To provide targeted funding for States and other eligible entities through the Social Services Block Grant program to address the increased burden that maintaining the health and hygiene of infants and toddlers, medically complex children, and low-income adults or adults with disabilities who rely on adult incontinence materials and supplies place on families in need, the resultant adverse health effects on children and families, and the limited child care options available for infants and toddlers who lack sufficient diapers and diapering supplies, and for other purposes.
Be it enacted by the Senate and House of Representa-
tives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “End Diaper Need Act
of 2021”.

SEC. 2. TARGETED FUNDING FOR DIAPER ASSISTANCE (IN-
CLUDING DIAPERING SUPPLIES AND ADULT
INCONTINENCE MATERIALS AND SUPPLIES)
THROUGH THE SOCIAL SERVICES BLOCK
GRANT PROGRAM.

(a) INCREASE IN FUNDING FOR SOCIAL SERVICES
BLOCK GRANT PROGRAM.—

(1) IN GENERAL.—The amount specified in
subsection (e) of section 2003 of the Social Security
Act (42 U.S.C. 1397b) for purposes of subsections
(a) and (b) of such section is deemed to be
$1,900,000,000 for each of fiscal years 2022
through 2025, of which, the amount equal to
$200,000,000, reduced by the amounts reserved
under paragraph (2)(B) for each such fiscal year,
shall be obligated by States in accordance with sub-
section (b).

(2) APPROPRIATION.—

(A) IN GENERAL.—Out of any money in
the Treasury of the United States not otherwise
appropriated, there is appropriated $200,000,000 for each of fiscal years 2022 through 2025, to carry out this section.

(B) Reservations.—

(i) Purposes.—The Secretary shall reserve, from the amount appropriated under subparagraph (A) to carry out this section—

(I) for each of fiscal years 2022 through 2025, not more than 2 percent of the amount appropriated for the fiscal year for purposes of entering into an agreement with a national entity described in subparagraph (C) to assist in providing technical assistance and training, to support effective policy, practice, research, and cross-system collaboration among grantees and subgrantees, and to assist in the administration of the program described in this section; and

(II) for fiscal year 2022, an amount, not to exceed $2,000,000, for purposes of conducting an evaluation under subsection (d).
(ii) No State entitlement to re-
erved funds.—The State entitlement
under section 2002(a) of the Social Secu-
ity Act (42 U.S.C. 1397a(a)) shall not
apply to the amounts reserved under clause
(i).

(C) National entity described.—A na-
tional entity described in this subparagraph is
a nonprofit organization described in section
501(c)(3) of the Internal Revenue Code of 1986
and exempt from taxation under section 501(a)
of such Code, that—

(i) has experience in more than 1
State in the area of—

(I) community distributions of
basic need services, including experi-
ence collecting, warehousing, and dis-
tributing basic necessities such as dia-
pers, food, or menstrual products;

(II) child care;

(III) child development activities
in low-income communities; or

(IV) motherhood, fatherhood, or
parent education efforts serving low-
income parents of young children;
(ii) demonstrates competency to implement a project, provide fiscal accountability, collect data, and prepare reports and other necessary documentation; and

(iii) demonstrates a willingness to share information with researchers, practitioners, and other interested parties.

(b) Rules Governing Use of Additional Funds.—

(1) In General.—Funds are used in accordance with this subsection if—

(A) the State, in consultation with relevant stakeholders, including agencies, professional associations, and nonprofit organizations, distributes the funds to eligible entities to—

(i) decrease the need for diapers and diapering supplies and adult incontinence materials and supplies in low-income families and meet such unmet needs of infants and toddlers, medically complex children, and low-income adults and adults with disabilities in such families through—

(I) the distribution of free diapers and diapering supplies, medically
necessary diapers, and adult incontinence materials and supplies;

(II) community outreach to assist in participation in existing diaper distribution programs or programs that distribute medically necessary diapers or adult incontinence materials and supplies; or

(III) improving access to diapers and diapering supplies, medically necessary diapers, and adult incontinence materials and supplies; and

(ii) increase the ability of communities and low-income families in such communities to provide for the need for diapers and diapering supplies, medically necessary diapers, and adult continence materials and supplies, of infants and toddlers, medically complex children, and low-income adults and adults with disabilities;

(B) the funds are used subject to the limitations in section 2005 of the Social Security Act (42 U.S.C. 1397d);

(C) the funds are used to supplement, not supplant, State general revenue funds provided
for the purposes described in subparagraph (A); and

(D) the funds are not used for costs that are reimbursable by the Federal Emergency Management Agency, under a contract for insurance, or by self-insurance.

