

**Calendar No. 210**109<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION**S. 1688**

To provide 100 percent Federal financial assistance under the Medicaid and State children's health insurance programs for States providing medical or child health assistance to survivors of Hurricane Katrina, to provide for an accommodation of the special needs of such survivors under the medicare program, and for other purposes.

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**IN THE SENATE OF THE UNITED STATES**

SEPTEMBER 12, 2005

Mrs. HUTCHISON (for herself and Mr. CORNYN) introduced the following bill;  
which was read the first time

SEPTEMBER 13, 2005

Read the second time and placed on the calendar

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**A BILL**

To provide 100 percent Federal financial assistance under the Medicaid and State children's health insurance programs for States providing medical or child health assistance to survivors of Hurricane Katrina, to provide for an accommodation of the special needs of such survivors under the medicare program, 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 “Hurricane Katrina  
3 Medicaid and SCHIP Relief Act of 2005”.

4 **SEC. 2. DEFINITIONS.**

5 In this Act:

6 (1) **DISASTER PERIOD.**—

7 (A) **IN GENERAL.**—Subject to subpara-  
8 graph (B), the term “disaster period” means,  
9 with respect to any State that includes an area  
10 for which a major disaster has been declared in  
11 accordance with section 401 of the Robert T.  
12 Stafford Disaster Relief and Emergency Assist-  
13 ance Act (42 U.S.C. 5170) as a result of Hurri-  
14 cane Katrina, the period beginning on the ear-  
15 liest date on which any area of the State was  
16 so declared and ending on the earlier of—

17 (i) the latest date for which any such  
18 declaration of an area of the State termi-  
19 nates; or

20 (ii) 6 months after the beginning of  
21 such period.

22 (B) **ONE-TIME EXTENSION.**—The Presi-  
23 dent may extend the disaster period under sub-  
24 paragraph (A) with respect to a State for a pe-  
25 riod of up to 6 months. Any reference to the

1 term “disaster period” in this Act shall include  
2 any extension under this subparagraph.

3 (2) KATRINA SURVIVOR.—

4 (A) IN GENERAL.—The term “Katrina  
5 Survivor” means individuals who—

6 (i) reside in an area for which a major  
7 disaster has been declared in accordance  
8 with 401 of the Robert T. Stafford Dis-  
9 aster Relief and Emergency Assistance Act  
10 (42 U.S.C. 5170) as a result of Hurricane  
11 Katrina; or

12 (ii) resided in such an area on any  
13 day during the week preceding the date  
14 that the major disaster was declared with  
15 respect to that area.

16 (B) TREATMENT OF HOMELESS PER-  
17 SONS.—In the case of an individual who was  
18 homeless within an area described in subpara-  
19 graph (A) on any day during the week pre-  
20 ceeding the date on which a major disaster for  
21 such area was first declared, the individual’s  
22 “residence” shall be deemed to be the place of  
23 residence as otherwise determined for such an  
24 individual under title XIX or XXI (as the case  
25 may be) of the Social Security Act.

1 **SEC. 3. AUTHORITY TO PROVIDE MEDICAL ASSISTANCE**  
 2 **UNDER MEDICAID OR CHILD HEALTH ASSIST-**  
 3 **ANCE UNDER THE STATE CHILDREN'S**  
 4 **HEALTH INSURANCE PROGRAM TO KATRINA**  
 5 **SURVIVORS.**

6 During the disaster period, any State may provide  
 7 medical assistance under a State Medicaid plan estab-  
 8 lished under title XIX of the Social Security Act (42  
 9 U.S.C. 1396 et seq.), without submitting a State plan  
 10 amendment, to Katrina Survivors, or, in the case of a  
 11 Katrina Survivor who is a child, child health assistance  
 12 under a State child health plan under title XXI of such  
 13 Act (42 U.S.C. 1397aa et seq.), in accordance with the  
 14 following:

15 (1) UNIFORM ELIGIBILITY RULES.—

16 (A) NO INCOME, RESOURCES, RESIDENCY,  
 17 OR CATEGORICAL ELIGIBILITY REQUIRE-  
 18 MENTS.—Such assistance shall be provided  
 19 without application of any income or resources  
 20 test, State residency, or categorical eligibility  
 21 requirements.

22 (B) STREAMLINED ELIGIBILITY PROCE-  
 23 DURES.—The State shall use the following  
 24 streamlined procedures in processing applica-  
 25 tions and determining eligibility for medical or  
 26 child health assistance for Katrina Survivors:

1 (i) A common 1-page application form  
2 that shall include notice regarding the pen-  
3 alties for making a fraudulent application  
4 under paragraph (4) and shall require the  
5 applicant to assign to the State any rights  
6 of the applicant (or any other person who  
7 is a Katrina Survivor and on whose behalf  
8 the applicant has the legal authority to  
9 execute an assignment of such rights)  
10 under any group health plan or other  
11 third-party coverage for health care.

