

107TH CONGRESS
2D SESSION

S. 1916

To provide unemployed workers with health coverage assistance.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 7, 2002

Mr. DAYTON introduced the following bill; which was read twice and referred
to the Committee on Finance

A BILL

To provide unemployed workers with health coverage
assistance.

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 “Health Care Assistance
5 for America’s Unemployed Workers Act of 2002”.

6 **SEC. 2. PREMIUM ASSISTANCE FOR COBRA CONTINUATION**
7 **COVERAGE FOR INDIVIDUALS AND THEIR**
8 **FAMILIES.**

9 (a) ESTABLISHMENT.—

10 (1) IN GENERAL.—Not later than 30 days after
11 the date of enactment of this Act, the Secretary of

1 the Treasury, in consultation with the Secretary of
2 Labor, shall establish a program under which 75
3 percent of the premium for COBRA continuation
4 coverage shall be provided for an individual who—

5 (A) at any time during the period that be-
6 gins on January 1, 2001, and ends on Decem-
7 ber 31, 2002, is separated from employment;
8 and

9 (B) is eligible for, and has elected coverage
10 under, COBRA continuation coverage.

11 (2) INCLUSION OF CERTAIN INDIVIDUALS.—For
12 purposes of paragraph (1), the spouse, child, or
13 other individual who was an insured under health in-
14 surance coverage of an individual who was killed as
15 a result of the terrorist-related aircraft crashes on
16 September 11, 2001, or as a result of any other ter-
17 rorist-related event occurring during the period de-
18 scribed in that paragraph, and who is eligible for,
19 and has elected coverage under, COBRA continu-
20 ation coverage shall be eligible for premium assist-
21 ance under the program established under this sec-
22 tion.

23 (3) STATE OPTION TO ELECT ADMINISTRATION
24 OF PROGRAM.—

1 (A) IN GENERAL.—A State may elect to
2 administer the premium assistance program es-
3 tablished under this section if the State submits
4 to the Secretary of the Treasury, not later than
5 April 1, 2002, a plan that describes how the
6 State will administer such program on behalf of
7 the individuals described in paragraph (1) or
8 (2) who reside in the State beginning on that
9 date.

10 (B) STATE ENTITLEMENT.—In the case of
11 a State that submits a plan under subpara-
12 graph (A), the Secretary of the Treasury shall
13 pay to each such State an amount for each
14 quarter equal to the total amount of premium
15 subsidies provided in that quarter on behalf of
16 such individuals.

17 (4) IMMEDIATE IMPLEMENTATION.—The pro-
18 gram established under this section shall be imple-
19 mented without regard to whether or not final regu-
20 lations to carry out such program have been promul-
21 gated by the date described in paragraph (1).

22 (b) LIMITATION OF PERIOD OF PREMIUM ASSIST-
23 ANCE.—

1 (1) IN GENERAL.—Premium assistance pro-
 2 vided in accordance with this section shall end with
 3 respect to an individual on the earlier of—

4 (A) the date the individual is no longer
 5 covered under COBRA continuation coverage;
 6 or

7 (B) 12 months after the date the indi-
 8 vidual is first enrolled in the premium assist-
 9 ance program established under this section.

10 (2) NO ASSISTANCE AFTER MARCH 31, 2003.—
 11 No premium assistance (including payment for such
 12 assistance) may be provided under this section after
 13 March 31, 2003.

14 (c) PAYMENT ARRANGEMENTS; CREDITING OF AS-
 15 SISTANCE.—

16 (1) PROVISION OF ASSISTANCE.—

17 (A) IN GENERAL.—Premium assistance
 18 shall be provided under the program established
 19 under this section through direct payment ar-
 20 rangements with a group health plan (including
 21 a multiemployer plan), an issuer of health in-
 22 surance coverage, an administrator, or an em-
 23 ployer as appropriate with respect to the indi-
 24 vidual provided such assistance.

1 (B) ADDITIONAL OPTION FOR STATE-RUN
2 PROGRAM.—In the case of a State that elects to
3 administer the program established under this
4 section, such assistance may be provided
5 through the State public employment office or
6 other agency responsible for administering the
7 State unemployment compensation program.

8 (2) PREMIUMS PAYABLE BY INDIVIDUAL RE-
9 DUCED BY AMOUNT OF ASSISTANCE.—Premium as-
10 sistance provided under this section shall be credited
11 by the group health plan, issuer of health insurance
12 coverage, or an administrator against the premium
13 otherwise owed by the individual involved for
14 COBRA continuation coverage.

