

113TH CONGRESS
2^D SESSION

H. R. 4605

To amend title XIX of the Social Security Act to provide States an option to cover a children’s program of all-inclusive coordinated care (ChiPACC) under the Medicaid program.

IN THE HOUSE OF REPRESENTATIVES

MAY 8, 2014

Mrs. ELLMERS (for herself and Mr. MORAN) 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 provide States an option to cover a children’s program of all-inclusive coordinated care (ChiPACC) under the Medicaid program.

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 “ChiPACC Act of
5 2014”.

1 **SEC. 2. OPTIONAL MEDICAID COVERAGE OF CHILDREN'S**
 2 **PROGRAM OF ALL-INCLUSIVE COORDINATED**
 3 **CARE (CHIPACC).**

4 (a) IN GENERAL.—Section 1905(a) of the Social Se-
 5 curity Act (42 U.S.C. 1396d(a)) is amended—

6 (1) by striking “and” at the end of paragraph
 7 (28);

8 (2) by redesignating paragraph (29) as para-
 9 graph (30); and

10 (3) by inserting after paragraph (28) the fol-
 11 lowing new paragraph:

12 “(29) services furnished under a children’s pro-
 13 gram of all-inclusive coordinated care (ChiPACC)
 14 under section 1944; and”.

15 (b) CHILDREN’S PROGRAM OF ALL-INCLUSIVE CO-
 16 ORDINATED CARE.—Title XIX of such Act is further
 17 amended by inserting after section 1943 (42 U.S.C.
 18 1396w–3) the following new section:

19 “CHILDREN’S PROGRAM OF ALL-INCLUSIVE
 20 COORDINATED CARE

21 “SEC. 1944.

22 “(a) STATE OPTION.—

23 “(1) IN GENERAL.—A State may elect to pro-
 24 vide medical assistance under this section to
 25 ChiPACC eligible individuals who are eligible for
 26 medical assistance under the State plan under this

1 title and who choose to enroll in a children’s pro-
2 gram of all-inclusive coordinated care. In the case of
3 an individual who chooses to enroll in such a pro-
4 gram pursuant to such an election—

5 “(A) the individual shall receive benefits
6 under the State plan solely through such pro-
7 gram; and

8 “(B) the health care providers furnishing
9 services under such program shall receive pay-
10 ment for providing such services in accordance
11 with the terms of such program.

12 “(2) NUMERICAL AND GEOGRAPHICAL LIMITA-
13 TIONS PERMITTED.—A State may establish—

14 “(A) a numerical limit on the number of
15 individuals who may be enrolled in the State’s
16 ChiPACC; and

17 “(B) geographic limitations on the service
18 areas for a ChiPACC.

19 “(b) CHIPACC AND OTHER TERMS DEFINED.—In
20 this section:

21 “(1) CHILDREN’S PROGRAM OF ALL-INCLUSIVE
22 COORDINATED CARE; CHIPACC.—The terms ‘chil-
23 dren’s program of all-inclusive coordinated care’ and
24 ‘ChiPACC’ mean a program of coordinated care for
25 ChiPACC eligible children that is established by a

1 State under this section and meets the following re-
2 quirements:

3 “(A) OPERATION.—The program is admin-
4 istered by a single State agency. Such agency
5 may provide for the operation of the program
6 through arrangements between one or more
7 other entities, such as a ChiPACC coordinator
8 (as defined in paragraph (3)) and such agency.

9 “(B) COMPREHENSIVE BENEFITS.—

10 “(i) IN GENERAL.—The program pro-
11 vides comprehensive health care items and
12 services to ChiPACC eligible individuals
13 (as defined in paragraph (2)) in accord-
14 ance with this section and regulations.

15 “(ii) SCOPE AND PLAN FOR SERV-
16 ICES.—Such items and services shall—

17 “(I) include items and services
18 described in subsection (c)(1)(A) to
19 the extent such items and services are
20 appropriate for the individual; and

21 “(II) be provided consistent with
22 a comprehensive care plan developed
23 by an interdisciplinary health profes-
24 sional team (as defined in paragraph
25 (4)).

