

Union Calendar No. 570

114TH CONGRESS
2^D SESSION

H. R. 670

[Report No. 114-734]

To amend title XIX of the Social Security Act to extend the Medicaid rules regarding supplemental needs trusts for Medicaid beneficiaries to trusts established by those beneficiaries, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 3, 2015

Mr. THOMPSON of Pennsylvania (for himself and Mr. PALLONE) introduced the following bill; which was referred to the Committee on Energy and Commerce

SEPTEMBER 9, 2016

Additional sponsors: Mr. HARPER, Ms. SLAUGHTER, Mr. LOEBSACK, Mr. RUSH, Mr. KELLY of Pennsylvania, Mr. MARINO, Mr. HANNA, Mr. BARLETTA, Mr. HUFFMAN, Ms. SCHAKOWSKY, Mr. PASCRELL, Mr. BLUMENAUER, Ms. KUSTER, Mr. MURPHY of Pennsylvania, Mr. KATKO, Mr. DESAULNIER, Mr. ISRAEL, Mr. KENNEDY, Mr. LANCE, Mr. RUPPERSBERGER, Mrs. MCMORRIS RODGERS, Mr. HUDSON, Mr. CRAMER, Mr. FRELINGHUYSEN, Mr. WALBERG, Mr. BISHOP of Michigan, Mr. FITZPATRICK, Mr. COSTELLO of Pennsylvania, Mrs. COMSTOCK, Mr. AMODEI, Mr. GIBSON, Mr. YOUNG of Alaska, Mr. BENISHEK, Mr. GIBBS, Mr. SESSIONS, Mr. LANGEVIN, Mr. LONG, Mr. RODNEY DAVIS of Illinois, Mr. KLINE, Mr. HECK of Nevada, Mr. WESTERMAN, Mr. BILIRAKIS, Mr. HARDY, Mr. FLEISCHMANN, Mr. CICILLINE, Mr. MCKINLEY, Ms. WASSERMAN SCHULTZ, Mr. POCAN, Mr. DONOVAN, and Mr. SMITH of New Jersey

SEPTEMBER 9, 2016

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italic*]

[For text of introduced bill, see copy of bill as introduced on February 3, 2015]

A BILL

To amend title XIX of the Social Security Act to extend the Medicaid rules regarding supplemental needs trusts for Medicaid beneficiaries to trusts established by those beneficiaries, 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; TABLE OF CONTENTS.**

4 (a) *SHORT TITLE.*—*This Act may be cited as the*
 5 *“Special Needs Trust Fairness and Medicaid Improvement*
 6 *Act”.*

7 (b) *TABLE OF CONTENTS.*—*The table of contents of this*
 8 *Act is as follows:*

Sec. 1. Short title; table of contents.

Sec. 2. Fairness in Medicaid supplemental needs trusts.

Sec. 3. Medicaid coverage of tobacco cessation services for mothers of newborns.

Sec. 4. Eliminating Federal financial participation with respect to expenditures
under Medicaid for agents used for cosmetic purposes or hair
growth.

Sec. 5. Medicaid Improvement Fund.

9 **SEC. 2. FAIRNESS IN MEDICAID SUPPLEMENTAL NEEDS**
 10 **TRUSTS.**

11 (a) *IN GENERAL.*—*Section 1917(d)(4)(A) of the Social*
 12 *Security Act (42 U.S.C. 1396p(d)(4)(A)) is amended by in-*
 13 *serting “the individual,” after “for the benefit of such indi-*
 14 *vidual by”.*

15 (b) *EFFECTIVE DATE.*—*The amendment made by sub-*
 16 *section (a) shall apply to trusts established on or after the*
 17 *date of the enactment of this Act.*

18 **SEC. 3. MEDICAID COVERAGE OF TOBACCO CESSATION**
 19 **SERVICES FOR MOTHERS OF NEWBORNS.**

20 (a) *IN GENERAL.*—*Section 1905(bb) of the Social Se-*
 21 *curity Act (42 U.S.C. 1396d(bb)) is amended by adding at*
 22 *the end the following new paragraph:*

1 “(4) A woman shall continue to be treated as described
2 in this subsection as a pregnant woman through the end
3 of the 1-year period beginning on the date of the birth of
4 a child of the woman.”.

