

117TH CONGRESS  
1ST SESSION

# S. 646

To amend titles XIX and XXI of the Social Security Act to provide for 12-month continuous enrollment under Medicaid and the Children’s Health Insurance Program, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MARCH 9, 2021

Mr. BROWN (for himself, Ms. BALDWIN, Ms. WARREN, and Mr. WHITEHOUSE) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend titles XIX and XXI of the Social Security Act to provide for 12-month continuous enrollment under Medicaid and the Children’s Health Insurance Program, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Stabilize Medicaid and  
5 CHIP Coverage Act of 2021”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

1           (1) Every year millions of people are enrolled in  
2 Medicaid and the Children’s Health Insurance Pro-  
3 gram (in this section referred to as “CHIP”), but  
4 subsequently lose their coverage, despite still being  
5 eligible, because of inefficient and cumbersome pa-  
6 perwork and logistical requirements.

7           (2) Data show that the typical enrollee receives  
8 Medicaid coverage for about  $\frac{3}{4}$  of the year and that  
9 coverage periods are lower for non-elderly, non-dis-  
10 abled adults than for those with disabilities, seniors,  
11 and children.

12           (3) Medicaid enrollees with coverage disruption  
13 are more likely to be hospitalized for illnesses, like  
14 asthma, diabetes, or cardiovascular disease, that can  
15 be effectively managed through ongoing primary  
16 medical care and medication, are less likely to be  
17 screened for breast cancer, and may have poorer  
18 cancer outcomes.

19           (4) Children enrolled in CHIP also experience  
20 disruptions in health coverage and care. For exam-  
21 ple, during just a 1-year period, over  $\frac{1}{3}$  of CHIP  
22 enrollees were also enrolled in a State’s Medicaid  
23 program. Transitions between Medicaid and CHIP  
24 can cause disruptions in care because the health care

1 coverage and participating providers vary between  
2 the two programs.

3 (5) Interruptions in coverage can impair the re-  
4 ceipt of effective primary care and lead to expensive  
5 hospitalizations or emergency room visits.

6 (6) Unnecessary enrollment, disenrollment, and  
7 reenrollment in Medicaid and CHIP result in higher  
8 administrative expenses for reenrollment and result  
9 in more people uninsured at any given time.

10 (7) Stable coverage under Medicaid and CHIP  
11 lowers average monthly medical costs. Continuous  
12 enrollment also permits better prevention and dis-  
13 ease management, leading to fewer serious illnesses  
14 and hospitalizations.

15 (8) Children with stable coverage are less likely  
16 to have unmet medical needs, allowing children to  
17 receive the preventive care that is necessary to help  
18 them grow into healthy adults.

19 **SEC. 3. 12-MONTH CONTINUOUS ENROLLMENT.**

20 (a) REQUIREMENT OF 12-MONTH CONTINUOUS EN-  
21 ROLLMENT UNDER MEDICAID.—

22 (1) IN GENERAL.—Section 1902(e)(12) of the  
23 Social Security Act (42 U.S.C. 1396a(e)), is amend-  
24 ed to read as follows:

25 “(12) 12-MONTH CONTINUOUS ENROLLMENT.—

1           “(A) IN GENERAL.—Notwithstanding any  
2 other provision of this title, a State plan ap-  
3 proved under this title or under any waiver of  
4 such plan approved pursuant to section 1115 or  
5 section 1915, shall provide that an individual  
6 who is determined to be eligible for benefits  
7 under such plan (or waiver) shall be considered  
8 to meet the eligibility requirements met on the  
9 date of application and shall remain eligible and  
10 enrolled for such benefits through the end of  
11 the month in which the 12-month period (begin-  
12 ning on the date of determination of eligibility)  
13 ends.

14           “(B) PROMOTING RETENTION OF ELIGI-  
15 BLE AND ENROLLED PERSONS BEYOND 12  
16 MONTHS.—The Secretary shall—

17           “(i) identify methods that promote the  
18 retention of individuals who are enrolled  
19 under the State plan or under a waiver of  
20 such plan and who remain eligible for med-  
21 ical assistance beyond the 12-month period  
22 described in subparagraph (A); and

23           “(ii) actively promote the adoption of  
24 such enrollment retention methods by  
25 States, which shall include, but not be lim-

1           ited to, issuing guidance and developing re-  
2           sources on State best practices.

