtain or keep coverage.

4 (5) Millions more children are underinsured or
5 at risk of losing coverage if their parents change
6 jobs or more employers drop family coverage.

7 (6) Uninsured children are almost 12 times as
8 likely as insured children to have an untreated med-
9 ical need and are four times as likely as insured chil-
10 dren to have an unmet dental need.

11 (7) Uninsured children are more than five times
12 as likely as insured children to have gone more than
13 two years without a doctor visit.

14 (8) The majority of uninsured children live in
15 two-parent households and almost 90 percent of
16 such children live in families where at least one par-
17 ent works.

18 (9) An estimated two-thirds of children and
19 adolescents with mental health needs are not getting
20 the care they need and only one in five children with
21 serious emotional disturbances receives specialized
22 treatment.

23 (10) It costs less to provide health insurance
24 coverage to children than to any other group of peo-
25 ple.

1 (11) Increases in private health insurance costs
2 are dramatically outpacing increases in wages.

3 (12) The United States spending on health care
4 per person is more than twice the average spent in
5 industrialized countries, yet the United States ranks
6 near the bottom among those countries in infant
7 mortality rates.

8 (13) Children enrolled in a health coverage pro-
9 gram experienced significant improvements in health
10 after just one year and significant decreases of limi-
11 tations in their daily activities.

12 (14) Enrollment in health insurance has been
13 associated with improvements in school.

14 (15) When juvenile offenders arrested for minor
15 offenses had access to intensive and coordinated
16 mental health services, more than a third fewer were
17 re-arrested the following year, compared to those
18 who only had access to basic mental health services.

19 (d) PURPOSE.—It is the purpose of this Act to sim-
20 plify and consolidate children’s health coverage under
21 Medicaid and SCHIP into a single program that guaran-
22 tees children in all States, territories, and the District of
23 Columbia all medically necessary services.

1 **SEC. 2. CREATION OF NEW TITLE XXII OF THE SOCIAL SE-**
2 **CURITY ACT.**

3 The Social Security Act is amended by adding at the
4 end the following new title:

5 **“TITLE XXII—ALL HEALTHY**
6 **CHILDREN PROGRAM**

7 **“SEC. 2201. ALL HEALTHY CHILDREN PROGRAM.**

8 “(a) IN GENERAL.—There is established under this
9 title a State-operated program receiving Federal financial
10 assistance to provide comprehensive health coverage for
11 children, pregnant women, and post-partum women in
12 place of benefits previously provided for children, pregnant
13 women, and post-partum women under the Medicaid pro-
14 gram under title XIX and the State Children’s Health In-
15 surance Program under title XXI.

16 “(b) STATE ALL HEALTHY CHILDREN PLAN RE-
17 QUIRED.—A State is not eligible for payment under sec-
18 tion 2204 unless the State has submitted to the Secretary
19 under section 2202 a plan that—

20 “(1) sets forth how the State intends to use the
21 funds provided under this title to provide all healthy
22 children assistance to uninsured children and preg-
23 nant women consistent with the provisions of this
24 title; and

25 “(2) has been approved under section 2202.

1 “(c) STATE AND INDIVIDUAL ENTITLEMENT.—This
2 title constitutes budget authority in advance of appropria-
3 tions Acts and represents the obligation of the Federal
4 Government to provide for the payment to States of
5 amounts provided under section 2204. Each individual
6 who is an all healthy children eligible individual and who
7 qualifies for benefits under this title has an entitlement
8 to such benefits in accordance with this title.

9 “(d) PRIVATE RIGHT OF ACTION.—

10 “(1) IN GENERAL.—Any person aggrieved by a
11 violation of this title or a failure of an individual or
12 entity, including a State or Federal agency, to com-
13 ply with the provisions of this title, including any
14 regulation promulgated pursuant to this title, may
15 bring a civil action in any Federal district court, re-
16 gardless of amount in controversy, or State court of
17 competent jurisdiction to enforce such person’s
18 rights.

19 “(2) NO EXCLUSION OF OTHER REMEDIES.—
20 The availability of a private right of action under
21 this subsection shall not be construed to preclude
22 the ability of any person aggrieved to obtain relief
23 for a violation of this title or a failure of an indi-
24 vidual or entity to comply with the provision of this
25 title, or any regulations promulgated pursuant to

1 this title, under any other applicable statute or other
2 basis for relief.

3 “(3) RELIEF.—In an action under this sub-
4 section, the court may award all relief allowed by
5 law, including but not limited to compensatory and
6 exemplary damages and injunctive relief, and attor-
7 neys’ fees and court costs.

8 “(4) PERSON AGGRIEVED DEFINED.—In this
9 subsection, the term ‘person aggrieved’ includes a
10 child or individual entitled to benefits under this
11 title, the parent or guardian of such child, a provider
12 of services to children or other individuals entitled to
13 such benefits, or an association or other entity
14 whose mission is to ensure that children, pregnant
15 women, or post-partum women receive adequate
16 health care services.

17 “(e) EFFECTIVE DATE.—No State is eligible for pay-
18 ments under section 2204 for all healthy children assist-
19 ance for coverage provided for periods beginning before
20 October 1, 2010.

21 **“SEC. 2202. GENERAL CONTENTS OF STATE ALL HEALTHY**
22 **CHILDREN PLAN; ELIGIBILITY; ENROLLMENT.**

23 “(a) GENERAL CONTENTS.—A State all healthy chil-
24 dren plan shall include a description, consistent with the
25 requirements of this title, of—

1 “(1) the all healthy children assistance provided
2 under the plan for all healthy children eligible indi-
3 viduals, including the proposed methods of delivery
4 and utilization control systems;

5 “(2) eligibility standards consistent with sub-
6 section (b);

7 “(3) enrollment and outreach activities con-
8 sistent with subsection (c); and

9 “(4) methods (including monitoring) used—

10 “(A) to assure the quality and appropriate-
11 ness of care, particularly with respect to pre-
12 natal care, well-baby care, well-child care, and
13 immunizations provided under the plan, and

14 “(B) to assure access to all medically nec-
15 essary health care services, including emergency
16 services.

