**Attachment** **A**

**CHIPRA AUTHORIZING LEGISLATION**

PUBLIC LAW 111–3—FEB. 4, 2009

CHILDREN’S HEALTH INSURANCE PROGRAM

REAUTHORIZATION ACT OF 2009

123 STAT. 8 PUBLIC LAW 111–3—FEB. 4, 2009

Public Law 111–3

111th Congress

An Act

To amend title XXI of the Social Security Act to extend and improve the Children’s

Health Insurance Program, and for other purposes.

*Be it enacted by the Senate and House of Representatives of*

*the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; AMENDMENTS TO SOCIAL SECURITY ACT;**

**REFERENCES; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the ‘‘Children’s

Health Insurance Program Reauthorization Act of 2009’’.

(b) AMENDMENTS TO SOCIAL SECURITY ACT.—Except as otherwise

specifically provided, whenever in this Act an amendment

is expressed in terms of an amendment to or repeal of a section

or other provision, the reference shall be considered to be made

to that section or other provision of the Social Security Act.

(c) REFERENCES TO CHIP; MEDICAID; SECRETARY.—In this Act:

(1) CHIP.—The term ‘‘CHIP’’ means the State Children’s

Health Insurance Program established under title XXI of the

Social Security Act (42 U.S.C. 1397aa et seq.).

(2) MEDICAID.—The term ‘‘Medicaid’’ means the program

for medical assistance established under title XIX of the Social

Security Act (42 U.S.C. 1396 et seq.).

(3) SECRETARY.—The term ‘‘Secretary’’ means the Secretary

of Health and Human Services.

(d) TABLE OF CONTENTS.—The table of contents of this Act

is as follows:

Sec. 1. Short title; amendments to Social Security Act; references; table of contents.

Sec. 2. Purpose.

Sec. 3. General effective date; exception for State legislation; contingent effective

date; reliance on law.

TITLE I—FINANCING

Subtitle A—Funding

Sec. 104. CHIP performance bonus payment to offset additional enrollment costs

resulting from enrollment and retention efforts.

TITLE II—OUTREACH AND ENROLLMENT

Subtitle A—Outreach and Enrollment Activities

Sec. 201. Grants and enhanced administrative funding for outreach and enrollment.

Sec. 202. Increased outreach and enrollment of Indians.

Sec. 203. State option to rely on findings from an Express Lane agency to conduct

simplified eligibility determinations.

Subtitle B—Reducing Barriers to Enrollment

Sec. 211. Verification of declaration of citizenship or nationality for purposes of eligibility

for Medicaid and CHIP.

Sec. 212. Reducing administrative barriers to enrollment.

Sec. 213. Model of Interstate coordinated enrollment and coverage process.

Sec. 214. Permitting States to ensure coverage without a 5-year delay of certain

children and pregnant women under the Medicaid program and CHIP.

TITLE III—REDUCING BARRIERS TO PROVIDING PREMIUM ASSISTANCE

Subtitle A—Additional State Option for Providing Premium Assistance

Sec. 301. Additional State option for providing premium assistance.

Sec. 302. Outreach, education, and enrollment assistance.

Subtitle B—Coordinating Premium Assistance With Private Coverage

Sec. 311. Special enrollment period under group health plans in case of termination

of Medicaid or CHIP coverage or eligibility for assistance in purchase of

employment-based coverage; coordination of coverage.

TITLE IV—STRENGTHENING QUALITY OF CARE AND HEALTH OUTCOMES

Sec. 401. Child health quality improvement activities for children enrolled in Medicaid

or CHIP.

Sec. 402. Improved availability of public information regarding enrollment of children

in CHIP and Medicaid.

Sec. 403. Application of certain managed care quality safeguards to CHIP.

TITLE V—IMPROVING ACCESS TO BENEFITS

Sec. 501. Dental benefits.

Sec. 502. Mental health parity in CHIP plans.

Sec. 503. Application of prospective payment system for services provided by Federally-

qualified health centers and rural health clinics.

Sec. 504. Premium grace period.

Sec. 505. Clarification of coverage of services provided through school-based health

centers.

Sec. 506. Medicaid and CHIP Payment and Access Commission.

TITLE VI—PROGRAM INTEGRITY AND OTHER MISCELLANEOUS

PROVISIONS

Subtitle A—Program Integrity and Data Collection

Sec. 601. Payment error rate measurement (‘‘PERM’’).

Sec. 602. Improving data collection.

Sec. 603. Updated Federal evaluation of CHIP.

Sec. 604. Access to records for IG and GAO audits and evaluations.

Sec. 605. No Federal funding for illegal aliens; disallowance for unauthorized expenditures.

Subtitle B—Miscellaneous Health Provisions

Sec. 611. Deficit Reduction Act technical corrections.

Sec. 612. References to title XXI.

Sec. 613. Prohibiting initiation of new health opportunity account demonstration

programs.

Sec. 614. Adjustment in computation of Medicaid FMAP to disregard an extraordinary

employer pension contribution.

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Sec. 615. Clarification treatment of regional medical center.

Sec. 616. Extension of Medicaid DSH allotments for Tennessee and Hawaii.

Sec. 617. GAO report on Medicaid managed care payment rates.

Subtitle C—Other Provisions

Sec. 621. Outreach regarding health insurance options available to children.

Sec. 622. Sense of the Senate regarding access to affordable and meaningful health

insurance coverage.

TITLE VII—REVENUE PROVISIONS

Sec. 701. Increase in excise tax rate on tobacco products.

Sec. 702. Administrative improvements.

Sec. 703. Treasury study concerning magnitude of tobacco smuggling in the United

States.

Sec. 704. Time for payment of corporate estimated taxes.

**SEC. 2. PURPOSE.**

It is the purpose of this Act to provide dependable and stable

funding for children’s health insurance under titles XXI and XIX

of the Social Security Act in order to enroll all six million uninsured

children who are eligible, but not enrolled, for coverage today

through such titles.

**SEC. 3. GENERAL EFFECTIVE DATE; EXCEPTION FOR STATE LEGISLATION;**

**CONTINGENT EFFECTIVE DATE; RELIANCE ON LAW.**

(a) GENERAL EFFECTIVE DATE.—Unless otherwise provided in

this Act, subject to subsections (b) through (d), this Act (and the

amendments made by this Act) shall take effect on April 1, 2009,

and shall apply to child health assistance and medical assistance

provided on or after that date.

(b) EXCEPTION FOR STATE LEGISLATION.—In the case of a State

plan under title XIX or State child health plan under XXI of

the Social Security Act, which the Secretary of Health and Human

Services determines requires State legislation in order for the

respective plan to meet one or more additional requirements

imposed by amendments made by this Act, the respective plan

shall not be regarded as failing to comply with the requirements

of such title solely on the basis of its failure to meet such an

additional requirement before the first day of the first calendar

quarter beginning after the close of the first regular session of

the State legislature that begins after the date of enactment of

this Act. For purposes of the previous sentence, in the case of

a State that has a 2-year legislative session, each year of the

session shall be considered to be a separate regular session of

the State legislature.

(c) COORDINATION OF CHIP FUNDING FOR FISCAL YEAR 2009.—

Notwithstanding any other provision of law, insofar as funds have

been appropriated under section 2104(a)(11), 2104(k), or 2104(l)

of the Social Security Act, as amended by section 201 of Public

Law 110–173, to provide allotments to States under CHIP for

fiscal year 2009—

(1) any amounts that are so appropriated that are not

so allotted and obligated before April 1, 2009 are rescinded;

and

(2) any amount provided for CHIP allotments to a State

under this Act (and the amendments made by this Act) for

such fiscal year shall be reduced by the amount of such appropriations

so allotted and obligated before such date.