15 (d) PROGRAM REQUIREMENTS.—Premium assistance
16 shall be provided under the program established under this
17 section consistent with the following:

18 (1) ALL QUALIFYING INDIVIDUALS MAY
19 APPLY.—All individuals described in paragraph (1)
20 or (2) of subsection (a) may apply for such assist-
21 ance at any time during the period described in sub-
22 section (a)(1)(A).

23 (2) SELECTION ON FIRST-COME, FIRST-SERVED
24 BASIS.—Such assistance shall be provided to such

1 individuals who apply for the assistance in the order
2 in which they apply.

3 (e) LIMITATION ON ENTITLEMENT.—Nothing in this
4 section shall be construed as establishing any entitlement
5 of individuals described in paragraph (1) or (2) of sub-
6 section (a) to premium assistance under this section.

7 (f) DISREGARD OF SUBSIDIES FOR PURPOSES OF
8 FEDERAL AND STATE PROGRAMS.—Notwithstanding any
9 other provision of law, any premium assistance provided
10 to, or on behalf of, an individual under this section, shall
11 not be considered income or resources in determining eligi-
12 bility for, or the amount of assistance or benefits provided
13 under, any other Federal public benefit or State or local
14 public benefit.

15 (g) CHANGE IN COBRA NOTICE.—

16 (1) GENERAL NOTICE.—

17 (A) IN GENERAL.—In the case of notices
18 provided under section 4980B(f)(6) of the In-
19 ternal Revenue Code of 1986, section 2206 of
20 the Public Health Service Act (42 U.S.C.
21 300bb–6), section 606 of the Employee Retire-
22 ment Income Security Act of 1974 (29 U.S.C.
23 1166), or section 8905a(f)(2)(A) of title 5,
24 United States Code, with respect to individuals
25 who, during the period described in subsection

(a)(1)(A), become entitled to elect COBRA continuation coverage, such notices shall include an additional notification to the recipient of the availability of premium assistance for such coverage under this section and for temporary medicaid assistance under section 4 for the remaining portion of COBRA continuation premiums.

(B) ALTERNATIVE NOTICE.—In the case of COBRA continuation coverage to which the notice provision under such sections does not apply, the Secretary of the Treasury, in consultation with the Secretary of Labor, shall, in coordination with administrators of the group health plans (or other entities) that provide or administer the COBRA continuation coverage involved, assure the provision of such notice.

(C) FORM.—The requirement of the additional notification under this paragraph may be met by amendment of existing notice forms or by inclusion of a separate document with the notice otherwise required.

(2) SPECIFIC REQUIREMENTS.—Each additional notification under paragraph (1) shall include—

1 (A) the forms necessary for establishing
 2 eligibility and enrollment in the premium assist-
 3 ance program established under this section in
 4 connection with the coverage with respect to
 5 each covered employee or other qualified bene-
 6 ficiary;

7 (B) the name, address, and telephone num-
 8 ber necessary to contact the administrator and
 9 any other person maintaining relevant informa-
 10 tion in connection with the premium assistance;
 11 and

12 (C) the following statement displayed in a
 13 prominent manner:

14 “You may be eligible to receive assistance with pay-
 15 ment of 75 percent of your COBRA continuation coverage
 16 premiums and with temporary medicaid coverage for the
 17 remaining premium portion for a duration of not to exceed
 18 12 months.”.

19 (3) NOTICE RELATING TO RETROACTIVE COV-
 20 ERAGE.—In the case of such notices previously
 21 transmitted before the date of enactment of this Act
 22 in the case of an individual described in paragraph
 23 (1) who has elected (or is still eligible to elect, in-
 24 cluding as a result of subsection (h)) COBRA con-
 25 tinuation coverage as of the date of enactment of

1 this Act, the administrator of the group health plan
 2 (or other entity) involved or the Secretary of the
 3 Treasury, in consultation with the Secretary of
 4 Labor, (in the case described in the paragraph
 5 (1)(B)) shall provide (within 60 days after the date
 6 of enactment of this Act) for the additional notifica-
 7 tion required to be provided under paragraph (1).

8 (4) MODEL NOTICES.—Not later than 30 days
 9 after the date of enactment of this Act, the Sec-
 10 retary of the Treasury shall prescribe models for the
 11 additional notification required under this sub-
 12 section.