(2) ALLOWABLE USES BY ELIGIBLE ENTITIES.—An eligible entity receiving funds made available under subsection (a) shall use the funds for any of the following:

(A) To pay for the purchase and distribution of diapers and diapering supplies, medically necessary diapers, and funding diaper (including medically necessary diapers) distribution that serves low-income families with—

(i) 1 or more children 3 years of age or younger; or

(ii) 1 or more medically complex children.

(B) To pay for the purchase and distribution of adult incontinence materials and supplies and funding distribution of such materials and supplies that serves low-income families with 1 or more low-income adults or adults with
disabilities who rely on adult incontinence materials and supplies.

(C) To integrate activities carried out under subparagraph (A) with other basic needs assistance programs serving eligible children and their families, including the following:

(i) Programs funded by the temporary assistance for needy families program under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), including the State maintenance of effort provisions of such program.

(ii) Programs designed to support the health of eligible children, such as the Children’s Health Insurance Program under title XXI of the Social Security Act, the Medicaid program under title XIX of such Act, or State funded health care programs.

(iii) Programs funded through the special supplemental nutrition program for women, infants, and children under section 17 of the Child Nutrition Act of 1966.

(iv) Programs that offer early home visiting services, including the maternal, infant, and early childhood home visiting
program (including the Tribal home visiting program) under section 511 of the Social Security Act (42 U.S.C. 711).

(v) Programs to provide improved and affordable access to child care, including programs funded through the Child Care and Development Fund, the temporary assistance for needy families program under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), or a State-funded program.

(3) AVAILABILITY OF FUNDS.—

(A) FUNDS DISTRIBUTED TO ELIGIBLE ENTITIES.—Funds made available under subsection (a) that are distributed to an eligible entity by a State for a fiscal year may be expended by the eligible entity only in such fiscal year or the succeeding fiscal year.

(B) EVALUATION.—Funds reserved under subsection (a)(2)(B)(i)(II) to carry out the evaluation under subsection (d) shall be available for expenditure during the 3-year period that begins on the date of enactment of this Act.

(4) NO EFFECT ON OTHER PROGRAMS.—Any assistance or benefits received by a family through
funds made available under subsection (a) shall be disregarded for purposes of determining the family’s eligibility for, or amount of, benefits under any other Federal needs-based programs.

(c) ANNUAL REPORTS.—A State shall include in the annual report required under section 2006 of the Social Security Act (42 U.S.C. 1397e) covering each of fiscal years 2022 through 2025, information detailing how eligible entities, including subgrantees, used funds made available under subsection (a) to distribute diapers and diapering supplies and adult incontinence materials and supplies to families in need. Each such report shall include the following:

(1) The number and age of infants, toddlers, medically complex children, and low-income adults and adults with disabilities who received assistance or benefits through such funds.

(2) The number of families that have received assistance or benefits through such funds.

(3) The number of diapers, medically necessary diapers, or adult incontinence materials and supplies (such as adult diapers, briefs, protective underwear, pull-ons, pull-ups, liners, shields, guards, pads, undergarments), and the number of each type of dia-
pering or adult incontinence supply, distributed
through the use of such funds.

(4) The ZIP Code or ZIP Codes where the eli-
gible entity (or subgrantee) distributed diapers and
diapering supplies and adult incontinence materials
and supplies.

(5) The method or methods the eligible entity
(or subgrantee) uses to distribute diapers and dia-
pering supplies and, adult incontinence materials
and supplies.

(6) Such other information as the Secretary
may specify.

(d) EVALUATION.—The Secretary, in consultation
with States, the national entity described in subsection
(a)(2)(C), and eligible entities receiving funds made avail-
able under this section, shall—

(1) not later than 2 years after the date of en-
actment of this Act—

(A) complete an evaluation of the effective-
ness of the assistance program carried out pur-
suant to this section, such as the effect of ac-
tivities carried out under this Act on mitigating
the health and developmental risks of unmet di-
aper need among infants, toddlers, medically
complex children, and other family members in
low-income families, including the risks of diaper dermatitis, urinary tract infections, and parental and child depression and anxiety;

(B) submit to the relevant congressional committees a report on the results of such evaluation; and

(C) publish the results of the evaluation on the internet website of the Department of Health and Human Services;

(2) not later than 3 years after the date of enactment of this Act, update the evaluation required by paragraph (1)(A); and

(3) not later than 90 days after completion of the updated evaluation under paragraph (2)—

(A) submit to the relevant congressional committees a report describing the results of such updated evaluation; and

(B) publish the results of such evaluation on the internet website of the Department of Health and Human Services.