(d) RELIANCE ON LAW.—With respect to amendments made

by this Act (other than title VII) that become effective as of a

date—

42 USC 1396

note.

42 USC 1396

note.

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(1) such amendments are effective as of such date whether

or not regulations implementing such amendments have been

issued; and

(2) Federal financial participation for medical assistance

or child health assistance furnished under title XIX or XXI,

respectively, of the Social Security Act on or after such date

by a State in good faith reliance on such amendments before

the date of promulgation of final regulations, if any, to carry

out such amendments (or before the date of guidance, if any,

regarding the implementation of such amendments) shall not

be denied on the basis of the State’s failure to comply with

such regulations or guidance.

**TITLE I—FINANCING**

**Subtitle A—Funding**

**SEC. 101. EXTENSION OF CHIP.**

**SEC. 104. CHIP PERFORMANCE BONUS PAYMENT TO OFFSET ADDITIONAL**

**ENROLLMENT COSTS RESULTING FROM ENROLLMENT**

**AND RETENTION EFFORTS.**

Section 2105(a) (42 U.S.C. 1397ee(a)) is amended by adding

at the end the following new paragraphs:

‘‘(3) PERFORMANCE BONUS PAYMENT TO OFFSET ADDITIONAL

MEDICAID AND CHIP CHILD ENROLLMENT COSTS RESULTING FROM

ENROLLMENT AND RETENTION EFFORTS.—

‘‘(A) IN GENERAL.—In addition to the payments made

under paragraph (1), for each fiscal year (beginning with

fiscal year 2009 and ending with fiscal year 2013), the

Secretary shall pay from amounts made available under

subparagraph (E), to each State that meets the condition

under paragraph (4) for the fiscal year, an amount equal

to the amount described in subparagraph (B) for the State

and fiscal year. The payment under this paragraph shall

be made, to a State for a fiscal year, as a single payment

not later than the last day of the first calendar quarter

of the following fiscal year.

‘‘(B) AMOUNT FOR ABOVE BASELINE MEDICAID CHILD

ENROLLMENT COSTS.—Subject to subparagraph (E), the

amount described in this subparagraph for a State for

a fiscal year is equal to the sum of the following amounts:

‘‘(i) FIRST TIER ABOVE BASELINE MEDICAID

ENROLLEES.—An amount equal to the number of first

Deadline.

Applicability.

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tier above baseline child enrollees (as determined

under subparagraph (C)(i)) under title XIX for the

State and fiscal year, multiplied by 15 percent of the

projected per capita State Medicaid expenditures (as

determined under subparagraph (D)) for the State and

fiscal year under title XIX.

‘‘(ii) SECOND TIER ABOVE BASELINE MEDICAID

ENROLLEES.—An amount equal to the number of second

tier above baseline child enrollees (as determined

under subparagraph (C)(ii)) under title XIX for the

State and fiscal year, multiplied by 62.5 percent of

the projected per capita State Medicaid expenditures

(as determined under subparagraph (D)) for the State

and fiscal year under title XIX.

‘‘(C) NUMBER OF FIRST AND SECOND TIER ABOVE BASELINE

CHILD ENROLLEES; BASELINE NUMBER OF CHILD

ENROLLEES.—For purposes of this paragraph:

‘‘(i) FIRST TIER ABOVE BASELINE CHILD

ENROLLEES.—The number of first tier above baseline

child enrollees for a State for a fiscal year under title

XIX is equal to the number (if any, as determined

by the Secretary) by which—

‘‘(I) the monthly average unduplicated number

of qualifying children (as defined in subparagraph

(F)) enrolled during the fiscal year under the State

plan under title XIX, respectively; exceeds

‘‘(II) the baseline number of enrollees

described in clause (iii) for the State and fiscal

year under title XIX, respectively;

but not to exceed 10 percent of the baseline number

of enrollees described in subclause (II).

‘‘(ii) SECOND TIER ABOVE BASELINE CHILD

ENROLLEES.—The number of second tier above baseline

child enrollees for a State for a fiscal year under title

XIX is equal to the number (if any, as determined

by the Secretary) by which—

‘‘(I) the monthly average unduplicated number

of qualifying children (as defined in subparagraph

(F)) enrolled during the fiscal year under title XIX

as described in clause (i)(I); exceeds

‘‘(II) the sum of the baseline number of child

enrollees described in clause (iii) for the State

and fiscal year under title XIX, as described in

clause (i)(II), and the maximum number of first

tier above baseline child enrollees for the State

and fiscal year under title XIX, as determined

under clause (i).

‘‘(iii) BASELINE NUMBER OF CHILD ENROLLEES.—

Subject to subparagraph (H), the baseline number of

child enrollees for a State under title XIX—

‘‘(I) for fiscal year 2009 is equal to the monthly

average unduplicated number of qualifying children

enrolled in the State plan under title XIX

during fiscal year 2007 increased by the population

growth for children in that State from 2007 to

2008 (as estimated by the Bureau of the Census)

plus 4 percentage points, and further increased

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by the population growth for children in that State

from 2008 to 2009 (as estimated by the Bureau

of the Census) plus 4 percentage points;

‘‘(II) for each of fiscal years 2010, 2011, and

2012, is equal to the baseline number of child

enrollees for the State for the previous fiscal year

under title XIX, increased by the population

growth for children in that State from the calendar

year in which the respective fiscal year begins

to the succeeding calendar year (as estimated by

the Bureau of the Census) plus 3.5 percentage

points;

‘‘(III) for each of fiscal years 2013, 2014, and

2015, is equal to the baseline number of child

enrollees for the State for the previous fiscal year

under title XIX, increased by the population

growth for children in that State from the calendar

year in which the respective fiscal year begins

to the succeeding calendar year (as estimated by

the Bureau of the Census) plus 3 percentage

points; and

‘‘(IV) for a subsequent fiscal year is equal to

the baseline number of child enrollees for the State

for the previous fiscal year under title XIX,

increased by the population growth for children

in that State from the calendar year in which

the fiscal year involved begins to the succeeding

calendar year (as estimated by the Bureau of the

Census) plus 2 percentage points.

‘‘(D) PROJECTED PER CAPITA STATE MEDICAID EXPENDITURES.—

For purposes of subparagraph (B), the projected

per capita State Medicaid expenditures for a State and

fiscal year under title XIX is equal to the average per

capita expenditures (including both State and Federal

financial participation) for children under the State plan

under such title, including under waivers but not including

such children eligible for assistance by virtue of the receipt

of benefits under title XVI, for the most recent fiscal year

for which actual data are available (as determined by the

Secretary), increased (for each subsequent fiscal year up

to and including the fiscal year involved) by the annual

percentage increase in per capita amount of National

Health Expenditures (as estimated by the Secretary) for

the calendar year in which the respective subsequent fiscal

year ends and multiplied by a State matching percentage

equal to 100 percent minus the Federal medical assistance

percentage (as defined in section 1905(b)) for the fiscal

year involved.

‘‘(E) AMOUNTS AVAILABLE FOR PAYMENTS.—

‘‘(i) INITIAL APPROPRIATION.—Out of any money in

the Treasury not otherwise appropriated, there are

appropriated $3,225,000,000 for fiscal year 2009 for

making payments under this paragraph, to be available

until expended.

‘‘(ii) TRANSFERS.—Notwithstanding any other

provision of this title, the following amounts shall also

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be available, without fiscal year limitation, for making

payments under this paragraph:

‘‘(I) UNOBLIGATED NATIONAL ALLOTMENT.—

‘‘(aa) FISCAL YEARS 2009 THROUGH 2012.—

As of December 31 of fiscal year 2009, and

as of December 31 of each succeeding fiscal

year through fiscal year 2012, the portion, if

any, of the amount appropriated under subsection

(a) for such fiscal year that is unobligated

for allotment to a State under subsection

(m) for such fiscal year or set aside under

subsection (a)(3) or (b)(2) of section 2111 for

such fiscal year.

