To amend title XIX of the Social Security Act to require States to provide oral health services to aged, blind, or disabled individuals under the Medicaid Program, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 15, 2011

Mr. ENGEL (for himself and Ms. SCHAKOWSKY) 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 require States to provide oral health services to aged, blind, or disabled individuals under the Medicaid Program, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; FINDINGS.

(a) SHORT TITLE.—This Act may be cited as the “Special Care Dentistry Act of 2011”.

(b) FINDINGS.—Congress finds the following:

(1) According to the United States Surgeon General’s Report on Oral Health in America:
(A) No less than a silent epidemic of oral diseases is affecting our most vulnerable citizens, including low income elderly, individuals with disabilities, and many members of racial and ethnic minority groups.

(B) Oral diseases and conditions affect health and well-being throughout life. The burden of oral problems is extensive and may be particularly severe in vulnerable populations.

(C) Oral diseases and conditions are associated with other health problems. Associations between chronic oral infections and other health problems, including diabetes, heart disease, and adverse pregnancy outcomes have been reported.

(2) Providing appropriate and necessary oral health benefits under Medicaid to individuals classified as aged, blind, or disabled would prevent unnecessary emergency room visits, hospitalizations, and downstream health care costs, reducing Medicaid spending.

(3) While 28 percent of the people enrolled in Medicaid are aged, blind, or disabled, the high cost of medical expenditures for these populations con-
sumes 72 percent of the total Medicaid budget. This is not the case with dental benefits.

(4) For the aged, blind, or disabled, oral health services are deemed “optional” by the Federal Government and most States provide little to no Medicaid coverage for these services. Many of these vulnerable citizen’s mouths are infected with no hope of receiving access to even basic dental care.

(5) In 2003, adult aged, blind, and disabled Medicaid recipients received basic oral health services in only 6 States (Connecticut, New Jersey, New York, North Dakota, Pennsylvania, and Wisconsin).

(6) Appropriate and necessary oral health services for adult aged, blind, and disabled people will help reduce not only Medicaid costs for these populations, but also downstream Medicare expenditures, which together total almost $600,000,000,000 annually.

(7) Dental office overhead averages over 65 percent. Unfortunately, Medicaid reimbursement rates fall far short of covering these expenses.

(8) Additional Federal investment for the delivery of oral health services is needed to ensure vulnerable adults receive oral health benefits.
(9) Investments are needed for an oral health initiative to reduce the profound disparities in oral health by improving the health status of vulnerable populations to the level of health status that is enjoyed by the majority of Americans.

SEC. 2. REQUIREMENT TO PROVIDE AGED, BLIND, OR DISABLED INDIVIDUALS WITH ORAL HEALTH SERVICES UNDER THE MEDICAID PROGRAM.

(a) In General.—Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) is amended by inserting after section 1943 the following new section:

"ORAL HEALTH SERVICES FOR AGED, BLIND, OR DISABLED INDIVIDUALS

"Sec. 1944. (a) Services Under a State Adult Dental Program for Aged, Blind, or Disabled Individuals.—A State shall provide oral health coverage for aged, blind, or disabled individuals described in subsection (b) through a separate State adult dental program. The State shall demonstrate that the services and fees provided and program requirements under this section are at least equivalent to the services, fees, and requirements that are provided to children under this title and include age-appropriate services for such individuals, and that the services are provided at intervals to determine the existence of a suspected illness or condition consistent with reasonable standards of dental practice (taking into account..."
the increased needs and oral health complexities of the population) as determined by the Secretary after consultation with national professional dental organizations.

“(b) Aged, Blind, or Disabled Individuals Described.—For purposes of subsection (a), an aged, blind, or disabled individual described in this subsection is an individual—

“(1) who is eligible for medical assistance under subclause (I) or (II) of section 1902(a)(10)(A)(i) (but only, in the case of subclause (I), with respect to an individual who is so eligible on the basis of receiving aid or assistance under any plan of the State approved under title I, X, XIV, or XVI); and

“(2) who would be considered an aged, blind, or disabled individual under section 1614 (without regard to whether the individual satisfies the income and resource requirements for receiving supplemental security income benefits under title XVI) and is otherwise eligible for medical assistance under the State plan or under a waiver of such plan.

“(c) Transportation.—The State shall provide transportation for aged, blind, or disabled individuals described in subsection (b) to dental offices, hospitals, clinics, or other treatment centers for the provision of oral health services to the same extent that transportation is
provided under the State plan for children eligible for
medical assistance.”.

