

106TH CONGRESS
1ST SESSION

H. R. 1289

To amend title XIX of the Social Security Act to direct the Secretary of Health and Human Services to waive recoupment of the Federal government Medicaid share of tobacco-related State settlements under certain conditions.

IN THE HOUSE OF REPRESENTATIVES

MARCH 25, 1999

Mr. WAXMAN (for himself, Mr. DINGELL, Mr. RANGEL, and Mr. LEWIS of Georgia) introduced the following bill; which was referred to the Committee on Commerce

A BILL

To amend title XIX of the Social Security Act to direct the Secretary of Health and Human Services to waive recoupment of the Federal government Medicaid share of tobacco-related State settlements under certain conditions.

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 “Tobacco Use Preven-
5 tion and Public Health Act of 1999”.

1 **SEC. 2. WAIVER OF RECOUPMENT OF MEDICAID TOBACCO-**
2 **RELATED RECOVERIES.**

3 (a) IN GENERAL.—Section 1903(d)(3) of the Social
4 Security Act (42 U.S.C. 1396b(d)(3)) is amended—

5 (1) by inserting “(A)” before “The”; and

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

7 “(B) Subparagraph (A) and paragraph (2)(B) shall
8 not apply to any amount recovered or paid to a State as
9 part of a settlement or judgment reached in litigation initi-
10 ated or pursued by a State against one or more manufac-
11 turers of tobacco products, as defined in section 5702(d)
12 of the Internal Revenue Code of 1986, if (and to the ex-
13 tent that), with respect to amounts recovered or paid to
14 a State in a fiscal year, the Secretary finds that following
15 conditions are met:

16 “(i) The State will spend at least 25 percent of
17 the amounts so recovered or paid in any fiscal year
18 on tobacco control activities in accordance with sub-
19 paragraph (C).

20 “(ii) The State will spend at least 25 percent
21 of the amounts so recovered or paid in any fiscal
22 year for health activities, including public health ac-
23 tivities and expenditures described in subparagraph
24 (D), but excluding amounts expended to meet the re-
25 quirement of clause (i).

1 “(iii)(I) Subject to subclause (II), the amounts
2 described in clauses (i) and (ii) will be spent only in
3 a manner that supplements (and does not supplant)
4 funds previously being spent by the State (or local
5 governments in the State) for such or similar activi-
6 ties.

7 “(II) At the request of a State, the Secretary
8 may waive the requirement of subclause (I), with re-
9 spect to not supplanting State and local government
10 expenditures for tobacco control activities, to the ex-
11 tent that the total level of such expenditures (taking
12 into account expenditures required under clause (i))
13 is sufficient to provide for a well-funded, effective
14 program of tobacco control in the State.

15 “(C) For purposes of subparagraph (B)(i), expendi-
16 tures for tobacco control activities are made in accordance
17 with this subparagraph if—

18 “(i) the expenditures are made for any (or all)
19 of the following activities:

20 “(I) Activities to reduce the use of tobacco
21 products using methods that have been shown
22 to be effective, such as tobacco use cessation
23 programs, State or local counter-marketing pro-
24 grams, enforcement of laws relating to tobacco
25 products, community-based programs to dis-

1 courage the use of tobacco products, and
2 school-based and child-oriented education pro-
3 grams to discourage the use of tobacco prod-
4 ucts, and for ongoing evaluations of these pro-
5 grams.

6 “(II) Activities to fund research related to
7 nicotine addiction, tobacco use cessation, and
8 prevention of the use of tobacco products, in-
9 cluding surveillance and epidemiology research
10 related to tobacco.

11 “(III) Activities to assist in economic de-
12 velopment efforts designed to aid tobacco farm-
13 ers and workers and communities as they tran-
14 sition to a more broadly diversified economy;
15 and

16 “(ii) the expenditures include an annual con-
17 tribution by the State of its pro rata share for the
18 National Tobacco Use Prevention Program (under
19 section 3 of the Tobacco Use Prevention and Public
20 Health Act of 1999).

21 “(D) For purposes of subparagraph (B)(ii), the ex-
22 penditures described in this subparagraph are State ex-
23 penditures for outreach activities in enrolling individuals
24 under this title and State expenditures for medical assist-
25 ance with respect to individuals who are eligible for such

1 assistance only on the basis of a State plan amendment
2 approved on or after January 1, 1999.