3           “(C) ENROLLMENT AND RETENTION RE-  
4           PORTING.—

5                   “(i) IN GENERAL.—Not later than 1  
6           year after the date of enactment of the  
7           Stabilize Medicaid and CHIP Coverage Act  
8           of 2021, the Secretary shall publish the  
9           procedures that States are expected to use  
10          to provide annual enrollment and retention  
11          reports beginning not later than 2 years  
12          after the date of enactment of such Act.

13                   “(ii) STATE REPORTING REQUIRE-  
14          MENTS.—At a minimum, the reporting  
15          procedures published under clause (i) shall  
16          include a description of State eligibility cri-  
17          teria and enrollment procedures under this  
18          title and data regarding enrollment and re-  
19          tention using standardized reporting for-  
20          mats determined by the Secretary.

21                   “(iii) SECRETARY REPORT AND PUB-  
22          LICATION.—

23                   “(I) IN GENERAL.—The Sec-  
24          retary annually shall publish enroll-  
25          ment and retention performance re-

1 sults for all States not later than 6  
2 months after the deadline for each an-  
3 nual State enrollment and retention  
4 reporting period.

5 “(II) ESTIMATED ENROLLMENT  
6 CONTINUITY RATIOS.—Each annual  
7 report published by the Secretary  
8 under subclause (I) shall include esti-  
9 mates of Medicaid enrollment con-  
10 tinuity ratios for each State in accord-  
11 ance with the requirements of sub-  
12 clause (III).

13 “(III) REQUIREMENTS.—The  
14 Secretary shall develop both overall  
15 enrollment continuity ratios for all en-  
16 rollees and separate enrollment con-  
17 tinuity ratios for each of the following  
18 categories:

19 “(aa) Children.

20 “(bb) Individuals whose eli-  
21 gibility category is related to hav-  
22 ing attained age 65.

23 “(cc) Individuals whose eli-  
24 gibility category is related to dis-  
25 ability or blindness.

1                   “(dd) Individuals whose eli-  
2                   gibility category is related to  
3                   their status as parents and care-  
4                   taker relatives of children under  
5                   19 or who are otherwise not el-  
6                   derly, blind or disabled adults.”.

7           (b) REQUIREMENT OF 12-MONTH CONTINUOUS EN-  
8   ROLLMENT UNDER CHIP.—

9           (1) IN GENERAL.—Section 2102(b) of the So-  
10          cial Security Act (42 U.S.C. 1397bb(b)) is amended  
11          by adding at the end the following new paragraph:

12                   “(6) REQUIREMENT FOR 12-MONTH CONTIN-  
13          UOUS ENROLLMENT.—Notwithstanding any other  
14          provision of this title, a State child health plan that  
15          provides child health assistance under this title  
16          through a means other than that described in sec-  
17          tion 2101(a)(2), shall provide that an individual who  
18          is determined to be eligible for benefits under such  
19          plan shall be considered to meet the eligibility re-  
20          quirements met on the date of application and shall  
21          remain eligible and enrolled for such benefits  
22          through the end of the month in which the 12-month  
23          period (beginning on the date of determination of  
24          eligibility) ends.”.

25           (2) CONFORMING AMENDMENTS.—

1 (A) ENROLLMENT AND RETENTION PROVI-  
2 SIONS.—Section 2105(a)(4)(A) of the Social Se-  
3 curity Act (42 U.S.C. 1397ee(a)(4)(A)) is  
4 amended—

5 (i) by striking “has elected the option  
6 of” and inserting “is in compliance with  
7 the requirement for”; and

8 (ii) by striking “applying such policy  
9 under its State child health plan under this  
10 title” and inserting “in compliance with  
11 section 2102(b)”.

12 (B) APPLICATION OF MEDICAID RETEN-  
13 TION AND REPORTING REQUIREMENTS.—Sec-  
14 tion 2107(e)(1) of the Social Security Act (42  
15 U.S.C. 1397gg(e)(1)) is amended—

16 (i) by redesignating subparagraphs  
17 (H) through (S) as subparagraphs (I)  
18 through (T), respectively; and

19 (ii) by inserting after subparagraph  
20 (G), the following:

21 “(H) Subparagraphs (B) and (C) of sec-  
22 tion 1902(e)(12) (relating to promotion of en-  
23 rollment beyond 12 months and reporting re-  
24 quirements)(without regard to items (bb), (cc),

1           and (dd) of subparagraph (C)(iii)(III) of that  
2           section).”.

3           (c) EFFECTIVE DATE.—

4           (1) IN GENERAL.—Except as provided in para-  
5           graph (2) or (3), the amendments made by sub-  
6           sections (a) and (b) shall apply to determinations  
7           (and redeterminations) of eligibility made on or after  
8           the date that is 18 months after the date of the en-  
9           actment of this Act.

