

117TH CONGRESS
1ST SESSION

S. 646

To amend titles XIX and XXI of the Social Security Act to provide for 12-month continuous enrollment under Medicaid and the Children's Health Insurance Program, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 9, 2021

Mr. BROWN (for himself, Ms. BALDWIN, Ms. WARREN, and Mr. WHITEHOUSE) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend titles XIX and XXI of the Social Security Act to provide for 12-month continuous enrollment under Medicaid and the Children's Health Insurance Program, 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.**

4 This Act may be cited as the “Stabilize Medicaid and
5 CHIP Coverage Act of 2021”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

1 (1) Every year millions of people are enrolled in
2 Medicaid and the Children’s Health Insurance Pro-
3 gram (in this section referred to as “CHIP”), but
4 subsequently lose their coverage, despite still being
5 eligible, because of inefficient and cumbersome pa-
6 perwork and logistical requirements.

7 (2) Data show that the typical enrollee receives
8 Medicaid coverage for about $\frac{3}{4}$ of the year and that
9 coverage periods are lower for non-elderly, non-dis-
10 abled adults than for those with disabilities, seniors,
11 and children.

12 (3) Medicaid enrollees with coverage disruption
13 are more likely to be hospitalized for illnesses, like
14 asthma, diabetes, or cardiovascular disease, that can
15 be effectively managed through ongoing primary
16 medical care and medication, are less likely to be
17 screened for breast cancer, and may have poorer
18 cancer outcomes.

19 (4) Children enrolled in CHIP also experience
20 disruptions in health coverage and care. For exam-
21 ple, during just a 1-year period, over $\frac{1}{3}$ of CHIP
22 enrollees were also enrolled in a State’s Medicaid
23 program. Transitions between Medicaid and CHIP
24 can cause disruptions in care because the health care

1 coverage and participating providers vary between
2 the two programs.

3 (5) Interruptions in coverage can impair the re-
4 ceipt of effective primary care and lead to expensive
5 hospitalizations or emergency room visits.

6 (6) Unnecessary enrollment, disenrollment, and
7 reenrollment in Medicaid and CHIP result in higher
8 administrative expenses for reenrollment and result
9 in more people uninsured at any given time.

10 (7) Stable coverage under Medicaid and CHIP
11 lowers average monthly medical costs. Continuous
12 enrollment also permits better prevention and dis-
13 ease management, leading to fewer serious illnesses
14 and hospitalizations.

15 (8) Children with stable coverage are less likely
16 to have unmet medical needs, allowing children to
17 receive the preventive care that is necessary to help
18 them grow into healthy adults.

19 **SEC. 3. 12-MONTH CONTINUOUS ENROLLMENT.**

20 (a) REQUIREMENT OF 12-MONTH CONTINUOUS EN-
21 ROLLMENT UNDER MEDICAID.—

22 (1) IN GENERAL.—Section 1902(e)(12) of the
23 Social Security Act (42 U.S.C. 1396a(e)), is amend-
24 ed to read as follows:

25 “(12) 12-MONTH CONTINUOUS ENROLLMENT.—

“(A) IN GENERAL.—Notwithstanding any other provision of this title, a State plan approved under this title or under any waiver of such plan approved pursuant to section 1115 or section 1915, shall provide that an individual who is determined to be eligible for benefits under such plan (or waiver) shall be considered to meet the eligibility requirements met on the date of application and shall remain eligible and enrolled for such benefits through the end of the month in which the 12-month period (beginning on the date of determination of eligibility) ends.

“(B) PROMOTING RETENTION OF ELIGIBLE AND ENROLLED PERSONS BEYOND 12 MONTHS.—The Secretary shall—

“(i) identify methods that promote the retention of individuals who are enrolled under the State plan or under a waiver of such plan and who remain eligible for medical assistance beyond the 12-month period described in subparagraph (A); and

“(ii) actively promote the adoption of such enrollment retention methods by States, which shall include, but not be lim-

1 ited to, issuing guidance and developing re-
2 sources on State best practices.

3 “(C) ENROLLMENT AND RETENTION RE-
4 PORTING.—

5 “(i) IN GENERAL.—Not later than 1
6 year after the date of enactment of the
7 Stabilize Medicaid and CHIP Coverage Act
8 of 2021, the Secretary shall publish the
9 procedures that States are expected to use
10 to provide annual enrollment and retention
11 reports beginning not later than 2 years
12 after the date of enactment of such Act.

