

111TH CONGRESS
1ST SESSION

H. R. 2829

To ensure prompt access to Supplemental Security Income, Social Security disability, and Medicaid benefits for persons released from certain public institutions.

IN THE HOUSE OF REPRESENTATIVES

JUNE 11, 2009

Mr. CARSON of Indiana (for himself, Mr. KENNEDY, Mr. STARK, Mr. DAVIS of Illinois, Ms. NORTON, Mr. RUSH, Mr. GUTIERREZ, Ms. JACKSON-LEE of Texas, Mr. LEWIS of Georgia, Mr. AL GREEN of Texas, Ms. LEE of California, Ms. FUDGE, Ms. EDWARDS of Maryland, and Mr. MEEKS of New York) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, 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 ensure prompt access to Supplemental Security Income, Social Security disability, and Medicaid benefits for persons released from certain public institutions.

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 “Recidivism Reduction
5 Act”.

1 **SEC. 2. FINDINGS.**

2 The Congress finds as follows:

3 (1) There are an estimated 300,000 mentally ill
4 individuals in State and Federal prisons.

5 (2) According to the Bureau of Justice Statis-
6 tics, nearly 15 percent of men and 31 percent of
7 women in jails have serious mental illnesses.

8 (3) According to surveys completed by the Bu-
9 reau of Justice Statistics, 16.3 percent of jail in-
10 mates self-reported a “mental health condition” or
11 an overnight stay in a “mental hospital” in their
12 lifetime and 60.5 percent of local jail inmates self-
13 reported they had symptoms of a mental illness.

14 (4) Access to Federal disability and health care
15 benefits is a critical component of the successful re-
16 entry into the community of indigent individuals
17 with disabilities who are released from jail, prison,
18 juvenile detention, or other correctional facilities.

19 (5) As a matter of public safety, individuals
20 with disabilities released from correctional facilities
21 must be reinstated in the Federal benefit programs
22 that are designed to provide the health services and
23 financial supports on which they rely.

24 (6) Individuals with disabilities who live in ex-
25 treme poverty and who are too disabled to work
26 after release from correctional facilities require gov-

ernment supports such as Social Security Disability Insurance (SSDI), Supplemental Security Income (SSI), or Medicaid to maintain health and to safely transition from correctional facilities into the community.

(7) It is the policy of the United States to provide individuals with disabilities assistance in leading healthy and productive lives.

(8) On average, mentally ill inmates serve 103.4 months in State prison until their release, as compared to 88.2 months for other inmates. Yet, their SSI benefits terminate after 12 consecutive months of their incarceration. On average, it takes 93 days to reinstate those benefits.

(9) Health care benefits are especially important to low-income individuals with disabilities who often cannot afford private market insurance and who are at great risk of incurring exorbitant costs for health care. SSI beneficiaries who lose benefits because of incarceration may also lose Medicaid coverage.

(10) Without prompt access to Federal disability benefits on their release, individuals with psychiatric disabilities who come into contact with the criminal justice system often become trapped in

1 many cycles of arrest, release, destitution, deteriora-
2 tion, and re-arrest.

3 (11) Recidivism rates for mentally ill offenders
4 are very high. A Bureau of Justice Statistics report
5 found that over $\frac{3}{4}$ of mentally ill inmates had been
6 sentenced to time in prison or jail or were on proba-
7 tion at least once before their current sentence.

8 (12) Among the mentally ill, 52 percent of
9 State prison inmates, 54 percent of jail inmates, and
10 49 percent of Federal prison inmates reported 3 or
11 more prior sentences to probation or incarceration.

12 **SEC. 3. SUPPLEMENTAL SECURITY INCOME BENEFITS.**

13 (a) REINSTATEMENT OR RESUMPTION OF BENEFITS
14 ON RELEASE OF INMATE FROM INCARCERATION.—Sec-
15 tion 1631 of the Social Security Act (42 U.S.C. 1383) is
16 amended by adding at the end the following:

17 “(q)(1)(A)(i) Eligibility for benefits under this title
18 shall be reinstated in any case where the Commissioner
19 determines that an individual described in clause (ii) has
20 filed a request for reinstatement meeting the requirements
21 of subparagraph (B)(i) during the period described in
22 clause (iii). Reinstatement of eligibility shall be in accord-
23 ance with the terms of this paragraph.