‘‘(bb) FIRST HALF OF FISCAL YEAR 2013.—

As of December 31 of fiscal year 2013, the

portion, if any, of the sum of the amounts

appropriated under subsection (a)(16)(A) and

under section 108 of the Children’s Health

Insurance Reauthorization Act of 2009 for the

period beginning on October 1, 2012, and

ending on March 31, 2013, that is unobligated

for allotment to a State under subsection (m)

for such fiscal year or set aside under subsection

(b)(2) of section 2111 for such fiscal

year.

‘‘(cc) SECOND HALF OF FISCAL YEAR 2013.—

As of June 30 of fiscal year 2013, the portion,

if any, of the amount appropriated under subsection

(a)(16)(B) for the period beginning on

April 1, 2013, and ending on September 30,

2013, that is unobligated for allotment to a

State under subsection (m) for such fiscal year

or set aside under subsection (b)(2) of section

2111 for such fiscal year.

‘‘(II) UNEXPENDED ALLOTMENTS NOT USED FOR

REDISTRIBUTION.—As of November 15 of each of

fiscal years 2010 through 2013, the total amount

of allotments made to States under section 2104

for the second preceding fiscal year (third preceding

fiscal year in the case of the fiscal year

2006, 2007, and 2008 allotments) that is not

expended or redistributed under section 2104(f)

during the period in which such allotments are

available for obligation.

‘‘(III) EXCESS CHILD ENROLLMENT CONTINGENCY

FUNDS.—As of October 1 of each of fiscal

years 2010 through 2013, any amount in excess

of the aggregate cap applicable to the Child Enrollment

Contingency Fund for the fiscal year under

section 2104(n).

‘‘(IV) UNEXPENDED TRANSITIONAL COVERAGE

BLOCK GRANT FOR NONPREGNANT CHILDLESS

ADULTS.—As of October 1, 2011, any amounts set

aside under section 2111(a)(3) that are not

expended by September 30, 2011.

‘‘(iii) PROPORTIONAL REDUCTION.—If the sum of the

amounts otherwise payable under this paragraph for

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a fiscal year exceeds the amount available for the

fiscal year under this subparagraph, the amount to

be paid under this paragraph to each State shall be

reduced proportionally.

‘‘(F) QUALIFYING CHILDREN DEFINED.—

‘‘(i) IN GENERAL.—For purposes of this subsection,

subject to clauses (ii) and (iii), the term ‘qualifying

children’ means children who meet the eligibility criteria

(including income, categorical eligibility, age, and

immigration status criteria) in effect as of July 1, 2008,

for enrollment under title XIX, taking into account

criteria applied as of such date under title XIX pursuant

to a waiver under section 1115.

‘‘(ii) LIMITATION.—A child described in clause (i)

who is provided medical assistance during a presumptive

eligibility period under section 1920A shall be

considered to be a ‘qualifying child’ only if the child

is determined to be eligible for medical assistance

under title XIX.

‘‘(iii) EXCLUSION.—Such term does not include any

children for whom the State has made an election

to provide medical assistance under paragraph (4) of

section 1903(v).

‘‘(G) APPLICATION TO COMMONWEALTHS AND TERRITORIES.—

The provisions of subparagraph (G) of section

2104(n)(3) shall apply with respect to payment under this

paragraph in the same manner as such provisions apply

to payment under such section.

‘‘(H) APPLICATION TO STATES THAT IMPLEMENT A MEDICAID

EXPANSION FOR CHILDREN AFTER FISCAL YEAR 2008.—

In the case of a State that provides coverage under section

115 of the Children’s Health Insurance Program Reauthorization

Act of 2009 for any fiscal year after fiscal year

2008—

‘‘(i) any child enrolled in the State plan under

title XIX through the application of such an election

shall be disregarded from the determination for the

State of the monthly average unduplicated number

of qualifying children enrolled in such plan during

the first 3 fiscal years in which such an election is

in effect; and

‘‘(ii) in determining the baseline number of child

enrollees for the State for any fiscal year subsequent

to such first 3 fiscal years, the baseline number of

child enrollees for the State under title XIX for the

third of such fiscal years shall be the monthly average

unduplicated number of qualifying children enrolled

in the State plan under title XIX for such third fiscal

year.

‘‘(4) ENROLLMENT AND RETENTION PROVISIONS FOR CHILDREN.—

For purposes of paragraph (3)(A), a State meets the

condition of this paragraph for a fiscal year if it is implementing

at least 5 of the following enrollment and retention provisions

(treating each subparagraph as a separate enrollment and

retention provision) throughout the entire fiscal year:

‘‘(A) CONTINUOUS ELIGIBILITY.—The State has elected

the option of continuous eligibility for a full 12 months

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for all children described in section 1902(e)(12) under title

XIX under 19 years of age, as well as applying such policy

under its State child health plan under this title.

‘‘(B) LIBERALIZATION OF ASSET REQUIREMENTS.—The

State meets the requirement specified in either of the following

clauses:

‘‘(i) ELIMINATION OF ASSET TEST.—The State does

not apply any asset or resource test for eligibility for

children under title XIX or this title.

‘‘(ii) ADMINISTRATIVE VERIFICATION OF ASSETS.—

The State—

‘‘(I) permits a parent or caretaker relative who

is applying on behalf of a child for medical assistance

under title XIX or child health assistance

under this title to declare and certify by signature

under penalty of perjury information relating to

family assets for purposes of determining and

redetermining financial eligibility; and

‘‘(II) takes steps to verify assets through

means other than by requiring documentation from

parents and applicants except in individual cases

of discrepancies or where otherwise justified.

‘‘(C) ELIMINATION OF IN-PERSON INTERVIEW REQUIREMENT.—

The State does not require an application of a

child for medical assistance under title XIX (or for child

health assistance under this title), including an application

for renewal of such assistance, to be made in person nor

does the State require a face-to-face interview, unless there

are discrepancies or individual circumstances justifying an

in-person application or face-to-face interview.

‘‘(D) USE OF JOINT APPLICATION FOR MEDICAID AND

CHIP.—The application form and supplemental forms (if

any) and information verification process is the same for

purposes of establishing and renewing eligibility for children

for medical assistance under title XIX and child health

assistance under this title.

‘‘(E) AUTOMATIC RENEWAL (USE OF ADMINISTRATIVE

RENEWAL).—

‘‘(i) IN GENERAL.—The State provides, in the case

of renewal of a child’s eligibility for medical assistance

under title XIX or child health assistance under this

title, a pre-printed form completed by the State based

on the information available to the State and notice

to the parent or caretaker relative of the child that

eligibility of the child will be renewed and continued

based on such information unless the State is provided

other information. Nothing in this clause shall be construed

as preventing a State from verifying, through

electronic and other means, the information so provided.

‘‘(ii) SATISFACTION THROUGH DEMONSTRATED USE

OF EX PARTE PROCESS.—A State shall be treated as

satisfying the requirement of clause (i) if renewal of

eligibility of children under title XIX or this title is

determined without any requirement for an in-person

interview, unless sufficient information is not in the

State’s possession and cannot be acquired from other

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sources (including other State agencies) without the

participation of the applicant or the applicant’s parent

or caretaker relative.

‘‘(F) PRESUMPTIVE ELIGIBILITY FOR CHILDREN.—The

State is implementing section 1920A under title XIX as

well as, pursuant to section 2107(e)(1), under this title.

‘‘(G) EXPRESS LANE.—The State is implementing the

option described in section 1902(e)(13) under title XIX as

well as, pursuant to section 2107(e)(1), under this title.

