

107TH CONGRESS  
2D SESSION

# S. 2449

To amend title XIX of the Social Security Act to allow Federal payments to be made to States under the medicaid program for providing pregnancy-related services or services for the testing or treatment for communicable diseases to aliens who are not lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MAY 2, 2002

Mr. BINGAMAN (for himself, Mr. MCCAIN, Mr. TORRICELLI, and Mr. CORZINE) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend title XIX of the Social Security Act to allow Federal payments to be made to States under the medicaid program for providing pregnancy-related services or services for the testing or treatment for communicable diseases to aliens who are not lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law, 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.**

2 This Act may be cited as the “Federal Responsibility  
3 for Immigrant Health Act of 2002”.

4 **SEC. 2. FEDERAL PAYMENTS UNDER MEDICAID FOR EMER-**  
5 **GENCY MEDICAL CONDITIONS OF CERTAIN**  
6 **ALIENS.**

7 (a) IN GENERAL.—Section 1903(v)(2)(A) of the So-  
8 cial Security Act (42 U.S.C. 1396b(v)(2)(A)) of the Social  
9 Security Act is amended to read as follows:

10 “(A) such care and services are—

11 “(i) necessary for the treatment of an  
12 emergency medical condition of the alien or nec-  
13 essary for the prevention of an emergency med-  
14 ical condition (including dialysis and chemo-  
15 therapy services),

16 “(ii) services related to pregnancy (includ-  
17 ing prenatal, delivery, postpartum, and family  
18 planning services) and to other conditions that  
19 may complicate pregnancy, or

20 “(iii) services for the testing or treatment  
21 for communicable diseases,”.

22 (b) STATE OPTION TO ELIMINATE RESIDENCY RE-  
23 QUIREMENT FOR CERTAIN ALIENS.—Section  
24 1903(v)(2)(B) of the Social Security Act (42 U.S.C.  
25 1396b(v)(2)(B)) is amended by inserting “, or, at State  
26 option, in the case of an alien granted parole under section

1 212(d)(5) of the Immigration and Nationality Act or an  
 2 alien admitted into the United States as a nonimmigrant  
 3 alien under section 101(a)(15) of such Act, any residency  
 4 requirement imposed under the State plan” after “pay-  
 5 ment”.

6 (c) EFFECTIVE DATE.—The amendments made by  
 7 this section shall apply to medical assistance provided on  
 8 or after the date of enactment of this Act.

9 **SEC. 3. FUNDING FOR EMERGENCY HEALTH SERVICES**  
 10 **FURNISHED TO UNDOCUMENTED ALIENS.**

11 (a) FUNDING.—Section 4723(a) of the Balanced  
 12 Budget Act of 1997 (8 U.S.C. 1611 note) is amended to  
 13 read as follows:

14 “(a) TOTAL AMOUNT AVAILABLE FOR ALLOT-  
 15 MENTS.—There are available for allotments for payments  
 16 to certain States under this section—

17 “(1) for each of fiscal years 1998 through  
 18 2001, \$25,000,000; and

19 “(2) for each of fiscal years 2003 through  
 20 2007, \$50,000,000.”.

21 (b) DETERMINATION OF STATE ALLOTMENTS.—Sec-  
 22 tion 4723(b) of the Balanced Budget Act of 1997 (8  
 23 U.S.C. 1611 note) is amended—

1           (1) in paragraph (1), in the first sentence, by  
2           striking “The Secretary” and inserting “Subject to  
3           paragraph (3), the Secretary”; and

4           (2) by adding at the end the following new  
5           paragraph:

6           “(3) FISCAL YEARS 2003 THROUGH 2007 ALLOT-  
7           MENTS.—

8           “(A) IN GENERAL.—Notwithstanding para-  
9           graph (1), the Secretary of Health and Human  
10          Services shall compute an allotment for each of  
11          fiscal years 2003 through 2007 for each of the  
12          15 States with the highest percentage of un-  
13          documented aliens. The amount of such allot-  
14          ment for each such State for a fiscal year shall  
15          bear the same ratio to the total amount avail-  
16          able for allotments under subsection (a) for the  
17          fiscal year as the ratio of the percentage of un-  
18          documented aliens in the State in the fiscal  
19          year bears to the total of such percentages for  
20          all such States for such fiscal year. The amount  
21          of allotment to a State provided under this  
22          paragraph for a fiscal year that is not paid out  
23          under subsection (c) shall be available for pay-  
24          ment during the subsequent fiscal year.