13 (h) TEMPORARY EXTENSION OF ELECTION PERIOD
 14 FOR CERTAIN SEPARATED INDIVIDUALS.—

15 (1) IN GENERAL.—Notwithstanding any other
 16 provision of law, the election period for COBRA con-
 17 tinuation coverage with respect to any eligible work-
 18 er for whom such period has expired as of the date
 19 of enactment of this Act, shall not end before the
 20 date that is 60 days after the date the individual re-
 21 ceives the additional notice required under sub-
 22 section (g)(3).

23 (2) PREEXISTING CONDITIONS.—If an indi-
 24 vidual is entitled to an additional notice under sub-
 25 section (g)(3), any period before the receipt of such

1 notice shall be disregarded for purposes of deter-
2 mining the 63-day periods referred to in section
3 701(c)(2) of the Employee Retirement Income Secu-
4 rity Act of 1974 (29 U.S.C. 1181(c)(2)), section
5 2701(c)(2) of the Public Health Service Act (42
6 U.S.C. 300gg(c)(2)), and section 9801(c)(2) of the
7 Internal Revenue Code of 1986.

8 (i) REPORTS.—Beginning on the date that is 3
9 months after the date of enactment of this Act, and every
10 3 months thereafter until January 1, 2003, the Secretary
11 of the Treasury shall submit a report to Congress regard-
12 ing the premium assistance program established under
13 this section that includes the following:

14 (1) The status of the implementation of the
15 program.

16 (2) The number of individuals provided assist-
17 ance under the program as of the date of the report.

18 (3) The average dollar amount (monthly and
19 annually) of the premium assistance provided under
20 the program.

21 (4) The number and identification of the States
22 that have elected to administer the program.

23 (5) The total amount of expenditures incurred
24 (with administrative expenditures noted separately)
25 under the program as of the date of the report.

1 (j) APPROPRIATION.—

2 (1) IN GENERAL.—Out of any funds in the
3 Treasury not otherwise appropriated, there is appro-
4 priated to carry out this section, such sums as are
5 necessary for each of fiscal years 2002 and 2003.

6 (2) OBLIGATION OF FUNDS.—This section con-
7 stitutes budget authority in advance of appropria-
8 tions Acts and represents the obligation of the Fed-
9 eral Government to provide for the payment of pre-
10 mium assistance under this section.

11 (k) SUNSET.—No premium assistance (including
12 payment for such assistance) may be provided under this
13 section after March 31, 2003.

14 **SEC. 3. STATE OPTION TO PROVIDE TEMPORARY MEDICAID**
15 **COVERAGE FOR CERTAIN UNINSURED INDIV-**
16 **VIDUALS.**

17 (a) STATE OPTION.—Notwithstanding any other pro-
18 vision of law, a State may elect to provide under its med-
19 icaid program under title XIX of the Social Security Act
20 medical assistance in the case of an individual—

21 (1) who at any time during the period that be-
22 gins on January 1, 2001, and ends on December 31,
23 2002, is separated from employment;

24 (2) who is not eligible for COBRA continuation
25 coverage;

1 (3) who is uninsured; and

2 (4) whose assets, resources, and earned or un-
3 earned income (or both) do not exceed such limita-
4 tions (if any) as the State may establish.

5 (b) LIMITATION OF PERIOD OF COVERAGE.—Medical
6 assistance provided in accordance with this section shall
7 end with respect to an individual on the earlier of—

8 (1) the date the individual is no longer unin-
9 sured; or

10 (2) subject to subsection (c)(4), 12 months
11 after the date the individual first receives such as-
12 sistance.

13 (c) SPECIAL RULES.—In the case of medical assist-
14 ance provided under this section—

15 (1) the Federal medical assistance percentage
16 under section 1905(b) of the Social Security Act (42
17 U.S.C. 1396d(b)) shall be the enhanced FMAP (as
18 defined in section 2105(b) of such Act (42 U.S.C.
19 1397ee(b)));

20 (2) a State may elect to apply any income,
21 asset, or resource limitation permitted under the
22 State medicaid plan or under title XIX of such Act;

23 (3) the provisions of section 1916(g) of the So-
24 cial Security Act (42 U.S.C. 1396o) shall apply to
25 the provision of such assistance in the same manner

1 as the provisions of such section apply with respect
2 to individuals provided medical assistance only under
3 subclause (XV) or (XVI) of section
4 1902(a)(10)(A)(ii) of such Act (42 U.S.C.
5 1396a(a)(10)(A)(ii));

