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.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “ChiPACC Act of 2011”.
SEC. 2. OPTIONAL MEDICAID COVERAGE OF CHILDREN'S PROGRAM OF ALL-INCLUSIVE COORDINATED CARE (CHIPACC).

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

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

(2) by redesignating paragraph (29) as paragraph (30); and

(3) by inserting after paragraph (28) the following new paragraph:

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

(b) Children’s Program of All-Inclusive Coordinated Care.—Title XIX of such Act is further amended by inserting after section 1943 the following new section:

“SEC. 1944. CHILDREN’S PROGRAM OF ALL-INCLUSIVE COORDINATED CARE.

“(a) State Option.—

“(1) In General.—A State may elect to provide medical assistance under this section to ChiPACC eligible individuals who are eligible for medical assistance under the State plan under this title and who choose to enroll in a children’s pro-
gram of all-inclusive coordinated care. In the case of
an individual who chooses to enroll in such a pro-
gram pursuant to such an election—

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

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

“(2) Numerical and geographical limita-
tions permitted.—A State may establish—

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

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

“(b) ChiPACC and other terms defined.—In
this section:

“(1) Children’s program of all-inclusive
coordinated care; ChiPACC.—The terms ‘chil-
dren’s program of all-inclusive coordinated care’ and
‘ChiPACC’ mean a program of coordinated care for
ChiPACC eligible children that is established by a
State under this section and meets the following requirements:

“(A) OPERATION.—The program is administered by a single State agency. Such agency may provide for the operation of the program through arrangements between one or more other entities, such as a ChiPACC coordinator and such agency.

“(B) COMPREHENSIVE BENEFITS.—

“(i) IN GENERAL.—The program provides comprehensive health care items and services to ChiPACC eligible individuals in accordance with this section and regulations (as such term is defined in paragraph (6)).

“(ii) SCOPE AND PLAN FOR SERVICES.—Such items and services shall—

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

“(II) be provided consistent with a comprehensive care plan developed by an interdisciplinary health professional team.
“(iii) QUALIFICATIONS OF PROVIDERS.—Such items and services are provided through health care providers that—

“(I) meet such certification or other quality requirements as may be necessary to participate in the program of medical assistance under this title or in the program under title XVIII; and

“(II) maintain records on ChiPACC eligible individuals enrolled in the program and to whom the provider furnishes services, reflecting both the specific care and services furnished by the provider and the relationship of those services to the comprehensive plan of care for that individual and to the delivery of other services to the individual through the program.

“(2) ChiPACC ELIGIBLE INDIVIDUAL.—The term ‘ChiPACC eligible individual’ means, with respect to a ChiPACC, an individual—

“(A) who, at the time of enrollment in the ChiPACC, is a child (as defined under the State
plan for this purpose) and who is not older than
such age as the State may specify;

“(B) who suffers from a serious illness or
health condition that is life threatening;

“(C) for whom there is a reasonable likeli-
hood that the child’s life will be threatened by
such illness or condition;

“(D) whose health status is expected to de-
cline because of such illness or condition before
attaining full adulthood (as defined under the
State plan);

“(E) resides in the service area of the
ChiPACC; and

“(F) is eligible for medical assistance
under the State plan without regard to this sec-
tion (or, but for enrollment in a ChiPACC
would, based on the individual’s illness or
health condition or the projected cost of treat-
ment required for such illness or condition, be-
come so eligible).

The Secretary may waive the application of subpara-
graph (F) with respect to eligibility for medical as-
stance under the State plan without regard to this
section in the case of individuals if the State dem-
onstrates to the satisfaction of the Secretary that
the sum of the additional expenditures under this
title resulting from such waiver in a fiscal year will
not exceed the aggregate savings in expenditures
otherwise resulting from the implementation of this
section in the fiscal year.

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

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

“(B) The entity must include on its staff,
or otherwise arrange for the provision of serv-
ices, through contracts or otherwise, of each of
the types of the health care professionals and
other service providers required to provide the
items and services required under subsection (e)(1)(A).

