

109TH CONGRESS
1ST SESSION

H. R. 4223

To prohibit cuts in Federal funding under the Medicaid Program until full consideration is given to recommendations of a Bipartisan Commission on Medicaid.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 3, 2005

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

A BILL

To prohibit cuts in Federal funding under the Medicaid Program until full consideration is given to recommendations of a Bipartisan Commission on Medicaid.

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 Preservation
5 Act of 2005”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) Medicaid was established by law in 1965 as
9 title XIX of the Social Security Act.

1 (2) Medicaid is the cornerstone of the United
2 State’s health care safety net providing health and
3 long-term care services to more than 40 million low-
4 income families.

5 (3) Medicaid is the largest public health insur-
6 ance programs in the United States, covering more
7 than one in seven Americans and accounting for
8 more than 15 percent of spending on health care in
9 the United States.

10 (4) Medicaid is the primary source of Federal
11 financial assistance to the States in a shared dedica-
12 tion to improving the lives and the health of Amer-
13 ica’s low-income population.

14 (5) Medicaid is a health insurance program for
15 low-income adults and children, a comprehensive
16 source of medical coverage for people with disabil-
17 ities, the primary source of public funding for long-
18 term care, and a supplement to Medicare for the el-
19 derly.

20 (6) Medicaid is the most efficient payor in the
21 market.

22 (7) Medicaid reduces disparities in health care
23 delivery to racial and ethnic minorities, who make
24 up approximately one-third of the total population of
25 the United States.

1 (8) Medicaid’s protection against high out-of-
2 pocket expenses for vulnerable, low-income Ameri-
3 cans has encouraged and increased access to nec-
4 essary health care.

5 (9) Medicaid has drawn on the flexibility built
6 into the program for States to pioneer innovations in
7 coverage and service delivery.

8 (10) Medicaid has provided a stable source of
9 financing to States to meet the challenges of a rap-
10 idly changing health care marketplace and has fos-
11 tered the development of consumer protections for
12 the frailest and most vulnerable in our society.

13 (11) Medicaid’s multiple roles present financial
14 challenges for Federal, and State governments that
15 warrant a comprehensive review in light of the in-
16 creasing number of uninsured Americans and the in-
17 creasing number of low-income Americans in need of
18 long-term care services.

19 **SEC. 3. NO CUTS IN FEDERAL MEDICAID FUNDING UNTIL**
20 **FULL CONSIDERATION OF RECOMMENDA-**
21 **TIONS OF BIPARTISAN COMMISSION ON MED-**
22 **ICAID.**

23 No reductions shall be made in authorized Federal
24 funding under the medicaid program under title XIX of
25 the Social Security Act until full consideration has been

1 given to the recommendations of the Bipartisan Commis-
2 sion on Medicaid established under section 4.

3 **SEC. 4. BIPARTISAN COMMISSION ON MEDICAID.**

4 (a) ESTABLISHMENT.—There is established a com-
5 mission to be known as the Bipartisan Commission on
6 Medicaid (in this section referred to as the “Commis-
7 sion”). The Commission shall locate its headquarters in
8 the District of Columbia.

9 (b) MEMBERSHIP.—

10 (1) APPOINTMENT.—The Commission shall be
11 composed of 23 members to be appointed as follows:

12 (A) One member shall be appointed by the
13 President.

14 (B) Three members shall be appointed by
15 the majority leader of the Senate of whom—

16 (i) one shall be a Member or former
17 Member of Congress;

18 (ii) one shall be an advocate for popu-
19 lations who are served by Medicaid; and

20 (iii) one shall be a health care pro-
21 vider that provides a disproportionate
22 share of care to recipients of benefits
23 under Medicaid or a representative of an
24 organization that represent such providers.

1 (C) Three members shall be appointed by
2 the minority leader of the Senate of whom—

3 (i) one shall be a Member or former
4 Member of Congress;

5 (ii) one shall be an advocate for popu-
6 lations who are served by Medicaid; and

7 (iii) one shall be a health care pro-
8 vider that provides a disproportionate
9 share of care to recipients of benefits
10 under Medicaid or a representative of an
11 organization that represent such providers.

