

105TH CONGRESS
2D SESSION

H. R. 4825

To require proof of screening for lead poisoning and to ensure that children at highest risk are identified and treated.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 13, 1998

Mr. MENENDEZ introduced the following bill; which was referred to the Committee on Commerce, and in addition to the Committee on Education and the Workforce, 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 require proof of screening for lead poisoning and to ensure that children at highest risk are identified and treated.

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 “Childhood Lead Poi-
5 soning Protection Act of 1998”.

6 **SEC. 2. FINDINGS AND PURPOSES.**

7 (a) FINDINGS.—Congress finds that—

1 (1) lead poisoning remains a serious environ-
2 mental risk, especially to the health of young chil-
3 dren;

4 (2) childhood lead poisoning can cause reduc-
5 tions in IQ, attention span, reading, and learning
6 disabilities, and other growth and behavior problems;

7 (3) children under the age of 6 are at the great-
8 est risk because of the sensitivity of their developing
9 brains and nervous systems;

10 (4) poor children and minority children are at
11 substantially higher risk of lead poisoning;

12 (5) it is estimated that more than 500,000 chil-
13 dren enrolled in Medicaid have harmful levels of lead
14 in their blood;

15 (6) children enrolled in Medicaid represent 60
16 percent of the 890,000 children in the United States
17 with elevated blood lead levels;

18 (7) although the Health Care Financing Admin-
19 istration has required mandatory blood lead
20 screenings for children enrolled in Medicaid who are
21 not less than 1 nor more than 5 years of age, ap-
22 proximately two-thirds of children enrolled in Medic-
23 aid have not been screened or treated;

24 (8) the Health Care Financing Administration
25 mandatory screening policy has not been effective, or

1 sufficient, to properly identify and screen children
 2 enrolled in Medicaid who are at risk;

3 (9) uniform lead screening requirements do not
 4 exist for children not enrolled in Medicaid; and

5 (10) adequate treatment services are not uni-
 6 formly available for children with elevated blood lead
 7 levels.

8 (b) PURPOSE.—The purpose of this Act is to create
 9 a lead screening safety net that will, through Medicaid and
 10 other entitlement programs, ensure that low-income chil-
 11 dren at the highest risk of lead poisoning receive blood
 12 lead screenings and appropriate followup care.

13 **SEC. 3. INCREASED LEAD POISONING SCREENINGS AND**
 14 **TREATMENTS UNDER THE MEDICAID PRO-**
 15 **GRAM.**

16 (a) PENALTY FOR INSUFFICIENT INCREASES IN
 17 LEAD POISONING SCREENINGS.—

18 (1) PERFORMANCE IMPROVEMENT.—Section
 19 1903 of the Social Security Act (42 U.S.C. 1396b)
 20 is amended by adding at the end the following:

21 “(x) PERFORMANCE IMPROVEMENT.—

22 “(1) IN GENERAL.—Notwithstanding section
 23 1905(b), beginning with fiscal year 2000 and for
 24 each fiscal year thereafter, with respect to any State
 25 that fails to meet minimum blood lead screening

1 rates stated in paragraph (2), the Federal medical
 2 assistance percentage determined under section
 3 1905(b) for the State for the fiscal year shall be re-
 4 duced by 1 percentage point, but only with respect
 5 to—

6 “(A) items and services furnished under a
 7 State plan under this title during that fiscal
 8 year;

9 “(B) payments made on a capitation or
 10 other risk-basis under a State plan under this
 11 title for coverage occurring during that fiscal
 12 year; and

13 “(C) payments under a State plan under
 14 this title that are attributable to DSH allot-
 15 ments for the State determined under section
 16 1923(f) for that fiscal year.

17 “(2) MINIMUM BLOOD LEAD SCREENING
 18 RATES.—The minimum acceptable percentages of 2-
 19 year-old Medicaid-enrolled children who have re-
 20 ceived at least 1 blood lead screening test are—

21 “(A) 50 percent in fiscal year 2000;

22 “(B) 60 percent in fiscal year 2001;

23 “(C) 70 percent in fiscal year 2002;

24 “(D) 80 percent in fiscal year 2003; and

1 “(E) 90 percent in each fiscal year after
2 fiscal year 2003.

3 “(3) MODIFICATION OR WAIVER.—The Sec-
4 retary may modify or waive the application of para-
5 graph (1) in the case of a State that the Secretary
6 determines has performed during a fiscal year such
7 a significant number of lead blood level assessments
8 that the State reasonably cannot be expected to
9 achieve the minimum blood lead screening rates es-
10 tablished by paragraph (2).”.