24 “(ii) An individual is described in this clause if—

1 “(I) before the month in which the individual
2 files a request for reinstatement—

3 “(aa) the individual was eligible for bene-
4 fits under this title on the basis of disability;
5 and

6 “(bb) the individual thereafter was ineli-
7 gible for such benefits because the individual
8 was an inmate of a jail, prison, penal institu-
9 tion, or correctional facility for a period of 12
10 or more consecutive months;

11 “(II) the individual is blind or disabled, and the
12 individual’s blindness or disability renders the indi-
13 vidual unable to perform substantial gainful activity;
14 and

15 “(III) the individual meets the nonmedical re-
16 quirements for eligibility for benefits under this title.

17 “(iii)(I) Except as provided in subclause (II), the pe-
18 riod prescribed in this clause with respect to an individual
19 is 36 consecutive months beginning with the month fol-
20 lowing the most recent month for which the individual was
21 ineligible for benefits under this title before the period of
22 ineligibility described in clause (ii)(I)(bb).

23 “(II) In the case of an individual who fails to file
24 a reinstatement request within the period described in sub-
25 clause (I), the Commissioner may extend the period if the

1 Commissioner determines that the individual had good
2 cause for the failure to so file.

3 “(B)(i)(I) A request for reinstatement shall be filed
4 on such form, and contain such information, as the Com-
5 missioner may prescribe.

6 “(II) A request for reinstatement shall include ex-
7 press declarations by the individual stating that the indi-
8 vidual meets the requirements specified in subclauses (II)
9 and (III) of subparagraph (A)(ii).

10 “(III) A request for reinstatement shall include an
11 express declaration by a health care professional that the
12 individual is blind or disabled.

13 “(ii) A request for reinstatement filed in accordance
14 with this paragraph may constitute an application for ben-
15 efits in the case of any individual who the Commissioner
16 determines is not eligible for reinstated benefits under this
17 paragraph.

18 “(C) In determining whether an individual meets the
19 requirement of subparagraph (A)(ii)(II), the provisions of
20 section 1614(a)(4) shall apply.

21 “(D)(i) Eligibility for benefits reinstated under this
22 paragraph shall commence with the benefit payable for the
23 month in which—

24 “(I) a request for reinstatement is filed; or

1 “(II) if the request is filed before the individual
2 is discharged or released from a jail, prison, deten-
3 tion center, or correctional facility, the individual is
4 so discharged or released.

5 “(ii)(I) Subject to subclause (II), the amount of ben-
6 efit payable for any month pursuant to the reinstatement
7 of eligibility under this paragraph shall be determined in
8 accordance with the provisions of this title.

9 “(II) The benefit under this title payable for any
10 month pursuant to a request for reinstatement filed in ac-
11 cordance with subparagraph (B) shall be reduced by the
12 amount of any provisional benefit paid to the individual
13 for the month under subparagraph (G).

14 “(E) Whenever an individual’s eligibility for benefits
15 under this title is reinstated under this paragraph, eligi-
16 bility for the benefits shall be reinstated with respect to
17 the individual’s spouse if the spouse was previously an eli-
18 gible spouse of the individual under this title and the Com-
19 missioner determines that the spouse satisfies all the re-
20 quirements for eligibility for the benefits except require-
21 ments related to the filing of an application. The provi-
22 sions of subparagraph (D) shall apply to the reinstated
23 eligibility of the spouse to the same extent that they apply
24 to the reinstated eligibility of the individual.

1 “(F) An individual to whom benefits are payable
2 under this title pursuant to a reinstatement of eligibility
3 under this paragraph for 12 months shall, with respect
4 to benefits so payable after such 12th month, be deemed
5 for purposes of subparagraph (A)(ii)(II)(aa) to be eligible
6 for such benefits on the basis of an application filed there-
7 for.

