

109TH CONGRESS  
1ST SESSION

# H. R. 985

To provide for the establishment of a Bipartisan Commission on Medicaid.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 17, 2005

Mrs. WILSON of New Mexico (for herself, Mrs. CHRISTENSEN, Mr. OTTER, Mr. GORDON, Mrs. JOHNSON of Connecticut, Mr. WYNN, Mr. MCHUGH, Mr. RUSH, Mr. KING of New York, Mr. ENGEL, Mr. PLATTS, Mr. UDALL of New Mexico, Mr. LOBIONDO, Mr. RANGEL, Mr. SAXTON, Mr. NEAL of Massachusetts, Mr. ENGLISH of Pennsylvania, Ms. CORRINE BROWN of Florida, Ms. CARSON, Mr. CLAY, Mr. CLYBURN, Mr. CONYERS, Mr. CUMMINGS, Mr. DAVIS of Alabama, Mr. DAVIS of Illinois, Mr. HASTINGS of Florida, Ms. JACKSON-LEE of Texas, Ms. EDDIE BERNICE JOHNSON of Texas, Mrs. JONES of Ohio, Ms. LEE, Mr. MEEK of Florida, Mr. MEEKS of New York, Ms. MOORE of Wisconsin, Ms. NORTON, Mr. PAYNE, Mr. SCOTT of Virginia, Ms. WATSON, Mr. OLVER, Mr. SCOTT of Georgia, Mr. THOMPSON of Mississippi, Ms. WATERS, Mr. JACKSON of Illinois, Mr. BISHOP of Georgia, Mr. BUTTERFIELD, Mr. CLEAVER, Mr. FATTAH, Mr. FORD, Mr. AL GREEN of Texas, Mr. JEFFERSON, Ms. KILPATRICK of Michigan, Mr. LEWIS of Georgia, Ms. MCKINNEY, Ms. MILLENDER-MCDONALD, Mr. OWENS, Mr. WATT, Mr. CROWLEY, Mr. GERLACH, and Mr. WALSH) introduced the following bill; which was referred to the Committee on Energy and Commerce

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## A BILL

To provide for the establishment 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Bipartisan Commission  
3 on Medicaid Act of 2005”.

4 **SEC. 2. FINDINGS.**

5 Congress makes the following findings:

6 (1) The medicaid program under title XIX of  
7 the Social Security Act (42 U.S.C. 1396 et seq.) (in  
8 this Act referred to as “Medicaid”) provides essen-  
9 tial health care and long-term care coverage to low-  
10 income children, pregnant women and families, indi-  
11 viduals with disabilities, and senior citizens consti-  
12 tuting 1 in 6 Americans.

13 (2) State participation in Medicaid is voluntary,  
14 and all States have elected to participate, admin-  
15 istering the program within broad Federal guide-  
16 lines.

17 (3) The Federal Government matches the costs  
18 of delivering covered services by participating pro-  
19 viders to individuals entitled to benefits that are in-  
20 curred by State Medicaid programs at rates ranging  
21 from 50 percent to 77 percent, depending upon a  
22 State’s per capita income.

23 (4) Medicaid pays for health care services for  
24 over ¼ of America’s children, including children who  
25 live in poverty.

1           (5) Medicaid is America's largest single pur-  
2           chaser of maternity care, paying for over  $\frac{1}{3}$  of all  
3           the births in the Nation each year.

4           (6) Although low-income children and their par-  
5           ents make up  $\frac{3}{4}$  of the recipients of benefits under  
6           Medicaid, they account for only 30 percent of Med-  
7           icaid spending.

8           (7) Medicaid is America's single largest pur-  
9           chaser of nursing home services and other long-term  
10          care, covering the majority of nursing home resi-  
11          dents.

12          (8) Medicaid is an essential supplement to the  
13          medicare program under title XVIII of the Social  
14          Security Act (42 U.S.C. 1395 et seq.) (in this Act  
15          referred to as "Medicare") for over 6,000,000 low-  
16          income elderly and disabled Medicare beneficiaries,  
17          assisting them with their Medicare premiums and  
18          co-insurance and, in most cases, the costs of nursing  
19          home care that Medicare does not cover.

20          (9) The elderly and individuals with disabilities  
21          comprise  $\frac{1}{4}$  of the recipients of benefits under Med-  
22          icaid and 70 percent of Medicaid spending on serv-  
23          ices.

24          (10) States will be required, beginning in 2006,  
25          to contribute billions of dollars to the Federal Gov-

1       ernment to help finance the Medicare prescription  
2       drug benefit established under part D of title XVIII  
3       of the Social Security Act.

4               (11) Medicaid pays for personal care and other  
5       supportive services necessary to enable individuals  
6       with disabilities to remain in the community, to  
7       work, and to maintain independence.

8               (12) Medicaid is the single largest source of  
9       revenue for the Nation's safety net hospitals and  
10      health centers and is critical to the ability of these  
11      providers to continue to serve medicaid enrollees and  
12      uninsured Americans.

13              (13) Medicaid is the single largest Federal  
14      grant-in-aid program to the States, accounting for  
15      over 40 percent of all Federal grants to States.

16              (14) Medicaid serves a major role in ensuring  
17      that the number of Americans without health insur-  
18      ance, approximately 45,000,000, is not substantially  
19      higher.