12 (ii) Self-attestation by (or in the case  
13 of a child, on behalf of) the applicant that  
14 the applicant is a Katrina Survivor.

15 (iii) No requirement for documenta-  
16 tion evidencing the basis on which the ap-  
17 plicant qualifies to be a Katrina Survivor.

18 (iv) Issuance of an eligibility card to  
19 an applicant who completes such applica-  
20 tion, including the self-attestation required  
21 under clause (ii). Such card shall be valid  
22 during the disaster period.

23 (v) If an applicant completes the ap-  
24 plication and presents it to a provider or  
25 facility participating in the State Medicaid

1 plan or the State child health plan that is  
2 qualified to make presumptive eligibility  
3 determinations under such plan (which at  
4 a minimum shall consist of facilities identi-  
5 fied in section 1902(a)(55) of the Social  
6 Security Act (42 U.S.C. 1396a(a)(55)) and  
7 it appears to the provider that the appli-  
8 cant is a Katrina Survivor based on the in-  
9 formation in the application, the applicant  
10 will be deemed to be a Katrina Survivor el-  
11 igible for medical or child health assistance  
12 in accordance with this section, subject to  
13 paragraph (3).

14 (vi) Subject to paragraphs (3) and  
15 (4), continuous eligibility, without the need  
16 for any redetermination of eligibility, for  
17 the duration of the disaster period.

18 (2) SCOPE OF COVERAGE SAME AS CATEGORI-  
19 CALLY NEEDY OR TARGETED LOW-INCOME CHILD.—

20 (A) IN GENERAL.—The State shall treat a  
21 Katrina Survivor as an individual eligible for  
22 medical assistance under the State plan under  
23 title XIX of the Social Security Act on the basis  
24 of section 1902(a)(10)(A)(i) of the Social Secu-  
25 rity Act (42 U.S.C. 1396a(a)(10)(A)(i)), or, in

1 the case of a child, as a targeted low-income  
2 child under the State child health plan under  
3 title XXI of such Act (42 U.S.C. 1397aa et  
4 seq.), with coverage for such assistance retro-  
5 active to the earliest date described in section  
6 2(1) that is applicable to such Survivor.

7 (B) REIMBURSEMENT OF ITEMS AND  
8 SERVICES THAT A PROVIDER DETERMINES ARE  
9 MEDICALLY NECESSARY.—The State shall pay a  
10 provider of medical or child health assistance  
11 (including a provider of mental health services)  
12 for an item or service provided by the provider  
13 to a Katrina Survivor which is not within the  
14 scope of coverage applicable to the Survivor  
15 under subparagraph (A) upon a determination  
16 by the provider that the provision of such item  
17 or service is medically necessary for the Sur-  
18 vivor (without regard to the State’s standard  
19 which would otherwise apply to a determination  
20 of medical necessity).

21 (3) VERIFICATION OF STATUS AS A KATRINA  
22 SURVIVOR.—

23 (A) IN GENERAL.—The State shall make a  
24 good faith effort to verify the status of a  
25 Katrina Survivor enrolled in the State Medicaid

1 or child health plan under the provisions of this  
2 section after the determination of the eligibility  
3 of the Survivor for medical or child health as-  
4 sistance under such plan.

5 (B) EVIDENCE OF VERIFICATION.—A  
6 State may satisfy the verification requirement  
7 under subparagraph (A) with respect to a  
8 Katrina Survivor by showing that the State  
9 providing medical or child assistance obtained  
10 information from the Social Security Adminis-  
11 tration, the Internal Revenue Service, or, in the  
12 case of a Katrina Survivor who resided in a  
13 State for which a major disaster has been de-  
14 clared in accordance with 401 of the Robert T.  
15 Stafford Disaster Relief and Emergency Assist-  
16 ance Act (42 U.S.C. 5170) as a result of Hurri-  
17 cane Katrina, the State Agency for that State  
18 with responsibility for administering that  
19 State’s Medicaid or child health plan.

20 (C) DISALLOWANCE OF PAYMENTS FOR  
21 FAILURE TO MAKE GOOD FAITH EFFORT.—If,  
22 with respect to the status of a Katrina Survivor  
23 enrolled in a State Medicaid or child health  
24 plan, the State fails to make the good faith ef-  
25 fort required under subparagraph (A), and the

1 Secretary determines that the individual so en-  
2 rolled is not a Katrina Survivor, the Secretary  
3 shall disallow all Federal payments made to the  
4 State that are directly attributable to medical  
5 or child health assistance provided or adminis-  
6 trative costs incurred with respect to the indi-  
7 vidual during the disaster period.