“(C) To the extent consistent with provision of the highest quality of care to enrolled individuals—

“(i) promote the utilization of volunteers in the provision of care and services under the ChiPACC, in accordance with standards set by the Secretary, which standards shall ensure a continuing level of effort to utilize such volunteers; and

“(ii) ensure that records are maintained on the use of such volunteers and the cost savings and expansion of care and services achieved through the use of such volunteers.

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

“(A) includes at least—

“(i) one physician (as defined in section 1861(r)(1));

“(ii) one registered professional nurse; and
“(iii) one social worker, pastoral counselor, or other counselor;

“(B) develops a comprehensive plan of care for ChiPACC eligible individuals enrolled with the ChiPACC and furnishes, or supervises the provision of, care and services described in subsection (c)(1) to an individual enrolled in the ChiPACC; and

“(C) through direct action and communication with health care providers furnishing services under the ChiPACC, on behalf of or under the direction or supervision of a State administering agency or a ChiPACC coordinator, coordinates the care and services furnished to such enrollees in a manner that takes into account the best interests of each such enrollee and the enrollee’s family.

“(5) State administering agency.—The term ‘State administering agency’ means, with respect to the operation of a ChiPACC in a State, the agency of that State (which may be the single agency responsible for administration of the State plan under this title in the State) responsible for the implementation, either directly or through arrange-
ments with one or more ChiPACC coordinators, of
the ChiPACC under this section in the State.

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

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

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

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

“(i) all items and services that are
covered for any individual under this title,
and all additional items and services speci-
fied in regulations, but without any limita-
tion or condition as to amount, duration,
or scope;

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

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

“(B) provision of such services to such in-
dividuals through a comprehensive, interdiscipli-
nary and multidisciplinary health and social
services delivery system which integrates, as ap-
propriate to the individual recipient of services,
acute and long-term care services, palliative,
respite and curative treatment, counseling and
support for family members who are caretakers
or otherwise relevant to appropriate care and
treatment of the individual, and such other
services as may be furnished pursuant to regu-
lations and the provisions of the applicable
State plan; and

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

“(2) QUALITY ASSURANCE; PATIENT SAFE-
GUARDS.—With respect to a ChiPACC, the State
administering agency shall assure the following:

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

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

“(C) There is financial accountability of
funds expended under this title with respect to
such services.

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

“(E) Written safeguards of the rights of
individuals enrolled in the ChiPACC, including
a patient bill of rights and procedures for griev-
ances and appeals, in accordance with regula-
tions and with other requirements of this title
and Federal and State law designed for the pro-
tection of patients.
“(F) There are in effect procedures for data collection, record maintenance and retention, and the development of outcome measures, and such other policies, systems, and procedures as are sufficient to afford the Secretary and the State administering agency access to records and data relating to the ChiPACC, including pertinent financial, medical, and personnel records.

“(G) The agency shall submit to the Secretary such reports as the Secretary finds (in consultation with State administering agencies) necessary to monitor the operation, cost, and effectiveness of ChiPACCs.

“(3) COST-SHARING WAIVER.—A State administering agency may, in the case of a ChiPACC eligible individual enrolled in the State’s ChiPACC, waive deductibles, copayments, coinsurance, or other cost-sharing that would otherwise apply under the State plan under this title.

“(d) ELIGIBILITY DETERMINATIONS.—

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

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

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

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

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

“(3) CONTINUATION OF ELIGIBILITY.—An indi-
vidual who is a ChiPACC eligible individual may be
deemed to continue to be such an individual notwith-
standing a determination that the individual no
longer meets the requirement of subsection (b)(2)(B)
if, in accordance with regulations, it is reasonably
foreseeable that, if the individual is not furnished services under this section, the severity or impact of the individual’s illness or condition would increase to a degree that the individual would again meet such requirement before the individual attains adulthood or within the succeeding 12-month period.

“(4) ANNUAL REEVALUATIONS.—Subject to such limitations as the Secretary may by regulation prescribe, the eligibility determination made under this subsection shall be reevaluated annually, except that such an annual evaluation may be waived, in accordance with regulations, in a case where the administering State agency determines that there is no reasonable expectation of improvement or significant change in the individual’s illness or condition during a period to which the reevaluation requirement would otherwise be applicable.