17 “(b) ELIGIBILITY STANDARDS AND METHOD-
18 OLOGY.—

19 “(1) IN GENERAL.—The all healthy children
20 plan for a State shall provide that all of the fol-
21 lowing are all healthy children eligible individuals if
22 they are residents:

23 “(A) FULL SUBSIDY INDIVIDUALS.—

24 “(i) All children under age 19 whose
25 family income does not exceed 300 percent

1 of the poverty line (as defined in section
2 2110(c)(5)).

3 “(ii) All pregnant women and post-
4 partum women whose family income does
5 not exceed 300 percent of the poverty line.

6 “(iii) All children under age 19, preg-
7 nant women, and post-partum women who
8 would have qualified for medical assistance
9 under title XIX (as applied in the State as
10 of October 1, 2005).

11 “(iv) All children under age 19 who
12 meet the requirements of subparagraphs
13 (A) and (B) of section 1905(w)(1) (relat-
14 ing to independent foster care adolescents).

15 “(B) TRANSITIONAL ASSISTANCE.—An in-
16 dividual who loses eligibility as an individual de-
17 scribed in subparagraph (A) because of an in-
18 crease in family income, but only during the 3-
19 month period beginning with the first month in
20 which such eligibility is lost.

21 “(C) BUY-IN ELIGIBLE INDIVIDUALS.—In-
22 dividuals who, but for the amount of family in-
23 come, would be an individual described in sub-
24 paragraph (A) and who are not described in
25 subparagraph (B) if they meet such terms and

1 conditions as the Secretary determines appro-
2 priate.

3 “(2) RESIDENCY REQUIREMENT.—For purposes
4 of this title, an individual is a resident of a State if
5 the individual is present in the State with intent to
6 remain, and includes any individual who would be
7 treated as such a resident under title XIX (as in ef-
8 fect as of January 1, 2007).

9 “(3) POST-PARTUM WOMAN DEFINED.—In this
10 title, the term ‘post-partum woman’ means a woman
11 during the period beginning on the date of comple-
12 tion of pregnancy and ending on the last day of the
13 first month that ends at least 60 days after such
14 date.

15 “(4) INCOME METHODOLOGY.—The method-
16 ology for determining income under a State all
17 healthy children plan shall not be more restrictive
18 than the income methodology described in section
19 1931(b)(1)(B), to the extent such methodology is
20 consistent with the requirements of section
21 1902(a)(17).

22 “(5) COST-SHARING.—Any cost-sharing re-
23 quired by the State to be paid by an individual
24 under paragraph (1)(B) during the period described
25 in that paragraph may not exceed the amount the

1 State plan charged for such individual prior to such
2 period.

3 “(6) NO ASSET TEST.—The State plan may not
4 impose any asset or resource test for eligibility.

5 “(7) CONSTRUCTION.—Nothing in this title
6 shall be construed as preventing a State from cov-
7 ering individuals under Title XIX (such as individ-
8 uals who are 19 or 20 years of age) who are not all
9 healthy children eligible individuals.

10 “(8) EXCLUSION OF PUBLIC BENEFIT DEFINI-
11 TION.—The benefits provided under this title shall
12 not be deemed to constitute a Federal or State pub-
13 lic benefit within the meaning of title IV of the Per-
14 sonal Responsibility and Work Opportunity Rec-
15 onciliation Act of 1996 (Public Law 104–193) nor
16 shall any documentation of citizenship be required
17 for the purpose of securing benefits under this title.

18 “(9) SPECIAL RULES FOR TERRITORIES.—In
19 the case of any State that is not one of the 50
20 States or the District of Columbia, the Secretary
21 may, by regulation, adjust the income eligibility lev-
22 els set forth in this title, taking into account factors
23 such as average income, cost of living, and avail-
24 ability of health care coverage in a manner that
25 assures the level of access to health coverage for

1 children, pregnant women, and post-partum women
2 residing in such a State is comparable to the level
3 of access for children, pregnant women, and post-
4 partum women residing in the 50 States or the Dis-
5 trict of Columbia.

6 “(c) ENROLLMENT.—

7 “(1) STREAMLINED ENROLLMENT SYSTEM.—

8 Each State plan shall provide for a system of
9 streamlined enrollment that includes the following
10 (as specified by the Secretary):

11 “(A) A simple, short application form
12 translated into multiple languages.

13 “(B) Applicant self-attestation of eligi-
14 bility, subject to verification, random audits, or
15 both.

16 “(C) The option for applications to be sub-
17 mitted in-person, on-line, by mail, or as part of
18 applications for other programs.

19 “(D) Automatic enrollment, as provided
20 under paragraph (2).

21 “(E) 12-month continuous eligibility for
22 children.

23 “(F) Presumptive eligibility during an in-
24 terim period of coverage for individuals who ap-

1 pear to qualify for assistance under this title,
2 on the basis of preliminary information.

3 “(G) A determination of continued eligi-
4 bility at the end of an individual’s eligibility pe-
5 riod, based on all data available to the State. If
6 such determination cannot be made, the indi-
7 vidual or family shall be contacted for addi-
8 tional information, but only to the extent such
9 information is not available to State officials
10 from other sources. The family shall be notified
11 of all determinations and findings and given an
12 opportunity to contest and appeal them. An in-
13 dividual’s eligibility shall continue until the re-
14 determination process is complete.

