

118TH CONGRESS
1ST SESSION

H. R. 3860

To amend titles XIX and XXI of the Social Security Act to provide a consistent standard of health care to incarcerated individuals, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 6, 2023

Ms. KUSTER (for herself, Mr. FITZPATRICK, Ms. BLUNT ROCHESTER, Mr. CÁRDENAS, Mr. TRONE, Ms. BONAMICI, Mr. SMITH of Washington, Ms. SEWELL, Ms. BALINT, and Mr. MCGOVERN) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend titles XIX and XXI of the Social Security Act to provide a consistent standard of health care to incarcerated individuals, 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 “Humane Correctional
5 Health Care Act”.

1 **SEC. 2. REPEAL OF MEDICAID AND CHIP EXCLUSIONS RE-**
2 **LATING TO INCARCERATED INDIVIDUALS.**

3 (a) **MEDICAID.**—Section 1905(a) of the Social Secu-
4 rity Act (42 U.S.C. 1396d(a)) is amended, in the matter
5 following paragraph (31), by striking “such term does not
6 include—” and all that follows through “patient in an in-
7 stitution for mental diseases” and inserting “such term
8 does not include any such payments with respect to care
9 or services for any individual who has not attained 65
10 years of age and who is a patient in an institution for
11 mental diseases”.

12 (b) **CHIP.**—Section 2110(b) of the Social Security
13 Act (42 U.S.C. 1397jj(b)) is amended—

14 (1) in paragraph (2)(A), by striking “except as
15 provided” and all that follows through “public insti-
16 tution or”; and

17 (2) by striking paragraph (7).

18 (c) **CONFORMING AMENDMENTS.**—

19 (1) Section 1902 of the Social Security Act (42
20 U.S.C. 1396a) is amended—

21 (A) in subsection (a), by striking para-
22 graph (84); and

23 (B) by striking subsection (nn).

24 (2) Section 1905(a) of the Social Security Act
25 (42 U.S.C. 1396d(a)), as amended by subsection (a),
26 is amended, in the matter following paragraph (31),

1 by striking “set forth in the subdivision (B) fol-
2 lowing paragraph (30) of the first sentence of this
3 subsection” and inserting “set forth in the portion
4 of the first sentence of this subsection that follows
5 the last numbered paragraph of this subsection”.

6 (3) Section 5122 of division FF of the Consoli-
7 dated Appropriations Act, 2023 (Public Law 117-
8 328) is repealed.

9 (d) EFFECTIVE DATE.—The amendments made by
10 this section shall apply with respect to medical assistance,
11 child health assistance, and pregnancy-related assistance
12 provided on or after January 1, 2024.

13 **SEC. 3. REPORT BY COMPTROLLER GENERAL.**

14 Not later than the date that is 3 years after the date
15 of enactment of this Act, and annually thereafter for each
16 of the following 5 years, the Comptroller General of the
17 United States shall submit to Congress a report con-
18 taining the following information:

19 (1) The percentage of incarcerated individuals
20 that receive medical assistance under a State plan
21 under title XIX of the Social Security Act (42
22 U.S.C. 1396 et seq.) or child health assistance or
23 pregnancy-related assistance under a State plan
24 under title XXI of the Social Security Act (42
25 U.S.C. 1397aa et seq.).

1 (2) The access of incarcerated individuals to
2 health care services, including specialty care, and
3 health care providers.

4 (3) The quality of healthcare services provided
5 to incarcerated individuals.

6 (4) Any impact of coverage under such a State
7 plan on recidivism.

8 (5) The percentage of incarcerated individuals
9 who, upon release, are—

10 (A) enrolled under such a State plan; and

11 (B) connected to a primary care provider
12 in their community.

13 (6) Trends in the prevalence and incidence of
14 illness and injury among incarcerated individuals.

15 (7) Any other information the Comptroller Gen-
16 eral determines necessary regarding the health of in-
17 carcerated individuals.

18 **SEC. 4. SENSE OF CONGRESS ON INCARCERATION AND**

19 **COMMUNITY-BASED HEALTH SERVICES.**

20 It is the sense of Congress that—

21 (1) no individual in the United States should be
22 incarcerated for the purpose of being provided with
23 health care that is unavailable to the individual in
24 the individual's community;

1 (2) each State and unit of local government
2 should establish programs that offer community-
3 based health services (including mental health and
4 substance use disorder services) commensurate with
5 the principle stated in paragraph (1); and

6 (3) Federal reimbursement for expenditures on
7 medical assistance, child health assistance, or preg-
8 nancy-related assistance made available through the
9 amendments made by this Act should not supplant
10 an investment in community-based services.

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