

110TH CONGRESS  
1ST SESSION

# H. R. 3171

To amend titles XIX and XXI of the Social Security Act to provide for an express lane for simplified Medicaid and SCHIP eligibility determinations for children.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 25, 2007

Mr. KAGEN introduced the following bill; which was referred to the Committee on Energy and Commerce

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## A BILL

To amend titles XIX and XXI of the Social Security Act to provide for an express lane for simplified Medicaid and SCHIP eligibility determinations for children.

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 “Fast Track for  
5 Healthy Children Act of 2007”.

1 **SEC. 2. STATE OPTION TO RELY ON FINDINGS FROM AN EX-**  
2 **PRESS LANE AGENCY TO CONDUCT SIM-**  
3 **PLIFIED ELIGIBILITY DETERMINATIONS.**

4 (a) **MEDICAID.**—Section 1902(e) of the Social Secu-  
5 rity Act (42 U.S.C. 1396a(e)) is amended by adding at  
6 the end the following:

7 “(13) **EXPRESS LANE OPTION.**—

8 “(A) **IN GENERAL.**—

9 “(i) **OPTION TO USE A FINDING FROM AN**  
10 **EXPRESS LANE AGENCY.**—At the option of the  
11 State, the State plan may provide that in deter-  
12 mining eligibility under this title for a child (as  
13 defined in subparagraph (F)), the State may  
14 rely on a finding made within a reasonable pe-  
15 riod (as determined by the State) from an Ex-  
16 press Lane agency (as defined in subparagraph  
17 (E)) when it determines whether a child satis-  
18 fies one or more components of eligibility for  
19 medical assistance under this title. The State  
20 may rely on a finding from an Express Lane  
21 agency notwithstanding sections  
22 1902(a)(46)(B), 1903(x), and 1137(d) and any  
23 differences in budget unit, disregard, deeming  
24 or other methodology, if the following require-  
25 ments are met:

1           “(I) PROHIBITION ON DETERMINING  
2 CHILDREN INELIGIBLE FOR COVERAGE.—  
3 If a finding from an Express Lane agency  
4 would result in a determination that a  
5 child does not satisfy an eligibility require-  
6 ment for medical assistance under this title  
7 and for child health assistance under title  
8 XXI, the State shall determine eligibility  
9 for assistance using its regular procedures.

10           “(II) NOTICE REQUIREMENT.—For  
11 any child who is found eligible for medical  
12 assistance under the State plan under this  
13 title or child health assistance under title  
14 XXI and who is subject to premiums based  
15 on an Express Lane agency’s finding of  
16 such child’s income level, the State shall  
17 provide notice that the child may qualify  
18 for lower premium payments if evaluated  
19 by the State using its regular policies and  
20 of the procedures for requesting such an  
21 evaluation.

22           “(III) COMPLIANCE WITH SCREEN  
23 AND ENROLL REQUIREMENT.—The State  
24 shall satisfy the requirements under (A)  
25 and (B) of section 2102(b)(3) (relating to

1 screen and enroll) before enrolling a child  
2 in child health assistance under title XXI.  
3 At its option, the State may fulfill such re-  
4 quirements in accordance with either op-  
5 tion provided under subparagraph (C) of  
6 this paragraph.

7 “(ii) OPTION TO APPLY TO RENEWALS AND  
8 REDETERMINATIONS.—The State may apply the  
9 provisions of this paragraph when conducting  
10 initial determinations of eligibility, redetermina-  
11 tions of eligibility, or both, as described in the  
12 State plan.

13 “(B) RULES OF CONSTRUCTION.—Nothing in  
14 this paragraph shall be construed—

15 “(i) to limit or prohibit a State from tak-  
16 ing any actions otherwise permitted under this  
17 title or title XXI in determining eligibility for  
18 or enrolling children into medical assistance  
19 under this title or child health assistance under  
20 title XXI; or

21 “(ii) to modify the limitations in section  
22 1902(a)(5) concerning the agencies that may  
23 make a determination of eligibility for medical  
24 assistance under this title.

