

111TH CONGRESS
1ST SESSION

H. R. 2209

To amend titles XVI, XVIII, XIX, and XXI of the Social Security Act to remove limitations on Medicaid, Medicare, SSI, and SCHIP benefits for persons in custody pending disposition of charges.

IN THE HOUSE OF REPRESENTATIVES

APRIL 30, 2009

Mr. HASTINGS of Florida (for himself, Mr. HOLT, Mr. BURGESS, Ms. LEE of California, Mr. WEXLER, Mr. PETERSON, Mrs. CHRISTENSEN, Mr. GRIJALVA, Mr. MORAN of Virginia, Ms. MCCOLLUM, Mr. ELLSWORTH, Ms. GRANGER, Mr. MEEK of Florida, Mr. FATTAH, and Ms. WASSERMAN SCHULTZ) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend titles XVI, XVIII, XIX, and XXI of the Social Security Act to remove limitations on Medicaid, Medicare, SSI, and SCHIP benefits for persons in custody pending disposition of charges.

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 “Restoring the Partner-
5 ship for County Health Care Costs Act of 2009”.

1 **SEC. 2. FINDINGS.**

2 Congress makes the following findings:

3 (1) The United States Supreme Court has in-
4 terpreted the 8th Amendment to require govern-
5 mental entities to provide medical care to persons in-
6 voluntarily confined in jails, detention centers, and
7 prisons.

8 (2) The Federal Government does not provide
9 benefits under the Medicare, Medicaid, Supplemental
10 Security Income (SSI), or State Children's Health
11 Insurance (SCHIP) Program health benefits to in-
12 mates even if the person is awaiting trial in jail and
13 has not been convicted. However, beneficiaries who
14 are released after posting bond, or who are released
15 under their own recognizance, or who are released
16 under house arrest may continue to receive Medi-
17 care, Medicaid, SSI, and SCHIP benefits.

18 (3) The cost of providing health care in prisons
19 and jails has increased exponentially due in part to
20 high incarceration rates, infectious diseases, chronic
21 conditions, substance abuse treatment, mental ill-
22 ness, aging prison populations, rising prescription
23 drug costs, and mandatory sentencing laws.

24 (4) Providing health care for inmates con-
25 stitutes a major portion of local jail operating costs.
26 Requiring county governments to cover health care

1 costs for inmates who have not been convicted places
2 an unnecessary burden on local governments who
3 have been negatively impacted by recession, wide-
4 spread budget deficits, and cuts to safety net pro-
5 grams and services.

6 (5) Jails generally have a higher instance of
7 mentally ill inmates because jails frequently serve as
8 holding places for low-income persons who are wait-
9 ing placement in a mental facility and for mentally
10 ill persons who commit nuisance crimes because of
11 inadequate access to treatment in their communities.

12 (6) The rising cost of bail has also contributed
13 to an overall increase in the jail population and
14 health care costs for inmates. The high cost of bail
15 has contributed to the disproportionate rate of incar-
16 ceration among African-Americans and Latinos.

17 (7) Terminating benefits to people in county
18 jails who are awaiting trial violates the presumption
19 of innocence, because it does not distinguish between
20 persons awaiting disposition of charges and those
21 who have been duly convicted and sentenced.

22 (8) Otherwise eligible individuals who have been
23 charged with a crime and incarcerated, but not con-
24 victed, should continue to be eligible for Federal
25 health benefits, such as Medicare, Medicaid, SSI, or

1 SCHIP, until such time as they may be convicted
2 and sentenced to an institution. SSI payments
3 should be held until the inmate has been acquitted
4 and released, or until the inmate has completed his
5 or her sentence and been released.

6 **SEC. 3. REMOVAL OF INMATE LIMITATION ON BENEFITS**
7 **UNDER MEDICAID, MEDICARE, SSI, AND**
8 **SCHIP.**

9 (a) **MEDICAID.**—The subdivision A of section 1905(a)
10 of the Social Security Act (42 U.S.C. 1396d(a)) that fol-
11 lows paragraph (28) is amended by inserting “or in cus-
12 tody pending disposition of charges” after “patient in a
13 medical institution”.

14 (b) **MEDICARE.**—Section 1862(a)(3) of such Act (42
15 U.S.C. 1395y(a)(3)) is amended by inserting “in the case
16 of services furnished to individuals who are in custody
17 pending disposition of charges,” after “1880(e)”.

18 (c) **SSI.**—Section 1611(e)(1) of such Act (42 U.S.C.
19 1382(e)(1)) is amended by adding at the end the following
20 new subparagraph:

21 “(K)(i) As used in subparagraph (A), the term ‘in-
22 mate of a public institution’ does not include an individual
23 who is in custody pending disposition of charges.

24 “(ii) In the case of an individual who is an eligible
25 individual or eligible spouse for purposes of this title only

1 because of the application of the definition in clause (i),
2 any supplemental security income benefits otherwise pay-
3 able shall be withheld until such time as the individual
4 is no longer either in custody pending disposition of
5 charges or an inmate of a public institution or shall be
6 paid to the individual's estate if the individual dies before
7 the pending charges are disposed of or while the individual
8 is an inmate of a public institution.”.

9 (d) SCHIP.—Section 2110(b)(1) of such Act (42
10 U.S.C. 1397jj(b)(1)) is amended by inserting “(except as
11 an individual in custody pending disposition of charges)”
12 after “inmate of a public institution”.

13 (e) EFFECTIVE DATE.—The amendments made by
14 this section shall take effect on the first day of the first
15 calendar quarter beginning more than 60 days after the
16 date of the enactment of this Act and shall apply to items
17 and services furnished, and supplemental security income
18 benefits paid, for periods beginning on or after such date.

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