

111TH CONGRESS  
1ST SESSION

# S. 974

To amend title XIX of the Social Security Act to require the Secretary of Health and Human Services to make certain de-identified information collected under the Medicaid Statistical Information System publicly available on the Internet.

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IN THE SENATE OF THE UNITED STATES

MAY 5, 2009

Mr. MARTINEZ introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend title XIX of the Social Security Act to require the Secretary of Health and Human Services to make certain de-identified information collected under the Medicaid Statistical Information System publicly available on the Internet.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Medicaid Account-  
5 ability through Transparency Act of 2009”.

1 **SEC. 2. MEDICAID INTERNET-BASED TRANSPARENCY PRO-**  
2 **GRAM.**

3 (a) IN GENERAL.—Title XIX of the Social Security  
4 Act, as amended by section 203(d) of the Children’s  
5 Health Insurance Program Reauthorization Act of 2009  
6 (Public Law 111–3), is amended by adding at the end the  
7 following new section:

8 **“SEC. 1943. INTERNET-BASED TRANSPARENCY PROGRAM.**

9 “(a) IN GENERAL.—Not later than one year after the  
10 date of the enactment of this section, the Secretary shall  
11 implement a program under which the Secretary shall  
12 make available through the public Internet website of the  
13 Department of Health and Human Services non-aggre-  
14 gated information on individuals collected under the Med-  
15 icaid Statistical Information System described in section  
16 1903(r)(1)(F) insofar as such information has been de-  
17 identified in accordance with regulations promulgated pur-  
18 suant to section 264(c) of the Health Insurance Port-  
19 ability and Accountability Act of 1996. In implementing  
20 such program, the Secretary shall ensure that—

21 “(1) the information made so available is in a  
22 format that is easily accessible, useable, and under-  
23 standable to the public, including individuals inter-  
24 ested in improving the quality of care provided to in-  
25 dividuals eligible for items and services under this  
26 title, researchers, health care providers, and individ-

1 uals interested in reducing the prevalence of waste  
2 and fraud under this title;

3 “(2) the information made so available is as  
4 current as deemed practical by the Secretary and  
5 shall be updated at least once per calendar quarter;

6 “(3) to the extent feasible—

7 “(A) all hospitals, nursing homes, clinics,  
8 and large physician practices included in such  
9 information that are identifiable by name to in-  
10 dividuals who access the information through  
11 such program; and

12 “(B) all individual health care providers  
13 not described in subparagraph (A), including  
14 physicians and dentists, are identifiable by  
15 unique identifier numbers that are disclosed  
16 only to appropriate officials within the Depart-  
17 ment of Health and Human Services and the  
18 State involved; and

19 “(4) the Secretary periodically solicits com-  
20 ments from a sampling of individuals who access the  
21 information through such program on how to best  
22 improve the utility of the program.

23 “(b) USE OF CONTRACTOR.—For purposes of imple-  
24 menting the program under subsection (a) and ensuring  
25 the information made available through such program is

1 periodically updated, the Secretary may select and enter  
2 into a contract with a public or private entity meeting such  
3 criteria and qualifications as the Secretary determines ap-  
4 propriate.

5       “(c) ANNUAL REPORTS.—Not later than 2 years  
6 after the date of the enactment of this section and annu-  
7 ally thereafter, the Secretary shall submit to the Com-  
8 mittee on Energy and Commerce of the House of Rep-  
9 resentatives and the Committee on Finance of the Senate  
10 a report on the progress of the program under subsection  
11 (a), including on the extent to which information made  
12 available through the program is accessed and the extent  
13 to which comments received under subsection (a)(4) were  
14 used during the year involved to improve the utility of the  
15 program.

16       “(d) INCENTIVES FOR COMPLIANCE WITH EXISTING  
17 STATE REQUIREMENTS.—If the Secretary determines  
18 that one of the 50 States or the District of Columbia has  
19 not fully and properly complied with section  
20 1903(r)(1)(F), including any encounter data require-  
21 ments, for any period beginning after the date that is one  
22 year after the date of the enactment of this section, the  
23 Secretary shall reduce the amount paid to the State or  
24 the District of Columbia, respectively, under section

1 1903(a) by \$25,000 for each such day. Such reduction  
2 shall be made unless—

3 “(1) the State or the District of Columbia, re-  
4 spectively, demonstrates to the Secretary’s satisfac-  
5 tion that the State made a good faith effort to com-  
6 ply;

7 “(2) not later than 60 days after the date of a  
8 finding that the State or the District of Columbia,  
9 respectively, has not fully and properly complied  
10 with section 1903(r)(1)(F), the State or the District  
11 of Columbia, respectively, submits to the Secretary  
12 (and the Secretary approves) a corrective action plan  
13 to implement such a program; and

14 “(3) not later than 12 months after the date of  
15 such submission (and approval), the State or the  
16 District of Columbia, respectively, fulfills the terms  
17 of such corrective action plan.

18 The Secretary shall transfer the amount of any reduction  
19 under this subsection to the fund established under sub-  
20 section (e).

21 “(e) FUNDING.—

22 “(1) MEDICAID INTERNET-BASED TRANS-  
23 PARENCY FUND.—The Secretary shall establish a  
24 fund to be known as the ‘Medicaid Internet-based  
25 Transparency Fund’, consisting of such amounts as

1        may be transferred to such Fund under subsection  
2        (d) and such amounts as may be appropriated to  
3        such Fund under paragraph (3).

4            “(2) EXPENDITURES FROM FUND.—Amounts in  
5        the Medicaid Internet-based Transparency Fund  
6        shall be available to the Secretary only for purposes  
7        of carrying out this section.

8            “(3) AUTHORIZATION OF APPROPRIATIONS.—  
9        There is authorized to be appropriated to the Med-  
10        icaid Internet-based Transparency Fund  
11        \$10,000,000 for fiscal year 2009, to remain avail-  
12        able until expended.”.

13        (b) FEASIBILITY REPORT ON INCLUDING SCHIP IN-  
14        FORMATION IN INTERNET-BASED TRANSPARENCY PRO-  
15        GRAM.—Not later than 2 years after the date of the enact-  
16        ment of this Act, the Secretary of Health and Human  
17        Services shall submit to the Committee on Energy and  
18        Commerce of the House of Representative and the Com-  
19        mittee on Finance of the Senate a report on the feasibility,  
20        potential costs, and potential benefits of making publicly  
21        available through an Internet-based program de-identified  
22        payment and patient encounter information for items and  
23        services furnished under title XXI of the Social Security  
24        Act which would not otherwise be included in the informa-  
25        tion collected under the Medicaid Statistical Information

- 1 System described in section 1903(r)(1)(F) of such Act and
- 2 made available under section 1943 of such Act, as added
- 3 by subsection (a).

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