‘‘(H) PREMIUM ASSISTANCE SUBSIDIES.—The State is

implementing the option of providing premium assistance

subsidies under section 2105(c)(10) or section 1906A.’’.

**TITLE II—OUTREACH AND**

**ENROLLMENT**

**Subtitle A—Outreach and Enrollment**

**Activities**

**SEC. 201. GRANTS AND ENHANCED ADMINISTRATIVE FUNDING FOR**

**OUTREACH AND ENROLLMENT.**

(a) GRANTS.—Title XXI (42 U.S.C. 1397aa et seq.), as amended

by section 111, is amended by adding at the end the following:

**‘‘SEC. 2113. GRANTS TO IMPROVE OUTREACH AND ENROLLMENT.**

‘‘(a) OUTREACH AND ENROLLMENT GRANTS; NATIONAL CAMPAIGN.—

‘‘(1) IN GENERAL.—From the amounts appropriated under

subsection (g), subject to paragraph (2), the Secretary shall

award grants to eligible entities during the period of fiscal

years 2009 through 2013 to conduct outreach and enrollment

42 USC 1397mm.

42 USC 1396d

note.

42 USC 1397ee

note.

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efforts that are designed to increase the enrollment and participation

of eligible children under this title and title XIX.

‘‘(2) TEN PERCENT SET ASIDE FOR NATIONAL ENROLLMENT

CAMPAIGN.—An amount equal to 10 percent of such amounts

shall be used by the Secretary for expenditures during such

period to carry out a national enrollment campaign in accordance

with subsection (h).

‘‘(b) PRIORITY FOR AWARD OF GRANTS.—

‘‘(1) IN GENERAL.—In awarding grants under subsection

(a), the Secretary shall give priority to eligible entities that—

‘‘(A) propose to target geographic areas with high rates

of—

‘‘(i) eligible but unenrolled children, including such

children who reside in rural areas; or

‘‘(ii) racial and ethnic minorities and health disparity

populations, including those proposals that

address cultural and linguistic barriers to enrollment;

and

‘‘(B) submit the most demonstrable evidence required

under paragraphs (1) and (2) of subsection (c).

‘‘(2) TEN PERCENT SET ASIDE FOR OUTREACH TO INDIAN

CHILDREN.—An amount equal to 10 percent of the funds appropriated

under subsection (g) shall be used by the Secretary

to award grants to Indian Health Service providers and urban

Indian organizations receiving funds under title V of the Indian

Health Care Improvement Act (25 U.S.C. 1651 et seq.) for

outreach to, and enrollment of, children who are Indians.

‘‘(c) APPLICATION.—An eligible entity that desires to receive

a grant under subsection (a) shall submit an application to the

Secretary in such form and manner, and containing such information,

as the Secretary may decide. Such application shall include—

‘‘(1) evidence demonstrating that the entity includes members

who have access to, and credibility with, ethnic or lowincome

populations in the communities in which activities

funded under the grant are to be conducted;

‘‘(2) evidence demonstrating that the entity has the ability

to address barriers to enrollment, such as lack of awareness

of eligibility, stigma concerns and punitive fears associated

with receipt of benefits, and other cultural barriers to applying

for and receiving child health assistance or medical assistance;

‘‘(3) specific quality or outcomes performance measures to

evaluate the effectiveness of activities funded by a grant

awarded under this section; and

‘‘(4) an assurance that the eligible entity shall—

‘‘(A) conduct an assessment of the effectiveness of such

activities against the performance measures;

‘‘(B) cooperate with the collection and reporting of

enrollment data and other information in order for the

Secretary to conduct such assessments; and

‘‘(C) in the case of an eligible entity that is not the

State, provide the State with enrollment data and other

information as necessary for the State to make necessary

projections of eligible children and pregnant women.

‘‘(d) DISSEMINATION OF ENROLLMENT DATA AND INFORMATION

DETERMINED FROM EFFECTIVENESS ASSESSMENTS; ANNUAL

REPORT.—The Secretary shall—

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‘‘(1) make publicly available the enrollment data and

information collected and reported in accordance with subsection

(c)(4)(B); and

‘‘(2) submit an annual report to Congress on the outreach

and enrollment activities conducted with funds appropriated

under this section.

‘‘(e) MAINTENANCE OF EFFORT FOR STATES AWARDED GRANTS;

NO MATCH REQUIRED FOR ANY ELIGIBLE ENTITY AWARDED A

GRANT.—

‘‘(1) STATE MAINTENANCE OF EFFORT.—In the case of a

State that is awarded a grant under this section, the State

share of funds expended for outreach and enrollment activities

under the State child health plan shall not be less than the

State share of such funds expended in the fiscal year preceding

the first fiscal year for which the grant is awarded.

‘‘(2) NO MATCHING REQUIREMENT.—No eligible entity

awarded a grant under subsection (a) shall be required to

provide any matching funds as a condition for receiving the

grant.

‘‘(f) DEFINITIONS.—In this section:

‘‘(1) ELIGIBLE ENTITY.—The term ‘eligible entity’ means any

of the following:

‘‘(A) A State with an approved child health plan under

this title.

‘‘(B) A local government.

‘‘(C) An Indian tribe or tribal consortium, a tribal

organization, an urban Indian organization receiving funds

under title V of the Indian Health Care Improvement Act

(25 U.S.C. 1651 et seq.), or an Indian Health Service provider.

‘‘(D) A Federal health safety net organization.

‘‘(E) A national, State, local, or community-based public

or nonprofit private organization, including organizations

that use community health workers or community-based

doula programs.

‘‘(F) A faith-based organization or consortia, to the

extent that a grant awarded to such an entity is consistent

with the requirements of section 1955 of the Public Health

Service Act (42 U.S.C. 300x–65) relating to a grant award

to nongovernmental entities.

‘‘(G) An elementary or secondary school.

‘‘(2) FEDERAL HEALTH SAFETY NET ORGANIZATION.—The

term ‘Federal health safety net organization’ means—

‘‘(A) a Federally-qualified health center (as defined in

section 1905(l)(2)(B));

‘‘(B) a hospital defined as a disproportionate share

hospital for purposes of section 1923;

‘‘(C) a covered entity described in section 340B(a)(4)

of the Public Health Service Act (42 U.S.C. 256b(a)(4));

and

‘‘(D) any other entity or consortium that serves children

under a federally funded program, including the special

supplemental nutrition program for women, infants, and

children (WIC) established under section 17 of the Child

Nutrition Act of 1966 (42 U.S.C. 1786), the Head Start

and Early Head Start programs under the Head Start

Act (42 U.S.C. 9801 et seq.), the school lunch program

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established under the Richard B. Russell National School

Lunch Act, and an elementary or secondary school.

‘‘(3) INDIANS; INDIAN TRIBE; TRIBAL ORGANIZATION; URBAN

INDIAN ORGANIZATION.—The terms ‘Indian’, ‘Indian tribe’, ‘tribal

organization’, and ‘urban Indian organization’ have the

meanings given such terms in section 4 of the Indian Health

Care Improvement Act (25 U.S.C. 1603).

‘‘(4) COMMUNITY HEALTH WORKER.—The term ‘community

health worker’ means an individual who promotes health or

nutrition within the community in which the individual

resides—

‘‘(A) by serving as a liaison between communities and

health care agencies;

‘‘(B) by providing guidance and social assistance to

community residents;

‘‘(C) by enhancing community residents’ ability to effectively

communicate with health care providers;

‘‘(D) by providing culturally and linguistically appropriate

health or nutrition education;

‘‘(E) by advocating for individual and community health

or nutrition needs; and

‘‘(F) by providing referral and followup services.