1           “(C) OPTIONS FOR SATISFYING THE SCREEN  
2           AND ENROLL REQUIREMENT.—

3           “(i) IN GENERAL.—With respect to a child  
4           whose eligibility for medical assistance under  
5           this title or for child health assistance under  
6           title XXI has been evaluated by a State agency  
7           using an income finding from an Express Lane  
8           agency, a State may carry out its duties under  
9           subparagraphs (A) and (B) of section  
10          2102(b)(3) (relating to screen and enroll) in ac-  
11          cordance with either clause (ii) or clause (iii).

12          “(ii) ESTABLISHING A SCREENING  
13          THRESHOLD.—

14          “(I) IN GENERAL.—Under this clause,  
15          the State establishes a screening threshold  
16          set as a percentage of the Federal poverty  
17          level that exceeds the highest income  
18          threshold applicable under this title to the  
19          child by a minimum of 30 percentage  
20          points or, at State option, a higher number  
21          of percentage points that reflects the value  
22          (as determined by the State and described  
23          in the State plan) of any differences be-  
24          tween income methodologies used by the  
25          program administered by the Express Lane

1 agency and the methodologies used by the  
2 State in determining eligibility for medical  
3 assistance under this title.

4 “(II) CHILDREN WITH INCOME NOT  
5 ABOVE THRESHOLD.—If the income of a  
6 child does not exceed the screening thresh-  
7 old, the child is deemed to satisfy the in-  
8 come eligibility criteria for medical assist-  
9 ance under this title regardless of whether  
10 such child would otherwise satisfy such cri-  
11 teria.

12 “(III) CHILDREN WITH INCOME  
13 ABOVE THRESHOLD.—If the income of a  
14 child exceeds the screening threshold, the  
15 child shall be considered to have an income  
16 above the Medicaid applicable income level  
17 described in section 2110(b)(4) and to sat-  
18 isfy the requirement under section  
19 2110(b)(1)(C) (relating to the requirement  
20 that SCHIP matching funds be used only  
21 for children not eligible for Medicaid). If  
22 such a child is enrolled in child health as-  
23 sistance under title XXI, the State shall  
24 provide the parent, guardian, or custodial  
25 relative with the following:

1           “(aa) Notice that the child may  
2           be eligible to receive medical assist-  
3           ance under the State plan under this  
4           title if evaluated for such assistance  
5           under the State’s regular procedures  
6           and notice of the process through  
7           which a parent, guardian, or custodial  
8           relative can request that the State  
9           evaluate the child’s eligibility for med-  
10          ical assistance under this title using  
11          such regular procedures.

12           “(bb) A description of differences  
13          between the medical assistance pro-  
14          vided under this title and child health  
15          assistance under title XXI, including  
16          differences in cost-sharing require-  
17          ments and covered benefits.

18           “(iii) TEMPORARY ENROLLMENT IN SCHIP  
19          PENDING SCREEN AND ENROLL.—

20           “(I) IN GENERAL.—Under this clause,  
21          a State enrolls a child in child health as-  
22          sistance under title XXI for a temporary  
23          period if the child appears eligible for such  
24          assistance based on an income finding by  
25          an Express Lane agency.

1           “(II) DETERMINATION OF ELIGI-  
2           BILITY.—During such temporary enroll-  
3           ment period, the State shall determine the  
4           child’s eligibility for child health assistance  
5           under title XXI or for medical assistance  
6           under this title in accordance with this  
7           clause.

8           “(III) PROMPT FOLLOW UP.—In mak-  
9           ing such a determination, the State shall  
10          take prompt action to determine whether  
11          the child should be enrolled in medical as-  
12          sistance under this title or child health as-  
13          sistance under title XXI pursuant to sub-  
14          paragraphs (A) and (B) of section  
15          2102(b)(3) (relating to screen and enroll).

16          “(IV) REQUIREMENT FOR SIMPLIFIED  
17          DETERMINATION.—In making such a de-  
18          termination, the State shall use procedures  
19          that, to the maximum feasible extent, re-  
20          duce the burden imposed on the individual  
21          of such determination. Such procedures  
22          may not require the child’s parent, guard-  
23          ian, or custodial relative to provide or  
24          verify information that already has been  
25          provided to the State agency by an Ex-

1 press Lane agency or another source of in-  
2 formation unless the State agency has rea-  
3 son to believe the information is erroneous.