15 “(2) AUTOMATIC ENROLLMENT PROCEDURES.—

16 “(A) IN GENERAL.—The automatic enroll-
17 ment procedures under this paragraph shall in-
18 clude enrollment of any all healthy children eli-
19 gible individual at the following points, unless
20 the individual (or parent or guardian on the in-
21 dividual’s behalf) affirmatively declines such en-
22 rollment:

23 “(i) Unless the individual otherwise
24 establishes enrollment in a health benefits

1 plan or coverage, at the point of a final de-
2 termination—

3 “(I) of individual’s eligibility to
4 participate in any federally-funded,
5 means-tested program, regardless of
6 any differences between the program’s
7 eligibility or income methodology and
8 those otherwise used under this title,
9 or

10 “(II) that, based on the income
11 determinations made as part of such
12 eligibility determination, the indi-
13 vidual is eligible to participate under
14 this title.

15 “(ii) Birth of a child in the United
16 States.

17 “(iii) Assignment of a social security
18 account number for a child.

19 “(iv) A visit with any health care pro-
20 vider eligible to participate in the program
21 established under this title.

22 “(v) Enrollment in any public elemen-
23 tary or secondary school within the State
24 or any other elementary or secondary

1 school subject to mandatory immunization
2 requirements.

3 “(vi) Enrollment in a publicly sub-
4 sidized child care program.

5 “(vii) Upon discharge of a child from
6 a public institution or other institution
7 where the child has been confined.

8 “(viii) Such other points of enrollment
9 as the State or Secretary may establish.

10 For purposes of this subparagraph, the term
11 ‘federally-funded, means-tested program’ in-
12 cludes the National School Lunch Program
13 under the Richard B. Russell National School
14 Lunch Act (42 U.S.C. 1751 et seq.), the Food
15 Stamp Program under the Food and Nutrition
16 Act of 2008 (7 U.S.C. 2011), the special sup-
17 plemental nutrition program for women, in-
18 fants, and children (WIC) under section 17 of
19 the Child Nutrition Act of 1966 (42 U.S.C.
20 1786), subsidized child care under the Child
21 Care Development Block Grant Act of 1990 (42
22 U.S.C. 9858 et seq.), programs carried out
23 under the Head Start Act (42 U.S.C. 9831 et
24 seq.), and other means-tested programs des-
25 ignated by the Secretary.

1 “(B) OPERATION OF AUTOMATIC ENROLL-
2 MENT.—

3 “(i) IN GENERAL.—In the case of an
4 individual who is automatically enrolled
5 under subparagraph (A) who does not pay
6 any applicable initial premiums, such indi-
7 vidual shall be deemed to have affirma-
8 tively declined such enrollment and such
9 individual shall be disenrolled from cov-
10 erage under the all healthy children pro-
11 gram under section 2201.

12 “(ii) NOTICE AT TIME OF ENROLL-
13 MENT.—The State plan shall implement
14 effective procedures, consistent with the
15 Secretary’s guidelines, for ensuring that, at
16 the time of enrollment, each auto-enrolled
17 individual (or parent or guardian of such
18 individual) is advised of—

19 “(I) the level of premiums and
20 cost-sharing applicable, consistent
21 with section 2203;

22 “(II) the fact that enrollment is
23 conditioned upon payment of any ap-
24 plicable premiums; and

1 “(III) such individual’s right to
2 decline the coverage made available
3 through auto-enrollment.

4 “(iii) NOTICE AFTER ENROLLMENT.—
5 The State plan shall implement effective
6 procedures, consistent with the Secretary’s
7 guidelines, for ensuring that, after enroll-
8 ment, each auto-enrolled individual (or
9 parent or guardian of such individual) re-
10 ceives confirmation of coverage and infor-
11 mation on benefits under the title.

12 “(iv) EQUAL TREATMENT.—A State
13 plan shall implement effective procedures
14 to ensure that individuals covered through
15 auto-enrollment do not receive fewer serv-
16 ices, on average, than do similar individ-
17 uals enrolled through other means.

18 “(v) INFORMATION SHARING.—Each
19 State shall develop the information tech-
20 nology infrastructure needed for automated
21 transmission and analysis of data involving
22 means-tested programs referred to in sub-
23 paragraph (A) and other sources of data
24 pertinent to eligibility under this title, in-
25 cluding State and Federal income tax

1 records and information contained in the
2 National Directory of New Hires. Con-
3 sistent with standards developed by the
4 Secretary, the State shall implement effec-
5 tive safeguards that protect the confiden-
6 tiality of such data and limit its use to the
7 effective administration of this title, includ-
8 ing an identification of potentially eligible
9 individuals not enrolled in the State plan
10 as well as eligibility verification.

11 “(3) OUTREACH.—Each State plan shall pro-
12 vide for a system for culturally and linguistically
13 competent outreach to families of potentially eligible
14 individuals, which shall—

15 “(A) be fully accessible to those whose
16 ability to communicate is affected by disability;
17 and

18 “(B) incorporate proactive communication
19 (via telephone or in-person visits) to such fami-
20 lies, consumer education, a preliminary or final
21 eligibility determination, and enrollment com-
22 pleted within a single encounter, whenever pos-
23 sible, and proactive follow-up, when necessary.

24 “(d) AVOIDING CROWD-OUT AND COORDINATION
25 WITH OTHER HEALTH COVERAGE PROGRAMS.—

1 “(1) IN GENERAL.—The State plan shall in-
2 clude a description of procedures, consistent with
3 this subsection, to be used to ensure—

4 “(A) that benefits provided under the
5 State all healthy children plan do not substitute
6 for coverage under group health plans;

7 “(B) the provision of all healthy children
8 assistance to all healthy children eligible indi-
9 viduals in the State who are Indians (as defined
10 in section 4(c) of the Indian Health Care Im-
11 provement Act, 25 U.S.C. 1603(c)); and

12 “(C) coordination with other public and
13 private programs providing creditable coverage
14 for low-income children and pregnant women.

