

[DISCUSSION DRAFT]

115TH CONGRESS  
1ST SESSION

**H. R.** \_\_\_\_\_

To amend title XIX of the Social Security Act to clarify the treatment of lottery winnings and other lump sum income for purposes of income eligibility under the Medicaid program, and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

Mr. UPTON introduced the following bill; which was referred to the Committee on \_\_\_\_\_

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**A BILL**

To amend title XIX of the Social Security Act to clarify the treatment of lottery winnings and other lump sum income for purposes of income eligibility under the Medicaid program, 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 “The Prioritizing the  
5 Most Vulnerable Over Lottery Winners Act of 2017”.

1 **SEC. 2. TREATMENT OF LOTTERY WINNINGS AND OTHER**  
2 **LUMP-SUM INCOME FOR PURPOSES OF IN-**  
3 **COME ELIGIBILITY UNDER MEDICAID.**

4 (a) IN GENERAL.—Section 1902 of the Social Secu-  
5 rity Act (42 U.S.C. 1396a) is amended—

6 (1) in subsection (a)(17), by striking “(e)(14),  
7 (e)(14)” and inserting “(e)(14), (e)(15)”; and

8 (2) in subsection (e)—

9 (A) in paragraph (14) (relating to modified  
10 adjusted gross income), by adding at the end  
11 the following new subparagraph:

12 “(J) TREATMENT OF CERTAIN LOTTERY  
13 WINNINGS AND INCOME RECEIVED AS A LUMP  
14 SUM.—

15 “(i) IN GENERAL.—In the case of an  
16 individual who is the recipient of qualified  
17 lottery winnings (pursuant to lotteries oc-  
18 ccurring on or after January 1, 2018) or  
19 qualified lump sum income (received on or  
20 after such date) and whose eligibility for  
21 medical assistance is determined based on  
22 the application of modified adjusted gross  
23 income under subparagraph (A), a State  
24 shall, in determining such eligibility, in-  
25 clude such winnings or income (as applica-  
26 ble) as income received—

1                   “(I) in the month in which such  
2                   winnings or income (as applicable) is  
3                   received if the amount of such  
4                   winnings or income is less than  
5                   \$80,000;

6                   “(II) over a period of 2 months  
7                   if the amount of such winnings or in-  
8                   come (as applicable) is greater than or  
9                   equal to \$80,000 but less than  
10                  \$90,000;

11                  “(III) over a period of 3 months  
12                  if the amount of such winnings or in-  
13                  come (as applicable) is greater than or  
14                  equal to \$90,000 but less than  
15                  \$100,000; and

16                  “(IV) over a period of 3 months  
17                  plus 1 additional month for each in-  
18                  crement of \$10,000 of such winnings  
19                  or income (as applicable) received, not  
20                  to exceed a period of 120 months (for  
21                  winnings or income of \$1,260,000 or  
22                  more), if the amount of such winnings  
23                  or income is greater than or equal to  
24                  \$100,000.

1           “(ii) COUNTING IN EQUAL INSTALL-  
2           MENTS.—For purposes of subclauses (II),  
3           (III), and (IV) of clause (i), winnings or  
4           income to which such subclause applies  
5           shall be counted in equal monthly install-  
6           ments over the period of months specified  
7           under such subclause.

8           “(iii) HARDSHIP EXEMPTION.—An in-  
9           dividual whose income, by application of  
10          clause (i), exceeds the applicable eligibility  
11          threshold established by the State, shall  
12          continue to be eligible for medical assist-  
13          ance to the extent that the State deter-  
14          mines, under procedures established by the  
15          State (in accordance with standards speci-  
16          fied by the Secretary), that the denial of  
17          eligibility of the individual would cause an  
18          undue medical or financial hardship as de-  
19          termined on the basis of criteria estab-  
20          lished by the Secretary.

21          “(iv) NOTIFICATIONS AND ASSIST-  
22          ANCE REQUIRED IN CASE OF LOSS OF ELI-  
23          GIBILITY.—A State shall, with respect to  
24          an individual who loses eligibility for med-  
25          ical assistance under the State plan (or a

1 waiver of such plan) by reason of clause

2 (i)—

3 “(I) before the date on which the  
4 individual loses such eligibility, inform  
5 the individual—

6 “(aa) of the individual’s op-  
7 portunity to enroll in a qualified  
8 health plan offered through an  
9 Exchange established under title  
10 I of the Patient Protection and  
11 Affordable Care Act during the  
12 special enrollment period speci-  
13 fied in section 9801(f)(3) of the  
14 Internal Revenue Code of 1986  
15 (relating to loss of Medicaid or  
16 CHIP coverage); and

17 “(bb) of the date on which  
18 the individual would no longer be  
19 considered ineligible by reason of  
20 clause (i) to receive medical as-  
21 sistance under the State plan or  
22 under any waiver of such plan  
23 and be eligible to reapply to re-  
24 ceive such medical assistance;  
25 and

1 “(II) provide technical assistance  
2 to the individual seeking to enroll in  
3 such a qualified health plan.