20              (15) Medicaid finances services for many spe-  
21      cial health care needs populations, providing health  
22      care for 55 percent of all individuals living with  
23      HIV/AIDS and 60 percent of all public mental  
24      health care for people with severe mental illnesses.

1           (16) Medicaid’s multiple roles present financial  
2 challenges for Federal, and State governments that  
3 warrant a comprehensive review in light of the in-  
4 creasing number of uninsured Americans and the in-  
5 creasing number of low-income Americans in need of  
6 long-term care services.

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

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

13           (b) **MEMBERSHIP.**—

14           (1) **APPOINTMENT.**—The Commission shall be  
15 composed of 23 members to be appointed as follows:

16                   (A) One member shall be appointed by the  
17 President.

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

20                           (i) one shall be a Member or former  
21 Member of Congress;

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

24                           (iii) one shall be a health care pro-  
25 vider that provides a disproportionate

1 share of care to recipients of benefits  
2 under Medicaid or a representative of an  
3 organization that represent such providers.

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

6 (i) one shall be a Member or former  
7 Member of Congress;

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

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

15 (D) Three members shall be appointed by  
16 the Speaker of the House of Representatives of  
17 whom—

18 (i) one shall be a Member or former  
19 Member of Congress;

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

22 (iii) one shall be a health care pro-  
23 vider that provides a disproportionate  
24 share of care to recipients of benefits

1 under Medicaid or a representative of an  
2 organization that represent such providers.

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

6 (i) one shall be a Member or former  
7 Member of Congress;

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

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

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

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

23 (H) Two members shall be appointed by  
24 the National Association of State Medicaid Di-  
25 rectors and shall be chief officials responsible

1 for administering Medicaid in a State who are  
2 not of the same political party.

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

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

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

19 (A) a broad geographic representation; and

20 (B) a balance between urban and rural  
21 representation.

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

1 (c) DUTIES OF COMMISSION.—

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

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

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

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

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

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

23 (B) review and make recommendations for  
24 a clearer delineation of—

1 (i) the Federal and State roles and re-  
2 sponsibilities under Medicaid; and

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

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

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

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

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

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

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

1 under section 1115 of such Act (42 U.S.C.  
2 1315), and the adequacy of covered benefits, af-  
3 fordability of cost-sharing and premiums, and  
4 access to care under such programs;

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

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

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

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

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

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

3 (i) the adjustments to payments under  
4 Medicaid—

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

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

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

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

1 (M) review and make recommendations  
2 with respect to financing and other issues im-  
3 pacting Commonwealth and territorial programs  
4 as compared to other States; and

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

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

14 (A) Federal and State expenditures;

15 (B) provider payment rates;

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

17 (D) beneficiary access to covered items and  
18 services; and

19 (E) coverage of items and services.

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

1 cordance with the duties of the Commission de-  
2 scribed in paragraph (1).

3 (d) GENERAL ADMINISTRATIVE PROVISIONS.—

4 (1) TERMS OF APPOINTMENT.—The members  
5 of the Commission shall be appointed for the life of  
6 the Commission.

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

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

16 (4) MEETINGS.—The Commission shall meet at  
17 the call of the chairperson of the Commission.

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

22 (6) COMPENSATION AND EXPENSES.—

23 (A) COMPENSATION.—Except as provided  
24 in subparagraph (B), members of the Commis-  
25 sion shall receive no additional pay, allowances,

1 or benefits by reason of their service on the  
2 Commission.

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

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

16 (e) STAFF AND SUPPORT SERVICES.—

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

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

24 (3) APPLICABILITY OF CIVIL SERVICE LAW;  
25 ETC.—The executive director and staff of the Com-

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

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

15 (5) FEDERAL AGENCIES.—

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

1           (B) TECHNICAL ASSISTANCE.—Upon the  
2 request of the Commission, the head of a Fed-  
3 eral agency shall provide such technical assist-  
4 ance to the Commission as the Commission de-  
5 termines to be necessary to carry out its duties.

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

14           (7) GSA SERVICES.—

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

23           (B) ADMINISTRATIVE SUPPORT SERV-  
24 ICES.—Upon the request of the Commission,  
25 the Administrator of General Services shall pro-

1           vide to the Commission, on a reimbursable  
2           basis, such administrative support services as  
3           the Commission may request.

4           (f) POWERS OF THE COMMISSION.—

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

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

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

1           (4) GIFTS.—The Commission may accept, use,  
2           and dispose of gifts or donations of services or prop-  
3           erty.

4           (5) MAILS.—The Commission may use the  
5           United States mails in the same manner and under  
6           the same conditions as Federal agencies.

7           (g) REPORT.—

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

15                 (A) The President.

16                 (B) The Committee on Finance of the Sen-  
17                 ate.

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

20                 (D) The chief executive officer of each  
21                 State.

22           (2) AVAILABILITY.—The report shall be made  
23           available to the public.

24           (3) RECOMMENDATIONS, FINDINGS, AND CON-  
25           CLUSIONS.—The recommendations, findings, and

1 conclusions of the Commission shall be included in  
2 the report under paragraph (1) only if—

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

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

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

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

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

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

○