

Public Law 109-91
109th Congress
An Act

To extend medicare cost-sharing for qualifying individuals through September 2007, to extend transitional medical assistance and the program for abstinence education through December 2005, to provide unemployment relief for States and individuals affected by Hurricane Katrina, and for other purposes.

Oct. 20, 2005
[H.R. 3971]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “QI, TMA, and Abstinence Programs Extension and Hurricane Katrina Unemployment Relief Act of 2005”.

TITLE I—HEALTH PROVISIONS

QI, TMA, and
Abstinence
Programs
Extension and
Hurricane
Katrina
Unemployment
Relief Act of
2005.
42 USC 1305
note.

SEC. 101. EXTENSION OF QUALIFIED INDIVIDUAL (QI) PROGRAM.

(a) THROUGH SEPTEMBER 2007.—Section 1902(a)(10)(E)(iv) of the Social Security Act (42 U.S.C. 1396a(a)(10)(E)(iv)) is amended by striking “September 2005” and inserting “September 2007”.

(b) EXTENDING TOTAL AMOUNT AVAILABLE FOR ALLOCATION.—Section 1933(g) of such Act (42 U.S.C. 1396u-3(g)) is amended—

(1) in paragraph (2)—

(A) by striking “and” at the end of subparagraph (B);
(B) by striking the period at the end of subparagraph

(C) and inserting a semicolon; and

(C) by adding at the end the following new subparagraphs:

“(D) for the period that begins on October 1, 2005, and ends on December 31, 2005, the total allocation amount is \$100,000,000;

“(E) for the period that begins on January 1, 2006, and ends on September 30, 2006, the total allocation amount is \$300,000,000;

“(F) for the period that begins on October 1, 2006, and ends on December 31, 2006, the total allocation amount is \$100,000,000; and

“(G) for the period that begins on January 1, 2007, and ends on September 30, 2007, the total allocation amount is \$300,000,000.”; and

(2) in paragraph (3), in the matter preceding subparagraph (A), by inserting “, (D), or (F)” after “subparagraph (B)”.

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective as of September 30, 2005.

42 USC 1396a
note.

Effective date.

SEC. 102. EXTENSION OF TRANSITIONAL MEDICAL ASSISTANCE (TMA) AND ABSTINENCE EDUCATION PROGRAM.

Effective as if enacted on September 30, 2005, activities authorized by sections 510 and 1925 of the Social Security Act shall continue through December 31, 2005, in the manner authorized for fiscal year 2005, notwithstanding section 1902(e)(1)(A) of such Act, and out of any money in the Treasury of the United States not otherwise appropriated, there are hereby appropriated such sums as may be necessary for such purpose. Grants and payments may be made pursuant to this authority through the first quarter of fiscal year 2006 at the level provided for such activities through the first quarter of fiscal year 2005.

SEC. 103. ELIMINATION OF MEDICARE COVERAGE OF DRUGS USED FOR TREATMENT OF SEXUAL OR ERECTILE DYSFUNCTION.

(a) IN GENERAL.—Section 1860D-2(e)(2)(A) of the Social Security Act (42 U.S.C. 1395w-102(e)(2)(A)) is amended—

(1) by striking the period at the end and inserting “, as such sections were in effect on the date of the enactment of this part.”; and

(2) by adding at the end the following: “Such term also does not include a drug when used for the treatment of sexual or erectile dysfunction, unless such drug were used to treat a condition, other than sexual or erectile dysfunction, for which the drug has been approved by the Food and Drug Administration.”.

42 USC
1395w-102 note.

(b) CONSTRUCTION.—Nothing in this section shall be construed as preventing a prescription drug plan or an MA-PD plan from providing coverage of drugs for the treatment of sexual or erectile dysfunction as supplemental prescription drug coverage under section 1860D-2(a)(2)(A)(ii) of the Social Security Act (42 U.S.C. 1395w-102(a)(2)(A)(ii)).

42 USC
1395w-102 note.

(c) EFFECTIVE DATES.—The amendment made by subsection (a)(1) shall take effect as if included in the enactment of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108-173) and the amendment made by subsection (a)(2) shall apply to coverage for drugs dispensed on or after January 1, 2007.

SEC. 104. ELIMINATION OF MEDICAID COVERAGE OF DRUGS USED FOR TREATMENT OF SEXUAL OR ERECTILE DYSFUNCTION.

(a) IN GENERAL.—Section 1927(d)(2) of the Social Security Act (42 U.S.C. 1396r-8(d)(2)) is amended by adding at the end the following new subparagraph:

“(K) Agents when used for the treatment of sexual or erectile dysfunction, unless such agents are used to treat a condition, other than sexual or erectile dysfunction, for which the agents have been approved by the Food and Drug Administration.”.

(b) ELIMINATION OF FEDERAL PAYMENT UNDER MEDICAID PROGRAM.—Section 1903(i) of such Act (42 U.S.C. 1396b(i)) is amended—

(1) by striking “or” at the end of paragraph (19);

(2) by striking the period at the end of paragraph (20) and inserting “; or”; and

(3) by inserting after paragraph (20) the following new paragraph:

“(21) with respect to amounts expended for covered outpatient drugs described in section 1927(d)(2)(K) (relating to drugs when used for treatment of sexual or erectile dysfunction).”.

(c) CLARIFICATION OF NO EFFECT ON DETERMINATION OF BASE EXPENDITURES.—Section 1935(c)(3)(B)(ii)(II) of such Act (42 U.S.C. 1396v(c)(3)(B)(ii)(II)) is amended by inserting “, including drugs described in subparagraph (K) of section 1927(d)(2)” after “1860D-2(e)”.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to drugs dispensed on or after January 1, 2006.

42 USC 1396u-5.

42 USC 1396b note.

TITLE II—ASSISTANCE RELATING TO UNEMPLOYMENT

SEC. 201. SPECIAL TRANSFER IN FISCAL YEAR 2006.

Section 903 of the Social Security Act (42 U.S.C. 1103) is amended by adding at the end the following:

“(e) SPECIAL TRANSFER IN FISCAL YEAR 2006.—Not later than 10 days after the date of the enactment of this subsection, the Secretary of the Treasury shall transfer from the Federal unemployment account—

Deadline.

“(1) \$15,000,000 to the account of Alabama in the Unemployment Trust Fund;
“(2) \$400,000,000 to the account of Louisiana in the Unemployment Trust Fund; and
“(3) \$85,000,000 to the account of Mississippi in the Unemployment Trust Fund.”.

SEC. 202. FLEXIBILITY IN UNEMPLOYMENT COMPENSATION ADMINISTRATION TO ADDRESS HURRICANE KATRINA.

Notwithstanding any provision of section 302(a) or 303(a)(8) of the Social Security Act, any State may, on or after August 28, 2005, use any amounts received by such State pursuant to title III of the Social Security Act to assist in the administration of claims for compensation on behalf of any other State if a major disaster was declared with respect to such other State or any area within such other State under the Robert T. Stafford Disaster Relief and Emergency Assistance Act by reason of Hurricane Katrina.

42 USC 1103
note.

SEC. 203. REGULATIONS.

The Secretary of Labor may prescribe any operating instructions or regulations necessary to carry out this title and any amendment made by this title.

Approved October 20, 2005.

LEGISLATIVE HISTORY—H.R. 3971:

CONGRESSIONAL RECORD, Vol. 151 (2005):

Oct. 6, considered and passed House.

Oct. 7, considered and passed Senate, amended.

Oct. 19, House concurred in Senate amendment with amendments, pursuant to H. Res. 501. Senate concurred in House amendments.