(b) Definition of Oral Health Services.—

(1) In General.—Section 1905 of the Social
Security Act (42 U.S.C. 1396d) is amended—

(A) in subsection (a), by amending para-
graph (10) to read as follows:

“(10) oral health services (as defined in sub-
section (ee)); and”; and

(B) by adding at the end the following:

“(ee)(1) For purposes of this title, the term ‘oral
health services’ means—

“(A) relief of pain and infections;

“(B) restoration or replacement of teeth;

“(C) periodontal treatment;

“(D) dental health preventive services, including
adult fluoride application;

“(E) in-patient and out-patient dental surgical,
evaluation, and examination services;

“(F) dentures or partial denture care;

“(G) per patient house call and long term care
facility visits;

“(H) sedation and anesthesia; and

“(I) behavior management services.

“(2) For the purpose of this subsection:
(A) The term ‘long term care facility’ means—

(i) a nursing facility;

(ii) an assisted living facility or a resident care program facility (as such terms are defined by the Secretary);

(iii) a board and care facility (as defined in section 1903(q)(4)(B), including a mental retardation group home);

(iv) an intermediate care facility for the mentally retarded; and

(v) any other facility that is licensed or certified by the State and is determined appropriate by the Secretary, such as a community mental health center that meets the requirements of section 1913(c) of the Public Health Service Act, a psychiatric health facility, and a mental health rehabilitation center.

(B) The term ‘house call’ means the delivery of dental services in long term care facilities needed to overcome mobility impairments and transportation barriers.

(C) The term ‘behavior management’ means services needed to accommodate physical or behavioral impairment.”.

(c) CONFORMING AMENDMENTS.—
(1) TERMINOLOGY.—Section 1902(a)(43)(D)(iii) of the Social Security Act (42 U.S.C. 1396a(a)(43)(D)(iii)) is amended by striking “dental” and inserting “oral health” each place it appears.

(2) STATE PLAN.—Section 1902(a) of such Act (42 U.S.C. 1396a(a)) is amended—

(A) in paragraph (82), by striking “and” at the end;

(B) in paragraph (83), by striking the period at the end and inserting “; and”;

(C) by inserting after paragraph (83) the following:

“(84) provide for—

“(A) making oral health services available to aged, blind, or disabled individuals described in subsection (b) of section 1944 in accordance with the requirements of that section;

“(B) informing all persons in the State who are aged, blind, or disabled and have been determined to be eligible for medical assistance including oral health services (as defined in section 1905(ee)), of the availability of such services;
“(C) providing or arranging for the provision of such services in all cases where they are requested;

“(D) arranging for (directly or through referral to appropriate agencies, organizations, or individuals) corrective treatment the need for which is disclosed by such services; and

“(E) reporting to the Secretary (in a uniform form and manner established by the Secretary, by aged, blind, or disabled group and by basis of eligibility for medical assistance, and by not later than April 1 after the end of each fiscal year, beginning with fiscal year 2012) the information relating to oral health services provided under the plan during each fiscal year consisting of—

“(i) the number of aged, blind, or disabled individuals who reside in the State;

“(ii) the number of aged, blind, or disabled individuals provided oral health services;

“(iii) the number of such individuals referred for corrective treatment (the need for which is disclosed by such services);
“(iv) the amount of, and type of, preventive oral health services needed and provided;
“(v) the amount of, and type of, surgical restorative oral health services needed and provided; and
“(vi) the amount of, and type of, other oral health services needed and provided, disaggregated into whether the services were—
“(I) emergency;
“(II) preventive;
“(III) surgical;
“(IV) restorative;
“(V) periodontal;
“(VI) endodontic; or
“(VII) prosthodontic.”.

(3) NURSING FACILITIES.—Section 1919(b)(4)(A)(vi) of such Act (42 U.S.C. 1396r(b)(4)(A)(vi)) is amended by inserting, “oral health services (as defined in section 1905(ee)) for an aged, blind, or disabled individual described in section 1944(b) who is a resident of the nursing facility,” after “plan).”
(d) **Federal Funding for Cost of Covering Aged, Blind, or Disabled.**—Section 1905 of the Social Security Act (42 U.S.C. 1396d), as amended by subsection (b)(1), is amended—

(1) in subsection (b), in the first sentence, by inserting “subsection (ee) and” before “section 1933(d)”; and

(2) by adding at the end the following new subsection:

“**(ff) Increased FMAP for Medical Assistance for Aged, Blind, and Disabled Individuals.**—The Federal medical assistance percentage determined for a State that is one of the 50 States or the District of Columbia for each fiscal year with respect to amounts expended for medical assistance for aged, blind and disabled individuals described in section 1944(b) shall be equal to 100 percent.”.

(e) **Effective Date.**—

(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall apply to calendar quarters beginning on or after October 1, 2011, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.
(2) Delay permitted for state plan amendment.—In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments made by this section, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.