10           (2) EXTENSION OF EFFECTIVE DATE FOR  
11           STATE LAW AMENDMENT.—In the case of a State  
12           plan under title XIX or State child health plan  
13           under title XXI of the Social Security Act (42  
14           U.S.C. 1396 et seq.; 42 U.S.C. 1397aa et seq.)  
15           which the Secretary of Health and Human Services  
16           determines requires State legislation (other than leg-  
17           islation appropriating funds) in order for the respec-  
18           tive plan to meet the additional requirements im-  
19           posed by the amendments made by subsections (a)  
20           or (b), respectively, the respective plan shall not be  
21           regarded as failing to comply with the requirements  
22           of such title solely on the basis of its failure to meet  
23           such applicable additional requirements before the  
24           first day of the first calendar quarter beginning  
25           after the close of the first regular session of the

1 State legislature that begins after the date of enact-  
 2 ment of this Act. For purposes of the previous sen-  
 3 tence, in the case of a State that has a 2-year legis-  
 4 lative session, each year of the session is considered  
 5 to be a separate regular session of the State legisla-  
 6 ture.

7 (3) OPTION TO IMPLEMENT 12-MONTH CONTIN-  
 8 UOUS ELIGIBILITY PRIOR TO EFFECTIVE DATE.—A  
 9 State may elect through a State plan amendment  
 10 under title XIX or XXI of the Social Security Act  
 11 (42 U.S.C. 1396 et seq.; 42 U.S.C. 1397aa et seq.)  
 12 to apply the amendments made by subsection (a) or  
 13 (b), respectively, on any date prior to the 18-month  
 14 date specified in paragraph (1), but not sooner than  
 15 the date of the enactment of this Act.

16 **SEC. 4. PREVENTING THE APPLICATION UNDER CHIP OF**  
 17 **COVERAGE WAITING PERIODS.**

18 (a) IN GENERAL.—Section 2102(b)(1)(B) of the So-  
 19 cial Security Act (42 U.S.C. 1397bb(b)(1)(B)) is amend-  
 20 ed—

21 (1) in clause (iii)—

22 (A) by striking “in the case of” and insert-  
 23 ing “in the case of a targeted low-income child  
 24 (including a child provided dental-only supple-



1 poses of this paragraph, a State meets the condition  
 2 of this paragraph for such individuals if, for each  
 3 category of individuals specified in section  
 4 1902(e)(12)(C)(iii)(III), the State is implementing  
 5 at least 3 of the following enrollment and retention  
 6 provisions (treating each subparagraph as a separate  
 7 enrollment and retention provision) throughout the  
 8 entire fiscal year:

9 “(A) ALIGNING TREATMENT OF INCOME  
 10 UNDER MEDICAID WITH THAT OF OTHER IN-  
 11 SURANCE AFFORDABILITY PROGRAMS.—The  
 12 State implements policies, including prorating  
 13 income over annual periods, so as to align its  
 14 treatment of income for purposes of a deter-  
 15 mination of eligibility for medical assistance  
 16 with that of other affordability insurance pro-  
 17 grams with the goal of eliminating inconsistent  
 18 determinations among these programs.

19 “(B) MAINTAINING COVERAGE FOR INDI-  
 20 VIDUALS DURING PERIODS OF TRANSITION.—  
 21 The State implements the following policies:

22 “(i) IN GENERAL.—Upon determina-  
 23 tion that an individual is no longer eligible  
 24 for medical assistance, the State imple-  
 25 ments policies to maintain eligibility for

1 medical assistance, including enrollment in  
2 the managed care organization in which  
3 the individual was enrolled at the time of  
4 the determination of ineligibility, during  
5 the period of time in which—

6 “(I) eligibility-related information  
7 is transmitted to the other insurance  
8 affordability programs;

9 “(II) a determination is made as  
10 to for which other insurance afford-  
11 ability program the individual is eligi-  
12 ble, if any; and

13 “(III) coverage in such program  
14 and any related managed care organi-  
15 zation becomes effective.

16 “(ii) MANAGED CARE ORGANIZATION  
17 CONTINUITY.—The State implements poli-  
18 cies to enroll the individual in the managed  
19 care organization in which the individual  
20 was a member prior to the loss of medical  
21 assistance eligibility, if such managed care  
22 organization participates in the other in-  
23 surance affordability program, unless the  
24 individual voluntarily selects a separate  
25 managed care organization.