8 “(G)(i) An individual described in subparagraph
9 (A)(ii) who files a request for reinstatement in accordance
10 with the provisions of subparagraph (B)(i) shall be eligible
11 for provisional benefits payable in accordance with this
12 subparagraph, unless the Commissioner determines that
13 the individual does not meet the requirements of subpara-
14 graph (A)(ii)(I) or that the individual’s declaration under
15 subparagraph (B)(i)(II) is false. Any such determination
16 by the Commissioner shall be final and not subject to re-
17 view under paragraph (1) or (3) of subsection (c).

18 “(ii) The amount of the provisional benefit shall equal
19 the amount of the benefit that was payable to the indi-
20 vidual under this title for the month before the most re-
21 cent period of ineligibility described in subparagraph
22 (A)(ii)(I)(aa).

23 “(iii) Provisional benefits shall end when the Com-
24 missioner makes a determination regarding the individ-
25 ual’s eligibility for reinstated benefits.

1 “(iv) In any case in which the Commissioner deter-
 2 mines that an individual is not eligible for reinstated bene-
 3 fits, any provisional benefits paid to the individual under
 4 this subparagraph shall not be considered a liability or
 5 subject to recovery as an overpayment, unless the Com-
 6 missioner determines that the individual knew that the in-
 7 dividual did not meet the requirements of subparagraph
 8 (A)(ii).

9 “(2) In the case of an individual whose benefits under
 10 this title are suspended because the individual is an in-
 11 mate of a jail, prison, penal institution, or correctional fa-
 12 cility, payment of such benefits shall resume on the date
 13 the individual is released from the jail, prison, penal insti-
 14 tution, or correctional facility.

15 “(3) For purposes of this subsection, the term ‘bene-
 16 fits under this title’ includes State supplementary pay-
 17 ments made pursuant to an agreement under section
 18 1616(a) of this Act or section 212(b) of Public Law 93–
 19 66.”.

20 (b) COOPERATION OF PENAL INSTITUTIONS IN PRO-
 21 VIDING NOTICE OF PENDING RELEASE OF INMATE AND
 22 IN ASSISTING SOON TO BE RELEASED INMATES IN HAV-
 23 ING BENEFITS RESUMED.—

24 (1) IN GENERAL.—Section 1611(e)(1)(I)(i) of
 25 such Act (42 U.S.C. 1382(e)(1)(I)(i)) is amended—

1 (A) in subclause (I), by inserting “and
2 scheduled release” after “commencement”; and

3 (B) in subclause (II)—

4 (i) by inserting “(other than sched-
5 uled release information)” before “to the
6 Commissioner”;

7 (ii) by inserting “(other than sched-
8 uled release information)” before “after 30
9 days”; and

10 (iii) by inserting “except that the
11 Commissioner shall not make a payment
12 under this subclause to an institution if
13 the institution does not furnish scheduled
14 release information at least 30 days before
15 the scheduled release or does not have in
16 place personnel and procedures to inform
17 and assist inmates scheduled to be released
18 in applying to have their benefits under
19 this title resumed” before the period.

20 (2) EFFECTIVE DATE.—The amendments made
21 by paragraph (1) shall take effect 1 year after the
22 date of the enactment of this Act.

23 (3) NOTICE OF REQUIREMENT TO FURNISH IN-
24 FORMATION ABOUT SCHEDULED RELEASE OF IN-
25 MATES.—The Commissioner of Social Security shall

1 notify each institution with which the Commissioner
2 has entered into an agreement under section
3 1611(e)(1)(I)(i) of the Social Security Act of the
4 payment restriction added by paragraph (1) of this
5 subsection.