12 (D) Three members shall be appointed by
13 the Speaker of the House of Representatives of
14 whom—

15 (i) one shall be a Member or former
16 Member of Congress;

17 (ii) one shall be an advocate for popu-
18 lations who are served by Medicaid; and

19 (iii) one shall be a health care pro-
20 vider that provides a disproportionate
21 share of care to recipients of benefits
22 under Medicaid or a representative of an
23 organization that represent such providers.

1 (E) Three members shall be appointed by
2 the minority leader of the House of Representa-
3 tives of whom—

4 (i) one shall be a Member or former
5 Member of Congress;

6 (ii) one shall be an advocate for popu-
7 lations who are served by Medicaid; and

8 (iii) one shall be a health care pro-
9 vider that provides a disproportionate
10 share of care to recipients of benefits
11 under Medicaid or a representative of an
12 organization that represent such providers.

13 (F) Two members shall be appointed by
14 the National Governors Association and shall be
15 chief executive officers of a State who are not
16 of the same political party.

17 (G) Two members shall be appointed by
18 the National Conference of State Legislatures
19 and shall be members of a State legislature who
20 are not of the same political party.

21 (H) Two members shall be appointed by
22 the National Association of State Medicaid Di-
23 rectors and shall be chief officials responsible
24 for administering Medicaid in a State who are
25 not of the same political party.

1 (I) Two members shall be appointed by the
2 National Association of Counties and shall be
3 officials of a local government involved in Med-
4 icaid financing or that directly provides medical
5 services to Medicaid beneficiaries and uninsured
6 individuals who are not of the same political
7 party.

8 (J) Two members shall be appointed by
9 the Comptroller General of the United States
10 and shall be health policy experts with special
11 expertise regarding Medicaid or the populations
12 served by Medicaid who are not of the same po-
13 litical party.

14 (2) QUALIFICATIONS.—The members of the
15 Commission appointed under paragraph (1), shall
16 reflect—

17 (A) a broad geographic representation; and

18 (B) a balance between urban and rural
19 representation.

20 (3) DEADLINE FOR APPOINTMENT.—Members
21 of the Commission shall be appointed by not later
22 than the 60th day after the date of enactment of
23 this Act.

24 (c) DUTIES OF COMMISSION.—

25 (1) IN GENERAL.—The Commission shall—

1 (A) review and make recommendations
2 with respect to each of Medicaid's major func-
3 tional responsibilities, including being—

4 (i) a source of coverage for low-income
5 children, pregnant women, and some par-
6 ents;

7 (ii) a payer for a complex range of
8 acute and long-term care services for the
9 frail elderly and individuals with disabil-
10 ities, including the medically needy;

11 (iii) the source of wrap-around cov-
12 erage or assistance for low-income seniors
13 and individuals with disabilities on Medi-
14 care, including coverage of additional bene-
15 fits and assistance with Medicare pre-
16 miums and copayments; and

17 (iv) the primary source of funding to
18 safety net providers that serve both Med-
19 icaid patients and the 45,000,000 unin-
20 sured;

21 (B) review and make recommendations for
22 a clearer delineation of—

23 (i) the Federal and State roles and re-
24 sponsibilities under Medicaid; and

1 (ii) the interaction of Medicaid with
2 Medicare and other Federal health pro-
3 grams;

4 (C) review and identify issues that either
5 threaten or could improve the long-term finan-
6 cial condition of Medicaid, including forth-
7 coming demographic changes, Federal and
8 State revenue options, private sector health cov-
9 erage, and health care information;

10 (D) review the Federal matching payments
11 and requirements under Medicaid, and issues
12 related to such payments and requirements, and
13 make recommendations on how to make such
14 payments more equitable with respect to the
15 populations served and the States, and on how
16 to improve the program's responsiveness to
17 changes in economic conditions;