1           “(C) ENHANCED DATA-SHARING BETWEEN  
2 THE STATE AND AN AMERICAN HEALTH BEN-  
3 EFIT EXCHANGE AND AGENCIES.—The State  
4 utilizes findings from an American Health Ben-  
5 efit Exchange, an Express Lane Agency (as  
6 identified by the State and as described in sec-  
7 tion 1902(e)(13)(F)), the Social Security Ad-  
8 ministration, or other agencies administering  
9 employment, educational, or social services pro-  
10 grams as identified by the State, to document  
11 income, residency, age, or other relevant infor-  
12 mation in determining or renewing eligibility.

13           “(D) ELIGIBILITY BASED ON PENDING  
14 STATUS.—The State maintains eligibility for  
15 enrollees whose renewal status has not yet been  
16 determined and for whom eligibility based on  
17 alternative eligibility criteria has not yet been  
18 ruled out.

19           “(E) DEFAULT REENROLLMENT IN MAN-  
20 AGED CARE ORGANIZATION.—In the case of in-  
21 dividuals who are determined to be eligible for  
22 medical assistance under this title after the loss  
23 of eligibility for fewer than 6 months, and who  
24 previously had been members of a managed  
25 care organization, the State re-enrolls the indi-

1           vidual in the managed care organization in  
2           which the individual was a member prior to the  
3           loss of eligibility, unless the individual volun-  
4           tarily selects a separate managed care organiza-  
5           tion.

6           “(2) PERFORMANCE BONUS PAYMENT TO SUP-  
7           PORT 12-MONTH CONTINUOUS ENROLLMENT FOR  
8           MEDICAID ENROLLEES.—

9                   “(A) AUTHORITY TO MAKE BONUS PAY-  
10                  MENTS.—

11                           “(i) IN GENERAL.—The Secretary  
12                           shall make a bonus payment for fiscal  
13                           years beginning with the first fiscal year  
14                           that begins on or after the date that is 3  
15                           years after the date of enactment of the  
16                           Stabilize Medicaid and CHIP Coverage Act  
17                           of 2021, and annually thereafter to the ex-  
18                           tent there are funds available under para-  
19                           graph (3)(A), to each State that satisfies  
20                           the requirements of subparagraph (B).

21                           “(ii) REGULATIONS.—Payments to  
22                           States under this subsection for a fiscal  
23                           year shall be allocated annually among eli-  
24                           gible States in accordance with regulations  
25                           promulgated by the Secretary not later

1 than the date that is 6 months prior to Oc-  
2 tober 1 of the first fiscal year for which  
3 payments are made under this paragraph.

4 “(iii) TIMING.—A payment to a State  
5 under this subsection for a fiscal year shall  
6 be made as a single payment not later  
7 than the last day of the first calendar  
8 quarter of the succeeding fiscal year.

9 “(B) STATE ELIGIBILITY FOR BONUS PAY-  
10 MENTS.—A State shall be eligible for bonus  
11 payments under this subsection if—

12 “(i) the State has adopted at least 3  
13 of the 5 policies described in subpara-  
14 graphs (A) through (E) of paragraph (1)  
15 for each category of individuals specified in  
16 section 1902(e)(12)(C)(iii)(III); and

17 “(ii) the State is able to demonstrate  
18 improvement in the continuity of enroll-  
19 ment by child, aged, blind, and disabled,  
20 and adult populations, compared to the  
21 State’s baseline performance with respect  
22 to continuity of enrollment for such popu-  
23 lations in fiscal year 2021 or such later  
24 year as the Secretary, by regulation, shall  
25 specify.

1           “(3) AMOUNTS AVAILABLE FOR PAYMENTS.—

2                   “(A) IN GENERAL.—The total amount of  
3           bonus payments made under this subsection for  
4           all fiscal years shall be equal to \$500,000,000,  
5           to be available until expended.

6                   “(B) BUDGET AUTHORITY.—This para-  
7           graph constitutes budget authority in advance  
8           of appropriations Acts and represents the obli-  
9           gation of the Secretary to provide for the pay-  
10          ment of amounts provided under this para-  
11          graph.

12           “(4) USES OF ENROLLMENT AND RETENTION  
13          PERFORMANCE BONUSES.—Nothing in this sub-  
14          section shall prohibit a State from establishing cri-  
15          teria which would permit the State to distribute a  
16          portion of the proceeds of any bonus payments re-  
17          ceived pursuant to this subsection to financially sup-  
18          port providers and managed care entities partici-  
19          pating under the State plan or under a waiver of  
20          such plan who have contributed to improved enroll-  
21          ment and retention activities.”.

○