11 (2) REPORTING REQUIREMENT.—Section
12 1902(a)(43)(D) of the Social Security Act (42
13 U.S.C. 1396a(a)(43)(D)) is amended—

14 (A) in clause (iii), by striking “and” at the
15 end;

16 (B) in clause (iv), by striking the semi-
17 colon and inserting “, and”; and

18 (C) by adding at the end the following:

19 “(v) the number of children who are
20 not more than 2 years of age and enrolled
21 in the Medicaid Program and the number
22 and results of lead blood level assessments
23 performed by the State, along with demo-
24 graphic and identifying information that is
25 consistent with the recommendations of the

1 Centers for Disease Control and Preven-
2 tion with respect to lead surveillance;”.

3 (b) MANDATORY SCREENING REQUIREMENTS.—Sec-
4 tion 1902(a) of the Social Security Act (42 U.S.C.
5 1396a(a)) is amended—

6 (1) in paragraph (65), by striking the period
7 and inserting “; and”; and

8 (2) by adding at the end the following:

9 “(66) provide that each contract entered into
10 between the State and an entity (including a health
11 insuring organization and a Medicaid managed care
12 organization) that is responsible for the provision
13 (directly or through arrangements with providers of
14 services) of medical assistance under the State plan
15 shall provide for—

16 “(A) compliance with mandatory screening
17 requirements for lead blood level assessments
18 (as appropriate for age and risk factors) that
19 are commensurate with guidelines and man-
20 dates issued by the Secretary through the Ad-
21 ministrator of the Health Care Financing Ad-
22 ministration; and

23 “(B) coverage of appropriate qualified lead
24 treatment services, as prescribed by the Centers
25 for Disease Control and Prevention guidelines,

1 for children with elevated levels of lead in their
2 blood.”.

3 (c) REIMBURSEMENT FOR TREATMENT OF CHIL-
4 DREN WITH ELEVATED BLOOD LEAD LEVELS.—Section
5 1905 of the Social Security Act (42 U.S.C. 1396d) is
6 amended—

7 (1) in subsection (a)—

8 (A) in paragraph (26), by striking “and”
9 at the end;

10 (B) by redesignating paragraph (27) as
11 paragraph (28); and

12 (C) by inserting after paragraph (26) the
13 following:

14 “(27) qualified lead treatment services (as de-
15 fined in subsection (v));” and

16 (2) by adding at the end the following:

17 “(v)(1) The term ‘qualified lead treatment services’
18 means all appropriate and medically necessary services
19 that are provided by a qualified provider, as determined
20 by the State, to treat a child described in paragraph (2),
21 including—

22 “(A) environmental investigations to determine
23 the source of a child’s lead exposure, including the
24 costs of qualified and trained professionals (includ-
25 ing health professionals and lead professionals cer-

1 tified by the State or the Environmental Protection
2 Agency) to conduct such investigations and the costs
3 of laboratory testing of substances suspected of
4 being significant pathways for lead exposure (such
5 as lead dust, paint chips, bare soil, and water);

6 “(B) professional case management services to
7 coordinate access to such services; and

8 “(C) emergency measures to reduce or elimi-
9 nate lead hazards to a child, if required (as rec-
10 ommended by the Centers for Disease Control and
11 Prevention).

12 “(2) For purposes of paragraph (1), a child described
13 in this paragraph is a child who—

14 “(A) has attained 6 months of age but has not
15 attained 73 months of age; and

16 “(B) has been identified as having a blood lead
17 level that equals or exceeds 20 micrograms per deci-
18 liter (or persistently equals or exceeds 15
19 micrograms per deciliter).”.

20 (d) EFFECTIVE DATE.—

21 (1) IN GENERAL.—The amendments made by
22 this section apply on and after October 1, 1998.

23 (2) EXTENSION OF EFFECTIVE DATE FOR
24 STATE LAW AMENDMENT.—In the case of a State
25 plan under title XIX of the Social Security Act

1 which the Secretary of Health and Human Services
2 determines requires State legislation in order for the
3 plan to meet the additional requirements imposed by
4 the amendments made by this section, the State
5 plan shall not be regarded as failing to comply with
6 the requirements of this section solely on the basis
7 of its failure to meet these additional requirements
8 before the first day of the first calendar quarter be-
9 ginning after the close of the first regular session of
10 the State legislature that begins after the date of the
11 enactment of this Act. For purposes of the previous
12 sentence, in the case of a State that has a 2-year
13 legislative session, each year of the session is consid-
14 ered to be a separate regular session of the State
15 legislature.

