

118TH CONGRESS
1ST SESSION

H. R. 5165

To amend title XIX of the Social Security Act to allow States more flexibility with respect to using contractors to make eligibility determinations and redeterminations on behalf of the State Medicaid plan, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 8, 2023

Mr. CARTER of Georgia (for himself and Mr. DUNN of Florida) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To amend title XIX of the Social Security Act to allow States more flexibility with respect to using contractors to make eligibility determinations and redeterminations on behalf of the State Medicaid plan, 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 “Medicaid Staffing
5 Flexibility and Protection Act of 2023”.

1 **SEC. 2. STATE FLEXIBILITY TO USE CONTRACTORS TO**
2 **MAKE ELIGIBILITY DETERMINATIONS AND**
3 **REDETERMINATIONS ON BEHALF OF A**
4 **STATE.**

5 (a) **REQUIREMENTS WITH RESPECT TO ELIGIBILITY**
6 **DETERMINATIONS.**—Section 1902(a)(5) of the Social Se-
7 curity Act (42 U.S.C. 1396a(a)(5)) is amended by insert-
8 ing before the semicolon at the end the following: “, but
9 such determinations of eligibility may be made, at the op-
10 tion of a State, under a contract with another State or
11 local agency or a contractor, so long as the contract does
12 not provide incentives for the agency or contractor to delay
13 eligibility determinations or to deny eligibility for individ-
14 uals otherwise eligible for medical assistance”.

15 (b) **REQUIREMENTS WITH RESPECT TO FAIR HEAR-**
16 **INGS.**—Section 1902(a)(3) of the Social Security Act (42
17 U.S.C. 1396a(a)(3)) is amended by inserting before the
18 semicolon at the end the following: “, except that such
19 fair hearing may be conducted, at the option of a State,
20 under a contract with another State or local agency or
21 a contractor, so long as such agency or contractor does
22 not provide incentives to delay a fair hearing or to deny
23 eligibility for an individual otherwise eligible for medical
24 assistance”.

1 SEC. 3. PROHIBITING CONFLICTS OF INTEREST.

2 A State shall not use the flexibility provided under
3 section 2 unless a contractor selected to conduct eligibility
4 determinations or redeterminations pursuant to the
5 amendments made by such section has no direct or indi-
6 rect financial relationship with any Medicaid managed
7 care organization (as defined in section 1903(m)(1)(A) of
8 the Social Security Act (42 U.S.C. 1396b(m)(1)(A))), in-
9 cluding the network providers affiliated with such organi-
10 zation, that provides services to individuals entitled to
11 medical assistance under title XIX of such Act (42 U.S.C.
12 1396 et seq.) pursuant to a contract with such State.

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