1           “(B) DETERMINATION.—For purposes of  
 2           subparagraph (A), the percentage of undocu-  
 3           mented aliens in a State under this section shall  
 4           be determined based on the most recent avail-  
 5           able estimates of the resident illegal alien popu-  
 6           lation residing in each State prepared by the  
 7           Statistics Division of the Immigration and Nat-  
 8           uralization Service.”.

9           (c) REQUIRING USE OF FUNDS TO ASSIST HOS-  
 10          PITALS AND RELATED PROVIDERS OF EMERGENCY  
 11          HEALTH SERVICES TO UNDOCUMENTED ALIENS.—Sec-  
 12          tion 4723(c) of the Balanced Budget Act of 1997 (8  
 13          U.S.C. 1611 note) is amended to read as follows:

14          “(c) USE OF FUNDS.—

15                 “(1) IN GENERAL.—From the allotments made  
 16                 under subsection (b), the Secretary shall pay to each  
 17                 State amounts described in a State plan, submitted  
 18                 to the Secretary, under which the amounts so allot-  
 19                 ted will be paid—

20                         “(A) to hospitals and related providers of  
 21                         emergency health services to undocumented  
 22                         aliens that are located in areas that the Sec-  
 23                         retary or a State determines to be substantially  
 24                         impacted by health costs related to undocu-  
 25                         mented aliens; and

1 “(B) on the basis of—

2 “(i) each eligible hospital’s or related  
3 provider’s payments under the State plan  
4 approved under title XIX of the Social Se-  
5 curity Act for emergency medical services  
6 described in section 1903(v)(2)(A) of such  
7 Act (42 U.S.C. 1396b(v)(2)(A)); or

8 “(ii) an appropriate alternative proxy  
9 for measuring the volume of emergency  
10 health services provided to undocumented  
11 aliens by eligible hospitals and related pro-  
12 viders.

13 “(2) DEFINITIONS; SPECIAL RULES.—For pur-  
14 poses of this subsection:

15 “(A) The term ‘hospital’ has the meaning  
16 given such term in section 1861(e) of the Social  
17 Security Act (42 U.S.C. 1395x(e)).

18 “(B) The term ‘provider’ includes a physi-  
19 cian, another health care professional, and an  
20 entity that furnishes emergency ambulance  
21 services.

22 “(C) A provider shall be considered to be  
23 ‘related’ to a hospital to the extent that the  
24 provider furnishes emergency health services to

1 an individual for whom the hospital also fur-  
 2 nishes emergency health services.

3 “(D) Amounts paid under this subsection  
 4 shall not—

5 “(i) be substituted for Federal pay-  
 6 ments made under title XIX of the Social  
 7 Security Act to reimburse a State for ex-  
 8 penditures for the provision of emergency  
 9 medical services described in section  
 10 1903(v)(2)(A) of such Act; or

11 “(ii) be used by a State for the State  
 12 share of expenditures for such services  
 13 under title XIX of such Act.”.

14 (d) EFFECTIVE DATE.—The amendments made by  
 15 this section shall apply beginning with fiscal year 2003.

16 **SEC. 4. PERMITTING STATES AND LOCALITIES TO PROVIDE**  
 17 **HEALTH CARE TO ALL INDIVIDUALS.**

18 (a) IN GENERAL.—Section 411 of the Personal Re-  
 19 sponsibility and Work Opportunity Reconciliation Act of  
 20 1996 (8 U.S.C. 1621) is amended—

21 (1) in subsection (b)—

22 (A) by striking paragraphs (1) and (3);  
 23 and

24 (B) by redesignating paragraphs (2) and  
 25 (4) as paragraphs (1) and (2), respectively; and

1 (2) in subsection (c)—

2 (A) in paragraph (1)—

3 (i) in the matter preceding subpara-  
 4 graph (A), by striking “(2) and (3)” and  
 5 inserting “(2), (3), and (4)”; and

6 (ii) in subparagraph (B), by striking  
 7 “health,”; and

8 (B) by adding at the end the following new  
 9 paragraph

10 “(4) Such term does not include any health  
 11 benefit for which payments or assistance are pro-  
 12 vided to an individual, household, or family eligibility  
 13 unit by an agency of a State or local government or  
 14 by appropriated funds of a State or local govern-  
 15 ment.”.

16 (b) EFFECTIVE DATE.—The amendments made by  
 17 subsection (a) shall apply to health care furnished before,  
 18 on, or after the date of the enactment of this Act.

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