

115TH CONGRESS
1ST SESSION

H. R. 165

To amend titles XVI, XVIII, XIX, and XXI of the Social Security Act to remove limitations on Medicaid, Medicare, SSI, and CHIP benefits for persons in custody pending disposition of charges.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 3, 2017

Mr. HASTINGS introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend titles XVI, XVIII, XIX, and XXI of the Social Security Act to remove limitations on Medicaid, Medicare, SSI, and CHIP benefits for persons in custody pending disposition of charges.

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 “Restoring the Partner-
5 ship for County Health Care Costs Act of 2017”.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

1 (1) The United States Supreme Court has in-
2 terpreted the 8th Amendment to require govern-
3 mental entities to provide medical care to persons in-
4 voluntarily confined in jails, detention centers, and
5 prisons.

6 (2) The Federal Government does not provide
7 health benefits under Medicare, Medicaid, Supple-
8 mental Security Income (SSI), or the Children's
9 Health Insurance Program (CHIP) to inmates even
10 if the person is awaiting trial in jail and has not
11 been convicted. However, beneficiaries who are re-
12 leased after posting bond, or who are released under
13 their own recognizance, or who are released under
14 house arrest may continue to receive Medicare, Med-
15 icaid, SSI, and CHIP benefits.

16 (3) The cost of providing health care in prisons
17 and jails has increased exponentially due in part to
18 high incarceration rates, infectious diseases, chronic
19 conditions, substance abuse treatment, mental ill-
20 ness, aging prison populations, rising prescription
21 drug costs, and mandatory sentencing laws.

22 (4) Providing health care for inmates con-
23 stitutes a major portion of local jail operating costs.
24 Requiring county governments to cover health care
25 costs for inmates who have not been convicted places

1 an unnecessary burden on local governments who
2 have been negatively impacted by recession, wide-
3 spread budget deficits, and cuts to safety net pro-
4 grams and services.

5 (5) Jails generally have a higher instance of
6 mentally ill inmates because jails frequently serve as
7 holding places for low-income persons who are wait-
8 ing placement in a mental facility and for mentally
9 ill persons who commit nuisance crimes because of
10 inadequate access to treatment in their communities.

11 (6) The rising cost of bail has also contributed
12 to an overall increase in the jail population and
13 health care costs for inmates. The high cost of bail
14 has contributed to the disproportionate rate of incar-
15 ceration among African-Americans and Latinos.

16 (7) Terminating benefits to people in county
17 jails who are awaiting trial violates the presumption
18 of innocence, because it does not distinguish between
19 persons awaiting disposition of charges and those
20 who have been duly convicted and sentenced.

21 (8) Otherwise eligible individuals who have been
22 charged with a crime and incarcerated, but not con-
23 victed, should continue to be eligible for Federal
24 health benefits, such as Medicare, Medicaid, SSI, or
25 CHIP, until such time as they may be convicted and

1 sentenced to an institution. SSI payments should be
2 held until the inmate has been acquitted and re-
3 leased, or until the inmate has completed his or her
4 sentence and been released.

5 **SEC. 3. REMOVAL OF INMATE LIMITATION ON BENEFITS**
6 **UNDER MEDICAID, MEDICARE, SSI, AND CHIP.**

7 (a) **MEDICAID.**—The subdivision (A) of section
8 1905(a) of the Social Security Act (42 U.S.C. 1396d(a))
9 that follows paragraph (29) is amended by inserting “or
10 in custody pending disposition of charges” after “patient
11 in a medical institution”.

12 (b) **MEDICARE.**—Section 1862(a)(3) of the Social Se-
13 curity Act (42 U.S.C. 1395y(a)(3)) is amended by insert-
14 ing “in the case of services furnished to individuals who
15 are in custody pending disposition of charges,” after
16 “1880(e)”.

17 (c) **SSI.**—Section 1611(e)(1) of the Social Security
18 Act (42 U.S.C. 1382(e)(1)) is amended by adding at the
19 end the following new subparagraph:

20 “(K)(i) As used in subparagraph (A), the term ‘in-
21 mate of a public institution’ does not include an individual
22 who is in custody pending disposition of charges.

23 “(ii) In the case of an individual who is an eligible
24 individual or eligible spouse for purposes of this title only
25 because of the application of the definition in clause (i),

1 any supplemental security income benefits otherwise pay-
2 able shall be withheld until such time as the individual
3 is no longer either in custody pending disposition of
4 charges or an inmate of a public institution or shall be
5 paid to the individual's estate if the individual dies before
6 the pending charges are disposed of or while the individual
7 is an inmate of a public institution.”.

8 (d) CHIP.—Section 2110(b)(2)(A) of the Social Se-
9 curity Act (42 U.S.C. 1397jj(b)(2)(A)) is amended by in-
10 serting “(except as an individual in custody pending dis-
11 position of charges)” after “inmate of a public institu-
12 tion”.

13 (e) EFFECTIVE DATE.—The amendments made by
14 this section shall take effect on the first day of the first
15 calendar quarter beginning more than 60 days after the
16 date of the enactment of this Act and shall apply to items
17 and services furnished, and supplemental security income
18 benefits paid, for periods beginning on or after such date.

○