1 “(iii) QUALIFICATIONS OF PRO-
2 VIDERS.—Such items and services are pro-
3 vided through health care providers that—

4 “(I) meet such certification or
5 other quality requirements as may be
6 necessary to participate in the pro-
7 gram of medical assistance under this
8 title or in the program under title
9 XVIII; and

10 “(II) maintain records on
11 ChiPACC eligible individuals enrolled
12 in the program and to whom the pro-
13 vider furnishes services, reflecting
14 both the specific care and services fur-
15 nished by the provider and the rela-
16 tionship of those services to the com-
17 prehensive plan of care for that indi-
18 vidual and to the delivery of other
19 services to the individual through the
20 program.

21 “(2) CHIPACC ELIGIBLE INDIVIDUAL.—The
22 term ‘ChiPACC eligible individual’ means, with re-
23 spect to a ChiPACC, an individual—

24 “(A) who, at the time of enrollment in the
25 ChiPACC, is a child (as defined under the State

1 plan for this purpose) and who is not older than
2 such age as the State may specify;

3 “(B) who resides in the service area of the
4 ChiPACC;

5 “(C) who is eligible for medical assistance
6 under the State plan without regard to this sec-
7 tion (or, but for enrollment in a ChiPACC
8 would, based on the individual’s illness or
9 health condition or the projected cost of treat-
10 ment required for such illness or condition, be-
11 come so eligible);

12 “(D) who suffers from a serious illness or
13 health condition;

14 “(E) for whom there is a reasonable likeli-
15 hood that the individual’s life will be threatened
16 by such illness or condition; and

17 “(F) whose health status is expected to de-
18 cline because of such illness or condition before
19 attaining full adulthood (as defined under the
20 State plan).

21 The Secretary may waive the application of subpara-
22 graph (C) with respect to eligibility for medical as-
23 sistance under the State plan without regard to this
24 section in the case of individuals if the State dem-
25 onstrates to the satisfaction of the Secretary that

1 the sum of the additional expenditures under this
2 title resulting from such waiver in a fiscal year will
3 not exceed the aggregate savings in expenditures
4 otherwise resulting from the implementation of this
5 section in the fiscal year.

6 “(3) CHIPACC COORDINATOR.—The term
7 ‘ChiPACC coordinator’ means, with respect to a
8 ChiPACC, an entity (which may be the State admin-
9 istering agency or another entity under an arrange-
10 ment with such an agency) that directs, supervises,
11 and assures the coordination of comprehensive serv-
12 ices to ChiPACC eligible individuals enrolled in the
13 ChiPACC consistent with the following:

14 “(A) The entity must assure the direct and
15 continuous involvement of an interdisciplinary
16 health professional team in managing and co-
17 ordinating the provision of care and services
18 within the coordinator’s responsibility to each
19 such enrolled individual.

20 “(B) The entity must include on its staff,
21 or otherwise arrange for the provision of serv-
22 ices, through contracts or otherwise, of each of
23 the types of the health care professionals and
24 other service providers required to provide the

1 items and services required under subsection
2 (c)(1)(A).

3 “(4) INTERDISCIPLINARY HEALTH PROFES-
4 SIONAL TEAM.—The term ‘interdisciplinary health
5 professional team’ means, with respect to a
6 ChiPACC, a group of health professionals that—

7 “(A) includes at least—

8 “(i) one physician (as defined in sec-
9 tion 1861(r));

10 “(ii) one registered professional nurse;
11 and

12 “(iii) one social worker, pastoral coun-
13 selor, or other counselor;

14 “(B) develops a comprehensive plan of care
15 for ChiPACC eligible individuals enrolled with
16 the ChiPACC and furnishes, or supervises the
17 provision of, care and services described in sub-
18 section (c)(1) to an individual enrolled in the
19 ChiPACC; and

20 “(C) through direct action and communica-
21 tion with health care providers furnishing serv-
22 ices under the ChiPACC, on behalf of or under
23 the direction or supervision of a State admin-
24 istering agency or a ChiPACC coordinator, co-
25 ordinates the care and services furnished to

1 such enrollees in a manner that takes into ac-
2 count the best interests of each such enrollee
3 and the enrollee’s family.

