

109TH CONGRESS  
1ST SESSION

# H. R. 4153

To amend title XIX of the Social Security Act to permit Medicaid beneficiaries the choice of self-directed personal assistance services through a cash and counseling program under the Medicaid Program.

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## IN THE HOUSE OF REPRESENTATIVES

OCTOBER 26, 2005

Mr. STEARNS introduced the following bill; which was referred to the  
Committee on Energy and Commerce

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## A BILL

To amend title XIX of the Social Security Act to permit Medicaid beneficiaries the choice of self-directed personal assistance services through a cash and counseling program under the Medicaid Program.

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 “Medicaid Cash and  
5       Counseling Program Act of 2005”.

1 **SEC. 2. OPTIONAL CHOICE OF SELF-DIRECTED PERSONAL**  
2 **ASSISTANCE SERVICES (CASH AND COUN-**  
3 **SELING).**

4 (a) EXEMPTION FROM CERTAIN REQUIREMENTS.—  
5 Section 1915 of the Social Security Act (42 U.S.C. 1396n)  
6 is amended by adding at the end the following new sub-  
7 section:

8 “(i)(1) A State may provide, as ‘medical assistance’,  
9 payment for part or all of the cost of self-directed personal  
10 assistance services (other than room and board) under the  
11 plan which are provided pursuant to a written plan of care  
12 to individuals with respect to whom there has been a de-  
13 termination that, but for the provision of such services,  
14 the individuals would require and receive personal care  
15 services under the plan, or home and community-based  
16 services provided pursuant to a waiver under sub-section  
17 (c). Self-directed personal assistance services may not be  
18 provided under this subsection to individuals who reside  
19 in a home or property that is owned, operated, or con-  
20 trolled by a provider of services, not related by blood or  
21 marriage.

22 “(2) The Secretary shall not grant approval for a  
23 State self-directed personal assistance services program  
24 under this section unless the State provides assurances  
25 satisfactory to the Secretary of the following:

1           “(A) Necessary safeguards have been taken to  
2       protect the health and welfare of individuals pro-  
3       vided services under the program, and to assure fi-  
4       nancial accountability for funds expended with re-  
5       spect to such services.

6           “(B) The State will provide, with respect to in-  
7       dividuals who—

8               “(i) are entitled to medical assistance for  
9       personal care services under the plan, or receive  
10      home and community-based services under a  
11      waiver granted under subsection (c);

12               “(ii) may require self-directed personal as-  
13      sistance services; and

14               “(iii) may be eligible for self-directed per-  
15      sonal assistance services,

16      an evaluation of the need for personal care under  
17      the plan, or personal services under a waiver granted  
18      under subsection (c).

19           “(C) Such individuals who are determined to be  
20      likely to require personal care under the plan, or  
21      home and community-based services under a waiver  
22      granted under subsection (c) are informed of the  
23      feasible alternatives, if available under the State’s  
24      self-directed personal assistance services program, at  
25      the choice of such individuals, to the provision of

1 personal care services under the plan, or personal  
2 assistance services under a waiver granted under  
3 subsection (c).

4 “(D) The State will provide for a support sys-  
5 tem that ensures participants in the self-directed  
6 personal assistance services program are appro-  
7 priately assessed and counseled prior to enrollment  
8 and are able to manage their budgets. Additional  
9 counseling and management support may be pro-  
10 vided at the request of the participant.

11 “(E) The State will provide to the Secretary an  
12 annual report on the number of individuals served  
13 and total expenditures on their behalf in the aggre-  
14 gate. The State shall also provide an evaluation of  
15 overall impact on the health and welfare of partici-  
16 pating individuals compared to non-participants  
17 every three years.

18 “(3) A State may provide self-directed personal as-  
19 sistance services under the State plan without regard to  
20 the requirements of section 1902(a)(1) and may limit the  
21 population eligible to receive these services and limit the  
22 number of persons served without regard to section  
23 1902(a)(10)(B).

24 “(4)(A) For purposes of this subsection, the term  
25 ‘self-directed personal assistance services’ means personal

1 care and related services, or home and community-based  
2 services otherwise available under the plan under this title  
3 or subsection (c), that are provided to an eligible partici-  
4 pant under a self-directed personal assistance services pro-  
5 gram under this section, under which individuals, within  
6 an approved self-directed services plan and budget, pur-  
7 chase personal assistance and related services, and per-  
8 mits participants to hire, fire, supervise, and manage the  
9 individuals providing such services.

10 “(B) At the election of the State—

11 “(i) a participant may choose to use any indi-  
12 vidual capable of providing the assigned tasks in-  
13 cluding legally liable relatives as paid providers of  
14 the services; and

15 “(ii) the individual may use the individual’s  
16 budget to acquire items that increase independence  
17 or substitute (such as a microwave oven or an acces-  
18 sibility ramp) for human assistance, to the extent  
19 that expenditures would otherwise be made for the  
20 human assistance.

21 “(5) For purpose of this section, the term ‘approved  
22 self-directed services plan and budget’ means, with respect  
23 to a participant, the establishment of a plan and budget  
24 for the provision of self-directed personal assistance serv-  
25 ices, consistent with the following requirements:

1           “(A) SELF-DIRECTION.—The participant (or in  
2           the case of a participant who is a minor child, the  
3           participant’s parent or guardian, or in the case of an  
4           incapacitated adult, another individual recognized by  
5           state law to act on behalf of the participant) exer-  
6           cises choice and control over the budget, planning,  
7           and purchase of self-directed personal assistance  
8           services, including the amount, duration, scope, pro-  
9           vider and location of service provision.

10           “(B) ASSESSMENT OF NEEDS.—There is an as-  
11           sessment of the needs, strengths, and preferences of  
12           the participants for such services.

13           “(C) SERVICE PLAN.—A plan for such services  
14           (and supports for such services) for the participant  
15           has been developed and approved by the State based  
16           on such assessment through a person-centered proc-  
17           ess that—

18                   “(i) builds upon the participant’s capacity  
19                   to engage in activities that promote community  
20                   life and that respects the participant’s pref-  
21                   erences, choices and abilities; and

22                   “(ii) involves families, friends, and profes-  
23                   sionals in the planning or delivery of services or  
24                   supports as desired or required by the partici-  
25                   pant.

1           “(D) SERVICE BUDGET.—A budget for such  
2           services and supports for the participant has been  
3           developed and approved by the State based on such  
4           assessment and plan and on a methodology that uses  
5           valid, reliable cost data, is open to public inspection,  
6           and includes a calculation of the expected cost of  
7           such services if those services were not self-directed.  
8           The budget may not restrict access to other medi-  
9           cally necessary care and services furnished under the  
10          plan and approved by the state but not included in  
11          the budget.

12          “(E) APPLICATION OF QUALITY ASSURANCE  
13          AND RISK MANAGEMENT.—There are appropriate  
14          quality assurance and risk management techniques  
15          used in establishing and implementing such plan and  
16          budget that recognize the roles and responsibilities  
17          in obtaining services in a self-directed manner and  
18          assure the appropriateness of such plan and budget  
19          based upon the participant’s resources and capabili-  
20          ties.

21          “(6) A State may employ a financial management en-  
22          tity to make payments to providers, track costs, and make  
23          reports under the program. Payment for the activities of  
24          the financial management entity shall be at the adminis-  
25          trative rate established in section 1903(a).”.

1       (b) EFFECTIVE DATE.—The amendment made by  
2 subsection (a) shall apply to services furnished on or after  
3 January 1, 2006.

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