4 “(V) AVAILABILITY OF SCHIP MATCH-  
5 ING FUNDS DURING TEMPORARY ENROLL-  
6 MENT PERIOD.—Medical assistance for  
7 items and services that are provided to a  
8 child enrolled in title XXI during a tem-  
9 porary enrollment period under this clause  
10 shall be treated as child health assistance  
11 under such title.

12 “(D) OPTION FOR AUTOMATIC ENROLLMENT.—

13 “(i) IN GENERAL.—At its option, a State  
14 may initiate an evaluation of an individual’s eli-  
15 gibility for medical assistance under this title  
16 without an application and determine the indi-  
17 vidual’s eligibility for such assistance using  
18 findings from one or more Express Lane agen-  
19 cies and information from sources other than a  
20 child, if the requirements of clauses (ii) and (iii)  
21 are met.

22 “(ii) INDIVIDUAL CHOICE REQUIRE-  
23 MENT.—The requirement of this clause is that  
24 the child is enrolled in medical assistance under  
25 this title or child health assistance under title

1 XXI only if the child (or a parent, caretaker  
2 relative, or guardian on the behalf of the child)  
3 has affirmatively assented to such enrollment.

4 “(iii) INFORMATION REQUIREMENT.—The  
5 requirement of this clause is that the State in-  
6 forms the parent, guardian, or custodial relative  
7 of the child of the services that will be covered,  
8 appropriate methods for using such services,  
9 premium or other cost sharing charges (if any)  
10 that apply, medical support obligations (under  
11 section 1912(a)) created by enrollment (if appli-  
12 cable), and the actions the parent, guardian, or  
13 relative must take to maintain enrollment and  
14 renew coverage.

15 “(E) EXPRESS LANE AGENCY DEFINED.—In  
16 this paragraph, the term ‘express lane agency’  
17 means an agency that meets the following require-  
18 ments:

19 “(i) The agency determines eligibility for  
20 assistance under the Food Stamp Act of 1977,  
21 the Richard B. Russell National School Lunch  
22 Act, the Child Nutrition Act of 1966, or the  
23 Child Care and Development Block Grant Act  
24 of 1990.

1           “(ii) The agency notifies the child (or a  
2 parent, caretaker relative, or guardian on the  
3 behalf of the child)—

4                   “(I) of the information which shall be  
5 disclosed;

6                   “(II) that the information will be used  
7 by the State solely for purposes of deter-  
8 mining eligibility for and for providing  
9 medical assistance under this title or child  
10 health assistance under title XXI; and

11                   “(III) that the child, or parent, care-  
12 taker relative, or guardian, may elect to  
13 not have the information disclosed for such  
14 purposes.

15           “(iii) The agency and the State agency are  
16 subject to an interagency agreement limiting  
17 the disclosure and use of such information to  
18 such purposes.

19           “(iv) The agency is determined by the  
20 State agency to be capable of making the deter-  
21 minations described in this paragraph and is  
22 identified in the State plan under this title or  
23 title XXI.

24           For purposes of this subparagraph, the term ‘State  
25 agency’ refers to the agency determining eligibility

1 for medical assistance under this title or child health  
2 assistance under title XXI.

3 “(F) CHILD DEFINED.—For purposes of this  
4 paragraph, the term ‘child’ means an individual  
5 under 19 years of age, or, at the option of a State,  
6 such higher age, not to exceed 21 years of age, as  
7 the State may elect.”.

8 (b) SCHIP.—Section 2107(e)(1) of such Act (42  
9 U.S.C. 1397gg(e)(1)) is amended by redesignating sub-  
10 paragraph (B) and succeeding subparagraphs as subpara-  
11 graph (C) and succeeding subparagraphs and by inserting  
12 after subparagraph (A) the following new subparagraph:

13 “(B) Section 1902(e)(13) (relating to the  
14 State option to rely on findings from an Ex-  
15 press Lane agency to help evaluate a child’s eli-  
16 gibility for medical assistance).”.