‘‘(g) APPROPRIATION.—There is appropriated, out of any money

in the Treasury not otherwise appropriated, $100,000,000 for the

period of fiscal years 2009 through 2013, for the purpose of awarding

grants under this section. Amounts appropriated and paid under

the authority of this section shall be in addition to amounts appropriated

under section 2104 and paid to States in accordance with

section 2105, including with respect to expenditures for outreach

activities in accordance with subsections (a)(1)(D)(iii) and (c)(2)(C)

of that section.

‘‘(h) NATIONAL ENROLLMENT CAMPAIGN.—From the amounts

made available under subsection (a)(2), the Secretary shall develop

and implement a national enrollment campaign to improve the

enrollment of underserved child populations in the programs established

under this title and title XIX. Such campaign may include—

‘‘(1) the establishment of partnerships with the Secretary

of Education and the Secretary of Agriculture to develop

national campaigns to link the eligibility and enrollment systems

for the assistance programs each Secretary administers

that often serve the same children;

‘‘(2) the integration of information about the programs

established under this title and title XIX in public health awareness

campaigns administered by the Secretary;

‘‘(3) increased financial and technical support for enrollment

hotlines maintained by the Secretary to ensure that all

States participate in such hotlines;

‘‘(4) the establishment of joint public awareness outreach

initiatives with the Secretary of Education and the Secretary

of Labor regarding the importance of health insurance to

building strong communities and the economy;

‘‘(5) the development of special outreach materials for

Native Americans or for individuals with limited English proficiency;

and

‘‘(6) such other outreach initiatives as the Secretary determines

would increase public awareness of the programs under

this title and title XIX.’’.

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(b) ENHANCED ADMINISTRATIVE FUNDING FOR TRANSLATION OR

INTERPRETATION SERVICES UNDER CHIP AND MEDICAID.—

(1) CHIP.—Section 2105(a)(1) (42 U.S.C. 1397ee(a)(1)), as

amended by section 113, is amended—

(A) in the matter preceding subparagraph (A), by

inserting ‘‘(or, in the case of expenditures described in

subparagraph (D)(iv), the higher of 75 percent or the sum

of the enhanced FMAP plus 5 percentage points)’’ after

‘‘enhanced FMAP’’; and

(B) in subparagraph (D)—

(i) in clause (iii), by striking ‘‘and’’ at the end;

(ii) by redesignating clause (iv) as clause (v); and

(iii) by inserting after clause (iii) the following

new clause:

‘‘(iv) for translation or interpretation services in

connection with the enrollment of, retention of, and

use of services under this title by, individuals for whom

English is not their primary language (as found necessary

by the Secretary for the proper and efficient

administration of the State plan); and’’.

(2) MEDICAID.—

(A) USE OF MEDICAID FUNDS.—Section 1903(a)(2) (42

U.S.C. 1396b(a)(2)) is amended by adding at the end the

following new subparagraph:

‘‘(E) an amount equal to 75 percent of so much of the

sums expended during such quarter (as found necessary by

the Secretary for the proper and efficient administration of

the State plan) as are attributable to translation or interpretation

services in connection with the enrollment of, retention

of, and use of services under this title by, children of families

for whom English is not the primary language; plus’’.

(B) USE OF COMMUNITY HEALTH WORKERS FOR OUTREACH

ACTIVITIES.—

(i) IN GENERAL.—Section 2102(c)(1) of such Act

(42 U.S.C. 1397bb(c)(1)) is amended by inserting

‘‘(through community health workers and others)’’ after

‘‘Outreach’’.

(ii) IN FEDERAL EVALUATION.—Section 2108(c)(3)(B)

of such Act (42 U.S.C. 1397hh(c)(3)(B)) is amended

by inserting ‘‘(such as through community health

workers and others)’’ after ‘‘including practices’’.

**SEC. 202. INCREASED OUTREACH AND ENROLLMENT OF INDIANS.**

(a) IN GENERAL.—Section 1139 (42 U.S.C. 1320b–9) is amended

to read as follows:

**‘‘SEC. 1139. IMPROVED ACCESS TO, AND DELIVERY OF, HEALTH CARE**

**FOR INDIANS UNDER TITLES XIX AND XXI.**

‘‘(a) AGREEMENTS WITH STATES FOR MEDICAID AND CHIP OUTREACH

ON OR NEAR RESERVATIONS TO INCREASE THE ENROLLMENT

OF INDIANS IN THOSE PROGRAMS.—

‘‘(1) IN GENERAL.—In order to improve the access of Indians

residing on or near a reservation to obtain benefits under

the Medicaid and State children’s health insurance programs

established under titles XIX and XXI, the Secretary shall

encourage the State to take steps to provide for enrollment

on or near the reservation. Such steps may include outreach

efforts such as the outstationing of eligibility workers, entering

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into agreements with the Indian Health Service, Indian Tribes,

Tribal Organizations, and Urban Indian Organizations to provide

outreach, education regarding eligibility and benefits,

enrollment, and translation services when such services are

appropriate.

‘‘(2) CONSTRUCTION.—Nothing in paragraph (1) shall be

construed as affecting arrangements entered into between

States and the Indian Health Service, Indian Tribes, Tribal

Organizations, or Urban Indian Organizations for such Service,

Tribes, or Organizations to conduct administrative activities

under such titles.

‘‘(b) REQUIREMENT TO FACILITATE COOPERATION.—The Secretary,

acting through the Centers for Medicare & Medicaid Services,

shall take such steps as are necessary to facilitate cooperation

with, and agreements between, States and the Indian Health

Service, Indian Tribes, Tribal Organizations, or Urban Indian

Organizations with respect to the provision of health care items

and services to Indians under the programs established under title

XIX or XXI.

‘‘(c) DEFINITION OF INDIAN; INDIAN TRIBE; INDIAN HEALTH PROGRAM;

TRIBAL ORGANIZATION; URBAN INDIAN ORGANIZATION.—In

this section, the terms ‘Indian’, ‘Indian Tribe’, ‘Indian Health Program’,

‘Tribal Organization’, and ‘Urban Indian Organization’ have

the meanings given those terms in section 4 of the Indian Health

Care Improvement Act.’’.

(b) NONAPPLICATION OF 10 PERCENT LIMIT ON OUTREACH AND

CERTAIN OTHER EXPENDITURES.—Section 2105(c)(2) (42 U.S.C.

1397ee(c)(2)) is amended by adding at the end the following:

‘‘(C) NONAPPLICATION TO CERTAIN EXPENDITURES.—The

limitation under subparagraph (A) shall not apply with

respect to the following expenditures:

‘‘(i) EXPENDITURES TO INCREASE OUTREACH TO, AND

THE ENROLLMENT OF, INDIAN CHILDREN UNDER THIS

TITLE AND TITLE xix.—Expenditures for outreach activities

to families of Indian children likely to be eligible

for child health assistance under the plan or medical

assistance under the State plan under title XIX (or

under a waiver of such plan), to inform such families

of the availability of, and to assist them in enrolling

their children in, such plans, including such activities

conducted under grants, contracts, or agreements

entered into under section 1139(a).’’.

