

110TH CONGRESS  
1ST SESSION

# S. 1075

To amend title XIX of the Social Security Act to expand access to contraceptive services for women and men under the Medicaid program, help low income women and couples prevent unintended pregnancies and reduce abortion, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MARCH 29, 2007

Mrs. CLINTON (for herself, Mr. REID, Mr. LAUTENBERG, Mr. CASEY, Mr. KERRY, and Mr. SCHUMER) 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 expand access to contraceptive services for women and men under the Medicaid program, help low income women and couples prevent unintended pregnancies and reduce abortion, 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Unintended Pregnancy  
5 Reduction Act of 2007”.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

1           (1) Rates of unintended pregnancy in the  
2           United States increased by nearly 30 percent among  
3           low-income women between 1994 and 2002, and a  
4           low-income woman today is 4 times as likely to have  
5           an unintended pregnancy as her higher income coun-  
6           terpart.

7           (2) Abortion rates decreased among higher in-  
8           come women but increased among low income  
9           women between 1994 and 2002, and a low income  
10          woman is more than 4 times as likely to have an  
11          abortion as her higher income counterpart.

12          (3) Contraceptive use reduces a woman's prob-  
13          ability of having an abortion by 85 percent.

14          (4) Levels of contraceptive use among low-in-  
15          come women at risk of unintended pregnancy de-  
16          clined significantly between 1994 and 2002, from 92  
17          percent to 86 percent.

18          (5) Publicly funded contraceptive services have  
19          been shown to prevent 1,300,000 unintended preg-  
20          nancies each year, and in the absence of these serv-  
21          ices the United States abortion rate would likely be  
22          40 percent higher than it is.

23          (6) By helping couples avoid unintended preg-  
24          nancy, Medicaid-funded contraceptive services are  
25          highly cost-effective, and every public dollar spent on

1 family planning saves \$3 in the cost of pregnancy-  
 2 related care alone.

3 (7) Federal law requires State Medicaid pro-  
 4 grams to cover pregnancy-related care for women  
 5 with incomes up to 133 percent of poverty, and 17  
 6 States have expanded this coverage to women with  
 7 incomes up to 200 percent of poverty.

8 (8) 17 States have expanded Medicaid coverage  
 9 for family planning services to at least the same  
 10 level at which they provide Medicaid funded preg-  
 11 nancy-related care.

12 (9) Equalizing the eligibility levels for family  
 13 planning and pregnancy-related care nationwide  
 14 would maximize the cost-savings to both the Federal  
 15 and State Governments.

16 (10) A woman should have equal access to con-  
 17 traceptive services to help prevent an unintended  
 18 pregnancy and to pregnancy-related care if she does  
 19 become pregnant.

20 **SEC. 3. EXPANSION OF FAMILY PLANNING SERVICES.**

21 (a) COVERAGE AS MANDATORY CATEGORICALLY  
 22 NEEDY GROUP.—

23 (1) IN GENERAL.—Section 1902(a)(10)(A)(i) of  
 24 the Social Security Act (42 U.S.C.  
 25 1396a(a)(10)(A)(i)) is amended—

1 (A) in subclause (VI), by striking “or” at  
2 the end;

3 (B) in subclause (VII), by adding “or” at  
4 the end; and

5 (C) by adding at the end the following new  
6 subclause:

7 “(VIII) who are described in sub-  
8 section (dd) (relating to individuals  
9 who meet the income standards for  
10 pregnant women);”.

11 (2) GROUP DESCRIBED.—Section 1902 of the  
12 Social Security Act (42 U.S.C. 1396a) is amended  
13 by adding at the end the following new subsection:

14 “(dd)(1) Individuals described in this subsection are  
15 individuals who—

16 “(A) meet at least the income eligibility stand-  
17 ards established under the State plan as of January  
18 1, 2007, for pregnant women or such higher income  
19 eligibility standard for such women as the State may  
20 establish; and

21 “(B) are not pregnant.

22 “(2) At the option of a State, individuals described  
23 in this subsection may include individuals who are deter-  
24 mined to meet the income eligibility standards referred to  
25 in paragraph (1)(A) under the terms and conditions appli-

1 cable to making eligibility determinations for medical as-  
 2 sistance under this title under a waiver to provide the ben-  
 3 efits described in clause (XV) of the matter following sub-  
 4 paragraph (G) of section 1902(a)(10) granted to the State  
 5 under section 1115 as of January 1, 2007.”.