“(5) ENROLLMENT AND DISENROLLMENT.—

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

“(B) LIMITATIONS ON DISENROLLMENT.—

“(i) IN GENERAL.—Regulations, and
the applicable State plan, shall provide
that a ChiPACC may not involuntarily
disenroll a ChiPACC eligible individual en-
rolled in the ChiPACC except—

“(I) for disruptive or threatening
behavior by the enrollee, or by a fam-
ily member with whom a health care
provider providing services under the
ChiPACC necessarily has contact in
the provision of services, as defined in
provisions of regulations (developed in
close consultation with State admin-
istering agencies); or

“(II) if there is a change in the
individual’s medical condition, resi-
dency or geographic location, or finan-
cial situation such that the individual
no longer is a ChiPACC eligible indi-
vidual and paragraph (3) does not
apply to warrant continuation of en-
rollment.
“(ii) NO DISENROLLMENT FOR NON-COMPLIANT BEHAVIOR.—Except as allowed under regulations, a ChiPACC may not disenroll a ChiPACC eligible individual on the ground that the individual has engaged in noncompliant behavior if such behavior is related to a mental or physical condition of the individual. For purposes of the preceding sentence, the term ‘noncompliant behavior’ includes repeated noncompliance with medical advice and repeated failure to appear for appointments.

“(iii) TIMELY REVIEW OF PROPOSED NONVOLUNTARY DISENROLLMENT.—A proposed involuntary disenrollment under this subparagraph shall be subject to timely review and final determination by the Secretary or by the State administering agency (as applicable), prior to the proposed disenrollment becoming effective, pursuant to procedures prescribed in regulations.

“(C) APPEALS.—If an individual is determined not to be a ChiPACC eligible individual upon application, any time after such services begin, or is disenrolled from a ChiPACC for
reasons described in subparagraph (B)(i)(I), the State plan under this title shall allow for an appeal of such determination. During the course of the appeals process, an individual previously enrolled in a ChiPACC shall continue to be so enrolled and to receive benefits through the ChiPACC.

“(6) CONSTRUCTION.—The fact that a ChiPACC eligible individual is enrolled under a ChiPACC shall not be construed as adversely affecting the eligibility of the individual’s parents or caretaker relatives for medical assistance under this title.

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

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

“(2) USE OF INTEGRATED, BUDGET-NEUTRAL FINANCING.—Payments under this subsection shall be made—
“(A) on a basis that permits provision for integrated financing methodologies that allow providers to pool payments received from public and private programs and individuals; and

“(B) in amounts that are designed, according to regulations, to ensure that aggregate payments under this section for individuals enrolled in a ChiPACC, whether made on a capitated basis or fee-for-service basis, do not exceed on average the aggregate payments that would have been paid under the State plan for such individuals if they were not so enrolled, taking into account the comparative case-mix of ChiPACC enrollees and such other factors as the Secretary determines to be appropriate.

“(f) TERMINATION PROCEDURES.—

“(1) IN GENERAL.—Under regulations—

“(A) the Secretary may require a State administering agency to terminate the participation of a ChiPACC coordinator for cause; and

“(B) a State administering agency may terminate operation of a ChiPACC after appropriate notice to the Secretary and enrollees.

“(2) CAUSES FOR COORDINATOR TERMINATION.—In accordance with regulations estab-
lishing procedures for termination of participation of
ChiPACC coordinators, the Secretary may require a
State administering agency to terminate participa-
tion of a ChiPACC coordinator for, among other
reasons, the fact that—

“(A) the Secretary determines that the
ChiPACC coordinator has failed to comply sub-
stantially with requirements for a ChiPACC co-
ordinator under this section; and

“(B) the State administering agency has
failed to develop and successfully initiate, with-
in 30 days of the date of the receipt of written
notice of such a determination for the ChiPACC
coordinator, a plan to correct the coordinator’s
deficiencies, or has failed to continue implemen-
tation of such a plan of correction.

“(g) REGULATIONS.—

“(1) IN GENERAL.—The Secretary shall issue
interim final or final regulations to carry out this
section.

“(2) USE OF EXISTING STANDARDS.—

“(A) IN GENERAL.—In issuing such regu-
lations, the Secretary shall, to the extent appro-
priate and consistent with the provisions of this
section, incorporate the standards and require-
ments applied to Programs of All-Inclusive Care for Children demonstration waiver programs that have been implemented before (or as of) the date of the enactment of this section, including standards of care and practice guidelines applied under such programs.