16 **SEC. 4. LEAD POISONING SCREENING FOR SPECIAL SUP-**
17 **PLEMENTAL NUTRITION PROGRAM FOR**
18 **WOMEN, INFANTS, AND CHILDREN.**

19 Section 17(d) of the Child Nutrition Act of 1966 (42
20 U.S.C. 1786(d)) is amended by adding at the end the fol-
21 lowing:

22 “(4) LEAD POISONING SCREENING.—

23 “(A) IN GENERAL.—Subject to subpara-
24 graph (B), for an infant or child to be eligible
25 to participate in the program under this sec-

tion, a member of the family of the infant or child shall provide proof to the State agency, not later than 180 days after enrollment of the infant or child in the program and periodically thereafter (as determined by the State agency), that the infant or child has received a blood lead test for lead poisoning using an assessment that is appropriate for age and risk factors.

“(B) WAIVERS.—A State agency or local agency may waive the requirement of subparagraph (A) with respect to an infant or child if the State agency or local agency determines that—

“(i) the area in which the infant or child resides does not pose a risk of lead poisoning; or

“(ii) the requirement would be contrary to the religious beliefs or moral convictions of the family of the infant or child.

“(C) SCREENINGS BY STATE AGENCIES.—

“(i) IN GENERAL.—On the request of a member of a family of an infant or child who has not been screened for lead poisoning and who seeks to participate in the program, at no charge to the family, a

1 State agency shall perform a blood lead
2 test on the infant or child that is appro-
3 priate for age and risk factors.

4 “(ii) REIMBURSEMENT.—On the re-
5 quest of a State agency that screens for
6 lead poisoning under clause (i) an infant or
7 child that is receiving medical assistance
8 under a State plan under title XIX of the
9 Social Security Act (42 U.S.C. 1396 et
10 seq.), the Secretary of Health and Human
11 Services shall reimburse the State agency,
12 from funds that are made available under
13 that title, for the cost of the screening (in-
14 cluding the cost of purchasing portable
15 blood lead analyzer instruments approved
16 for sale by the Food and Drug Administra-
17 tion and providing screening with the use
18 of such instruments through laboratories
19 certified under section 353 of the Public
20 Health Service Act (42 U.S.C. 263a)).”.

21 **SEC. 5. LEAD POISONING SCREENING FOR EARLY HEAD**
22 **START PROGRAMS.**

23 Section 645A of the Head Start Act (42 U.S.C
24 9840a) is amended—

1 (1) in subsection (c)(2), by inserting before the
2 semicolon the following: “, if the families comply
3 with subsection (i)”; and

4 (2) by adding at the end the following:

5 “(i) LEAD POISONING SCREENING.—

6 “(1) IN GENERAL.—Subject to paragraph (2),
7 for a child to be eligible to participate in a program
8 described in subsection (a)(1), a member of the fam-
9 ily of the child shall provide proof to the entity car-
10 rying out the program, not later than 180 days after
11 enrollment of the child in the program and periodi-
12 cally thereafter (as determined by the entity), that
13 the child has received a blood lead test for lead poi-
14 soning using an assessment that is appropriate for
15 age and risk factors.

16 “(2) WAIVERS.—The entity may waive the re-
17 quirement of paragraph (1) with respect to a child
18 if the entity determines that—

19 “(A) the area in which the child resides
20 does not pose a risk of lead poisoning; or

21 “(B) the requirement would be contrary to
22 the religious beliefs or moral convictions of the
23 family of the child.

24 “(3) SCREENINGS BY ENTITIES.—

1 “(A) IN GENERAL.—On the request of a
2 member of a family of a child who has not been
3 screened for lead poisoning and who seeks to
4 participate in the program, at no charge to the
5 family, the entity shall perform a blood lead
6 test on the child that is appropriate for age and
7 risk factors.

8 “(B) REIMBURSEMENT.—On the request
9 of an entity that screens for lead poisoning
10 under subparagraph (A) a child that is receiv-
11 ing medical assistance under a State plan under
12 title XIX of the Social Security Act (42 U.S.C.
13 1396 et seq.), the Secretary shall reimburse the
14 entity, from funds that are made available
15 under that title, for the cost of the screening
16 (including the cost of purchasing portable blood
17 lead analyzer instruments approved for sale by
18 the Food and Drug Administration and provid-
19 ing screening with the use of such instruments
20 through laboratories certified under section 353
21 of the Public Health Service Act (42 U.S.C.
22 263a)).”.

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