13 “(ii) STATE REPORTING REQUIRE-
14 MENTS.—At a minimum, the reporting
15 procedures published under clause (i) shall
16 include a description of State eligibility cri-
17 teria and enrollment procedures under this
18 title and data regarding enrollment and re-
19 tention using standardized reporting for-
20 mats determined by the Secretary.

21 “(iii) SECRETARY REPORT AND PUB-
22 LICATION.—

23 “(I) IN GENERAL.—The Sec-
24 retary annually shall publish enroll-
25 ment and retention performance re-

sults for all States not later than 6 months after the deadline for each annual State enrollment and retention reporting period.

“(II) ESTIMATED ENROLLMENT CONTINUITY RATIOS.—Each annual report published by the Secretary under subclause (I) shall include estimates of Medicaid enrollment continuity ratios for each State in accordance with the requirements of subclause (III).

“(III) REQUIREMENTS.—The Secretary shall develop both overall enrollment continuity ratios for all enrollees and separate enrollment continuity ratios for each of the following categories:

“(aa) Children.

“(bb) Individuals whose eligibility category is related to having attained age 65.

“(cc) Individuals whose eligibility category is related to disability or blindness.

1 “(dd) Individuals whose eli-
 2 gibility category is related to
 3 their status as parents and care-
 4 taker relatives of children under
 5 19 or who are otherwise not el-
 6 derly, blind or disabled adults.”.

7 (b) REQUIREMENT OF 12-MONTH CONTINUOUS EN-
 8 ROLLMENT UNDER CHIP.—

9 (1) IN GENERAL.—Section 2102(b) of the So-
 10 cial Security Act (42 U.S.C. 1397bb(b)) is amended
 11 by adding at the end the following new paragraph:

12 “(6) REQUIREMENT FOR 12-MONTH CONTIN-
 13 UOUS ENROLLMENT.—Notwithstanding any other
 14 provision of this title, a State child health plan that
 15 provides child health assistance under this title
 16 through a means other than that described in sec-
 17 tion 2101(a)(2), shall provide that an individual who
 18 is determined to be eligible for benefits under such
 19 plan shall be considered to meet the eligibility re-
 20 quirements met on the date of application and shall
 21 remain eligible and enrolled for such benefits
 22 through the end of the month in which the 12-month
 23 period (beginning on the date of determination of
 24 eligibility) ends.”.

25 (2) CONFORMING AMENDMENTS.—

(A) ENROLLMENT AND RETENTION PROVISIONS.—Section 2105(a)(4)(A) of the Social Security Act (42 U.S.C. 1397ee(a)(4)(A)) is amended—

(i) by striking “has elected the option of” and inserting “is in compliance with the requirement for”; and

(ii) by striking “applying such policy under its State child health plan under this title” and inserting “in compliance with section 2102(b)”.

(B) APPLICATION OF MEDICAID RETENTION AND REPORTING REQUIREMENTS.—Section 2107(e)(1) of the Social Security Act (42 U.S.C. 1397gg(e)(1)) is amended—

(i) by redesignating subparagraphs (H) through (S) as subparagraphs (I) through (T), respectively; and

(ii) by inserting after subparagraph (G), the following:

“(H) Subparagraphs (B) and (C) of section 1902(e)(12) (relating to promotion of enrollment beyond 12 months and reporting requirements)(without regard to items (bb), (cc),

1 and (dd) of subparagraph (C)(iii)(III) of that
2 section).”.

3 (c) EFFECTIVE DATE.—

4 (1) IN GENERAL.—Except as provided in para-
5 graph (2) or (3), the amendments made by sub-
6 sections (a) and (b) shall apply to determinations
7 (and redeterminations) of eligibility made on or after
8 the date that is 18 months after the date of the en-
9 actment of this Act.

10 (2) EXTENSION OF EFFECTIVE DATE FOR
11 STATE LAW AMENDMENT.—In the case of a State
12 plan under title XIX or State child health plan
13 under title XXI of the Social Security Act (42
14 U.S.C. 1396 et seq.; 42 U.S.C. 1397aa et seq.)
15 which the Secretary of Health and Human Services
16 determines requires State legislation (other than leg-
17 islation appropriating funds) in order for the respec-
18 tive plan to meet the additional requirements im-
19 posed by the amendments made by subsections (a)
20 or (b), respectively, the respective plan shall not be
21 regarded as failing to comply with the requirements
22 of such title solely on the basis of its failure to meet
23 such applicable additional requirements before the
24 first day of the first calendar quarter beginning
25 after the close of the first regular session of the

1 State legislature that begins after the date of enact-
 2 ment of this Act. For purposes of the previous sen-
 3 tence, in the case of a State that has a 2-year legis-
 4 lative session, each year of the session is considered
 5 to be a separate regular session of the State legisla-
 6 ture.