6 (4) a State may elect to provide such assistance
7 in accordance with section 1902(a)(34) of the Social
8 Security Act (42 U.S.C. 1396a(a)(34)) and any as-
9 sistance provided with respect to a month described
10 in that section shall not be included in the deter-
11 mination of the 12-month period under subsection
12 (b)(2);

13 (5) a State may elect to make eligible for such
14 medical assistance a dependent spouse or children of
15 an individual eligible for medical assistance under
16 subsection (a), if such spouse or children are unin-
17 sured;

18 (6) individuals eligible for medical assistance
19 under this section shall be deemed to be described
20 in the list of individuals described in the matter pre-
21 ceding paragraph (1) of section 1905(a) of such Act
22 (42 U.S.C. 1396d(a));

23 (7) a State may elect to provide such medical
24 assistance without regard to any limitation under
25 sections 401(a), 402(b), 403, and 421 of the Per-

sonal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1611(a), 1612(b), 1613, and 1631) and no debt shall accrue under an affidavit of support against any sponsor of an individual who is an alien who is provided such assistance, and the cost of such assistance shall not be considered as an unreimbursed cost; and

(8) the Secretary of Health and Human Services shall not count, for purposes of section 1108(f) of the Social Security Act (42 U.S.C. 1308(f)), such amount of payments under this section as bears a reasonable relationship to the average national proportion of payments made under this section for the 50 States and the District of Columbia to the payments otherwise made under title XIX for such States and District.

(d) SUNSET.—No medical assistance may be provided under this section after March 31, 2003.

SEC. 4. STATE OPTION TO PROVIDE TEMPORARY COVERAGE UNDER MEDICAID FOR THE UNSUBSIDIZED PORTION OF COBRA CONTINUATION PREMIUMS.

(a) STATE OPTION.—

(1) IN GENERAL.—Notwithstanding any other provision of law, a State may elect to provide under

1 its medicaid program under title XIX of the Social
2 Security Act medical assistance in the form of pay-
3 ment for the portion of the premium for COBRA
4 continuation coverage for which an individual does
5 not receive a subsidy under the premium assistance
6 program established under section 2 in the case of
7 an individual—

8 (A) who at any time during the period that
9 begins on January 1, 2001, and ends on De-
10 cember 31, 2002, is separated from employ-
11 ment;

12 (B) who is eligible for, and has elected cov-
13 erage under, COBRA continuation coverage;

14 (C) who is receiving premium assistance
15 under the program established under section 2;
16 and

17 (D) whose family income does not exceed
18 200 percent of the poverty line.

19 (2) INCLUSION OF CERTAIN INDIVIDUALS.—For
20 purposes of paragraph (1), the spouse, child, or
21 other individual who was an insured under health in-
22 surance coverage of an individual who was killed as
23 a result of the terrorist-related aircraft crashes on
24 September 11, 2001, or as a result of any other ter-
25 rorist-related event occurring during the period de-

1 scribed in that paragraph, and who satisfies the re-
 2 quirements of subparagraphs (B), (C), and (D) of
 3 paragraph (1) shall be eligible for medical assistance
 4 under this section.

5 (b) LIMITATION OF PERIOD OF COVERAGE.—Medical
 6 assistance provided in accordance with this section shall
 7 end with respect to an individual on the earlier of—

8 (1) the date the individual is no longer covered
 9 under COBRA continuation coverage; or

10 (2) 12 months after the date the individual first
 11 receives such assistance under this section.

12 (c) SPECIAL RULES.—In the case of medical assist-
 13 ance provided under this section—

14 (1) such assistance may be provided without re-
 15 gard to—

16 (A) whether the State otherwise has elect-
 17 ed to make medical assistance available for
 18 COBRA premiums under section
 19 1902(a)(10)(F) of the Social Security Act (42
 20 U.S.C. 1396a(a)(10)(F)); or

21 (B) the conditions otherwise imposed for
 22 the provision of medical assistance for such
 23 COBRA premiums under clause (XII) of the
 24 matter following section 1902(a)(10)(G) of the
 25 Social Security Act (42 U.S.C.