4 “(v) QUALIFIED LOTTERY WINNINGS  
5 DEFINED.—In this subparagraph, the term  
6 ‘qualified lottery winnings’ means winnings  
7 from a sweepstakes, lottery, or pool de-  
8 scribed in paragraph (3) of section 4402 of  
9 the Internal Revenue Code of 1986 or a  
10 lottery operated by a multistate or multi-  
11 jurisdictional lottery association, including  
12 amounts awarded as a lump sum payment.

13 “(vi) QUALIFIED LUMP SUM INCOME  
14 DEFINED.—In this subparagraph, the term  
15 ‘qualified lump sum income’ means income  
16 that is received as a lump sum from one  
17 of the following sources:

18 “(I) Monetary winnings from  
19 gambling (as defined by the Secretary  
20 and including gambling activities de-  
21 scribed in section 1955(b)(4) of title  
22 18, United States Code).

23 “(II) Damages received, whether  
24 by suit or agreement and whether as  
25 lump sums or as periodic payments

1 (other than monthly payments), on  
2 account of causes of action other than  
3 causes of action arising from personal  
4 physical injuries or physical sickness.

5 “(III) Income received as liquid  
6 assets from the estate (as defined in  
7 section 1917(b)(4)) of a deceased in-  
8 dividual.”; and

9 (B) by striking “(14) EXCLUSION” and in-  
10 serting “(15) EXCLUSION”.

11 (b) RULES OF CONSTRUCTION.—

12 (1) INTERCEPTION OF LOTTERY WINNINGS AL-  
13 LOWED.—Nothing in the amendment made by sub-  
14 section (a)(2)(A) shall be construed as preventing a  
15 State from intercepting the State lottery winnings  
16 awarded to an individual in the State to recover  
17 amounts paid by the State under the State Medicaid  
18 plan under title XIX of the Social Security Act for  
19 medical assistance furnished to the individual.

20 (2) APPLICABILITY LIMITED TO ELIGIBILITY OF  
21 RECIPIENT OF LOTTERY WINNINGS OR LUMP SUM  
22 INCOME.—Nothing in the amendment made by sub-  
23 section (a)(2)(A) shall be construed, with respect to  
24 a determination of household income for purposes of  
25 a determination of eligibility for medical assistance

1 under the State plan under title XIX of the Social  
2 Security Act (42 U.S.C. 1396 et seq.) (or a waiver  
3 of such plan) made by applying modified adjusted  
4 gross income under subparagraph (A) of section  
5 1902(e)(14) of such Act (42 U.S.C. 1396a(e)(14)),  
6 as limiting the eligibility for such medical assistance  
7 of any individual that is a member of the household  
8 other than the individual who received qualified lot-  
9 tery winnings or qualified lump-sum income (as de-  
10 fined in subparagraph (J) of such section  
11 1902(e)(14), as added by subsection (a)(2)(A) of  
12 this section).

13 **SEC. 3. MEDICAID IMPROVEMENT FUND.**

14 Section 1941 of the Social Security Act (42 U.S.C.  
15 1396w-1(b)) is amended to read as follows:

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

17 “(a) IN GENERAL.—The Secretary shall establish,  
18 and administer, under this title a Medicaid Improvement  
19 Fund (in this section referred to as the ‘Fund’) which  
20 shall be available to the Secretary for the following pur-  
21 poses:

22 “(1) To improve the management of the Med-  
23 icaid program by the Centers for Medicare & Med-  
24 icaid Services, including oversight of contracts and



1 contractors and evaluation of demonstration  
2 projects.

3 “(2) To improve access to care for the most  
4 vulnerable individuals eligible to receive medical as-  
5 sistance under the State plan under this title (or a  
6 waiver of such plan), including by carrying out sec-  
7 tion 4 of the The Prioritizing the Most Vulnerable  
8 Over Lottery Winners Act of 2017 (relating to re-  
9 ducing waiting lists for medical assistance for home  
10 and community-based services under a State plan  
11 waiver under subsection (c), (d), or (i) of section  
12 1915 or section 1115).