6 (3) LIMITATION ON BENEFITS.—Section  
 7 1902(a)(10) of the Social Security Act (42 U.S.C.  
 8 1396a(a)(10)) is amended in the matter following  
 9 subparagraph (G)—

10 (A) by striking “and (XIV)” and inserting  
 11 “(XIV)”; and

12 (B) by inserting “, and (XV) the medical  
 13 assistance made available to an individual de-  
 14 scribed in subsection (dd) who is eligible for  
 15 medical assistance only because of subpara-  
 16 graph (A)(10)(i)(VIII) shall be limited to family  
 17 planning services and supplies described in  
 18 1905(a)(4)(C), including medical diagnosis or  
 19 treatment services that are provided pursuant  
 20 to a family planning service in a family plan-  
 21 ning setting provided during the period in  
 22 which such an individual is eligible;” after “cer-  
 23 vical cancer”.

24 (4) CONFORMING AMENDMENTS.—Section  
 25 1905(a) of the Social Security Act (42 U.S.C.

3 (A) in clause (xii), by striking “or” at the  
4 end;

5 (B) in clause (xii), by adding “or” at the  
6 end; and

7 (C) by inserting after clause (xiii) the fol-  
8 lowing:

9 “(xiv) individuals described in section  
10 1902(dd),”.

11 (b) PRESUMPTIVE ELIGIBILITY.—

(1) IN GENERAL.—Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) is amended by inserting after section 1920B the following:

15 “PRESUMPTIVE ELIGIBILITY FOR FAMILY PLANNING  
16 SERVICES

“SEC. 1920C. (a) STATE OPTION.—A State plan ap-  
proved under section 1902 may provide for making med-  
ical assistance available to an individual described in sec-  
tion 1902(dd) (relating to individuals who meet the in-  
come eligibility standard for pregnant women in the State)  
during a presumptive eligibility period. In the case of an  
individual described in section 1902(dd) who is eligible for  
medical assistance only because of subparagraph  
(A)(10)(i)(VIII), such medical assistance may be limited  
to family planning services and supplies described in

1 1905(a)(4)(C) and, at the State’s option, medical diag-  
 2 nosis or treatment services that are provided in conjunc-  
 3 tion with a family planning service in a family planning  
 4 setting provided during the period in which such an indi-  
 5 vidual is eligible.

6 “(b) DEFINITIONS.—For purposes of this section:

7 “(1) PRESUMPTIVE ELIGIBILITY PERIOD.—The  
 8 term ‘presumptive eligibility period’ means, with re-  
 9 spect to an individual described in subsection (a),  
 10 the period that—

11 “(A) begins with the date on which a  
 12 qualified entity determines, on the basis of pre-  
 13 liminary information, that the individual is de-  
 14 scribed in section 1902(dd); and

15 “(B) ends with (and includes) the earlier  
 16 of—

17 “(i) the day on which a determination  
 18 is made with respect to the eligibility of  
 19 such individual for services under the State  
 20 plan; or

21 “(ii) in the case of such an individual  
 22 who does not file an application by the last  
 23 day of the month following the month dur-  
 24 ing which the entity makes the determina-

1                   tion referred to in subparagraph (A), such  
2                   last day.

3                   “(2) QUALIFIED ENTITY.—

4                   “(A) IN GENERAL.—Subject to subpara-  
5                   graph (B), the term ‘qualified entity’ means  
6                   any entity that—

7                   “(i) is eligible for payments under a  
8                   State plan approved under this title; and

9                   “(ii) is determined by the State agen-  
10                  cy to be capable of making determinations  
11                  of the type described in paragraph (1)(A).

12                  “(B) REGULATIONS.—The Secretary may  
13                  issue regulations further limiting those entities  
14                  that may become qualified entities in order to  
15                  prevent fraud and abuse and for other reasons.

16                  “(C) RULE OF CONSTRUCTION.—Nothing  
17                  in this paragraph shall be construed as pre-  
18                  venting a State from limiting the classes of en-  
19                  tities that may become qualified entities, con-  
20                  sistent with any limitations imposed under sub-  
21                  paragraph (B).

22                  “(c) ADMINISTRATION.—

23                  “(1) IN GENERAL.—The State agency shall pro-  
24                  vide qualified entities with—

1           “(A) such forms as are necessary for an  
 2           application to be made by an individual de-  
 3           scribed in subsection (a) for medical assistance  
 4           under the State plan; and

5           “(B) information on how to assist such in-  
 6           dividuals in completing and filing such forms.