**SEC. 203. STATE OPTION TO RELY ON FINDINGS FROM AN EXPRESS**

**LANE AGENCY TO CONDUCT SIMPLIFIED ELIGIBILITY**

**DETERMINATIONS.**

(a) APPLICATION UNDER MEDICAID AND CHIP PROGRAMS.—

(1) MEDICAID.—Section 1902(e) (42 U.S.C. 1396a(e)) is

amended by adding at the end the following:

‘‘(13) EXPRESS LANE OPTION.—

‘‘(A) IN GENERAL.—

‘‘(i) OPTION TO USE A FINDING FROM AN EXPRESS LANE

AGENCY.—At the option of the State, the State plan may

provide that in determining eligibility under this title for

a child (as defined in subparagraph (G)), the State may

rely on a finding made within a reasonable period (as

determined by the State) from an Express Lane agency

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(as defined in subparagraph (F)) when it determines

whether a child satisfies one or more components of eligibility

for medical assistance under this title. The State

may rely on a finding from an Express Lane agency notwithstanding

sections 1902(a)(46)(B) and 1137(d) or any

differences in budget unit, disregard, deeming or other

methodology, if the following requirements are met:

‘‘(I) PROHIBITION ON DETERMINING CHILDREN INELIGIBLE

FOR COVERAGE.—If a finding from an Express

Lane agency would result in a determination that a

child does not satisfy an eligibility requirement for

medical assistance under this title and for child health

assistance under title XXI, the State shall determine

eligibility for assistance using its regular procedures.

‘‘(II) NOTICE REQUIREMENT.—For any child who

is found eligible for medical assistance under the State

plan under this title or child health assistance under

title XXI and who is subject to premiums based on

an Express Lane agency’s finding of such child’s income

level, the State shall provide notice that the child

may qualify for lower premium payments if evaluated

by the State using its regular policies and of the procedures

for requesting such an evaluation.

‘‘(III) COMPLIANCE WITH SCREEN AND ENROLL

REQUIREMENT.—The State shall satisfy the requirements

under subparagraphs (A) and (B) of section

2102(b)(3) (relating to screen and enroll) before

enrolling a child in child health assistance under title

XXI. At its option, the State may fulfill such requirements

in accordance with either option provided under

subparagraph (C) of this paragraph.

‘‘(IV) VERIFICATION OF CITIZENSHIP OR NATIONALITY

STATUS.—The State shall satisfy the requirements of

section 1902(a)(46)(B) or 2105(c)(9), as applicable for

verifications of citizenship or nationality status.

‘‘(V) CODING.—The State meets the requirements

of subparagraph (E).

‘‘(ii) OPTION TO APPLY TO RENEWALS AND REDETERMINATIONS.—

The State may apply the provisions of this paragraph

when conducting initial determinations of eligibility,

redeterminations of eligibility, or both, as described in the

State plan.

‘‘(B) RULES OF CONSTRUCTION.—Nothing in this paragraph

shall be construed—

‘‘(i) to limit or prohibit a State from taking any actions

otherwise permitted under this title or title XXI in determining

eligibility for or enrolling children into medical

assistance under this title or child health assistance under

title XXI; or

‘‘(ii) to modify the limitations in section 1902(a)(5) concerning

the agencies that may make a determination of

eligibility for medical assistance under this title.

‘‘(C) OPTIONS FOR SATISFYING THE SCREEN AND ENROLL

REQUIREMENT.—

‘‘(i) IN GENERAL.—With respect to a child whose eligibility

for medical assistance under this title or for child

health assistance under title XXI has been evaluated by

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a State agency using an income finding from an Express

Lane agency, a State may carry out its duties under subparagraphs

(A) and (B) of section 2102(b)(3) (relating to

screen and enroll) in accordance with either clause (ii)

or clause (iii).

‘‘(ii) ESTABLISHING A SCREENING THRESHOLD.—

‘‘(I) IN GENERAL.—Under this clause, the State

establishes a screening threshold set as a percentage

of the Federal poverty level that exceeds the highest

income threshold applicable under this title to the

child by a minimum of 30 percentage points or, at

State option, a higher number of percentage points

that reflects the value (as determined by the State

and described in the State plan) of any differences

between income methodologies used by the program

administered by the Express Lane agency and the

methodologies used by the State in determining eligibility

for medical assistance under this title.

‘‘(II) CHILDREN WITH INCOME NOT ABOVE

THRESHOLD.—If the income of a child does not exceed

the screening threshold, the child is deemed to satisfy

the income eligibility criteria for medical assistance

under this title regardless of whether such child would

otherwise satisfy such criteria.

‘‘(III) CHILDREN WITH INCOME ABOVE THRESHOLD.—

If the income of a child exceeds the screening threshold,

the child shall be considered to have an income above

the Medicaid applicable income level described in section

2110(b)(4) and to satisfy the requirement under

section 2110(b)(1)(C) (relating to the requirement that

CHIP matching funds be used only for children not

eligible for Medicaid). If such a child is enrolled in

child health assistance under title XXI, the State shall

provide the parent, guardian, or custodial relative with

the following:

‘‘(aa) Notice that the child may be eligible

to receive medical assistance under the State plan

under this title if evaluated for such assistance

under the State’s regular procedures and notice

of the process through which a parent, guardian,

or custodial relative can request that the State

evaluate the child’s eligibility for medical assistance

under this title using such regular procedures.

‘‘(bb) A description of differences between the

medical assistance provided under this title and

child health assistance under title XXI, including

differences in cost-sharing requirements and covered

benefits.

‘‘(iii) TEMPORARY ENROLLMENT IN CHIP PENDING SCREEN

AND ENROLL.—

‘‘(I) IN GENERAL.—Under this clause, a State

enrolls a child in child health assistance under title

XXI for a temporary period if the child appears eligible

for such assistance based on an income finding by

an Express Lane agency.

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‘‘(II) DETERMINATION OF ELIGIBILITY.—During such

temporary enrollment period, the State shall determine

the child’s eligibility for child health assistance under

title XXI or for medical assistance under this title

in accordance with this clause.

‘‘(III) PROMPT FOLLOW UP.—In making such a

determination, the State shall take prompt action to

determine whether the child should be enrolled in medical

assistance under this title or child health assistance

under title XXI pursuant to subparagraphs (A)

and (B) of section 2102(b)(3) (relating to screen and

enroll).

‘‘(IV) REQUIREMENT FOR SIMPLIFIED DETERMINATION.—

In making such a determination, the State shall

use procedures that, to the maximum feasible extent,

reduce the burden imposed on the individual of such

determination. Such procedures may not require the

child’s parent, guardian, or custodial relative to provide

or verify information that already has been provided

to the State agency by an Express Lane agency or

another source of information unless the State agency

has reason to believe the information is erroneous.

‘‘(V) AVAILABILITY OF CHIP MATCHING FUNDS

DURING TEMPORARY ENROLLMENT PERIOD.—Medical

assistance for items and services that are provided

to a child enrolled in title XXI during a temporary

enrollment period under this clause shall be treated

as child health assistance under such title.

‘‘(D) OPTION FOR AUTOMATIC ENROLLMENT.—

‘‘(i) IN GENERAL.—The State may initiate and determine

eligibility for medical assistance under the State Medicaid

plan or for child health assistance under the State

CHIP plan without a program application from, or on behalf

of, the child based on data obtained from sources other

than the child (or the child’s family), but a child can only

be automatically enrolled in the State Medicaid plan or

the State CHIP plan if the child or the family affirmatively

consents to being enrolled through affirmation in writing,

by telephone, orally, through electronic signature, or

through any other means specified by the Secretary or

by signature on an Express Lane agency application, if

the requirement of clause (ii) is met.

‘‘(ii) INFORMATION REQUIREMENT.—The requirement of

this clause is that the State informs the parent, guardian,

or custodial relative of the child of the services that will

be covered, appropriate methods for using such services,

premium or other cost sharing charges (if any) that apply,

medical support obligations (under section 1912(a)) created

by enrollment (if applicable), and the actions the parent,

guardian, or relative must take to maintain enrollment

and renew coverage.

‘‘(E) CODING; APPLICATION TO ENROLLMENT ERROR RATES.—

‘‘(i) IN GENERAL.—For purposes of subparagraph (A)(iv),

the requirement of this subparagraph for a State is that

the State agrees to—

‘‘(I) assign such codes as the Secretary shall

require to the children who are enrolled in the State

Procedures.