4 “(5) STATE ADMINISTERING AGENCY.—The
5 term ‘State administering agency’ means, with re-
6 spect to the operation of a ChiPACC in a State, the
7 agency of that State (which may be the single agen-
8 cy responsible for administration of the State plan
9 under this title in the State) responsible for the im-
10 plementation, either directly or through arrange-
11 ments with one or more ChiPACC coordinators, of
12 the ChiPACC under this section in the State.

13 “(6) REGULATIONS.—Except as otherwise pro-
14 vided, the term ‘regulations’ refers to interim final
15 or final regulations promulgated under subsection
16 (f).

17 “(c) SCOPE OF BENEFITS; BENEFICIARY SAFE-
18 GUARDS.—

19 “(1) IN GENERAL.—Under a ChiPACC of a
20 State, the State administering agency shall assure
21 that—

22 “(A) an individual enrolled in the
23 ChiPACC is covered for, at a minimum—

24 “(i) all items and services that are
25 covered for any individual under this title,

1 and all additional items and services speci-
2 fied in regulations, but without any limita-
3 tion or condition as to amount, duration,
4 or scope;

5 “(ii) access to covered items and serv-
6 ices, as needed, 24 hours per day, every
7 day of the year; and

8 “(iii) services that include comprehen-
9 sive, integrated palliative and curative
10 services, expressive therapy and counseling,
11 and counseling and anticipatory bereave-
12 ment services to immediate family mem-
13 bers of the ChiPACC eligible individual, as
14 part of the services to the eligible indi-
15 vidual;

16 “(B) provision of such services to such in-
17 dividuals through a comprehensive and inter-
18 disciplinary health and social services delivery
19 system which integrates, as appropriate to the
20 individual recipient of services, acute and long-
21 term care services, palliative, respite and cura-
22 tive treatment, counseling and support for fam-
23 ily members who are caretakers or otherwise
24 relevant to appropriate care and treatment of
25 the individual, and such other services as may

1 be furnished pursuant to regulations and the
2 provisions of the applicable State plan; and

3 “(C) the ChiPACC is operated, and the
4 services to enrolled individuals are furnished, in
5 a manner that is consistent with Standards of
6 Care and Practice Guidelines developed by Chil-
7 dren’s Hospice International for a Program of
8 All-Inclusive Care for Children (as in effect as
9 of the date of the enactment of this section or
10 such later date as the Secretary may specify).

11 “(2) QUALITY ASSURANCE; PATIENT SAFE-
12 GUARDS.—With respect to a ChiPACC, the State
13 administering agency shall assure all of the fol-
14 lowing:

15 “(A) The provision of services under the
16 ChiPACC meets all applicable Federal and
17 State guidelines for quality assurance.

18 “(B) Necessary safeguards have been es-
19 tablished to protect the health and welfare of
20 individuals enrolled in the ChiPACC under this
21 section.

22 “(C) There is a written plan of quality as-
23 surance, and procedures implementing such
24 plan, in accordance with regulations.

1 “(D) Written safeguards of the rights of
2 individuals enrolled in the ChiPACC, including
3 a patient bill of rights and procedures for griev-
4 ances and appeals, in accordance with regula-
5 tions and with other requirements of this title
6 and Federal and State law designed for the pro-
7 tection of patients.

8 “(3) COST-SHARING WAIVER.—A State admin-
9 istering agency may, in the case of a ChiPACC eligi-
10 ble individual enrolled in the State’s ChiPACC,
11 waive deductibles, copayments, coinsurance, or other
12 cost-sharing that would otherwise apply under the
13 State plan under this title.

14 “(d) ELIGIBILITY DETERMINATIONS.—

15 “(1) IN GENERAL.—In determining whether an
16 individual is a ChiPACC eligible individual, the
17 State administering agency shall conduct an inde-
18 pendent evaluation and assessment, which shall in-
19 clude at least the following:

20 “(A) Where appropriate, consultation with
21 the individual’s family, guardian, or other re-
22 sponsible individual.