18 (E) review and make recommendations
19 with respect to health care for individuals du-
20 ally eligible for both Medicare and Medicaid, in-
21 cluding issues related to Federal, State, pro-
22 vider, and beneficiary responsibilities, coordina-
23 tion, and outcomes;

24 (F) review research and data with respect
25 to health disparities for populations served by

1 Medicaid, particularly with respect to individ-
2 uals with disabilities or special health care
3 needs, and make recommendations on how to
4 improve health quality, coordination of services
5 and providers, and access to health care for vul-
6 nerable populations, including the implementa-
7 tion of managed care protections for Medicaid
8 enrollees with special health care needs;

9 (G) review Federal and State policies for
10 enrollment (including enrollment sites), income
11 eligibility (including methodology and length of
12 eligibility periods), outreach, and documentation
13 with respect to Medicaid and Medicare and
14 make recommendations on how to simplify such
15 policies and improve enrollment and retention
16 in such programs and coordination with other
17 Federal and State programs to improve service
18 delivery and coverage;

19 (H) review the operation and effectiveness
20 of Medicaid premium assistance programs, in-
21 cluding the payment of premiums under section
22 1906(a)(3) of the Social Security Act (42
23 U.S.C. 1396e(a)(3)) and payment waivers
24 under section 1115 of such Act (42 U.S.C.
25 1315), and the adequacy of covered benefits, af-

1 fordability of cost-sharing and premiums, and
2 access to care under such programs;

3 (I) review and make recommendations re-
4 garding payment policies under Medicaid, in-
5 cluding the adequacy of such policies with re-
6 spect to—

7 (i) managed care plans (including
8 payment policies for single benefit man-
9 aged care arrangements, such as managed
10 behavioral health and dental care);

11 (ii) providers in managed care, fee-
12 for-service, long-term care, and primary
13 care case management settings; and

14 (iii) measures to assure and reward
15 quality and access to care for Medicaid en-
16 rollees;

17 (J) review how Medicare payment policies
18 impact Medicaid and make recommendations on
19 ways to address specific payment problems that
20 such policies may create in service delivery to
21 populations typically not covered by Medicare,
22 such as children and pregnant women;

23 (K) review payments to safety net pro-
24 viders, including a review of—

1 (i) the adjustments to payments under
2 Medicaid—

3 (I) under section 1923 of the So-
4 cial Security Act (42 U.S.C. 1396r–4)
5 for inpatient hospital services fur-
6 nished by disproportionate share hos-
7 pitals; and

8 (II) under section 1902(bb) of
9 such Act (42 U.S.C. 1396a(bb)) for
10 payments to Federally-qualified health
11 centers and rural health clinics; and

12 (ii) other payments that impact the
13 capacity of the health care safety net to
14 care for uninsured individuals, recipients of
15 benefits under Medicaid, and other vulner-
16 able populations;

17 (L) review interstate payment, enrollment,
18 access, and quality concerns with respect to re-
19 cipients of benefits under Medicaid that are
20 served by interstate providers, and make rec-
21 ommendations on ways to improve interstate
22 health care delivery;

23 (M) review and make recommendations
24 with respect to financing and other issues im-

1 pacting Commonwealth and territorial programs
2 as compared to other States; and

3 (N) review and make recommendations on
4 such other matters related to Medicaid as the
5 Commission deems appropriate.

6 (2) ANALYSIS OF EFFECT OF EACH REC-
7 OMMENDATION.—Each recommendation required
8 under paragraph (1) shall include an analysis of the
9 effect of the recommendation under Medicaid and, if
10 applicable, Medicare and other Federal health pro-
11 grams, on—

12 (A) Federal and State expenditures;

13 (B) provider payment rates;

14 (C) beneficiary out-of-pocket expenditures;

15 (D) beneficiary access to covered items and
16 services; and

17 (E) coverage of items and services.