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Medicaid plan or the State CHIP plan through reliance

on a finding made by an Express Lane agency for

the duration of the State’s election under this paragraph;

‘‘(II) annually provide the Secretary with a statistically

valid sample (that is approved by Secretary)

of the children enrolled in such plans through reliance

on such a finding by conducting a full Medicaid eligibility

review of the children identified for such sample

for purposes of determining an eligibility error rate

(as described in clause (iv)) with respect to the enrollment

of such children (and shall not include such children

in any data or samples used for purposes of

complying with a Medicaid Eligibility Quality Control

(MEQC) review or a payment error rate measurement

(PERM) requirement);

‘‘(III) submit the error rate determined under subclause

(II) to the Secretary;

‘‘(IV) if such error rate exceeds 3 percent for either

of the first 2 fiscal years in which the State elects

to apply this paragraph, demonstrate to the satisfaction

of the Secretary the specific corrective actions

implemented by the State to improve upon such error

rate; and

‘‘(V) if such error rate exceeds 3 percent for any

fiscal year in which the State elects to apply this

paragraph, a reduction in the amount otherwise payable

to the State under section 1903(a) for quarters

for that fiscal year, equal to the total amount of erroneous

excess payments determined for the fiscal year

only with respect to the children included in the sample

for the fiscal year that are in excess of a 3 percent

error rate with respect to such children.

‘‘(ii) NO PUNITIVE ACTION BASED ON ERROR RATE.—

The Secretary shall not apply the error rate derived from

the sample under clause (i) to the entire population of

children enrolled in the State Medicaid plan or the State

CHIP plan through reliance on a finding made by an

Express Lane agency, or to the population of children

enrolled in such plans on the basis of the State’s regular

procedures for determining eligibility, or penalize the State

on the basis of such error rate in any manner other than

the reduction of payments provided for under clause (i)(V).

‘‘(iii) RULE OF CONSTRUCTION.—Nothing in this paragraph

shall be construed as relieving a State that elects

to apply this paragraph from being subject to a penalty

under section 1903(u), for payments made under the State

Medicaid plan with respect to ineligible individuals and

families that are determined to exceed the error rate permitted

under that section (as determined without regard

to the error rate determined under clause (i)(II)).

‘‘(iv) ERROR RATE DEFINED.—In this subparagraph, the

term ‘error rate’ means the rate of erroneous excess payments

for medical assistance (as defined in section

1903(u)(1)(D)) for the period involved, except that such

payments shall be limited to individuals for which eligibility

determinations are made under this paragraph and

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except that in applying this paragraph under title XXI,

there shall be substituted for references to provisions of

this title corresponding provisions within title XXI.

‘‘(F) EXPRESS LANE AGENCY.—

‘‘(i) IN GENERAL.—In this paragraph, the term ‘Express

Lane agency’ means a public agency that—

‘‘(I) is determined by the State Medicaid agency

or the State CHIP agency (as applicable) to be capable

of making the determinations of one or more eligibility

requirements described in subparagraph (A)(i);

‘‘(II) is identified in the State Medicaid plan or

the State CHIP plan; and

‘‘(III) notifies the child’s family—

‘‘(aa) of the information which shall be disclosed

in accordance with this paragraph;

‘‘(bb) that the information disclosed will be

used solely for purposes of determining eligibility

for medical assistance under the State Medicaid

plan or for child health assistance under the State

CHIP plan; and

‘‘(cc) that the family may elect to not have

the information disclosed for such purposes; and

‘‘(IV) enters into, or is subject to, an interagency

agreement to limit the disclosure and use of the

information disclosed.

‘‘(ii) INCLUSION OF SPECIFIC PUBLIC AGENCIES.—Such

term includes the following:

‘‘(I) A public agency that determines eligibility for

assistance under any of the following:

‘‘(aa) The temporary assistance for needy families

program funded under part A of title IV.

‘‘(bb) A State program funded under part D

of title IV.

‘‘(cc) The State Medicaid plan.

‘‘(dd) The State CHIP plan.

‘‘(ee) The Food and Nutrition Act of 2008 (7

U.S.C. 2011 et seq.).

‘‘(ff) The Head Start Act (42 U.S.C. 9801 et

seq.).

‘‘(gg) The Richard B. Russell National School

Lunch Act (42 U.S.C. 1751 et seq.).

‘‘(hh) The Child Nutrition Act of 1966 (42

U.S.C. 1771 et seq.).

‘‘(ii) The Child Care and Development Block

Grant Act of 1990 (42 U.S.C. 9858 et seq.).

‘‘(jj) The Stewart B. McKinney Homeless

Assistance Act (42 U.S.C. 11301 et seq.).

‘‘(kk) The United States Housing Act of 1937

(42 U.S.C. 1437 et seq.).

‘‘(ll) The Native American Housing Assistance

and Self-Determination Act of 1996 (25 U.S.C.

4101 et seq.).

‘‘(II) A State-specified governmental agency that

has fiscal liability or legal responsibility for the

accuracy of the eligibility determination findings relied

on by the State.

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‘‘(III) A public agency that is subject to an interagency

agreement limiting the disclosure and use of

the information disclosed for purposes of determining

eligibility under the State Medicaid plan or the State

CHIP plan.

‘‘(iii) EXCLUSIONS.—Such term does not include an

agency that determines eligibility for a program established

under the Social Services Block Grant established under

title XX or a private, for-profit organization.

‘‘(iv) RULES OF CONSTRUCTION.—Nothing in this paragraph

shall be construed as—

‘‘(I) exempting a State Medicaid agency from complying

with the requirements of section 1902(a)(4)

relating to merit-based personnel standards for

employees of the State Medicaid agency and safeguards

against conflicts of interest); or

‘‘(II) authorizing a State Medicaid agency that

elects to use Express Lane agencies under this

subparagraph to use the Express Lane option to avoid

complying with such requirements for purposes of

making eligibility determinations under the State Medicaid

plan.

‘‘(v) ADDITIONAL DEFINITIONS.—In this paragraph:

‘‘(I) STATE.—The term ‘State’ means 1 of the 50

States or the District of Columbia.

‘‘(II) STATE CHIP AGENCY.—The term ‘State CHIP

agency’ means the State agency responsible for administering

the State CHIP plan.

‘‘(III) STATE CHIP PLAN.—The term ‘State CHIP

plan’ means the State child health plan established

under title XXI and includes any waiver of such plan.

‘‘(IV) STATE MEDICAID AGENCY.—The term ‘State

Medicaid agency’ means the State agency responsible

for administering the State Medicaid plan.

‘‘(V) STATE MEDICAID PLAN.—The term ‘State Medicaid

plan’ means the State plan established under

title XIX and includes any waiver of such plan.

‘‘(G) CHILD DEFINED.—For purposes of this paragraph, the

term ‘child’ means an individual under 19 years of age, or,

at the option of a State, such higher age, not to exceed 21

years of age, as the State may elect.

‘‘(H) STATE OPTION TO RELY ON STATE INCOME TAX DATA

OR RETURN.—At the option of the State, a finding from an

Express Lane agency may include gross income or adjusted

gross income shown by State income tax records or returns.

‘‘(I) APPLICATION.—This paragraph shall not apply with

respect to eligibility determinations made after September 30,

2013.’’.

(2) CHIP.—Section 2107(e)(1) (42 U.S.C. 1397gg(e)(1)) is

amended by redesignating subparagraphs (B), (C), and (D) as

subparagraphs (C), (D), and (E), respectively, and by inserting

after subparagraph (A) the following new subparagraph:

‘‘(B) Section 1902(e)(13) (relating to the State option

to rely on findings from an Express Lane agency to help

evaluate a child’s eligibility for medical assistance).’’.