23 “(B) Consultation with appropriate treat-
24 ing and consulting health and support profes-
25 sionals caring for the individual.

1 “(C) An examination of the individual’s
2 relevant history, medical records, and care and
3 support needs, guided by best practices and re-
4 search on effective strategies that result in im-
5 proved health and quality of life outcomes.

6 “(2) CERTIFICATION.—Upon completion of the
7 evaluation and assessment described in paragraph
8 (1), an individual meeting the criteria of a ChiPACC
9 eligible individual shall be certified as such, pursuant
10 to procedures specified in regulations and the appli-
11 cable State plan.

12 “(3) CONTINUATION OF ELIGIBILITY.—An indi-
13 vidual who is a ChiPACC eligible individual may be
14 deemed to continue to be such an individual notwith-
15 standing a determination that the individual no
16 longer meets the requirements of subparagraphs
17 (D), (E), and (F) of subsection (b)(2), if, in accord-
18 ance with regulations, it is reasonably foreseeable
19 that, if the individual is not furnished services under
20 this section, the severity or impact of the individual’s
21 illness or condition would increase to a degree that
22 the individual would again meet such requirement
23 before the individual attains adulthood or within the
24 succeeding 12-month period.

25 “(4) ENROLLMENT AND DISENROLLMENT.—

1 “(A) VOLUNTARY DISENROLLMENT AT ANY
2 TIME.—The enrollment and disenrollment of
3 ChiPACC eligible individuals in a ChiPACC
4 shall be pursuant to procedures specified in reg-
5 ulations and the State plan, but shall permit an
6 enrollee, or an enrollee’s guardian or other legal
7 representative, acting on behalf of an enrollee,
8 to voluntarily disenroll for any reason at any
9 time.

10 “(B) APPEALS.—

11 “(i) UPON APPLICATION.—If an indi-
12 vidual is determined not to be a ChiPACC
13 eligible individual upon application, then
14 the State plan under this title shall allow
15 for an appeal of such determination. Dur-
16 ing the course of such appeal, the indi-
17 vidual shall not begin to receive benefits
18 through the ChiPACC unless and until the
19 appeal is resolved favorably for the indi-
20 vidual.

21 “(ii) SUBSEQUENTLY.—If an indi-
22 vidual is determined not to be a ChiPACC
23 eligible individual at any time after enroll-
24 ment in a ChiPACC, or is otherwise
25 disenrolled from a ChiPACC, then the

1 State plan under this title shall allow for
2 an appeal of such determination. During
3 the course of such appeal, the individual
4 shall continue to be enrolled in the
5 ChiPACC and to receive benefits through
6 the ChiPACC.

7 “(5) CONSTRUCTION.—The fact that a
8 ChiPACC eligible individual is enrolled under a
9 ChiPACC shall not be construed as adversely affect-
10 ing the eligibility of the individual’s parents or care-
11 taker relatives for medical assistance under this
12 title.

13 “(e) PAYMENTS TO HEALTH CARE PROVIDERS
14 UNDER CHIPACC.—

15 “(1) IN GENERAL.—Payments to health care
16 providers furnishing items and services under a
17 ChiPACC shall be paid on a capitated or fee-for-
18 service basis, according to regulations and as speci-
19 fied in the applicable State plan consistent with this
20 subsection.

21 “(2) USE OF INTEGRATED, BUDGET-NEUTRAL
22 FINANCING.—Payments under this subsection shall
23 be made in amounts that are designed, according to
24 regulations, to ensure that aggregate payments
25 under this section for individuals enrolled in a

1 ChiPACC, whether made on a capitated basis or fee-
2 for-service basis, do not exceed on average the ag-
3 gregate payments that would have been paid under
4 the State plan for such individuals if they were not
5 so enrolled, taking into account the comparative case
6 mix of ChiPACC enrollees and such other factors as
7 the Secretary determines to be appropriate.

