

111TH CONGRESS  
1ST SESSION

# S. 1446

To amend title XIX of the Social Security Act to provide incentives for increased use of HIV screening tests under the Medicaid program.

---

IN THE SENATE OF THE UNITED STATES

JULY 14, 2009

Mrs. GILLIBRAND introduced the following bill; which was read twice and referred to the Committee on Finance

---

## A BILL

To amend title XIX of the Social Security Act to provide incentives for increased use of HIV screening tests under the Medicaid program.

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. INCENTIVES TO INCREASE USE OF HIV**  
4 **SCREENING TESTS UNDER THE MEDICAID**  
5 **PROGRAM.**

6 (a) HIGHER FEDERAL MATCHING PERCENTAGE FOR  
7 ROUTINE HIV SCREENING SERVICES.—Section 1903 of  
8 the Social Security Act (42 U.S.C. 1396b) is amended—  
9 (1) in subsection (a)—

1 (A) by redesignating paragraph (7) as  
2 paragraph (8); and

3 (B) by inserting after paragraph (6) the  
4 following new paragraph:

5 “(7) an amount equal to 90 percent of the  
6 sums expended during such quarter which are at-  
7 tributable to the costs of providing routine HIV  
8 screening services (as defined in subsection (aa)(1))  
9 if the conditions described in subsection (aa)(2) are  
10 met; plus”; and

11 (2) by adding at the end the following new sub-  
12 section:

13 “(aa) ROUTINE HIV SCREENING SERVICES.—

14 “(1) IN GENERAL.—For purposes of this sec-  
15 tion, the term ‘routine HIV screening services’  
16 means the following:

17 “(A) An HIV screening test (and, if such  
18 test is positive, a confirmatory HIV test), in-  
19 cluding the interpretation of such tests, that is  
20 provided as part of medical care in any health  
21 care setting (other than an inpatient hospital  
22 setting) for an individual who—

23 “(i) is at least 13, but not more than  
24 64, years of age;

1           “(ii) is not known to the health care  
2           provider (directly, through information  
3           provided by the individual, or through ac-  
4           cess to an electronic medical record) pre-  
5           viously ever to have had a positive test for  
6           HIV or, subject to paragraph (3), within  
7           the previous 6 months to have had any test  
8           for HIV; and

9           “(iii) has been informed that such a  
10          test will be administered and has not ob-  
11          jected to such a test.

12          “(B) Informing an individual so tested of  
13          the results of the tests at the time of such ex-  
14          amination.

15          “(C) In the case of such an individual who  
16          tests positive for HIV on the screening and con-  
17          firmatory tests, post-test counseling concerning  
18          HIV at the time, and as part of, such examina-  
19          tion.

20          “(2) CONDITIONS.—For purposes of subsection  
21          (a)(7), the conditions of this paragraph, with respect  
22          to routine HIV screening services, are that—

23                 “(A) the payment amount for such services  
24                 under this title is reasonable and closely ap-

1 proximates the payment amount for such serv-  
2 ices under part B of title XVIII;

3 “(B) no cost-sharing is imposed under this  
4 title for the provision of such services; and

5 “(C) in the case of a State for which a po-  
6 litical subdivision is required to contribute to-  
7 wards the non-Federal share of expenditures for  
8 routine HIV screening services, the increase in  
9 the Federal share applicable under subsection  
10 (a)(5) to such services is first applied to reduce  
11 the contribution (but not below zero) required  
12 by such political subdivision.

13 “(3) EXCEPTION.—The limitation under para-  
14 graph (1)(A)(ii) with respect to having a test for  
15 HIV within the previous 6 months shall not apply to  
16 an individual if the individual indicates that, because  
17 of the individual’s possible exposure to HIV during  
18 the intervening period, the individual is at increased  
19 risk of acquiring HIV since such previous test.”.

20 (b) CONFORMING AMENDMENTS.—

21 (1) Subparagraphs (E) and (F) of section  
22 1919(h)(2) of such Act (42 U.S.C. 1396r(h)(2)) are  
23 each amended by striking “1903(a)(7)” and insert-  
24 ing “1903(a)(8)”.

1           (2) Paragraphs (1) and (2) of section 1931(h)  
2           of such Act (42 U.S.C. 1396u-1(h)) are each  
3           amended by striking “1903(a)(7)” and inserting  
4           “1903(a)(8)”.

5           (3) Section 1938(d)(4) of such Act (42 U.S.C.  
6           1396u-8(d)(4)) is amended by striking  
7           “1903(a)(7)” and inserting “1903(a)(8)”.

8           (4) Section 1940(j) of such Act (42 U.S.C.  
9           1396w(j)) is amended by striking “paragraph (7)”  
10          and inserting “paragraph (8)”.

11          (c) EFFECTIVE DATE.—The amendments made by  
12          subsection (a) shall apply to services furnished on or after  
13          the date of the enactment of this Act.

14          (d) REPORT.—Not later 2 years after the date of the  
15          enactment of this Act, the Secretary of Health and  
16          Human Services shall submit a report to Congress on bar-  
17          riers that exist for Medicaid beneficiaries to access routine  
18          HIV screening services (as defined in section 1903(aa) of  
19          the Social Security Act, as added by subsection (a)(2)).  
20          Such report shall include recommendations on how to re-  
21          duce such barriers to access such services.

○