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(Original Signature of Member)

111TH CONGRESS  
1ST SESSION

# H. R.

To amend titles XVI, XVIII, XIX, and XXI of the Social Security Act to remove limitations on Medicaid, Medicare, SSI, and SCHIP benefits for persons in custody pending disposition of charges.

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## IN THE HOUSE OF REPRESENTATIVES

Mr. HASTINGS of Florida introduced the following bill; which was referred to the Committee on \_\_\_\_\_

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# A BILL

To amend titles XVI, XVIII, XIX, and XXI of the Social Security Act to remove limitations on Medicaid, Medicare, SSI, and SCHIP benefits for persons in custody pending disposition of charges.

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 “Restoring the Partner-  
5 ship for County Health Care Costs Act of 2009”.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

1           (1) The United States Supreme Court has in-  
2           terpreted the 8th Amendment to require govern-  
3           mental entities to provide medical care to persons in-  
4           voluntarily confined in jails, detention centers, and  
5           prisons.

6           (2) The Federal Government does not provide  
7           benefits under the Medicare, Medicaid, Supplemental  
8           Security Income (SSI), or State Children's Health  
9           Insurance (SCHIP) Program health benefits to in-  
10          mates even if the person is awaiting trial in jail and  
11          has not been convicted. However, beneficiaries who  
12          are released after posting bond, or who are released  
13          under their own recognizance, or who are released  
14          under house arrest may continue to receive Medi-  
15          care, Medicaid, SSI, and SCHIP benefits.

16          (3) The cost of providing health care in prisons  
17          and jails has increased exponentially due in part to  
18          high incarceration rates, infectious diseases, chronic  
19          conditions, substance abuse treatment, mental ill-  
20          ness, aging prison populations, rising prescription  
21          drug costs, and mandatory sentencing laws.

22          (4) Providing health care for inmates con-  
23          stitutes a major portion of local jail operating costs.  
24          Requiring county governments to cover health care  
25          costs for inmates who have not been convicted places

1 an unnecessary burden on local governments who  
2 have been negatively impacted by recession, wide-  
3 spread budget deficits, and cuts to safety net pro-  
4 grams and services.

5 (5) Jails generally have a higher instance of  
6 mentally ill inmates because jails frequently serve as  
7 holding places for low-income persons who are wait-  
8 ing placement in a mental facility and for mentally  
9 ill persons who commit nuisance crimes because of  
10 inadequate access to treatment in their communities.

11 (6) The rising cost of bail has also contributed  
12 to an overall increase in the jail population and  
13 health care costs for inmates. The high cost of bail  
14 has contributed to the disproportionate rate of incar-  
15 ceration among African-Americans and Latinos.

16 (7) Terminating benefits to people in county  
17 jails who are awaiting trial violates the presumption  
18 of innocence, because it does not distinguish between  
19 persons awaiting disposition of charges and those  
20 who have been duly convicted and sentenced.

21 (8) Otherwise eligible individuals who have been  
22 charged with a crime and incarcerated, but not con-  
23 victed, should continue to be eligible for Federal  
24 health benefits, such as Medicare, Medicaid, SSI, or  
25 SCHIP, until such time as they may be convicted

1 and sentenced to an institution. SSI payments  
2 should be held until the inmate has been acquitted  
3 and released, or until the inmate has completed his  
4 or her sentence and been released.

5 **SEC. 3. REMOVAL OF INMATE LIMITATION ON BENEFITS**  
6 **UNDER MEDICAID, MEDICARE, SSI, AND**  
7 **SCHIP.**

8 (a) **MEDICAID.**—The subdivision (A) of section  
9 1905(a) of the Social Security Act (42 U.S.C. 1396d(a))  
10 that follows paragraph (28) is amended by inserting “or  
11 in custody pending disposition of charges” after “patient  
12 in a medical institution”.

13 (b) **MEDICARE.**—Section 1862(a)(3) of such Act (42  
14 U.S.C. 1395y(a)(3)) is amended by inserting “in the case  
15 of services furnished to individuals who are in custody  
16 pending disposition of charges,” after “1880(e)”.

17 (c) **SSI.**—Section 1611(e)(1) of such Act (42 U.S.C.  
18 1382(e)(1)) is amended by adding at the end the following  
19 new subparagraph:

20 “(K)(i) As used in subparagraph (A), the term ‘in-  
21 mate of a public institution’ does not include an individual  
22 who is in custody pending disposition of charges.

23 “(ii) In the case of an individual who is an eligible  
24 individual or eligible spouse for purposes of this title only  
25 because of the application of the definition in clause (i),

1 any supplemental security income benefits otherwise pay-  
2 able shall be withheld until such time as the individual  
3 is no longer either in custody pending disposition of  
4 charges or an inmate of a public institution or shall be  
5 paid to the individual's estate if the individual dies before  
6 the pending charges are disposed of or while the individual  
7 is an inmate of a public institution.”.

8 (d) SCHIP.—Section 2110(b)(1) of such Act (42  
9 U.S.C. 1397jj(b)(1)) is amended by inserting “(except as  
10 an individual in custody pending disposition of charges)”  
11 after “inmate of a public institution”.

12 (e) EFFECTIVE DATE.—The amendments made by  
13 this section shall take effect on the first day of the first  
14 calendar quarter beginning more than 60 days after the  
15 date of the enactment of this Act and shall apply to items  
16 and services furnished, and supplemental security income  
17 benefits paid, for periods beginning on or after such date.