15 “(2) GROUP HEALTH PLAN COVERAGE PER-
16 MITTED.—Notwithstanding paragraph (1)(A), a
17 State plan may not deny enrollment under this title
18 in the case of any of the following individuals or cir-
19 cumstances:

20 “(A) The individual would have qualified
21 for medical assistance under title XIX under
22 State law as in effect on October 1, 2005.

23 “(B) The individual has family income that
24 does not exceed 150 percent of the poverty line.

1 “(C) The individual’s enrollment under a
2 group health plan—

3 “(i) ended more than four months be-
4 fore applying for enrollment under this
5 title; or

6 “(ii) was involuntarily terminated be-
7 cause of the death of a parent, job loss, or
8 other circumstance.

9 “(D) Other than for the subsidies de-
10 scribed in section 2203(b)(2)(B) (in the case of
11 all healthy children eligible individuals with
12 family income that exceeds 300 percent of the
13 poverty line), the failure of a parent or other in-
14 dividual (other than the enrollee) to enroll the
15 all healthy children eligible individual in an
16 available group health plan.

17 “(3) SUPPLEMENTAL COVERAGE.—

18 “(A) IN GENERAL.—In the case of an all
19 healthy children eligible individual who is en-
20 rolled in a group health plan, the State plan—

21 “(i) must provide full supplemental
22 coverage (described in subparagraph (B))
23 if—

24 “(I) the individual would have
25 qualified for supplemental coverage

1 under title XIX under State law as in
2 effect on October 1, 2005; or

3 “(II) the individual is disabled
4 (as defined for purposes of the supple-
5 mental security income program
6 under title XVI); and

7 “(ii) may provide some or all of such
8 coverage to other healthy children eligible
9 individuals (or to reasonable classifications
10 of such individuals, as specified under the
11 State plan).

12 “(B) FULL SUPPLEMENTAL COVERAGE DE-
13 SCRIBED.—Full supplemental coverage de-
14 scribed in this subparagraph includes the fol-
15 lowing:

16 “(i) Benefits covered by the State
17 plan that are outside the scope of benefits
18 offered under the group health plan.

19 “(ii) Reimbursement of families’ pre-
20 mium payments under the group health
21 plan for all healthy children eligible indi-
22 viduals so that costs do not exceed levels
23 otherwise permitted by the State plan.

24 “(iii) Coverage of out-of-pocket costs
25 incurred under the group health plan

1 where such coverage prevents those costs
2 from exceeding the levels otherwise per-
3 mitted under the State plan.

4 “(e) ASSISTANCE FOR CHILDREN WHO AGE OUT OF
5 ASSISTANCE.—The State plan shall provide assistance in
6 obtaining health benefits to individuals who lose eligibility
7 under this title because of age.

8 “(f) EMERGENCY COVERAGE.—When an all healthy
9 children eligible individual enrolled in a State plan in one
10 State moves to another State because of natural disaster
11 or other reasons, the individual shall receive immediate
12 and automatic presumptive eligibility under this title in
13 the State to which the individual moves.

14 **“SEC. 2203. BENEFITS; PREMIUMS; COST-SHARING; PRO-**
15 **VIDER PAYMENT RATES.**

16 “(a) BENEFITS.—

17 “(1) IN GENERAL.—The all healthy children as-
18 sistance under this title shall include benefits for all
19 medically necessary health care, including early and
20 periodic screening, diagnostic, and treatment serv-
21 ices (as defined in section 1905(r)) consistent with
22 the requirements of section 1902(a)(43).

23 “(2) BENEFIT PROTECTIONS.—The State plan
24 shall provide for all benefit protections for all
25 healthy children eligible individuals that would oth-

1 erwise have applied under title XIX if such individ-
2 uals were entitled to medical assistance under such
3 title, including the application of no preexisting con-
4 dition exclusion as defined in section 2701(b)(1)(A)
5 of the Public Health Service Act and section
6 701(b)(1)(A) of the Employee Retirement Income
7 Security Act of 1974.

8 “(b) PREMIUMS.—Subject to subsection (d)—

9 “(1) NO PREMIUM FOR LOWER-INCOME INDI-
10 VIDUALS.—For all healthy children eligible individ-
11 uals described in subparagraph (A) or (B) of section
12 2202(b)(1), there shall be no premium imposed for
13 coverage under this title.

14 “(2) REQUIRED PREMIUMS FOR BUY-IN ELIGI-
15 BLE INDIVIDUALS.—

16 “(A) IN GENERAL.—Except as provided in
17 this paragraph, in the case of all healthy chil-
18 dren eligible individuals described in section
19 2202(b)(1)(C), the premium charged to an indi-
20 vidual for coverage under this title shall be the
21 applicable percentage specified in subparagraph
22 (D) of the total premium. The total premium
23 (as estimated under a methodology specified by
24 the Secretary) shall be equal to the full average
25 per capita cost of benefits for all healthy chil-

1 dren eligible individuals under the State all
2 healthy children plan.

3 “(B) PROVISION OF PREMIUM SUBSIDY.—

4 “(i) IN GENERAL.—Subject to clause
5 (ii), in no case shall the premium charged
6 to an individual for coverage under this
7 title exceed (taking into account any pri-
8 vate coverage in which the individual is en-
9 rolled as well as supplemental coverage
10 purchased under this title)—

11 “(I) 7.5 percent of the family in-
12 come; or

13 “(II) in the case of multiple eligi-
14 ble individuals within the same family,
15 15 percent of family income.