(b) EVALUATION AND REPORT.—

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(1) EVALUATION.—The Secretary shall conduct, by grant,

contract, or interagency agreement, a comprehensive, independent

evaluation of the option provided under the amendments

made by subsection (a). Such evaluation shall include

an analysis of the effectiveness of the option, and shall

include—

(A) obtaining a statistically valid sample of the children

who were enrolled in the State Medicaid plan or the State

CHIP plan through reliance on a finding made by an

Express Lane agency and determining the percentage of

children who were erroneously enrolled in such plans;

(B) determining whether enrolling children in such

plans through reliance on a finding made by an Express

Lane agency improves the ability of a State to identify

and enroll low-income, uninsured children who are eligible

but not enrolled in such plans;

(C) evaluating the administrative costs or savings

related to identifying and enrolling children in such plans

through reliance on such findings, and the extent to which

such costs differ from the costs that the State otherwise

would have incurred to identify and enroll low-income,

uninsured children who are eligible but not enrolled in

such plans; and

(D) any recommendations for legislative or administrative

changes that would improve the effectiveness of

enrolling children in such plans through reliance on such

findings.

(2) REPORT TO CONGRESS.—Not later than September 30,

2012, the Secretary shall submit a report to Congress on the

results of the evaluation under paragraph (1).

(3) FUNDING.—

(A) IN GENERAL.—Out of any funds in the Treasury

not otherwise appropriated, there is appropriated to the

Secretary to carry out the evaluation under this subsection

$5,000,000 for the period of fiscal years 2009 through 2012.

(B) BUDGET AUTHORITY.—Subparagraph (A) constitutes

budget authority in advance of appropriations Act and represents

the obligation of the Federal Government to provide

for the payment of such amount to conduct the evaluation

under this subsection.

(c) ELECTRONIC TRANSMISSION OF INFORMATION.—Section 1902

(42 U.S.C. 1396a) is amended by adding at the end the following

new subsection:

‘‘(dd) ELECTRONIC TRANSMISSION OF INFORMATION.—If the State

agency determining eligibility for medical assistance under this

title or child health assistance under title XXI verifies an element

of eligibility based on information from an Express Lane Agency

(as defined in subsection (e)(13)(F)), or from another public agency,

then the applicant’s signature under penalty of perjury shall not

be required as to such element. Any signature requirement for

an application for medical assistance may be satisfied through

an electronic signature, as defined in section 1710(1) of the Government

Paperwork Elimination Act (44 U.S.C. 3504 note). The requirements

of subparagraphs (A) and (B) of section 1137(d)(2) may

be met through evidence in digital or electronic form.’’.

(d) AUTHORIZATION OF INFORMATION DISCLOSURE.—

Recommendations.

Statistics.

Grants.

Contracts.

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(1) IN GENERAL.—Title XIX is amended by adding at the

end the following new section:

**‘‘SEC. 1942. AUTHORIZATION TO RECEIVE RELEVANT INFORMATION.**

‘‘(a) IN GENERAL.—Notwithstanding any other provision of law,

a Federal or State agency or private entity in possession of the

sources of data directly relevant to eligibility determinations under

this title (including eligibility files maintained by Express Lane

agencies described in section 1902(e)(13)(F), information described

in paragraph (2) or (3) of section 1137(a), vital records information

about births in any State, and information described in sections

453(i) and 1902(a)(25)(I)) is authorized to convey such data or

information to the State agency administering the State plan under

this title, to the extent such conveyance meets the requirements

of subsection (b).

‘‘(b) REQUIREMENTS FOR CONVEYANCE.—Data or information

may be conveyed pursuant to subsection (a) only if the following

requirements are met:

‘‘(1) The individual whose circumstances are described in

the data or information (or such individual’s parent, guardian,

caretaker relative, or authorized representative) has either provided

advance consent to disclosure or has not objected to

disclosure after receiving advance notice of disclosure and a

reasonable opportunity to object.

‘‘(2) Such data or information are used solely for the purposes

of—

‘‘(A) identifying individuals who are eligible or potentially

eligible for medical assistance under this title and

enrolling or attempting to enroll such individuals in the

State plan; and

‘‘(B) verifying the eligibility of individuals for medical

assistance under the State plan.

‘‘(3) An interagency or other agreement, consistent with

standards developed by the Secretary—

‘‘(A) prevents the unauthorized use, disclosure, or modification

of such data and otherwise meets applicable Federal

requirements safeguarding privacy and data security;

and

‘‘(B) requires the State agency administering the State

plan to use the data and information obtained under this

section to seek to enroll individuals in the plan.

‘‘(c) PENALTIES FOR IMPROPER DISCLOSURE.—

‘‘(1) CIVIL MONEY PENALTY.—A private entity described in

the subsection (a) that publishes, discloses, or makes known

in any manner, or to any extent not authorized by Federal

law, any information obtained under this section is subject

to a civil money penalty in an amount equal to $10,000 for

each such unauthorized publication or disclosure. The provisions

of section 1128A (other than subsections (a) and (b) and

the second sentence of subsection (f)) shall apply to a civil

money penalty under this paragraph in the same manner as

such provisions apply to a penalty or proceeding under section

1128A(a).

‘‘(2) CRIMINAL PENALTY.—A private entity described in the

subsection (a) that willfully publishes, discloses, or makes

known in any manner, or to any extent not authorized by

Federal law, any information obtained under this section shall

Applicability.

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note.

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be fined not more than $10,000 or imprisoned not more than

1 year, or both, for each such unauthorized publication or

disclosure.

‘‘(d) RULE OF CONSTRUCTION.—The limitations and requirements

that apply to disclosure pursuant to this section shall not

be construed to prohibit the conveyance or disclosure of data or

information otherwise permitted under Federal law (without regard

to this section).’’.

(2) CONFORMING AMENDMENT TO TITLE XXI.—Section

2107(e)(1) (42 U.S.C. 1397gg(e)(1)), as amended by subsection

(a)(2), is amended by adding at the end the following new

subparagraph:

‘‘(F) Section 1942 (relating to authorization to receive

data directly relevant to eligibility determinations).’’.

(3) CONFORMING AMENDMENT TO PROVIDE ACCESS TO DATA

ABOUT ENROLLMENT IN INSURANCE FOR PURPOSES OF EVALUATING

APPLICATIONS AND FOR CHIP.—Section 1902(a)(25)(I)(i)

(42 U.S.C. 1396a(a)(25)(I)(i)) is amended—

(A) by inserting ‘‘(and, at State option, individuals

who apply or whose eligibility for medical assistance is

being evaluated in accordance with section 1902(e)(13)(D))’’

after ‘‘with respect to individuals who are eligible’’; and

(B) by inserting ‘‘under this title (and, at State option,

child health assistance under title XXI)’’ after ‘‘the State

plan’’.

(e) AUTHORIZATION FOR STATES ELECTING EXPRESS LANE

OPTION TO RECEIVE CERTAIN DATA DIRECTLY RELEVANT TO DETERMINING

ELIGIBILITY AND CORRECT AMOUNT OF ASSISTANCE.—The

Secretary shall enter into such agreements as are necessary to

permit a State that elects the Express Lane option under section

1902(e)(13) of the Social Security Act to receive data directly relevant

to eligibility determinations and determining the correct

amount of benefits under a State child health plan under CHIP

or a State plan under Medicaid from the following:

(1) The National Directory of New Hires established under

section 453(i) of the Social Security Act (42 U.S.C. 653(i)).

(2) Data regarding enrollment in insurance that may help

to facilitate outreach and enrollment under the State Medicaid

plan, the State CHIP plan, and such other programs as the

Secretary may specify.

(f) EFFECTIVE DATE.—The amendments made by this section

are effective on the date of the enactment of this Act.

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