

114TH CONGRESS  
2D SESSION

# H. R. 670

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IN THE SENATE OF THE UNITED STATES

SEPTEMBER 21, 2016

Received; read twice and referred to the Committee on Finance

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## AN ACT

To amend title XIX of the Social Security Act to extend the Medicaid rules regarding supplemental needs trusts for Medicaid beneficiaries to trusts established by those beneficiaries, 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,*

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) **SHORT TITLE.**—This Act may be cited as the  
3 “Special Needs Trust Fairness and Medicaid Improve-  
4 ment Act”.

5 (b) **TABLE OF CONTENTS.**—The table of contents of  
6 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Fairness in Medicaid supplemental needs trusts.

Sec. 3. Medicaid coverage of tobacco cessation services for mothers of  
newborns.

Sec. 4. Eliminating Federal financial participation with respect to expenditures  
under Medicaid for agents used for cosmetic purposes or hair  
growth.

Sec. 5. Medicaid Improvement Fund.

7 **SEC. 2. FAIRNESS IN MEDICAID SUPPLEMENTAL NEEDS**  
8 **TRUSTS.**

9 (a) **IN GENERAL.**—Section 1917(d)(4)(A) of the So-  
10 cial Security Act (42 U.S.C. 1396p(d)(4)(A)) is amended  
11 by inserting “the individual,” after “for the benefit of such  
12 individual by”.

13 (b) **EFFECTIVE DATE.**—The amendment made by  
14 subsection (a) shall apply to trusts established on or after  
15 the date of the enactment of this Act.

16 **SEC. 3. MEDICAID COVERAGE OF TOBACCO CESSATION**  
17 **SERVICES FOR MOTHERS OF NEWBORNS.**

18 (a) **IN GENERAL.**—Section 1905(bb) of the Social Se-  
19 curity Act (42 U.S.C. 1396d(bb)) is amended by adding  
20 at the end the following new paragraph:

21 “(4) A woman shall continue to be treated as de-  
22 scribed in this subsection as a pregnant woman through

1 the end of the 1-year period beginning on the date of the  
2 birth of a child of the woman.”.

3 (b) CONFORMING AMENDMENTS.—

4 (1) Subsections (a)(2)(B) and (b)(2)(B) of sec-  
5 tion 1916 of the Social Security Act (42 U.S.C.  
6 1396o) are each amended by inserting “(and women  
7 described in section 1905(bb) as pregnant women  
8 pursuant to paragraph (4) of such section)” after  
9 “tobacco cessation by pregnant women”.

10 (2) Section 1927(d)(2)(F) of the Social Secu-  
11 rity Act (42 U.S.C. 1396r–8(d)(2)(F)) is amended  
12 by inserting “(and women described in section  
13 1905(bb) as pregnant women pursuant to paragraph  
14 (4) of such section)” after “pregnant women”.

15 (c) EFFECTIVE DATE.—

16 (1) IN GENERAL.—Subject to paragraph (2),  
17 the amendments made by this section shall apply  
18 with respect to items and services furnished on or  
19 after the date that is 2 years after the date of the  
20 enactment of this Act.

21 (2) EXCEPTION FOR STATE LEGISLATION.—In  
22 the case of a State plan under title XIX of the So-  
23 cial Security Act, which the Secretary of Health and  
24 Human Services determines requires State legisla-  
25 tion in order for the plan to meet any requirement

1 imposed by amendments made by this section, the  
2 plan shall not be regarded as failing to comply with  
3 the requirements of such title solely on the basis of  
4 its failure to meet such an additional requirement  
5 before the first day of the first calendar quarter be-  
6 ginning after the close of the first regular session of  
7 the State legislature that begins after the effective  
8 date specified in paragraph (1). For purposes of the  
9 previous sentence, in the case of a State that has a  
10 2-year legislative session, each year of the session  
11 shall be considered to be a separate regular session  
12 of the State legislature.

13 (d) REPORT.—Not later than 2 years after the date  
14 of the enactment of this Act, the Inspector General of the  
15 Department of Health and Human Services shall submit  
16 to Congress a report that assesses the use of the tobacco  
17 cessation service benefit under the Medicaid program.  
18 Such report shall include an assessment of—

19 (1) the extent that States are encouraging the  
20 use of such benefit, such as through promotion of  
21 beneficiary and provider awareness of such benefit;  
22 and

23 (2) gaps in the delivery of such benefit.

1 **SEC. 4. ELIMINATING FEDERAL FINANCIAL PARTICIPATION**  
2 **WITH RESPECT TO EXPENDITURES UNDER**  
3 **MEDICAID FOR AGENTS USED FOR COSMETIC**  
4 **PURPOSES OR HAIR GROWTH.**

5 (a) IN GENERAL.—Section 1903(i)(21) of the Social  
6 Security Act (42 U.S.C. 1396b(i)(21)) is amended by in-  
7 serting “section 1927(d)(2)(C) (relating to drugs when  
8 used for cosmetic purposes or hair growth), except where  
9 medically necessary, and” after “drugs described in”.

10 (b) EFFECTIVE DATE.—The amendment made by  
11 subsection (a) shall apply with respect to calendar quar-  
12 ters beginning on or after the date of the enactment of  
13 this Act.

14 **SEC. 5. MEDICAID IMPROVEMENT FUND.**

15 Section 1941(b) of the Social Security Act (42 U.S.C.  
16 1396w–1(b)) is amended—

17 (1) in paragraph (2)—

18 (A) by striking “under paragraph (1)” and  
19 inserting “under this subsection”; and

20 (B) by redesignating such paragraph as  
21 paragraph (3); and

22 (2) by inserting after paragraph (1) the fol-  
23 lowing new paragraph:

24 “(2) ADDITIONAL FUNDING.—In addition to  
25 any funds otherwise made available to the Fund,

1       there shall be available to the Fund, for expendi-  
2       tures from the Fund—

3               “(A) for fiscal year 2021, \$10,000,000, to  
4       remain available until expended; and

5               “(B) for fiscal year 2022, \$14,000,000, to  
6       remain available until expended.”.

Passed the House of Representatives September 20,  
2016.

Attest:

KAREN L. HAAS,  
*Clerk.*