5 (b) *CONFORMING AMENDMENTS.*—

6 (1) Subsections (a)(2)(B) and (b)(2)(B) of sec-
7 tion 1916 of the Social Security Act (42 U.S.C.
8 1396o) are each amended by inserting “(and women
9 described in section 1905(bb) as pregnant women pur-
10 suant to paragraph (4) of such section)” after “to-
11 bacco cessation by pregnant women”.

12 (2) Section 1927(d)(2)(F) of the Social Security
13 Act (42 U.S.C. 1396r–8(d)(2)(F)) is amended by in-
14 serting “(and women described in section 1905(bb) as
15 pregnant women pursuant to paragraph (4) of such
16 section)” after “pregnant women”.

17 (c) *EFFECTIVE DATE.*—

18 (1) *IN GENERAL.*—Subject to paragraph (2), the
19 amendments made by this section shall apply with re-
20 spect to items and services furnished on or after the
21 date that is two years after the date of the enactment
22 of this Act.

23 (2) *EXCEPTION FOR STATE LEGISLATION.*—In
24 the case of a State plan under title XIX of the Social
25 Security Act, which the Secretary of Health and

1 *Human Services determines requires State legislation*
2 *in order for the plan to meet any requirement im-*
3 *posed by amendments made by this section, the plan*
4 *shall not be regarded as failing to comply with the re-*
5 *quirements of such title solely on the basis of its fail-*
6 *ure to meet such an additional requirement before the*
7 *first day of the first calendar quarter beginning after*
8 *the close of the first regular session of the State legis-*
9 *lature that begins after the effective date specified in*
10 *paragraph (1). For purposes of the previous sentence,*
11 *in the case of a State that has a 2-year legislative ses-*
12 *sion, each year of the session shall be considered to be*
13 *a separate regular session of the State legislature.*

14 *(d) REPORT.—Not later than two years after the date*
15 *of the enactment of this Act, the Inspector General of the*
16 *Department of Health and Human Services shall submit*
17 *to Congress a report that assesses the use of the tobacco ces-*
18 *sation service benefit under the Medicaid program. Such re-*
19 *port shall include an assessment of—*

20 *(1) the extent that States are encouraging the use*
21 *of such benefit, such as through promotion of bene-*
22 *ficiary and provider awareness of such benefit; and*

23 *(2) gaps in the delivery of such benefit.*

1 **SEC. 4. ELIMINATING FEDERAL FINANCIAL PARTICIPATION**
2 **WITH RESPECT TO EXPENDITURES UNDER**
3 **MEDICAID FOR AGENTS USED FOR COSMETIC**
4 **PURPOSES OR HAIR GROWTH.**

5 (a) *IN GENERAL.*—Section 1903(i)(21) of the Social
6 Security Act (42 U.S.C. 1396b(i)(21)) is amended by in-
7 serting “section 1927(d)(2)(C) (relating to drugs when used
8 for cosmetic purposes or hair growth), except where medi-
9 cally necessary, and” after “drugs described in”.

10 (b) *EFFECTIVE DATE.*—The amendment made by sub-
11 section (a) shall apply with respect to calendar quarters
12 beginning on or after the date of the enactment of this Act.

13 **SEC. 5. MEDICAID IMPROVEMENT FUND.**

14 Section 1941(b) of the Social Security Act (42 U.S.C.
15 1396w–1(b)) is amended—

16 (1) in paragraph (2)—

17 (A) by striking “under paragraph (1)” and
18 inserting “under this subsection”; and

19 (B) by redesignating such paragraph as
20 paragraph (3); and

21 (2) by inserting after paragraph (1) the fol-
22 lowing new paragraph:

23 “(2) *ADDITIONAL FUNDING.*—In addition to any
24 funds otherwise made available to the Fund, there
25 shall be available to the Fund, for expenditures from
26 the Fund—

1 “(A) for fiscal year 2021, \$10,000,000, to
2 remain available until expended; and

3 “(B) for fiscal year 2022, \$14,000,000, to
4 remain available until expended.”.

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