

111TH CONGRESS
1ST SESSION

S. 2833

To provide adjusted Federal medical assistance percentage rates during a transitional assistance period.

IN THE SENATE OF THE UNITED STATES

DECEMBER 3, 2009

Mr. REED (for himself, Mr. BROWN, Mr. WHITEHOUSE, Mr. AKAKA, Mr. DURBIN, Ms. KLOBUCHAR, and Mr. BEGICH) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To provide adjusted Federal medical assistance percentage rates during a transitional assistance period.

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 “Transitional Federal
5 Medical Assistance Percentage Act”.

6 **SEC. 2. EXTENSION OF ARRA INCREASE IN FMAP.**

7 Section 5001 of ARRA is amended—

8 (1) in subsection (a)(3), by striking “first cal-
9 endar quarter” and inserting “first 3 calendar quar-
10 ters”;

1 (2) in subsection (b)(2), by inserting before the
2 period at the end the following: “and such para-
3 graph shall not apply to calendar quarters beginning
4 on or after October 1, 2010”;

5 (3) in subsection (d), by inserting “ending be-
6 fore October 1, 2010” after “entire fiscal years” and
7 after “with respect to fiscal years”;

8 (4) in subsection (g)(1), by striking “September
9 30, 2011” and inserting “December 31, 2011”; and

10 (5) in subsection (h)(3), by striking “December
11 31, 2010” and inserting “June 30, 2011”.

12 **SEC. 3. ARRA TRANSITIONAL ASSISTANCE PERIOD.**

13 For each fiscal quarter occurring during the period
14 beginning on July 1, 2011, and ending on December 31,
15 2013 (referred to in this Act as the “ARRA transitional
16 assistance period”), a State’s FMAP shall be equal to the
17 sum of—

18 (1) the adjusted base FMAP (as determined
19 under section 4(a)(1));

20 (2) the general FMAP adjustment (as deter-
21 mined under section 4(a)(2)); and

22 (3) the unemployment FMAP adjustment (as
23 determined under section 4(a)(3)).

1 **SEC. 4. ADJUSTMENTS TO FEDERAL MEDICAL ASSISTANCE**

2 **PERCENTAGE.**

3 (a) DETERMINATION OF ADJUSTED FMAP.—

4 (1) ADJUSTED BASE FMAP.—

5 (A) IN GENERAL.—Subject to subpara-
6 graph (B), the adjusted base FMAP is deter-
7 mined as follows:

8 (i) For the fourth quarter of fiscal
9 year 2011, the FMAP that would have ap-
10 plied to the State under section 5001(a) of
11 ARRA (assuming that such section ap-
12 plied) for such fiscal quarter minus 2 per-
13 centage points.

14 (ii) For any subsequent fiscal quarter
15 occurring during the ARRA transitional
16 assistance period, the FMAP as deter-
17 mined under this paragraph for the pre-
18 ceding fiscal quarter minus 2 percentage
19 points.

20 (B) ELIMINATION OF NEGATIVE ADJUST-
21 MENT.—If the adjusted base FMAP applicable
22 to a State under this paragraph for any fiscal
23 quarter occurring during the ARRA transitional
24 assistance period would be less than the FMAP
25 determined for the State for such quarter with-

1 out regard to this paragraph, this paragraph
2 shall not apply to such State.

3 (2) GENERAL FMAP ADJUSTMENT.—The gen-
4 eral FMAP adjustment shall be equal to the fol-
5 lowing:

6 (A) For the fourth quarter of fiscal year
7 2011, 5.7 percentage points.

8 (B) For the first quarter of fiscal year
9 2012, 4.95 percentage points.

10 (C) For the second quarter of fiscal year
11 2012, 3.95 percentage points.

12 (D) For the third quarter of fiscal year
13 2012, 2.7 percentage points.

14 (E) For the fourth quarter of fiscal year
15 2012, 1.2 percentage points.

16 (F) For any subsequent fiscal quarter oc-
17 ccurring during the ARRA transitional assist-
18 ance period, 0.2 percentage points.