3 “(E)(i) For purposes of subparagraph (C)(ii), a
4 State’s ‘pro rata share’ for a fiscal year is equal to
5 \$605,000,000 (or, if less, the sum of the amounts provided
6 under subsections (a), (b), and (c) of section 3 of the To-
7 bacco Use Prevention and Public Health Act of 1999 for
8 the fiscal year) multiplied by the ratio of (I) the amount
9 of the State’s aggregate recoveries or payments described
10 in subparagraph (B) for the fiscal year, to (II) the total
11 of such aggregate recoveries or payments for all the States
12 for the fiscal year.

13 “(ii) Amounts contributed under subparagraph
14 (C)(ii) shall be deposited in a separate account in the
15 Treasury to be known as the ‘National Tobacco Use Pre-
16 vention Account’. Amounts in such Account shall remain
17 available until expended for obligation under section 3 of
18 the Tobacco Use Prevention and Public Health Act of
19 1999.

20 “(F) For purposes of applying subparagraph (B) for
21 amounts described in such subparagraph recovered or paid
22 in a fiscal year before fiscal year 2000, such amounts shall
23 be treated as being recovered or paid in fiscal year 2000.”.

24 (b) EFFECTIVE DATE.—The amendments made by
25 subsection (a) apply to amounts recovered or paid to a

1 State before, on, or after the date of enactment of this
2 Act.

3 **SEC. 3. NATIONAL TOBACCO USE PREVENTION PROGRAM.**

4 (a) NATIONAL PUBLIC AWARENESS CAMPAIGN.—
5 There shall be made available from the National Tobacco
6 Use Prevention Account (provided for under section
7 1903(d)(3)(B)(E)(ii) of the Social Security Act) to the
8 Secretary of Health and Human Services, without fiscal
9 year limitation, \$500,000,000 for each fiscal year (begin-
10 ning with fiscal year 2000) to implement a national public
11 awareness campaign to discourage the use of tobacco
12 products.

13 (b) NATIONAL PROGRAM TO REDUCE TOBACCO USE
14 BY MINORITY GROUPS.—There shall be made available
15 from such National Tobacco Use Prevention Account to
16 such Secretary, without fiscal year limitation,
17 \$100,000,000 for each fiscal year (beginning with fiscal
18 year 2000) to implement the recommendations contained
19 in the 1998 report by the Surgeon General entitled “To-
20 bacco Use Among U.S. Racial/Ethnic Minority Groups”.
21 The Secretary shall implement such recommendations
22 through the Deputy Assistant Secretary for Minority
23 Health and in consultation with an advisory committee
24 composed of individuals from the private sector who are
25 experienced with respect to minority health concerns.

1 (c) NATIONAL ECONOMIC STABILIZATION PROGRAM
2 FOR TOBACCO FARMERS.—There shall be made available
3 from such National Tobacco Use Prevention Account to
4 the Secretary of Agriculture, without fiscal year limitation,
5 \$5,000,000 for each fiscal year (beginning with fiscal year
6 2000 and ending with fiscal year 2005) to promulgate and
7 enforce regulations to provide economic stabilization for
8 tobacco farmers. Such regulations—

9 (1) shall provide that any manufacturer of to-
10 bacco products in the United States which purchases
11 (or which controls a person who purchases) tobacco
12 grown in a foreign country in any year, beginning
13 with 2000 and ending with 2004, may not reduce in
14 such year its level of purchases of tobacco from
15 farmers in the United States below the level of such
16 purchases in 1997;

17 (2) may be enforced through an action brought
18 by such Secretary in an appropriate district court of
19 the United States to enjoin any failure to comply
20 with such regulations or to impose a civil penalty for
21 such failure to comply of not more than \$25,000 per
22 day of violation; and

23 (3) shall not apply to purchases made on or
24 after January 1, 2005.

1 (d) ADJUSTMENT.—If the aggregate amount depos-
2 ited into such National Tobacco Use Prevention Account
3 for a fiscal year is less than the sum of the amounts speci-
4 fied under subsections (a), (b), and (c) for that fiscal year,
5 the amounts so specified shall be reduced in a pro-rata
6 manner so that the total of such amounts for the fiscal
7 year is equal to the aggregate amount so deposited for
8 the fiscal year.

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