18 (3) EXPERT ADVICE.—The Comptroller General
19 of the United States and the Director of the Con-
20 gressional Research Service shall advise the Commis-
21 sion on the methodology to be used in identifying
22 problems and analyzing potential solutions in ac-
23 cordance with the duties of the Commission de-
24 scribed in paragraph (1).

25 (d) GENERAL ADMINISTRATIVE PROVISIONS.—

1 (1) TERMS OF APPOINTMENT.—The members
2 of the Commission shall be appointed for the life of
3 the Commission.

4 (2) VACANCIES.—A vacancy on the Commission
5 shall be filled, not later than 30 days after the date
6 on which the Commission is given notice of the va-
7 cancy, in the same manner in which the original ap-
8 pointment was made.

9 (3) CHAIRPERSON AND VICE CHAIRPERSON.—
10 The Commission shall designate 2 of its members to
11 serve as the chairperson and vice chairperson of the
12 Commission.

13 (4) MEETINGS.—The Commission shall meet at
14 the call of the chairperson of the Commission.

15 (5) QUORUM.—Twelve members of the Commis-
16 sion shall constitute a quorum for purposes of vot-
17 ing, but a lesser number of members may meet and
18 hold hearings.

19 (6) COMPENSATION AND EXPENSES.—

20 (A) COMPENSATION.—Except as provided
21 in subparagraph (B), members of the Commis-
22 sion shall receive no additional pay, allowances,
23 or benefits by reason of their service on the
24 Commission.

1 (B) EXPENSES.—While away from their
2 homes or regular places of business in the per-
3 formance of services for the Commission, mem-
4 bers of the Commission shall be allowed travel
5 expenses, including per diem in lieu of subsist-
6 ence, at rates authorized for employees of agen-
7 cies under subchapter I of chapter 57 of title 5,
8 United States Code.

9 (7) ETHICAL DISCLOSURE.—The Comptroller
10 General of the United States shall establish and im-
11 plement a system for public disclosure of financial
12 and other potential conflicts of interest by members
13 of the Commission.

14 (e) STAFF AND SUPPORT SERVICES.—

15 (1) EXECUTIVE DIRECTOR.—The chairperson
16 and vice-chair shall appoint an executive director of
17 the Commission.

18 (2) STAFF.—With the approval of the Commis-
19 sion, the executive director may appoint such per-
20 sonnel as the executive director determines to be ap-
21 propriate.

22 (3) APPLICABILITY OF CIVIL SERVICE LAW;
23 ETC.—The executive director and staff of the Com-
24 mission shall be appointed without regard to the
25 provisions of title 5, United States Code, governing

1 appointment in the competitive service, and shall be
2 paid without regard to chapter 51 and subchapter
3 III of chapter 53 of title 5, United States Code, re-
4 lating to classification of positions and General
5 Schedule pay rates, except that the rate of pay for
6 the executive director and other personnel may not
7 exceed the rate payable for level V of the Executive
8 Schedule under section 5316 of such title.

9 (4) EXPERTS AND CONSULTANTS.—With the
10 approval of the Commission, the executive director
11 may procure temporary and intermittent services
12 under section 3109(b) of title 5, United States Code.

13 (5) FEDERAL AGENCIES.—

14 (A) STAFF OF OTHER FEDERAL AGEN-
15 CIES.—Upon the request of the Commission,
16 the head of any Federal agency may detail,
17 without reimbursement, any of the personnel of
18 such agency to the Commission to assist in car-
19 rying out the duties of the Commission. Any
20 such detail shall not interrupt or otherwise af-
21 fect the civil service status or privileges of the
22 Federal employee.

23 (B) TECHNICAL ASSISTANCE.—Upon the
24 request of the Commission, the head of a Fed-
25 eral agency shall provide such technical assist-

1 ance to the Commission as the Commission de-
2 termines to be necessary to carry out its duties.