16 “(ii) LIMITATION.—Clause (i) shall
17 not apply for a healthy child eligible indi-
18 vidual in a family if—

19 “(I) the individual could be cov-
20 ered under a group health plan for
21 which the employer (or other plan
22 sponsor) provides for payment of at
23 least 50 percent of the premium for
24 coverage of such individual; and

1 “(II) the individual is not so cov-
2 ered because of a rejection of such
3 coverage option by the individual.

4 “(C) OPTIONAL SUBSIDIES.—A State plan
5 may reduce premiums otherwise imposed for
6 reasonable classifications of all healthy children
7 eligible individuals described in section
8 2202(b)(1)(C). Such classifications may in-
9 clude—

10 “(i) individuals with family income
11 within specific income ranges;

12 “(ii) individuals with special health
13 care needs; and

14 “(iii) individuals who could have
15 qualified for medical assistance under an
16 optional eligibility category under title XIX
17 (as in effect as of January 1, 2007).

18 “(D) APPLICABLE PERCENTAGE SPECI-
19 FIED.—For purposes of subparagraph (A), with
20 respect to all healthy children eligible individ-
21 uals described in section 2202(b)(1)(C), the ap-
22 plicable percentage specified in this subpara-
23 graph is as follows:

24 “(i) In the case of such all healthy
25 children eligible individuals whose income

1 exceeds 300, but does not exceed 320 per-
2 cent of the poverty line, 25 percent.

3 “(ii) In the case of such all healthy
4 children eligible individuals whose income
5 exceeds 320, but does not exceed 340 per-
6 cent of the poverty line, 35 percent.

7 “(iii) In the case of such all healthy
8 children eligible individuals whose income
9 exceeds 340, but does not exceed 360 per-
10 cent of the poverty line, 45 percent.

11 “(iv) In the case of such all healthy
12 children eligible individuals whose income
13 exceeds 360, but does not exceed 380 per-
14 cent of the poverty line, 55 percent.

15 “(v) In the case of such all healthy
16 children eligible individuals whose income
17 exceeds 380, but does not exceed 400 per-
18 cent of the poverty line, 65 percent.

19 “(vi) In the case of such all healthy
20 children eligible individuals whose income
21 exceeds 400, but does not exceed 425 per-
22 cent of the poverty line, 80 percent.

23 “(vii) In the case of such all healthy
24 children eligible individuals whose income

1 exceeds 425, but does not exceed 450 per-
2 cent of the poverty line, 90 percent.

3 “(viii) In the case of such all healthy
4 children eligible individuals whose income
5 exceeds 450 percent of the poverty line,
6 100 percent.

7 “(3) PREMIUM PAYMENTS.—

8 “(A) IN GENERAL.—The State all healthy
9 children plan shall provide effective measures,
10 consistent with standards established by the
11 Secretary, to make premium payment simple
12 and convenient to parents (or other payers) and
13 to preserve continuity of coverage. Such meas-
14 ures shall include—

15 “(i) discounts to encourage the pay-
16 ment of quarterly or annual premiums in
17 advance;

18 “(ii) options to make premium pay-
19 ments automatically by credit card, debit
20 account payments, electronic fund trans-
21 fers, payroll withholding, or otherwise; and

22 “(iii) payment opportunities at mul-
23 tiple, convenient community locations.

24 “(B) PROMOTING CONTINUITY OF COV-
25 ERAGE.—In the case of all healthy children eli-

1 gible individuals for whom premium payments
2 are required under the State plan, the plan
3 shall have effective procedures to prevent pre-
4 mium non-payment from interrupting con-
5 tinuity of coverage. If there is a default on pre-
6 mium payments, not including the initial pre-
7 mium payment, the State plan shall provide
8 reasonable opportunities to cure such default,
9 including at least a 60-day period, following no-
10 tice of default, during which overdue premium
11 payments may be made without interrupting
12 coverage or incurring interest charges, late fees,
13 or other costs.

14 “(c) COST-SHARING.—

15 “(1) LIMITATIONS.—Subject to subsection (d),
16 for all healthy children eligible individuals with a
17 family income that—

18 “(A) does not exceed 200 percent of the
19 poverty line, there shall be no out-of-pocket
20 cost-sharing imposed;

21 “(B) does exceed 200 percent, but does not
22 exceed 300 percent, of the poverty line, only
23 nominal out-of-pocket cost-sharing may be im-
24 posed; or

1 “(C) exceeds 300 percent of the poverty
2 line, out-of-pocket cost-sharing charged may not
3 exceed levels the Secretary finds to be con-
4 sistent with charges under employer-based
5 health insurance for the majority of employees
6 enrolled in such coverage nationally.

7 In no case shall a child described in subparagraph
8 (A) or (B) of section 2202(b)(1) be denied services
9 under this title because of failure to pay out-of-pock-
10 et cost-sharing.

11 “(2) WAIVER.—A state may elect to waive or
12 reduce out-of-pocket cost-sharing otherwise author-
13 ized under this subsection.

14 “(d) LIMITATIONS ON OUT-OF-POCKET COSTS.—

15 “(1) CURRENT MEDICAID.—For each all
16 healthy children eligible individual, premiums and
17 out-of-pocket cost-sharing may not exceed the levels
18 that would have been charged for that individual
19 under State Medicaid and SCHIP law as of October
20 1, 2005, updated in a manner specified by the Sec-
21 retary based on changes, after that date, to average
22 earnings among families with incomes that do not
23 exceed 200 percent of the poverty line.

24 “(2) AFFORDABILITY.—The State plan shall
25 provide effective measures, consistent with standards

1 established by the Secretary, to further limit out-of-
2 pocket cost-sharing (taking into account both pre-
3 miums and cost-sharing) of all healthy children eligi-
4 ble individuals to affordable levels, for both indi-
5 vidual health care services and total family costs.
6 Such measures may include coding of each individ-
7 ual’s enrollment card. Such measures may not in-
8 clude a requirement that households track incurred
9 costs.