1 1396a(a)(10)(G)), or paragraphs (1)(B),
 2 (1)(C), (1)(D), and (4) of section 1902(u) of
 3 such Act (42 U.S.C. 1396a(u)); and
 4 (2) paragraphs (1), (2), (4), (5), (7), and (8)
 5 of subsection (c) of section 3 apply to such assist-
 6 ance in the same manner as such paragraphs apply
 7 to the provision of medical assistance under that sec-
 8 tion.

9 (d) SUNSET.—No medical assistance may be provided
 10 under this section after March 31, 2003.

11 **SEC. 5. DEFINITIONS.**

12 In this Act:

13 (1) ADMINISTRATOR.—The term “adminis-
 14 trator” has the meaning given that term in section
 15 3(16)(A) of the Employee Retirement Income Secu-
 16 rity Act of 1974 (29 U.S.C. 1002(16)(A)).

17 (2) COBRA CONTINUATION COVERAGE.—

18 (A) IN GENERAL.—The term “COBRA
 19 continuation coverage” means coverage under a
 20 group health plan provided by an employer pur-
 21 suant to title XXII of the Public Health Service
 22 Act, section 4980B of the Internal Revenue
 23 Code of 1986, part 6 of subtitle B of title I of
 24 the Employee Retirement Income Security Act

1 of 1974, or section 8905a of title 5, United
2 States Code.

3 (B) APPLICATION TO EMPLOYERS IN
4 STATES REQUIRING SUCH COVERAGE.—Such
5 term includes such coverage provided by an em-
6 ployer in a State that has enacted a law that
7 requires the employer to provide such coverage
8 even though the employer would not otherwise
9 be required to provide such coverage under the
10 provisions of law referred to in subparagraph
11 (A).

12 (3) COVERED EMPLOYEE.—The term “covered
13 employee” has the meaning given that term in sec-
14 tion 607(2) of the Employee Retirement Income Se-
15 curity Act of 1974 (29 U.S.C. 1167(2)).

16 (4) FEDERAL PUBLIC BENEFIT.—The term
17 “Federal public benefit” has the meaning given that
18 term in section 401(c) of the Personal Responsibility
19 and Work Opportunity Reconciliation Act of 1996 (8
20 U.S.C. 1611(c)).

21 (5) GROUP HEALTH PLAN.—The term “group
22 health plan” has the meaning given that term in sec-
23 tion 2791(a) of the Public Health Service Act (42
24 U.S.C. 300gg–91(a)) and in section 607(1) of the

1 Employee Retirement Income Security Act of 1974
2 (29 U.S.C. 1167(1)).

3 (6) HEALTH INSURANCE COVERAGE.—The term
4 “health insurance coverage” has the meaning given
5 that term in section 2791(b)(1) of the Public Health
6 Service Act (42 U.S.C. 300gg–91(b)(1)).

7 (7) MULTIEMPLOYER PLAN.—The term “multi-
8 employer plan” has the meaning given that term in
9 section 3(37) of the Employee Retirement Income
10 Security Act of 1974 (29 U.S.C. 1002(37)).

11 (8) POVERTY LINE.—The term “poverty line”
12 has the meaning given that term in section
13 2110(c)(5) of the Social Security Act (42 U.S.C.
14 1397jj(c)(5)).

15 (9) QUALIFIED BENEFICIARY.—The term
16 “qualified beneficiary” has the meaning given that
17 term in section 607(3) of the Employee Retirement
18 Income Security Act of 1974 (29 U.S.C. 1167(3)).

19 (10) STATE.—The term “State” has the mean-
20 ing given such term for purposes of title XIX of the
21 Social Security Act (42 U.S.C. 1396 et seq.).

22 (11) STATE OR LOCAL PUBLIC BENEFIT.—The
23 term “State or local public benefit” has the meaning
24 given that term in section 411(c) of the Personal

1 Responsibility and Work Opportunity Reconciliation
2 Act of 1996 (8 U.S.C. 1621(c)).

3 (12) UNINSURED.—

4 (A) IN GENERAL.—The term “uninsured”
5 means, with respect to an individual, that the
6 individual is not covered under—

7 (i) a group health plan;

8 (ii) health insurance coverage; or

9 (iii) a program under title XVIII,
10 XIX, or XXI of the Social Security Act
11 (other than under such title XIX pursuant
12 to section 3).

13 (B) EXCLUSION.—Such coverage under
14 clause (i) or (ii) shall not include coverage con-
15 sisting solely of coverage of excepted benefits
16 (as defined in section 2791(c) of the Public
17 Health Service Act (42 U.S.C. 300gg–91(c)).

○