“(B) FLEXIBILITY.—In order to provide for reasonable flexibility in adapting the service delivery model described in subparagraph (A) to the needs of particular organizations (such as those in rural areas or those that may determine it appropriate to use nonstaff physicians according to State licensing law requirements) under this section, the Secretary (in close consultation with State administering agencies) may modify or waive provisions described in subparagraph (A) so long as any such modification or waiver is not inconsistent with and would not impair the essential elements, objectives, and requirements of this section, but may not modify or waive any of the following provisions:

“(i) The requirement of delivery of comprehensive, integrated palliative, respite and curative services, therapy, coun-
seling and other medical and psycho-social services for ChiPACC eligible individual, to the extent such services would benefit the individual.

“(ii) The requirement of delivery of counseling and bereavement services to immediate family members of the ChiPACC enrollees as part of the services to the enrollee.

“(iii) The requirement of an interdisciplinary health professional team approach to care management and service delivery to ChiPACC eligible individuals.

“(iv) The provision of integrated financing methodologies that allow for the pooling of payments received from public and private programs and individuals.

“(v) The limitation on average aggregate payment under subsection (e)(2).

“(C) **CONTINUATION OF MODIFICATIONS OR WAIVERS OPERATIONAL REQUIREMENTS.**—If a State agency administering a program of all-inclusive coordinated care for seriously ill children approved pursuant to waiver authority under section 1115 or 1915(e) has contractual
or other operating arrangements relating to such program which are not otherwise recognized in regulation and which were in effect as of the date of the enactment of this section, the Secretary shall permit the agency to continue such arrangements so long as such arrangements are found by the Secretary to be reasonably consistent with the objectives of a ChiPACC.

“(3) CONSTRUCTION.—Nothing in this subsection shall be construed as preventing the Secretary from including in regulations provisions to ensure the health and safety of individuals enrolled in a ChiPACC under this section that are in addition to those otherwise provided under this section.

“(h) APPLICABILITY OF REQUIREMENTS.—With respect to carrying out a ChiPACC under this section, the following requirements of this title (and regulations relating to such requirements) shall not apply:

“(1) Section 1902(a)(1), relating to any requirement that ChiPACCs or ChiPACC services be provided in all areas of a State.

“(2) Section 1902(a)(10), insofar as such section relates to comparability of services among different population groups.
“(3) Sections 1902(a)(23) and 1915(b)(4), relating to freedom of choice of providers under a ChiPACC.

“(4) Section 1903(m)(2)(A), insofar as it restricts a ChiPACC provider from receiving prepaid capitation payments.

“(5) Section 1905(o), limiting the scope of hospice care.

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

(c) CONTINUED DEMONSTRATION PROJECT AUTHORITY.—Section 1944 of the Social Security Act, as added by subsection (b) shall not be construed as preventing a State from developing, or the Secretary from approving, a project similar to or related to ChiPACCs (as described in such section) under existing authorities, including demonstration project and waiver authorities under this title or other provisions of this Act.

(d) OTHER CONFORMING AMENDMENTS.—Section 1905(r)(5) of such Act (42 U.S.C. 1396d(r)(5)) is amended by inserting before the period at the end the following: “, other than items and services that are only covered as section 1944 ChiPACC benefits”.
(c) Timely Issuance of Regulations; Effective Date.—The Secretary of Health and Human Services shall promulgate regulations to carry out the amendments made by this section in a timely manner, so as to assure that it will be feasible for State agencies and entities to establish and operate ChiPACCs for periods beginning not later than 1 year after the date of the enactment of this Act.

(f) Funds for Technical Assistance.—The Secretary is authorized to expend funds appropriated to carry out title XIX of the Social Security Act to make grants to, or enter into contracts with, private entities or organizations that are qualified to provide technical or other assistance in developing and establishing ChiPACCs within the States, except that—

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

(2) a private entity or organization in receipt of such funds must have demonstrated expertise and a minimum of 5 years of experience in working with or assisting in the establishment of programs for comprehensive care of children meeting the description of ChiPACC eligible individuals under section
1944(b) of the Social Security Act, as added by subsection (b).