(e) GUIDANCE.—Not later than 180 days after enactment of this Act, the Secretary shall issue guidance regarding how the provisions of this section should be carried out, including information regarding eligible entities, allowable use of funds, and reporting requirements.
(f) Definitions.—In this section:

(1) Adult incontinence materials and supplies.—The term “adult incontinence materials and supplies” means those supplies that are used to assist low-income adults or adults with disabilities and includes adult diapers, briefs, protective underwear, pull-ons, pull-ups, liners, shields, guards, pads, undergarments, disposable wipes, over-the-counter adult diaper rash cream products, intermittent catheterization, indwelling catheters, condom catheters, urinary drainage bags, external collection devices, wearable urinals, and penile clamps.

(2) Adults with disabilities.—The term “adults with disabilities” means individuals who—

(A) have attained age 18; and

(B) have a disability (as such term is defined, with respect to an individual, in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102)).

(3) Diaper.—The term “diaper” means an absorbent garment that—

(A) is washable or disposable that may be worn by an infant or toddler who is not toilet-trained; and

(B) if disposable—
(i) does not use any latex or common allergens; and

(ii) meets or exceeds the quality standards for diapers commercially available through retail sale in the following categories:

(I) Absorbency (with acceptable rates for first and second wetting).

(II) Waterproof outer cover.

(III) Flexible leg openings.

(IV) Refastening closures.

(4) Diapering Supplies.—The term “diapering supplies” means items, including diaper wipes and diaper cream, necessary to ensure that—

(A) an eligible child using a diaper is properly cleaned and protected from diaper rash; or

(B) a medically complex child who uses a medically necessary diaper is properly cleaned and protected from diaper rash.

(5) Eligible Child.—The term “eligible child” means a child who—

(A) has not attained 4 years of age; and

(B) is a member of a low-income family.

(6) Eligible Entities.—The term “eligible entity” means a State or local governmental entity,
an Indian tribe or tribal organization (as defined in section 4 of the Indian Self-Determination and Education Assistance Act), or a nonprofit organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code that—

(A) has experience in the area of—

   (i) community distributions of basic need services, including experience collecting, warehousing, and distributing basic necessities such as diapers, food, or menstrual products;

   (ii) child care;

   (iii) child development activities in low-income communities; or

   (iv) motherhood, fatherhood, or parent education efforts serving low-income parents of young children;

(B) demonstrates competency to implement a project, provide fiscal accountability, collect data, and prepare reports and other necessary documentation; and

(C) demonstrates a willingness to share information with researchers, practitioners, and other interested parties.
(7) **Federal poverty line.**—The term “Federal poverty line” means the Federal poverty line as defined by the Office of Management and Budget and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981 applicable to a family of the size involved.

(8) **Low-income.**—The term “low-income”, with respect to a family, means a family whose self-certified income is not more than 200 percent of the Federal poverty line.

(9) **Medically complex child.**—The term “medically complex child” means an individual who has attained age 3 and for whom a licensed health care provider has provided a diagnosis of bowel or bladder incontinence, a bowel or bladder condition that causes excess urine or stool (such as short gut syndrome or diabetes insipidus), or a severe skin condition that causes skin erosions (such as epidermolysis bullosa).

(10) **Medically necessary diaper.**—The term “medically necessary diaper” means an absorbent garment that is—

(A) washable or disposable;

(B) worn by a medically complex child who has been diagnosed with bowel or bladder incon-
tinence, a bowel or bladder condition that causes excess urine or stool (such as short gut syndrome or diabetes insipidus), or a severe skin condition that causes skin erosions (such as epidermolysis bullosa) and needs such garment to correct or ameliorate such condition; and

(C) if disposable—

(i) does not use any latex or common allergens; and

(ii) meets or exceeds the quality standards for diapers commercially available through retail sale in the following categories:

(I) Absorbency (with acceptable rates for first and second wetting).

(II) Waterproof outer cover.

(III) Flexible leg openings.

(IV) Refastening closures.

(g) Exemption of Program From Sequestration.—

(1) In General.—Section 255(h) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 905(h)) is amended by inserting
after “Supplemental Security Income Program (28–0406–0–1–609).” the following:

“Targeted funding for States for diaper assistance (including diapering supplies and adult incontinence materials and supplies) through the Social Services Block Grant Program.”.

(2) APPLICABILITY.—The amendment made by this subsection shall apply to any sequestration order issued under the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 900 et seq.) on or after the date of enactment of this Act.

SEC. 3. IMPROVING ACCESS TO DIAPERS FOR MEDICALLY COMPLEX CHILDREN.