8 (4) PENALTY FOR FRAUDULENT APPLICA-  
9 TIONS.—

10 (A) INDIVIDUAL LIABLE FOR COSTS.—If a  
11 State, as the result of verification activities con-  
12 ducted under paragraph (3), determines that an  
13 individual has knowingly made a false self-at-  
14 testation described in paragraph (1)(B)(ii), the  
15 State may, subject to subparagraph (B), seek  
16 recovery from the individual for the full amount  
17 of the cost of medical assistance provided to the  
18 individual under this section. The recovery of  
19 such amount shall be in addition to any other  
20 penalties that may be prescribed by law.

21 (B) EXCEPTION.—The Secretary shall ex-  
22 empt a State from seeking recovery under sub-  
23 paragraph (A) if the Secretary determines that  
24 it would not be cost-effective for the State to do  
25 so.

1 (C) REIMBURSEMENT TO THE FEDERAL  
2 GOVERNMENT.—Any amounts recovered by a  
3 State in accordance with this paragraph shall  
4 be returned to the Federal Government, except  
5 that a State’s administrative costs attributable  
6 to obtaining such recovery shall be reimbursed  
7 by the Federal Government in accordance with  
8 section 4.

9 (5) EXEMPTION FROM ERROR RATE PEN-  
10 ALTIES.—All payments attributable to providing  
11 medical assistance to Katrina Survivors in accord-  
12 ance with this section shall be disregarded for pur-  
13 poses of section 1903(u) of the Social Security Act  
14 (42 U.S.C. 1396b(u)).

15 **SEC. 4. 100 PERCENT FEDERAL FINANCIAL ASSISTANCE**  
16 **FOR MEDICAL AND CHILD HEALTH ASSIST-**  
17 **ANCE AND ADMINISTRATIVE COSTS.**

18 Notwithstanding sections 1903(a), 1905(b), and  
19 2105(b) of the Social Security Act (42 U.S.C. 1396b(a),  
20 1396d(b), 1397ee(b)), the Federal medical assistance per-  
21 centage (or the enhanced FMAP, in the case of section  
22 2105(b) of such Act) for providing medical assistance  
23 under a State Medicaid plan under title XIX of such Act  
24 or child health assistance under a State child health plan  
25 to a Katrina Survivor, and for costs directly attributable

1 to all administrative activities related to the provision of  
2 such assistance, shall be 100 percent during the disaster  
3 period applicable to the area of residence (or former resi-  
4 dence) of such a Survivor.

5 **SEC. 5. ACCOMMODATION OF SPECIAL NEEDS OF KATRINA**  
6 **SURVIVORS UNDER MEDICARE PROGRAM.**

7 (a) EXCLUSION OF DISASTER RELIEF PERIOD IN  
8 COMPUTING PART B LATE ENROLLMENT PENALTY.—In  
9 applying the first sentence of section 1839(b) of the Social  
10 Security Act (42 U.S.C. 1395r(b)) in the case of a Katrina  
11 Survivor, there shall not be taken into account any month  
12 any part of which is within the disaster period or within  
13 the 2-month period following the end of such disaster pe-  
14 riod.

15 (b) PART D.—

16 (1) EXTENSION OF INITIAL ENROLLMENT PE-  
17 RIOD.—In the case of a Katrina Survivor, the initial  
18 enrollment period under section 1860D–1(b)(2) of  
19 the Social Security Act (42 U.S.C. 1395w–  
20 101(b)(2)) shall in no case end before May 15,  
21 2007.

22 (2) FLEXIBILITY IN DOCUMENTATION FOR  
23 LOW-INCOME SUBSIDIES.—For purposes of carrying  
24 out section 1860D–14 of the Social Security Act (42  
25 U.S.C. 1395w–114), with respect to Katrina Sur-

1       vivors, the Secretary of Health and Human Services  
2       shall establish documentation rules for Katrina Sur-  
3       vivors which take into account the loss and unavail-  
4       ability of documents due to Hurricane Katrina.

5       **SEC. 6. GENERAL PROVISIONS.**

6       (a) **AUTHORITY TO RELY ON WEBSITE POSTED DES-**  
7       **IGNATIONS.**—The Secretary of Health and Human Serv-  
8       ices shall post on the Internet website for the Centers for  
9       Medicare & Medicaid Services a list of areas, including  
10      parishes and counties, identified as areas for which a  
11      major disaster has been declared in accordance with sec-  
12      tion 401 of the Robert T. Stafford Disaster Relief and  
13      Emergency Assistance Act (42 U.S.C. 5170) as a result  
14      of Hurricane Katrina. Any State which provides medical  
15      or child health assistance to Katrina Survivors on the  
16      basis of such posting and in accordance with this Act shall  
17      be held harmless if it is subsequently determined that the  
18      provision of such assistance was in error.

19      (b) **EMERGENCY DESIGNATION.**—The preceding pro-  
20      visions of this Act are hereby designated as emergency re-  
21      quirements pursuant to subsections (a) and (b) of section  
22      402 of H. Con. Res. 95 (109th Congress).



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