6 (c) NOTICE AND TRAINING RELATED TO PRE-RE-
7 LEASE AGREEMENTS.—Section 1611(e)(1)(I) of such Act
8 (42 U.S.C. 1382(e)(1)(I)) is amended by adding at the
9 end the following:

10 “(v) The Commissioner shall biennially notify each
11 State or local institution comprising a jail, prison, penal
12 institution, or correctional facility, and any other State or
13 local institution a purpose of which is to confine individ-
14 uals as described in section 202(x)(1)(A)(ii) of the avail-
15 ability of the agreements provided for in this subpara-
16 graph.

17 “(vi) The Commissioner shall, from time to time,
18 offer institutions described in clause (v) training in enter-
19 ing into the agreements provided for in this subparagraph.

20 “(vii) Within 6 months after the end of each fiscal
21 year, the Commissioner shall submit to the Congress a
22 written report on the activities conducted pursuant to this
23 subparagraph during the fiscal year.”.

24 (d) EFFECTIVE DATE.—Except as provided in sub-
25 section (b)(2), the amendments made by this section shall

1 take effect on the date of the enactment of this Act, and
2 shall apply to benefits payable for months beginning after
3 such date.

4 **SEC. 4. SOCIAL SECURITY BENEFITS.**

5 (a) PRE-RELEASE PROCEDURES FOR DISABLED
6 PRISONERS AND OTHER INDIVIDUALS.—

7 (1) IN GENERAL.—Section 202(x) of the Social
8 Security Act (42 U.S.C. 402(x)) is amended by add-
9 ing at the end the following new paragraph:

10 “(4) The Commissioner shall develop a system under
11 which an individual whose disability insurance benefits
12 under section 223 or other benefits under this section
13 based on disability have been suspended under this sub-
14 section by reason of confinement in an institution com-
15 prising a jail, prison, penal institution, or correctional fa-
16 cility, or comprising any other institution a purpose of
17 which is to confine individuals as described in paragraph
18 (1)(A)(ii), can apply for resumption of such benefits prior
19 to cessation of such confinement.”.

20 (2) EFFECTIVE DATE.—The Commissioner of
21 Social Security shall implement the system described
22 in section 202(x)(4) of the Social Security Act (as
23 added by this subsection) not later than 180 days
24 after the date of the enactment of this Act.

1 (b) COOPERATION OF PENAL INSTITUTIONS IN PRO-
2 VIDING NOTICE OF PENDING RELEASE OF INMATE AND
3 IN ASSISTING SOON TO BE RELEASED INMATES IN HAV-
4 ING BENEFITS RESUMED.—

5 (1) IN GENERAL.—Section 202(x)(3)(B)(i) of
6 such Act (42 U.S.C. 402(x)(3)(B)(i)) is amended—

7 (A) in subclause (I), by inserting “and
8 scheduled release” after “commencement”; and

9 (B) in subclause (II)—

10 (i) by inserting “(other than sched-
11 uled release information)” before “to the
12 Commissioner”;

13 (ii) by inserting “(other than sched-
14 uled release information)” before “after 30
15 days”; and

16 (iii) by inserting “except that the
17 Commissioner shall not make a payment
18 under this subclause to an institution if
19 the institution does not furnish scheduled
20 release information at least 30 days before
21 the scheduled release or does not have in
22 place personnel and procedures to inform
23 and assist inmates scheduled to be released
24 in applying to have their benefits under
25 this title resumed” before the period.

1 (2) EFFECTIVE DATE.—The amendments made
2 by paragraph (1) shall take effect 1 year after the
3 date of the enactment of this Act.

4 (3) NOTICE OF REQUIREMENT TO FURNISH IN-
5 FORMATION ABOUT SCHEDULED RELEASE OF IN-
6 MATES.—The Commissioner of Social Security shall
7 notify each institution with which the Commissioner
8 has entered into an agreement under section
9 202(x)(3)(B)(i) of the Social Security Act of the
10 payment restriction added by paragraph (1) of this
11 subsection.