19 (3) UNEMPLOYMENT FMAP ADJUSTMENT.—

20 (A) IN GENERAL.—Subject to subpara-
21 graphs (C) and (D), the unemployment FMAP
22 adjustment shall be equal to the increase in the
23 State's FMAP that would have applied to the
24 State under section 5001(c) of ARRA (assum-
25 ing that such section applied) for such fiscal

1 quarter minus the applicable reduction amount
2 (as described under subparagraph (B)).

3 (B) APPLICABLE REDUCTION AMOUNT.—

4 For purposes of subparagraph (A), the applica-
5 ble reduction amount shall be equal to the fol-
6 lowing:

7 (i) For the fourth fiscal quarter of fis-
8 cal year 2011, 0.20 percentage points.

9 (ii) For any subsequent fiscal quarter
10 occurring during the ARRA transitional
11 assistance period, the sum of—

12 (I) the applicable reduction
13 amount for the preceding fiscal quar-
14 ter; and

15 (II) 0.05 percentage points.

16 (C) ELIMINATION OF NEGATIVE ADJUST-
17 MENT.—If the unemployment FMAP adjust-
18 ment applicable to a State under this paragraph
19 for any fiscal quarter during the ARRA transi-
20 tional assistance period would be less than zero,
21 this paragraph shall not apply to such State.

22 (D) SPECIAL RULE.—

23 (i) IN GENERAL.—For purposes of
24 subparagraph (A), with respect to the com-
25 putation of the state unemployment in-

1 crease percentage (as described under sec-
2 tion 5001(c)(4) of ARRA) for the last 2
3 fiscal quarters of the ARRA transitional
4 assistance period, the most recent previous
5 3-consecutive-month period (as described
6 under section 5001(c)(4)(A)(i) of ARRA)
7 shall be the 3-consecutive-month period be-
8 ginning with December 2012, or, if it re-
9 sults in a higher applicable percent under
10 section 5001(c)(3) of ARRA, the 3-con-
11 secutive-month period beginning with Jan-
12 uary 2013.

13 (ii) REPEAL OF SPECIAL RULE UNDER
14 ARRA FOR LAST 2 CALENDAR QUARTERS
15 OF THE RECESSION ADJUSTMENT PE-
16 RIOD.—Section 5001(c)(4) of ARRA is
17 amended by striking subparagraph (C) and
18 inserting the following:

19 “(C) SPECIAL RULE.—With respect to the
20 first 2 calendar quarters of the recession ad-
21 justment period, the most recent previous 3-
22 consecutive-month period described in subpara-
23 graph (A)(i) shall be the 3-consecutive-month
24 period beginning with October 2008.”.

1 (b) SCOPE OF APPLICATION.—The adjustments in
2 the FMAP for a State under this section shall apply for
3 purposes of title XIX of the Social Security Act and shall
4 not apply with respect to—

5 (1) disproportionate share hospital payments
6 described in section 1923 of such Act (42 U.S.C.
7 1396r-4);

8 (2) payments under title IV of such Act (42
9 U.S.C. 601 et seq.) (except that the increases under
10 paragraphs (1) and (2) of subsection (a) shall apply
11 to payments under part E of title IV of such Act (42
12 U.S.C. 670 et seq.) and, for purposes of the applica-
13 tion of this section to the District of Columbia, pay-
14 ments under such part shall be deemed to be made
15 on the basis of the FMAP applied with respect to
16 such District for purposes of title XIX and as in-
17 creased under subsection (a)(2));

18 (3) any payments under title XXI of such Act
19 (42 U.S.C. 1397aa et seq.);

20 (4) any payments under title XIX of such Act
21 that are based on the enhanced FMAP described in
22 section 2105(b) of such Act (42 U.S.C. 1397ee(b));
23 or

24 (5) any payments under title XIX of such Act
25 that are attributable to expenditures for medical as-

1 sistance provided to individuals made eligible under
2 a State plan under title XIX of the Social Security
3 Act (including under any waiver under such title or
4 under section 1115 of such Act (42 U.S.C. 1315))
5 because of income standards (expressed as a per-
6 centage of the poverty line) for eligibility for medical
7 assistance that are higher than the income stand-
8 ards (as so expressed) for such eligibility as in effect
9 on July 1, 2008, (including as such standards were
10 proposed to be in effect under a State law enacted
11 but not effective as of such date or a State plan
12 amendment or waiver request under title XIX of
13 such Act that was pending approval on such date).