10 “(e) CHOICE OF PLANS.—To the extent feasible, a
11 State plan must provide, insofar as the plan provides for
12 benefits through enrollment in a health benefits plan, for
13 each enrollee to have a choice of at least two health plan
14 options, consistent with the requirements of section 1932.

15 “(f) REIMBURSEMENT RATES.—The State shall es-
16 tablish under the State plan, in consultation with appro-
17 priate child health providers and experts—

18 “(1) payment rates for providers that are—

19 “(A) not less than 80 percent of the aver-
20 age of payment rates for similar services for
21 providers under private health insurance plans
22 within that State; and

23 “(B) sufficient in amount to ensure that
24 enrolled all healthy children eligible individuals

1 have adequate access to all services covered
2 under this title; and

3 “(2) payments rates to capitated plans that are
4 actuarially sound, based on comprehensive encounter
5 data.

6 **“SEC. 2204. PAYMENTS TO STATES.**

7 “(a) PAYMENT.—Subject to the succeeding provisions
8 of this section, the Secretary shall pay to each State with
9 a plan approved under this title, an amount for each quar-
10 ter equal to the Federal all healthy children matching rate
11 for the State (as determined under subsection (b)) of the
12 total expenditures under the plan for the quarter, except
13 that the matching rate for the development and operation
14 of information technology shall be the same as the Federal
15 matching percentage in effect for such technology under
16 subparagraphs (A) and (B) of section 1903(a)(3).

17 “(b) COMPUTATION OF FEDERAL ALL HEALTHY
18 CHILDREN MATCHING RATE.—

19 “(1) IN GENERAL.—Subject to paragraph (3),
20 the Federal all healthy children matching rate under
21 this subsection for a State for a calendar quarter in
22 a fiscal year is equal to the ratio of—

23 “(A) the total expenditures under the
24 State plan under this title for the quarter that
25 are attributable to required populations and

1 services, less the State share of basic expendi-
2 tures described in paragraph (2), to

3 “(B) the total expenditures referred to in
4 subparagraph (A).

5 “(2) STATE SHARE FOR BASIC EXPENDI-
6 TURES.—

7 “(A) IN GENERAL.—The State share of ex-
8 penditures attributable to required populations
9 and services under this title for a quarter in a
10 fiscal year is equal to $\frac{1}{4}$ of the product of the
11 following:

12 “(i) BASE AMOUNT.—The base FY
13 2010 amount (specified in subparagraph
14 (B) for the State).

15 “(ii) CHILD INCREASE FACTOR.—One
16 plus the percentage increase in the number
17 of children residing in the State, as esti-
18 mated by the Secretary, from fiscal year
19 2010 to the fiscal year involved.

20 “(iii) COST INCREASE FACTOR.—One
21 plus the percentage increase in the medical
22 care component of the consumer price
23 index for all urban consumers (U.S. city
24 average), as estimated by the Secretary,

1 from fiscal year 2010 to the fiscal year in-
2 volved.

3 “(B) BASE FY 2010 AMOUNT.—For pur-
4 poses of this paragraph, the ‘base FY 2010
5 amount’ for a State is equal to the sum of—

6 “(i) the total amount of expenditures
7 made by the State during calendar quar-
8 ters in fiscal year 2010 under title XIX
9 (including under any waiver under section
10 1115) that are attributable to coverage of
11 individuals who meet the requirement to be
12 all healthy children eligible individuals, in-
13 cluding an appropriate portion of adminis-
14 trative expenses, reduced by the amount of
15 Federal financial participation provided
16 with respect to such expenditures; and

17 “(ii) the total amount of expenditures
18 made by the State during calendar quar-
19 ters in fiscal year 2010 under title XXI
20 (including under any waiver under section
21 1115), reduced by the amount of payment
22 received by the State under such title for
23 such quarters.

24 “(3) COUNTER-CYCLICAL REDUCTION.—The
25 Secretary shall establish a formula for providing, in

1 addition to the base Federal matching amounts,
2 automatic supplemental assistance to States that ex-
3 perience a sustained economic downturn, based upon
4 State's quarterly unemployment rate exceeding the
5 State's average of such rates during a period of pre-
6 vious calendar quarters (in such number as the Sec-
7 retary shall specify) and by a percentage to be deter-
8 mined by the Secretary and in an amount calculated
9 on the basis of the relationship between changes in
10 unemployment and anticipated increases in providing
11 services under this title. The supplemental assistance
12 shall be distributed quarterly through a supplement
13 to the State's Federal payment and shall be for such
14 duration as the Secretary determines appropriate.

15 “(c) BONUS FOR MEETING ENROLLMENT TAR-
16 GETS.—The Secretary is authorized to establish a system
17 for providing additional bonus payments for States that
18 meet or exceed enrollment targets established for each
19 State by the Secretary, taking into account the cir-
20 cumstances in each State.

21 “(d) ADVANCE PAYMENT; RETROSPECTIVE ADJUST-
22 MENT.—The Secretary may make payments under this
23 section for each quarter on the basis of advance estimates
24 of expenditures submitted by the State and such other in-
25 vestigation as the Secretary may find necessary, and may

1 reduce or increase the payments as necessary to adjust
2 for any overpayment or underpayment for prior quarters.

3 “(e) TREATMENT OF TERRITORIES.—In the case of
4 any State that is not one of the 50 States or the District
5 of Columbia, the Secretary shall, by regulation, establish
6 a formula for allocating funds to provide all healthy chil-
7 dren assistance in such a State. Such formula shall
8 produce a funding level for such a State that comparable
9 to the level of funding for the provision of all healthy chil-
10 dren assistance in the 50 States or the District of Colum-
11 bia.