7 (3) OPTION TO IMPLEMENT 12-MONTH CONTIN-
 8 UOUS ELIGIBILITY PRIOR TO EFFECTIVE DATE.—A
 9 State may elect through a State plan amendment
 10 under title XIX or XXI of the Social Security Act
 11 (42 U.S.C. 1396 et seq.; 42 U.S.C. 1397aa et seq.)
 12 to apply the amendments made by subsection (a) or
 13 (b), respectively, on any date prior to the 18-month
 14 date specified in paragraph (1), but not sooner than
 15 the date of the enactment of this Act.

16 **SEC. 4. PREVENTING THE APPLICATION UNDER CHIP OF**
 17 **COVERAGE WAITING PERIODS.**

18 (a) IN GENERAL.—Section 2102(b)(1)(B) of the So-
 19 cial Security Act (42 U.S.C. 1397bb(b)(1)(B)) is amend-
 20 ed—

21 (1) in clause (iii)—

22 (A) by striking “in the case of” and insert-
 23 ing “in the case of a targeted low-income child
 24 (including a child provided dental-only supple-

1 mental coverage under section 2110(b)(5)) or in
2 the case of”; and

3 (B) by adding “and” after the semicolon;
4 (2) by striking clause (iv); and
5 (3) by redesignating clause (v) as clause (iv).

6 (b) CONFORMING AMENDMENTS.—Section
7 2105(c)(10) of the Social Security Act (42 U.S.C.
8 1397ee(c)(10)) is amended by striking subparagraph (F)
9 and redesignating subparagraphs (G) through (M) as sub-
10 paragraphs (F) through (L), respectively.

11 (c) EFFECTIVE DATE.—The amendments made by
12 this section shall take effect on the date of enactment of
13 this Act.

14 **SEC. 5. MEDICAID PERFORMANCE BONUSES FOR ENROLL-**
15 **MENT AND RETENTION IMPROVEMENTS FOR**
16 **CERTAIN INDIVIDUALS.**

17 Section 1903 of the Social Security Act (42 U.S.C.
18 1396b) is amended by adding at the end the following new
19 subsection:

20 “(cc) PERFORMANCE BONUSES FOR ENROLLMENT
21 AND RETENTION OF LOW-INCOME INDIVIDUALS.—

22 “(1) IN GENERAL.—A State may qualify for
23 performance bonuses related to the enrollment and
24 retention of individuals (including children) de-
25 scribed in section 1902(e)(12)(C)(iii)(III). For pur-

poses of this paragraph, a State meets the condition of this paragraph for such individuals if, for each category of individuals specified in section 1902(e)(12)(C)(iii)(III), the State is implementing at least 3 of the following enrollment and retention provisions (treating each subparagraph as a separate enrollment and retention provision) throughout the entire fiscal year:

“(A) ALIGNING TREATMENT OF INCOME UNDER MEDICAID WITH THAT OF OTHER INSURANCE AFFORDABILITY PROGRAMS.—The State implements policies, including prorating income over annual periods, so as to align its treatment of income for purposes of a determination of eligibility for medical assistance with that of other affordability insurance programs with the goal of eliminating inconsistent determinations among these programs.

“(B) MAINTAINING COVERAGE FOR INDIVIDUALS DURING PERIODS OF TRANSITION.—The State implements the following policies:

“(i) IN GENERAL.—Upon determination that an individual is no longer eligible for medical assistance, the State implements policies to maintain eligibility for

1 medical assistance, including enrollment in
2 the managed care organization in which
3 the individual was enrolled at the time of
4 the determination of ineligibility, during
5 the period of time in which—

6 “(I) eligibility-related information
7 is transmitted to the other insurance
8 affordability programs;

9 “(II) a determination is made as
10 to for which other insurance afford-
11 ability program the individual is eligi-
12 ble, if any; and

13 “(III) coverage in such program
14 and any related managed care organi-
15 zation becomes effective.