3 (6) OTHER RESOURCES.—The Commission
4 shall have reasonable access to materials, resources,
5 statistical data, and other information from the Li-
6 brary of Congress and agencies and elected rep-
7 resentatives of the executive and legislative branches
8 of the Federal Government. The chairperson or vice-
9 chair of the Commission shall make requests for
10 such access in writing when necessary.

11 (7) GSA SERVICES.—

12 (A) PHYSICAL FACILITIES.—The Adminis-
13 trator of General Services shall locate suitable
14 office space for the operation of the Commis-
15 sion. The facilities shall serve as the head-
16 quarters of the Commission and shall include
17 all necessary equipment and incidentals re-
18 quired for the proper functioning of the Com-
19 mission.

20 (B) ADMINISTRATIVE SUPPORT SERV-
21 ICES.—Upon the request of the Commission,
22 the Administrator of General Services shall pro-
23 vide to the Commission, on a reimbursable
24 basis, such administrative support services as
25 the Commission may request.

1 (f) POWERS OF THE COMMISSION.—

2 (1) HEARINGS.—The Commission shall conduct
3 public hearings or forums at the discretion of the
4 Commission, at any time and place the Commission
5 is able to secure facilities and witnesses, for the pur-
6 pose of carrying out the duties of the Commission.

7 (2) STUDIES OR INVESTIGATIONS.—Upon the
8 request of the Commission, the Comptroller General
9 of the United States, the Medicare Payment Advi-
10 sory Commission, or the Director of the Congres-
11 sional Research Service shall conduct such studies or
12 investigations as the Commission determines to be
13 necessary to carry out its duties.

14 (3) COST ESTIMATES.—The Director of the
15 Congressional Budget Office, the Chief Actuary of
16 the Centers for Medicare & Medicaid Services, the
17 Medicare Payment Advisory Commission, or all
18 three, shall provide to the Commission, upon the re-
19 quest of the Commission and without reimburse-
20 ment, such cost estimates as the Commission deter-
21 mines to be necessary to carry out its duties.

22 (4) GIFTS.—The Commission may accept, use,
23 and dispose of gifts or donations of services or prop-
24 erty.

1 (5) **MAILS.**—The Commission may use the
2 United States mails in the same manner and under
3 the same conditions as Federal agencies.

4 (g) **REPORT.**—

5 (1) **IN GENERAL.**—Not later than 14 months
6 after the date of enactment of this Act, the Commis-
7 sion shall prepare and submit a report that contains
8 a detailed statement of the recommendations, find-
9 ings, and conclusions of the Commission (as deter-
10 mined in accordance with paragraph (3)) to each of
11 the following:

12 (A) The President.

13 (B) The Committee on Finance of the Sen-
14 ate.

15 (C) The Committee on Energy and Com-
16 merce of the House of Representatives.

17 (D) The chief executive officer of each
18 State.

19 (2) **AVAILABILITY.**—The report shall be made
20 available to the public.

21 (3) **RECOMMENDATIONS, FINDINGS, AND CON-**
22 **CLUSIONS.**—The recommendations, findings, and
23 conclusions of the Commission shall be included in
24 the report under paragraph (1) only if—

1 (A) each member of the Commission has
2 had an opportunity to vote on such rec-
3 ommendation, finding, or conclusion;

4 (B) the results of the vote are printed in
5 the report, including a record of how each mem-
6 ber voted; and

7 (C) at least 14 of the 23 members of the
8 Commission voted in favor of such rec-
9 ommendation, finding, or conclusion.

10 (h) AUTHORIZATION OF APPROPRIATIONS.—There is
11 authorized to be appropriated to the Commission such
12 sums as may be necessary to carry out this section.

13 (i) DEFINITION OF STATE.—In this Act, the term
14 “State” has the meaning given such term for purposes of
15 title XIX of the Social Security Act (42 U.S.C. 1396 et
16 seq.).

17 (j) TERMINATION.—The Commission shall terminate
18 on the date that is 30 days after the date on which the
19 Commission submits the report under subsection (g) to the
20 President, Congress, and the chief executive officer of each
21 State.

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