14 (c) STATE INELIGIBILITY; LIMITATION; SPECIAL
15 RULES.—

16 (1) MAINTENANCE OF ELIGIBILITY REQUIRE-
17 MENTS.—

18 (A) IN GENERAL.—Subject to subpara-
19 graph (B) and (C), a State is not eligible for
20 an increase in its FMAP under subsection (a)
21 if eligibility standards, methodologies, or proce-
22 dures under its State plan under title XIX of
23 the Social Security Act (including any waiver
24 under such title or under section 1115 of such
25 Act (42 U.S.C. 1315)) are more restrictive than

1 the eligibility standards, methodologies, or pro-
2 cedures, respectively, under such plan (or waiv-
3 er) as in effect on July 1, 2008.

4 (B) STATE REINSTATEMENT OF ELIGI-
5 BILITY PERMITTED.—Subject to subparagraph
6 (C), a State that has restricted eligibility stand-
7 ards, methodologies, or procedures under its
8 State plan under title XIX of the Social Secu-
9 rity Act (including any waiver under such title
10 or under section 1115 of such Act (42 U.S.C.
11 1315)) after July 1, 2008, is no longer ineli-
12 gible under subparagraph (A) beginning with
13 the first calendar quarter in which the State
14 has reinstated eligibility standards, methodolo-
15 gies, or procedures that are no more restrictive
16 than the eligibility standards, methodologies, or
17 procedures, respectively, under such plan (or
18 waiver) as in effect on July 1, 2008.

19 (C) SPECIAL RULES.—A State shall not be
20 ineligible under subparagraph (A)—

21 (i) for the fiscal quarters before Octo-
22 ber 1, 2011, on the basis of a restriction
23 that was applied after July 1, 2008, and
24 before the date of the enactment of this
25 Act, if the State prior to October 1, 2011,

1 has reinstated eligibility standards, meth-
2 odologies, or procedures that are no more
3 restrictive than the eligibility standards,
4 methodologies, or procedures, respectively,
5 under such plan (or waiver) as in effect on
6 July 1, 2008; or

7 (ii) on the basis of a restriction that
8 was directed to be made under State law
9 as in effect on July 1, 2008, and would
10 have been in effect as of such date, but for
11 a delay in the effective date of a waiver
12 under section 1115 of such Act with re-
13 spect to such restriction.

14 (2) COMPLIANCE WITH PROMPT PAY REQUIRE-
15 MENTS.—

16 (A) APPLICATION TO PRACTITIONERS.—

17 (i) IN GENERAL.—Subject to the suc-
18 ceeding provisions of this subparagraph, no
19 State shall be eligible for an increased
20 FMAP rate as provided under this section
21 for any claim received by a State from a
22 practitioner subject to the terms of section
23 1902(a)(37)(A) of the Social Security Act
24 (42 U.S.C. 1396a(a)(37)(A)) for such days
25 during any period in which that State has

1 failed to pay claims in accordance with
2 such section as applied under title XIX of
3 such Act.

4 (ii) REPORTING REQUIREMENT.—

5 Each State shall report to the Secretary,
6 on a quarterly basis, its compliance with
7 the requirements of clause (i) as such re-
8 quirements pertain to claims made for cov-
9 ered services during each month of the
10 preceding quarter.