8 “(f) REGULATIONS.—

9 “(1) IN GENERAL.—The Secretary shall issue
10 such regulations, including interim final regulations,
11 as may be necessary to carry out this section.

12 “(2) CONTINUATION OF MODIFICATIONS OR
13 WAIVERS OPERATIONAL REQUIREMENTS.—If a State
14 agency administering a program of all-inclusive co-
15 ordinated care for seriously ill children approved
16 pursuant to waiver authority under section 1115 or
17 1915(e) has contractual or other operating arrange-
18 ments relating to such program which are not other-
19 wise recognized in regulation and which were in ef-
20 fect as of the date of the enactment of this section,
21 the Secretary shall permit the agency to continue
22 such arrangements so long as such arrangements
23 are found by the Secretary to be reasonably con-
24 sistent with the objectives of a ChiPACC.

1 “(3) CONSTRUCTION.—Nothing in this sub-
2 section shall be construed as preventing the Sec-
3 retary from including in regulations provisions to en-
4 sure the health and safety of individuals enrolled in
5 a ChiPACC under this section that are in addition
6 to those otherwise provided under this section.

7 “(g) APPLICABILITY OF REQUIREMENTS.—With re-
8 spect to carrying out a ChiPACC under this section, the
9 following requirements of this title (and regulations relat-
10 ing to such requirements) shall not apply:

11 “(1) Section 1902(a)(1), relating to any re-
12 quirement that ChiPACCs or ChiPACC services be
13 provided in all areas of a State.

14 “(2) Section 1902(a)(10), insofar as such sec-
15 tion relates to comparability of services among dif-
16 ferent population groups.

17 “(3) Sections 1902(a)(23) and 1915(b)(4), re-
18 lating to freedom of choice of providers under a
19 ChiPACC.

20 “(4) Section 1903(m)(2)(A), insofar as it re-
21 stricts a ChiPACC provider from receiving prepaid
22 capitation payments.

23 “(5) Section 1905(o), limiting the scope of hos-
24 pice care.

1 “(6) Such other provisions of this title that the
2 Secretary determines are inapplicable to carrying out
3 a ChiPACC under this section.”.

4 (c) CONTINUED DEMONSTRATION PROJECT AU-
5 THORITY.—Section 1944 of the Social Security Act, as
6 added by subsection (b), shall not be construed as pre-
7 venting a State from developing, or the Secretary of
8 Health and Human Services from approving, a project
9 similar to or related to ChiPACCs (as described in such
10 section) under existing authorities, including demonstra-
11 tion project and waiver authorities under title XIX of such
12 Act or other provisions of such Act.

13 (d) OTHER CONFORMING AMENDMENTS.—Section
14 1905(r)(5) of such Act (42 U.S.C. 1396d(r)(5)) is amend-
15 ed by inserting before the period at the end the following:
16 “, other than items and services that are only covered as
17 section 1944 ChiPACC benefits”.

18 (e) TIMELY ISSUANCE OF REGULATIONS; EFFECTIVE
19 DATE.—The Secretary of Health and Human Services
20 shall promulgate regulations to carry out the amendments
21 made by this section in a timely manner, so as to assure
22 that it will be feasible for State agencies and entities to
23 establish and operate ChiPACCs for periods beginning not
24 later than 1 year after the date of the enactment of this
25 Act.

1 (f) FUNDS FOR TECHNICAL ASSISTANCE.—The Sec-
2 retary is authorized to expend funds appropriated to carry
3 out title XIX of the Social Security Act to make grants
4 to, or enter into contracts with, private entities or organi-
5 zations that are qualified to provide technical or other as-
6 sistance in developing and establishing ChiPACCs within
7 the States, except that—

8 (1) such funds may be expended solely for the
9 purposes of implementing this section; and

10 (2) a private entity or organization in receipt of
11 such funds must have demonstrated expertise and a
12 minimum of 5 years of experience in working with
13 or assisting in the establishment of programs for
14 comprehensive care of children meeting the descrip-
15 tion of ChiPACC eligible individuals under section
16 1944(b) of the Social Security Act, as added by sub-
17 section (b).

○