12 **“SEC. 2205. APPLICATION OF SCHIP, MEDICAID AND RE-**
13 **LATED SSA PROVISIONS; WAIVERS; ADMINIS-**
14 **TRATION.**

15 “(a) SCHIP PROVISIONS RELATING TO PLAN SUB-
16 MISSION, STRATEGIC OBJECTIVES AND PERFORMANCE
17 GOALS, AND AUDITS.—Except to the extent inconsistent
18 with the provisions of this title, sections 2106, 2107, and
19 2108(d) shall apply with respect to State plans under this
20 title in the same manner as they applied with respect to
21 State plans under title XXI.

22 “(b) MEDICAID PROVISIONS.—Except to the extent
23 inconsistent with the provisions of this title, the provisions
24 of title XIX (and the provisions of title XI, including sec-

1 tion 1115, insofar as they are applicable to title XIX) shall
2 apply to activities under this title.

3 “(c) LIMITATION ON WAIVERS.—No waiver shall be
4 granted under section 1115 with respect to this title if
5 it is likely to result in—

6 “(1) an increase in health care or health pre-
7 mium costs for all healthy children eligible individ-
8 uals under this title; or

9 “(2) a reduction in benefits, eligibility, guaran-
10 teed eligibility, health care access, or health care
11 quality for such individuals under this title.

12 “(d) ANNUAL REPORTS.—The Secretary shall
13 present annual reports to Congress describing implemen-
14 tation of this title. Such reports shall include a description
15 of—

16 “(1) optional coverage chosen by States; and

17 “(2) for each category of coverage and method
18 of enrollment, nationwide and State-specific data
19 showing the number and characteristics of all
20 healthy children eligible individuals receiving cov-
21 erage, services provided, categories and amounts of
22 expenditures.

23 **“SEC. 2206. DEFINITIONS.**

24 “(a) IN GENERAL.—For purposes of this title:

1 “(1) ALL HEALTHY CHILDREN ELIGIBLE INDI-
2 VIDUAL.—The term ‘all healthy children eligible in-
3 dividual’ means individuals described in section
4 2202(b)(1).

5 “(2) ALL HEALTHY CHILDREN ASSISTANCE.—
6 The term ‘all healthy children assistance’ means
7 payment under this title for part or all of the cost
8 of health benefits coverage for all healthy children
9 eligible individual.

10 “(3) CHILD, GROUP HEALTH PLAN, AND POV-
11 ERTY LINE.—The terms ‘child’, ‘group health plan’,
12 and ‘poverty line’ have the meanings given such
13 terms in section 2110(c).

14 “(4) STATE ALL HEALTHY CHILDREN PLAN;
15 STATE PLAN.—The terms ‘State all healthy children
16 plan’ and ‘State plan’ mean such a plan as approved
17 under this title.

18 “(5) STATE.—The term ‘State’ has the mean-
19 ing given such term for purposes of titles XIX and
20 XXI.

21 **“SEC. 2207. EFFECTIVE DATES; TRANSITION.**

22 “(a) EFFECTIVE DATE.—Benefits and payments to
23 States shall first be available under this title for items and
24 services furnished on or after October 1, 2010 (in this sec-

1 tion referred to as the ‘All Healthy Children Program ef-
2 fective date’).

3 “(b) TRANSITION PROVISIONS.—

4 “(1) IN GENERAL.—Any child under 19 years
5 of age, any pregnant woman, or any independent
6 foster care adolescent (as defined in section
7 1905(w)(1)) who, as of the day before the All
8 Healthy Children Program effective date, is enrolled
9 under title XIX or XXI shall, as of such effective
10 date, automatically qualify for and be enrolled in the
11 State plan under this title, with the benefits based
12 on the family income of the individual as most re-
13 cently determined for purposes of the title under
14 which the individual was enrolled.

15 “(2) TREATMENT OF SCHIP ADULTS.—In the
16 case of an individual not described in paragraph (1)
17 who, as of the day before the All Healthy Children
18 Program effective date, was enrolled under title XXI
19 through a program waiver, during the remainder of
20 such program waiver period, so long as the indi-
21 vidual continues to meet the conditions for eligibility
22 under such program waiver, shall be eligible for
23 medical assistance under the State plan under title
24 XIX and, with respect to medical assistance to such
25 individuals, the enhanced FMAP under title XXI

1 shall be substituted for the Federal medical assist-
2 ance percentage (FMAP) for purposes of section
3 1903(a)(1).

4 “(3) GUIDANCE.—The Secretary shall provide
5 guidance and assistance to the States in carrying
6 out this section.

7 “(c) MEDICAID; SCHIP TRANSITION.—Notwith-
8 standing any other provision of law, as of the All Healthy
9 Children Program effective date, any all healthy children
10 eligible individual shall not be eligible for medical assist-
11 ance under title XIX or child health assistance under title
12 XXI and no Federal financial participation shall be avail-
13 able under either such title with respect to such individ-
14 uals.”.

15 **SEC. 3. COMMISSION ON CHILDREN’S HEALTH COVERAGE.**

16 (a) ESTABLISHMENT.—There is hereby established a
17 Commission on Children’s Health Coverage (in this sec-
18 tion referred to as the “Commission”).

19 (b) COMPOSITION.—

20 (1) IN GENERAL.—The Commission shall be
21 composed of the following:

22 (A) Four members, one each appointed by
23 the majority and minority leaders of the House
24 of Representatives and the majority and minor-
25 ity leaders of the Senate.

1 (B) One member appointed by the Sec-
2 retary of Health and Human Services.

3 (C) Two members, one each appointed by
4 the American Academy of Pediatrics and by the
5 Institute of Medicine of the National Academies
6 of Science.

7 (D) One member appointed by the Sec-
8 retary of Health and Human Services who is a
9 representative of parents of children with spe-
10 cial health care needs.

11 (E) One member appointed by the Sec-
12 retary of Health and Human Services who is a
13 representative of a children's advocacy group.