16 “(ii) MANAGED CARE ORGANIZATION
17 CONTINUITY.—The State implements poli-
18 cies to enroll the individual in the managed
19 care organization in which the individual
20 was a member prior to the loss of medical
21 assistance eligibility, if such managed care
22 organization participates in the other in-
23 surance affordability program, unless the
24 individual voluntarily selects a separate
25 managed care organization.

1 “(C) ENHANCED DATA-SHARING BETWEEN
2 THE STATE AND AN AMERICAN HEALTH BEN-
3 EFIT EXCHANGE AND AGENCIES.—The State
4 utilizes findings from an American Health Ben-
5 efit Exchange, an Express Lane Agency (as
6 identified by the State and as described in sec-
7 tion 1902(e)(13)(F)), the Social Security Ad-
8 ministration, or other agencies administering
9 employment, educational, or social services pro-
10 grams as identified by the State, to document
11 income, residency, age, or other relevant infor-
12 mation in determining or renewing eligibility.

13 “(D) ELIGIBILITY BASED ON PENDING
14 STATUS.—The State maintains eligibility for
15 enrollees whose renewal status has not yet been
16 determined and for whom eligibility based on
17 alternative eligibility criteria has not yet been
18 ruled out.

19 “(E) DEFAULT REENROLLMENT IN MAN-
20 AGED CARE ORGANIZATION.—In the case of in-
21 dividuals who are determined to be eligible for
22 medical assistance under this title after the loss
23 of eligibility for fewer than 6 months, and who
24 previously had been members of a managed
25 care organization, the State re-enrolls the indi-

vidual in the managed care organization in which the individual was a member prior to the loss of eligibility, unless the individual voluntarily selects a separate managed care organization.

“(2) PERFORMANCE BONUS PAYMENT TO SUPPORT 12-MONTH CONTINUOUS ENROLLMENT FOR MEDICAID ENROLLEES.—

“(A) AUTHORITY TO MAKE BONUS PAYMENTS.—

“(i) IN GENERAL.—The Secretary shall make a bonus payment for fiscal years beginning with the first fiscal year that begins on or after the date that is 3 years after the date of enactment of the Stabilize Medicaid and CHIP Coverage Act of 2021, and annually thereafter to the extent there are funds available under paragraph (3)(A), to each State that satisfies the requirements of subparagraph (B).

“(ii) REGULATIONS.—Payments to States under this subsection for a fiscal year shall be allocated annually among eligible States in accordance with regulations promulgated by the Secretary not later

1 than the date that is 6 months prior to Oc-
 2 tober 1 of the first fiscal year for which
 3 payments are made under this paragraph.

4 “(iii) TIMING.—A payment to a State
 5 under this subsection for a fiscal year shall
 6 be made as a single payment not later
 7 than the last day of the first calendar
 8 quarter of the succeeding fiscal year.

9 “(B) STATE ELIGIBILITY FOR BONUS PAY-
 10 MENTS.—A State shall be eligible for bonus
 11 payments under this subsection if—

12 “(i) the State has adopted at least 3
 13 of the 5 policies described in subpara-
 14 graphs (A) through (E) of paragraph (1)
 15 for each category of individuals specified in
 16 section 1902(e)(12)(C)(iii)(III); and

17 “(ii) the State is able to demonstrate
 18 improvement in the continuity of enroll-
 19 ment by child, aged, blind, and disabled,
 20 and adult populations, compared to the
 21 State’s baseline performance with respect
 22 to continuity of enrollment for such popu-
 23 lations in fiscal year 2021 or such later
 24 year as the Secretary, by regulation, shall
 25 specify.

1 “(3) AMOUNTS AVAILABLE FOR PAYMENTS.—

2 “(A) IN GENERAL.—The total amount of
3 bonus payments made under this subsection for
4 all fiscal years shall be equal to \$500,000,000,
5 to be available until expended.

6 “(B) BUDGET AUTHORITY.—This para-
7 graph constitutes budget authority in advance
8 of appropriations Acts and represents the obli-
9 gation of the Secretary to provide for the pay-
10 ment of amounts provided under this para-
11 graph.

12 “(4) USES OF ENROLLMENT AND RETENTION
13 PERFORMANCE BONUSES.—Nothing in this sub-
14 section shall prohibit a State from establishing cri-
15 teria which would permit the State to distribute a
16 portion of the proceeds of any bonus payments re-
17 ceived pursuant to this subsection to financially sup-
18 port providers and managed care entities partici-
19 pating under the State plan or under a waiver of
20 such plan who have contributed to improved enroll-
21 ment and retention activities.”.

○