11 (iii) WAIVER AUTHORITY.—The Sec-

12 retary may waive the application of clause
13 (i) to a State, or the reporting requirement
14 imposed under clause (ii), during any pe-
15 riod in which there are exigent cir-
16 cumstances, including natural disasters,
17 that prevent the timely processing of
18 claims or the submission of such a report.

19 (iv) APPLICATION TO CLAIMS.—

20 Clauses (i) and (ii) shall only apply to
21 claims made for covered services after the
22 date of enactment of this Act.

23 (B) APPLICATION TO NURSING FACILITIES

24 AND HOSPITALS.—The provisions of subpara-
25 graph (A) shall apply with respect to a nursing

1 facility or hospital, insofar as it is paid under
2 title XIX of the Social Security Act on the basis
3 of submission of claims, in the same or similar
4 manner (but within the same timeframe) as
5 such provisions apply to practitioners described
6 in such subparagraph.

7 (3) STATE'S APPLICATION TOWARD RAINY DAY
8 FUND.—A State is not eligible for an increase in its
9 FMAP under paragraphs (2) or (3) of subsection (a)
10 if any amounts attributable (directly or indirectly) to
11 such increase are deposited or credited into any re-
12 serve or rainy day fund of the State.

13 (4) NO WAIVER AUTHORITY.—Except as pro-
14 vided in paragraph (2)(A)(iii), the Secretary may
15 not waive the application of this subsection or sub-
16 section (d) under section 1115 of the Social Security
17 Act or otherwise.

18 (5) LIMITATION OF FMAP TO 100 PERCENT.—In
19 no case shall an increase in FMAP under this sec-
20 tion result in an FMAP that exceeds 100 percent.

21 (d) REQUIREMENTS.—

22 (1) STATE REPORTS.—Each State that is paid
23 additional Federal funds as a result of this section
24 shall, not later than September 30, 2014, submit a
25 report to the Secretary, in such form and such man-

1 ner as the Secretary shall determine, regarding how
2 the additional Federal funds were expended.

3 (2) ADDITIONAL REQUIREMENT FOR CERTAIN
4 STATES.—In the case of a State that requires polit-
5 ical subdivisions within the State to contribute to-
6 ward the non-Federal share of expenditures under
7 the State Medicaid plan required under section
8 1902(a)(2) of the Social Security Act (42 U.S.C.
9 1396a(a)(2)), the State is not eligible for an in-
10 crease in its FMAP under paragraphs (2) or (3) of
11 subsection (a) if it requires that such political sub-
12 divisions pay for quarters during the ARRA transi-
13 tional assistance period a greater percentage of the
14 non-Federal share of such expenditures, or a greater
15 percentage of the non-Federal share of payments
16 under section 1923, than the respective percentage
17 that would have been required by the State under
18 such plan on September 30, 2008, prior to applica-
19 tion of this section.

20 (e) DEFINITIONS.—In this Act, except as otherwise
21 provided:

22 (1) ARRA.—The term “ARRA” means the
23 American Recovery and Reinvestment Act of 2009
24 (Public Law 111–5; 123 Stat. 140).

1 (2) FMAP.—The term “FMAP” means the
2 Federal medical assistance percentage, as defined in
3 section 1905(b) of the Social Security Act (42
4 U.S.C. 1396d(b)), as determined without regard to
5 this section except as otherwise specified.

6 (3) POVERTY LINE.—The term “poverty line”
7 has the meaning given such term in section 673(2)
8 of the Community Services Block Grant Act (42
9 U.S.C. 9902(2)), including any revision required by
10 such section.

11 (4) SECRETARY.—The term “Secretary” means
12 the Secretary of Health and Human Services.

13 (5) STATE.—The term “State” has the mean-
14 ing given such term in section 1101(a)(1) of the So-
15 cial Security Act (42 U.S.C. 1301(a)(1)) for pur-
16 poses of title XIX of the Social Security Act (42
17 U.S.C. 1396 et seq.).

18 (f) SUNSET.—This section shall not apply to items
19 and services furnished after the end of the ARRA transi-
20 tional assistance period.

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