14 (F) Two non-voting advisory members ap-
15 pointed by the National Governors Association.

16 Appointment of members of the Commission shall
17 first be made not later than 60 days after the date
18 of the enactment of this Act.

19 (2) TERMS.—The term of each member of the
20 Commission shall be for 2 years. A vacancy shall be
21 filled in the same manner as the original appoint-
22 ment but the member so appointed shall serve for
23 the remainder of the term of the vacating member.

24 (3) COMPENSATION.—Members of the Commis-
25 sion who are not Federal officers or employees shall

1 be entitled to compensation, including travel time, at
2 a per diem rate equivalent of rate for level IV of Ex-
3 ecutive Schedule under section 5315 of title 5,
4 United States Code, and for travel expense reim-
5 bursement, at rates authorized for employees of
6 agencies under such title.

7 (4) CHAIR.—The Secretary shall designate a
8 member to serve as Chair of the Commission.

9 (5) MEETINGS.—The Commission shall meet at
10 the call of the Chair.

11 (6) USE OF COMMITTEES.—The Commission
12 may establish committees if necessary to carry out
13 its duties.

14 (c) SUPERMAJORITY REQUIREMENT FOR ACTIONS.—
15 Commission actions must be approved by at least six of
16 the members described in subparagraphs (A) through (E)
17 of subsection (b)(1).

18 (d) ADMINISTRATION.—

19 (1) POWERS.—

20 (A) HEARINGS.—The Commission may
21 hold such hearings, sit and act at such times
22 and places, take such testimony, and receive
23 such evidence as the Commission considers ad-
24 visable to carry out this section.

1 (B) INFORMATION FROM FEDERAL AGEN-
2 CIES.—The Commission may secure directly
3 from any Federal department or agency such
4 information as the Commission considers nec-
5 essary to carry out this section. Upon request
6 of the Chairperson of the Commission, the head
7 of such department or agency shall furnish such
8 information to the Commission.

9 (C) POSTAL SERVICES.—The Commission
10 may use the United States mails in the same
11 manner and under the same conditions as other
12 departments and agencies of the Federal Gov-
13 ernment.

14 (D) GIFTS.—The Commission may accept,
15 use, and dispose of gifts or donations of serv-
16 ices or property.

17 (2) COMPENSATION.—While serving on the
18 business of the Commission (including travel time),
19 a member of the Commission who is not a Federal
20 officer or employee shall be entitled to compensation
21 at the per diem equivalent of the rate provided for
22 level IV of the Executive Schedule under section
23 5315 of title 5, United States Code, and while so
24 serving away from home and the member's regular
25 place of business, any member may be allowed travel

1 expenses, as authorized by the chairperson of the
2 Commission. All members of the Commission who
3 are officers or employees of the United States shall
4 serve without compensation in addition to that re-
5 ceived for their services as officers or employees of
6 the United States.

7 (3) STAFF.—

8 (A) IN GENERAL.—The Chair of the Com-
9 mission may, without regard to the civil service
10 laws and regulations, appoint and terminate—

11 (i) subject to the approval of a major-
12 ity of the Commission, an executive direc-
13 tor; and

14 (ii) such other additional personnel as
15 may be necessary to enable the Commis-
16 sion to perform its duties.

17 (B) STAFF COMPENSATION.—The Chair of
18 the Commission may fix the compensation of
19 the executive director and other personnel with-
20 out regard to chapter 51 and subchapter III of
21 chapter 53 of title 5, United States Code, relat-
22 ing to classification of positions and General
23 Schedule pay rates, except that the rate of pay
24 for the executive director and other personnel
25 may not exceed the rate payable for level V of

1 the Executive Schedule under section 5316 of
2 such title.

3 (C) DETAIL OF GOVERNMENT EMPLOY-
4 EES.—Any Federal Government employee may
5 be detailed to the Commission without reim-
6 bursement, and such detail shall be without
7 interruption or loss of civil service status or
8 privilege.

9 (D) PROCUREMENT OF TEMPORARY AND
10 INTERMITTENT SERVICES.—The Chair of the
11 Commission may procure temporary and inter-
12 mittent services under section 3109(b) of title
13 5, United States Code, at rates for individuals
14 which do not exceed the daily equivalent of the
15 annual rate of basic pay prescribed for level V
16 of the Executive Schedule under section 5316
17 of such title.

18 (e) REIMBURSEMENT OF COSTS.—The Secretary
19 shall provide, from general operating funds of the Depart-
20 ment of Health and Human Services, the Commission
21 with such funds and support as may be necessary to sup-
22 port its activities.

23 (f) ANNUAL REPORTS.—Beginning one year after the
24 All Healthy Children Program effective date under section
25 2207(a) of the Social Security Act, the Commission shall

1 transmit to Congress an annual report that evaluates the
2 status of children’s health coverage in the United States,
3 including an evaluation of the implementation of title
4 XXII of the such Act and recommendations for policy im-
5 provements at the State and national levels and in the pri-
6 vate sector to improve such coverage.

7 (g) SUBMISSION OF LEGISLATIVE PROPOSAL FOR
8 UNIVERSAL COVERAGE OF CHILDREN.—Not later than
9 three years after the date of the enactment of this Act,
10 the Commission shall submit to Congress a report that
11 contains a legislative proposal that would assure health
12 benefits coverage for all children in the United States.
13 Such proposal may include a requirement that parents ob-
14 tain coverage for their children or that employers fund
15 coverage for children of their workers. The proposal shall
16 provide for the following:

17 (1) Coverage shall include all medically nec-
18 essary care for all children.

19 (2) Enrollment shall be simple and seamless.

20 (3) Unnecessary costs shall be avoided.

21 (4) Quality, access, and continuity of care shall
22 be promoted.

○