7           “(2) NOTIFICATION REQUIREMENTS.—A quali-  
 8           fied entity that determines under subsection  
 9           (b)(1)(A) that an individual described in subsection  
 10          (a) is presumptively eligible for medical assistance  
 11          under a State plan shall—

12           “(A) notify the State agency of the deter-  
 13          mination within 5 working days after the date  
 14          on which determination is made; and

15           “(B) inform such individual at the time  
 16          the determination is made that an application  
 17          for medical assistance is required to be made by  
 18          not later than the last day of the month fol-  
 19          lowing the month during which the determina-  
 20          tion is made.

21           “(3) APPLICATION FOR MEDICAL ASSIST-  
 22          ANCE.—In the case of an individual described in  
 23          subsection (a) who is determined by a qualified enti-  
 24          ty to be presumptively eligible for medical assistance  
 25          under a State plan, the individual shall apply for

1        medical assistance by not later than the last day of  
 2        the month following the month during which the de-  
 3        termination is made.

4        “(d) PAYMENT.—Notwithstanding any other provi-  
 5        sion of this title, medical assistance that—

6                “(1) is furnished to an individual described in  
 7        subsection (a)—

8                        “(A) during a presumptive eligibility pe-  
 9        riod;

10                      “(B) by a entity that is eligible for pay-  
 11        ments under the State plan; and

12                “(2) is included in the care and services covered  
 13        by the State plan, shall be treated as medical assist-  
 14        ance provided by such plan for purposes of clause  
 15        (4) of the first sentence of section 1905(b).”.

16                (2) CONFORMING AMENDMENTS.—

17                      (A) Section 1902(a)(47) of the Social Se-  
 18        curity Act (42 U.S.C. 1396a(a)(47)) is amend-  
 19        ed by inserting before the semicolon at the end  
 20        the following: “and provide for making medical  
 21        assistance available to individuals described in  
 22        subsection (a) of section 1920C during a pre-  
 23        sumptive eligibility period in accordance with  
 24        such section.”.

1 (B) Section 1903(u)(1)(D)(v) of such Act  
 2 (42 U.S.C. 1396b(u)(1)(D)(v)) is amended—

3 (i) by striking “or for” and inserting  
 4 “, for”; and

5 (ii) by inserting before the period the  
 6 following: “, or for medical assistance pro-  
 7 vided to an individual described in sub-  
 8 section (a) of section 1920C during a pre-  
 9 sumptive eligibility period under such sec-  
 10 tion”.

11 **SEC. 4. CLARIFICATION OF COVERAGE OF FAMILY PLAN-**  
 12 **NING SERVICES AND SUPPLIES.**

13 Section 1937(b) of the Social Security Act (42 U.S.C.  
 14 1396u–7(b)) is amended by adding at the end the fol-  
 15 lowing:

16 “(5) COVERAGE OF FAMILY PLANNING SERV-  
 17 ICES AND SUPPLIES.—Notwithstanding the previous  
 18 provisions of this section, a State may not provide  
 19 for medical assistance through enrollment of an indi-  
 20 vidual with benchmark coverage or benchmark-equiv-  
 21 alent coverage under this section unless such cov-  
 22 erage includes for any individual described in section  
 23 1905(a)(4)(C), medical assistance for family plan-  
 24 ning services and supplies in accordance with such  
 25 section.”.

1 **SEC. 5. EFFECTIVE DATE.**

2 (a) IN GENERAL.—Except as provided in paragraph  
3 (2), the amendments made by this Act take effect on Octo-  
4 ber 1, 2007.

5 (b) EXTENSION OF EFFECTIVE DATE FOR STATE  
6 LAW AMENDMENT.—In the case of a State plan under  
7 title XIX of the Social Security Act (42 U.S.C. 1396 et  
8 seq.) which the Secretary of Health and Human Services  
9 determines requires State legislation in order for the plan  
10 to meet the additional requirements imposed by the  
11 amendments made by this Act, the State plan shall not  
12 be regarded as failing to comply with the requirements of  
13 such title solely on the basis of its failure to meet these  
14 additional requirements before the first day of the first  
15 calendar quarter beginning after the close of the first reg-  
16 ular session of the State legislature that begins after the  
17 date of enactment of this Act. For purposes of the pre-  
18 vious sentence, in the case of a State that has a 2-year  
19 legislative session, each year of the session is considered  
20 to be a separate regular session of the State legislature.

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