12 (c) NOTICE AND TRAINING RELATED TO PRE-RE-
13 LEASE AGREEMENTS.—Section 202(x)(3)(B) of such Act
14 (42 U.S.C. 402(x)(3)(B)) is amended by adding at the end
15 the following:

16 “(v) The Commissioner shall biennially notify each
17 State or local institution comprising a jail, prison, penal
18 institution, or correctional facility, and any other State or
19 local institution a purpose of which is to confine individ-
20 uals as described in paragraph (1)(A)(ii) of the availability
21 of the agreements provided for in this subparagraph.

22 “(vi) The Commissioner shall, from time to time,
23 offer institutions described in clause (v) training in enter-
24 ing into the agreements provided for in this subparagraph.

1 “(vii) Within 6 months after the end of each fiscal
2 year, the Commissioner shall submit to the Congress a
3 written report on the activities conducted pursuant to this
4 subparagraph during the fiscal year.”.

5 **SEC. 5. MEDICAID BENEFITS.**

6 (a) REINSTATEMENT OF MEDICAID ENROLLMENT.—

7 (1) IN GENERAL.—Section 1902(a) of the So-
8 cial Security Act (42 U.S.C. 1396b(a)) is amended—

9 (A) by striking “and” at the end of para-
10 graph (72);

11 (B) by striking the period at the end of
12 paragraph (73) and inserting “; and”; and

13 (C) by inserting after paragraph (73) the
14 following new paragraph:

15 “(74) provide that in the case of any individual
16 enrolled for medical assistance under the State plan
17 immediately before becoming an inmate of a public
18 institution—

19 “(A) the enrollment of such individual
20 shall be reinstated upon release from such insti-
21 tution unless and until there is a determination
22 that the individual is no longer eligible to be so
23 enrolled; and

24 “(B) any period of continuous eligibility in
25 effect on the date the individual became such

1 an inmate shall be reinstated as of the date of
2 the release and the duration of such period
3 shall be determined without regard to the pe-
4 riod in which the individual was such an in-
5 mate;”.

6 (2) INCREASED FUNDING FOR STATE IMPLE-
7 MENTATION OF REINSTATEMENT SYSTEM.—Section
8 1903 of the Social Security Act (42 U.S.C. 1396b)
9 is amended by adding at the end the following new
10 subsection:

11 “(aa) INITIAL INCREASE IN FEDERAL MATCHING
12 RATE FOR STATE IMPLEMENTING REINSTATEMENT SYS-
13 TEM.—For the first 4 calendar quarters beginning after
14 the date a State modifies its computer system described
15 in subsection (a)(3)(A)(i) so that it can easily provide for
16 the reinstatement of medical assistance required under
17 section 1902(a)(74), such subsection shall be applied as
18 if the reference to ‘90 percent’ were a reference to ‘95
19 percent’.”.

20 (3) CLARIFICATION OF TREATMENT OF CER-
21 TAIN ADMINISTRATIVE EXPENSES.—Nothing in sec-
22 tion 1905(a) of the Social Security Act (42 U.S.C.
23 1396d(a)) shall be construed as prohibiting or pre-
24 venting the provision of Federal financial participa-
25 tion under section 1903(a) of such Act (42 U.S.C.

1 1396b(a)) to States for reasonable administrative
2 costs of determining eligibility status of individuals
3 described in section 1902(a)(74) of such Act, as in-
4 serted by paragraph (1).

5 (4) EFFECTIVE DATE.—The amendments made
6 by paragraph (1) shall apply to individuals who are
7 released from being an inmate of a public institution
8 on or after the first day of the first calendar quarter
9 beginning more than 90 days after the date of the
10 enactment of this Act.

11 (b) AUTHORIZATION OF CASE MANAGEMENT SERV-
12 ICES.—The first sentence of section 1915(g)(1) of the So-
13 cial Security Act (42 U.S.C. 1396n(g)(1)) is amended by
14 inserting before the period at the end the following: “and
15 for the purpose of providing no more than three case man-
16 agement services, without regard to the subdivision (A)
17 following section 1905(a)(28), in order to engage in plan-
18 ning for services following release from a public institu-
19 tion”.

○