Section 1915(c) of the Social Security Act (42 U.S.C. 1396n(c)) is amended by adding at the end the following new paragraph:

“(11)(A) In the case of any waiver under this subsection that provides medical assistance to a medically complex child who has been diagnosed with bowel or bladder incontinence, a bowel or bladder condition that causes excess urine or stool (such as short gut syndrome or diabetes insipidus), or a severe skin condition that causes skin erosions (such as epidermolysis bullosa), such medical assistance shall include, for the duration of the waiver, the provision of 200 medically necessary diapers per month.
and diapering supplies. Such medical assistance may include the provision of medically necessary diapers in amounts greater than 200 if a licensed health care provider (such as a physician, nurse practitioner, or physician assistant) specifies that such greater amounts are necessary for such medically complex child.

“(B) For purposes of this paragraph:

“(i) The term ‘medically complex child’ means an individual who has attained age 3 and for whom a licensed health care provider has provided a diagnosis of 1 or more significant chronic conditions.

“(ii) The term ‘medically necessary diaper’ means an absorbent garment that is—

“(I) washable or disposable;

“(II) worn by a medically complex child who has been diagnosed with a condition described in subparagraph (A) and needs such garment to correct or ameliorate such condition; and

“(III) if disposable—

“(aa) does not use any latex or common allergens; and

“(bb) meets or exceeds the quality standards for diapers commercially avail-
able through retail sale in the following categories:

“(AA) Absorbency (with acceptable rates for first and second wetting).

“(BB) Waterproof outer cover.

“(CC) Flexible leg openings.

“(DD) Refastening closures.

“(iii) The term ‘diapering supplies’ means items, including diaper wipes and diaper creams, necessary to ensure that a medically complex child who has been diagnosed with a condition described in subparagraph (A) and uses a medically necessary diaper is properly cleaned and protected from diaper rash.”.

SEC. 4. INCLUSION OF DIAPERS AND DIAPERING SUPPLIES AS QUALIFIED MEDICAL EXPENSES.

(a) Health Savings Accounts.—Section 223(d)(2) of the Internal Revenue Code of 1986 is amended—

(1) by inserting “, medically necessary diapers, and diapering supplies” after “menstrual care products” in the last sentence of subparagraph (A); and

(2) by adding at the end the following new subparagraph:
“(E) MEDICALLY NECESSARY DIAPERS AND DIAPERING SUPPLIES.—For purposes of this paragraph—

“(i) MEDICALLY NECESSARY DIAPERS.—The term ‘medically necessary diaper’ means an absorbent garment which is washable or disposable and which is worn by an individual who has attained 3 years of age because of medical necessity, such as someone who has been diagnosed with bowel or bladder incontinence, a bowel or bladder condition that causes excess urine or stool (such as short gut syndrome or diabetes insipidus), or a severe skin condition that causes skin erosions (such as epidermolysis bullosa) and needs such garment to correct or ameliorate such condition, to serve a preventative medical purpose, or to correct or ameliorate defects or physical or mental illnesses or conditions diagnosed by a licensed health care provider, and, if disposable—

“(I) does not use any latex or common allergens; and
“(II) meets or exceeds the quality standards for diapers commercially available through retail sale in the following categories:

“(aa) Absorbency (with acceptable rates for first and second wetting).

“(bb) Waterproof outer cover.

“(cc) Flexible leg openings.

“(dd) Refastening closures.

“(ii) DIAPERING SUPPLIES.—The term ‘diapering supplies’ means items, including diaper wipes and diaper creams, necessary to ensure that an individual wearing medically necessary diapers is properly cleaned and protected from diaper rash.”.

(b) ARCHER MSAS.—The last sentence of section 220(d)(2)(A) of such Code is amended by inserting “, medically necessary diapers (as defined in section 223(d)(2)(E)), and diapering supplies (as defined in section 223(d)(2)(E))” after “menstrual care products (as defined in section 223(d)(2)(D))”.

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(c) Health Flexible Spending Arrangements and Health Reimbursement Arrangements.—Section 106(f) of such Code is amended—

(1) by inserting “, medically necessary diapers (as defined in section 223(d)(2)(E)), and diapering supplies (as defined in section 223(d)(2)(E))” after “menstrual care products (as defined in section 223(d)(2)(D))”; and

(2) in the heading, by inserting “, Medically Necessary Diapers, and Diapering Supplies” after “Menstrual Care Products”.

(d) Effective Dates.—

(1) Distributions from Certain Accounts.—The amendments made by subsections (a) and (b) shall apply to amounts paid after December 31, 2022.

(2) Reimbursements.—The amendment made by subsection (c) shall apply to expenses incurred after December 31, 2022.