

[DISCUSSION DRAFT]

115TH CONGRESS
1ST SESSION

H. R. _____

To amend title XIX of the Social Security Act to count portions of income from annuities of a community spouse as income available to institutionalized spouses for purposes of eligibility for medical assistance, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. MULLIN introduced the following bill; which was referred to the Committee on _____

A BILL

To amend title XIX of the Social Security Act to count portions of income from annuities of a community spouse as income available to institutionalized spouses for purposes of eligibility for medical assistance, 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 “Close Annuity Loop-
5 holes in Medicaid Act”.

1 **SEC. 2. COUNTING PORTIONS OF INCOME FROM ANNUITIES**
2 **OF A COMMUNITY SPOUSE AS INCOME AVAIL-**
3 **ABLE TO INSTITUTIONALIZED SPOUSES FOR**
4 **MEDICAID ELIGIBILITY.**

5 (a) IN GENERAL.—Section 1924(b)(2) of the Social
6 Security Act (42 U.S.C. 1396r–5(b)(2)) is amended by
7 adding at the end the following new subparagraph:

8 “(E) ANNUITY INCOME.—

9 “(i) IN GENERAL.—In the case of
10 payment of income from a qualifying annu-
11 ity—

12 “(I) if payment of income is
13 made solely in the name of the com-
14 munity spouse, one-half of the income
15 shall be considered available to the in-
16 stitutionalized spouse and one-half to
17 the community spouse;

18 “(II) if payment of income is
19 made in the names of the institu-
20 tionalized spouse and the community
21 spouse, one-half of the income shall be
22 considered available to the institu-
23 tionalized spouse and one-half to the
24 community spouse; and

25 “(III) if payment of income is
26 made in the names of the community

1 spouse and another person or persons,
2 one-half of the proportion of the com-
3 munity spouse's interest in such in-
4 come shall be considered available to
5 the institutionalized spouse.

6 “(ii) QUALIFYING ANNUITY.—In this
7 subparagraph, the term ‘qualifying annu-
8 ity’ means an annuity that—

9 “(I) is purchased after the date
10 that is 60 months before the date
11 specified in subparagraph (B)(ii) of
12 section 1917(c)(1) for an amount that
13 is equal to or greater than fair market
14 value; and

15 “(II) is not described in clause
16 (i) of subparagraph (G) of such sec-
17 tion.

18 “(iii) INAPPLICABILITY OF OTHER
19 RULES.—The rules of subparagraphs (A)
20 and (B) shall not apply with respect to in-
21 come from a qualifying annuity.”.

22 (b) EFFECTIVE DATE.—The amendment made by
23 subsection (a) shall apply with respect to annuities pur-
24 chased or established on or after the date of the enactment
25 of this Act.

1 **SEC. 3. MEDICAID IMPROVEMENT FUND.**

2 Section 1941 of the Social Security Act (42 U.S.C.
3 1396w–1(b)) is amended to read as follows:

4 **“SEC. 1941. MEDICAID IMPROVEMENT FUND.**

5 “(a) IN GENERAL.—The Secretary shall establish,
6 and administer, under this title a Medicaid Improvement
7 Fund (in this section referred to as the ‘Fund’) which
8 shall be available to the Secretary for the following pur-
9 poses:

10 “(1) To improve the management of the Med-
11 icaid program by the Centers for Medicare & Med-
12 icaid Services, including oversight of contracts and
13 contractors and evaluation of demonstration
14 projects.

15 “(2) To improve access to care for the most
16 vulnerable individuals eligible to receive medical as-
17 sistance under the State plan under this title (or a
18 waiver of such plan), including by carrying out sec-
19 tion 4 of the Close Annuity Loopholes in Medicaid
20 Act (relating to reducing waiting lists for medical
21 assistance for home and community-based services
22 under a State plan waiver under subsection (c), (d),
23 or (i) of section 1915 or section 1115).

24 “(b) SUPPLEMENT, NOT SUPPLANT.—Payments
25 made for activities under this section shall be in addition

1 to payments that would otherwise be made for activities
2 described in subsection (a).