13 “(b) SUPPLEMENT, NOT SUPPLANT.—Payments  
14 made for activities under this section shall be in addition  
15 to payments that would otherwise be made for activities  
16 described in subsection (a).

17 “(c) FUNDING.—

18 “(1) IN GENERAL.—

19 “(A) MANAGEMENT IMPROVEMENTS.—

20 There shall be available to the Fund, for the  
21 purposes described in subsection (a)(1), for ex-  
22 penditures from the Fund for fiscal year 2021  
23 and thereafter, \$5,000,000.

24 “(B) INCREASING ACCESS.—There shall be  
25 available to the Fund, for the purposes de-

1 scribed in subsection (a)(2), for expenditures  
2 from the Fund—

3 “(i) for fiscal years 2018 through  
4 2020, **[\$\_\_\_\_\_]**;

5 “(ii) for fiscal year 2021,  
6 \$100,000,000; and

7 “(iii) for fiscal year 2022 and there-  
8 after, \$195,000,000.

9 “(2) FUNDING LIMITATION.—Amounts in the  
10 Fund shall be available in advance of appropriations  
11 but only if the total amount obligated from the  
12 Fund does not exceed the amount available to the  
13 Fund under subparagraphs (A) and (B) of para-  
14 graph (1). The Secretary may obligate funds from  
15 the Fund only if the Secretary determines (and the  
16 Chief Actuary of the Centers for Medicare & Med-  
17 icaid Services and the appropriate budget officer cer-  
18 tify) that there are available in the Fund sufficient  
19 amounts to cover all such obligations incurred con-  
20 sistent with the previous sentence.”.

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

23 (a) IN GENERAL.—Subject to subsection (d), the Sec-  
24 retary of Health and Human Services shall provide, for  
25 each of fiscal years 2018 through 2026, payment to eligi-

1 ble States selected under subsection (c) to provide for  
2 medical assistance for home and community-based services  
3 under a State plan waiver under subsection (c), (d), or  
4 (i) of section 1915 of the Social Security Act (42 U.S.C.  
5 1396n) or section 1115 of the Social Security Act (42  
6 U.S.C. 1315) to individuals who are eligible but, as of  
7 January 1, 2017, are on a waiting list for such services  
8 through such waiver.

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

14 (c) SELECTION.—Subject to subsection (d), the Sec-  
15 retary shall, for each of fiscal years 2018 through 2026,  
16 select, on a competitive basis, from among eligible States,  
17 the States that will receive payment under this section.  
18 In making such selections, the Secretary shall give priority  
19 to—

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

22 (2) States with the highest average or highest  
23 median periods individuals have been on such a list;  
24 and

1           (3) States with individuals on such a list who  
2           have the lowest income levels, as compared to the in-  
3           come of individuals on such a list of other eligible  
4           States.

5           (d) FUNDING.—

6           (1) FUNDS ALLOCATED TO STATES.—Of the  
7           funds available for purposes of carrying out this sec-  
8           tion under section 1941(c) of the Social Security Act  
9           (42 U.S.C. 1396w–1(c)), the Secretary shall allocate  
10          such funds to States selected under subsection (c)  
11          on the basis of criteria, including a State’s applica-  
12          tion submitted under subsection (b), the availability  
13          of funds under such section 1941(c), and criteria  
14          specified under subsection (c), as determined by the  
15          Secretary.

16          (2) PAYMENTS TO STATES.—For each calendar  
17          quarter beginning on or after October 1, 2017, the  
18          Secretary shall pay to each State selected under sub-  
19          section (c), from the allocation made to the State  
20          under paragraph (1), an amount equal to 90 percent  
21          of the Federal medical assistance percentage of the  
22          amount expended during such quarter for the med-  
23          ical assistance described in subsection (a).

24          (e) DEFINITIONS.—In this section:

1 (1) FEDERAL MEDICAL ASSISTANCE PERCENT-  
2 AGE.—The term “Federal medical assistance per-  
3 centage” has the meaning given such term in section  
4 1905(b) of the Social Security Act (42 U.S.C.  
5 1396d(b)).

6 (2) MEDICAL ASSISTANCE.—The term “medical  
7 assistance” has the meaning given such term in sec-  
8 tion 1905(a) of the Social Security Act (42 U.S.C.  
9 1396d(a)).

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