3 “(c) FUNDING.—

4 “(1) IN GENERAL.—

5 “(A) MANAGEMENT IMPROVEMENTS.—

6 There shall be available to the Fund, for the
7 purposes described in subsection (a)(1), for ex-
8 penditures from the Fund for fiscal year 2021
9 and thereafter, \$5,000,000.

10 “(B) INCREASING ACCESS.—There shall be
11 available to the Fund, for the purposes de-
12 scribed in subsection (a)(2), for expenditures
13 from the Fund for fiscal year 2018 and there-
14 after, **[\$_____]**.

15 “(2) FUNDING LIMITATION.—Amounts in the
16 Fund shall be available in advance of appropriations
17 but only if the total amount obligated from the
18 Fund does not exceed the amount available to the
19 Fund under subparagraphs (A) and (B) of para-
20 graph (1). The Secretary may obligate funds from
21 the Fund only if the Secretary determines (and the
22 Chief Actuary of the Centers for Medicare & Med-
23 icaid Services and the appropriate budget officer cer-
24 tify) that there are available in the Fund sufficient

1 amounts to cover all such obligations incurred con-
2 sistent with the previous sentence.”.

3 **SEC. 4. PROVIDING CARE FOR THE MOST VULNERABLE PA-**
4 **TIENTS ON WAITING LISTS.**

5 (a) IN GENERAL.—Subject to subsection (d), the Sec-
6 retary of Health and Human Services shall provide, for
7 each of fiscal years 2018 through 2026, payment to eligi-
8 ble States selected under subsection (c) to provide for
9 medical assistance for home and community-based services
10 under a State plan waiver under subsection (c), (d), or
11 (i) of section 1915 of the Social Security Act (42 U.S.C.
12 1396n) or section 1115 of the Social Security Act (42
13 U.S.C. 1315) to individuals who are eligible but, as of
14 January 1, 2017, are on a waiting list for such services
15 through such waiver.

16 (b) STATE ELIGIBILITY.—A State is eligible for a
17 payment under this section if the State submits an appli-
18 cation to the Secretary at such time, in such form and
19 manner, and containing such information, provisions, and
20 assurances, as specified by the Secretary.

21 (c) SELECTION.—Subject to subsection (d), the Sec-
22 retary shall, for each of fiscal years 2018 through 2026,
23 select, on a competitive basis, from among eligible States,
24 the States that will receive payment under this section.

1 In making such selections, the Secretary shall give priority
2 to—

3 (1) States with the highest number of individ-
4 uals on a waiting list described in subsection (a);

5 (2) States with the highest average or highest
6 median periods individuals have been on such a list;
7 and

8 (3) States with individuals on such a list who
9 have the lowest income levels, as compared to the in-
10 come of individuals on such a list of other eligible
11 States.

12 (d) FUNDING.—

13 (1) FUNDS ALLOCATED TO STATES.—Of the
14 funds available for purposes of carrying out this sec-
15 tion under section 1941(c) of the Social Security Act
16 (42 U.S.C. 1396w–1(c)), the Secretary shall allocate
17 such funds to States selected under subsection (c)
18 on the basis of criteria, including a State’s applica-
19 tion submitted under subsection (b), the availability
20 of funds under such section 1941(c), and criteria
21 specified under subsection (c), as determined by the
22 Secretary.

23 (2) PAYMENTS TO STATES.—For each calendar
24 quarter beginning on or after October 1, 2017, the
25 Secretary shall pay to each State selected under sub-

1 section (c), from the allocation made to the State
2 under paragraph (1), an amount equal to 90 percent
3 of the Federal medical assistance percentage of the
4 amount expended during such quarter for the med-
5 ical assistance described in subsection (a).

6 (e) DEFINITIONS.—In this section:

7 (1) FEDERAL MEDICAL ASSISTANCE PERCENT-
8 AGE.—The term “Federal medical assistance per-
9 centage” has the meaning given such term in section
10 1905(b) of the Social Security Act (42 U.S.C.
11 1396d(b)).

12 (2) MEDICAL ASSISTANCE.—The term “medical
13 assistance” has the meaning given such term in sec-
14 tion 1905(a) of the Social Security Act (42 U.S.C.
15 1396d(a)).

16 (3) STATE.—The term “State” has the mean-
17 ing given such term for purposes of title XIX of the
18 Social Security Act (42 U.S.C. 1396 et seq.).