17 (c) ELECTRONIC TRANSMISSION OF INFORMATION.—  
18 Section 1902 of such Act (42 U.S.C. 1396a) is amended  
19 by adding at the end the following new subsection:

20 “(dd) ELECTRONIC TRANSMISSION OF INFORMA-  
21 TION.—If the State agency determining eligibility for med-  
22 ical assistance under this title or child health assistance  
23 under title XXI verifies an element of eligibility based on  
24 information from an Express Lane Agency (as defined in  
25 subsection (e)(13)(F)), or from another public agency,

1 then the applicant’s signature under penalty of perjury  
2 shall not be required as to such element. Any signature  
3 requirement for an application for medical assistance may  
4 be satisfied through an electronic signature, as defined in  
5 section 1710(1) of the Government Paperwork Elimination  
6 Act (44 U.S.C. 3504 note). The requirements of  
7 subparagraphs (A) and (B) of section 1137(d)(2) may be  
8 met through evidence in digital or electronic form.”.

9 (d) AUTHORIZATION OF INFORMATION DISCLOSURE.—  
10 SURE.—

11 (1) IN GENERAL.—Title XIX of the Social Security  
12 Act is amended—

13 (A) by redesignating section 1939 as section  
14 1940; and

15 (B) by inserting after section 1938 the following  
16 new section:

17 **“SEC. 1939. AUTHORIZATION TO RECEIVE PERTINENT INFORMATION.**  
18 **FORMATION.**

19 “(a) IN GENERAL.—Notwithstanding any other provision  
20 of law, a Federal or State agency or private entity  
21 in possession of the sources of data potentially pertinent  
22 to eligibility determinations under this title (including eligibility  
23 files maintained by Express Lane agencies described in section  
24 1902(e)(13)(F), information described in paragraph (2) or (3) of section  
25 1137(a), vital records

1 information about births in any State, and information de-  
2 scribed in sections 453(i) and 1902(a)(25)(I)) is author-  
3 ized to convey such data or information to the State agen-  
4 cy administering the State plan under this title, to the  
5 extent such conveyance meets the requirements of sub-  
6 section (b).

7 “(b) REQUIREMENTS FOR CONVEYANCE.—Data or  
8 information may be conveyed pursuant to subsection (a)  
9 only if the following requirements are met:

10 “(1) The individual whose circumstances are  
11 described in the data or information (or such indi-  
12 vidual’s parent, guardian, caretaker relative, or au-  
13 thorized representative) has either provided advance  
14 consent to disclosure or has not objected to disclo-  
15 sure after receiving advance notice of disclosure and  
16 a reasonable opportunity to object.

17 “(2) Such data or information are used solely  
18 for the purposes of—

19 “(A) identifying individuals who are eligi-  
20 ble or potentially eligible for medical assistance  
21 under this title and enrolling or attempting to  
22 enroll such individuals in the State plan; and

23 “(B) verifying the eligibility of individuals  
24 for medical assistance under the State plan.

1           “(3) An interagency or other agreement, con-  
2           sistent with standards developed by the Secretary—

3                   “(A) prevents the unauthorized use, dislo-  
4                   sure, or modification of such data and other-  
5                   wise meets applicable Federal requirements  
6                   safeguarding privacy and data security; and

7                   “(B) requires the State agency admin-  
8                   istering the State plan to use the data and in-  
9                   formation obtained under this section to seek to  
10                  enroll individuals in the plan.

11           “(c) CRIMINAL PENALTY.—A private entity described  
12           in the subsection (a) that publishes, discloses, or makes  
13           known in any manner, or to any extent not authorized by  
14           Federal law, any information obtained under this section  
15           shall be fined not more than \$1,000 or imprisoned not  
16           more than 1 year, or both, for each such unauthorized  
17           publication or disclosure.

18           “(d) RULE OF CONSTRUCTION.—The limitations and  
19           requirements that apply to disclosure pursuant to this sec-  
20           tion shall not be construed to prohibit the conveyance or  
21           disclosure of data or information otherwise permitted  
22           under Federal law (without regard to this section).”.

23           (2) CONFORMING AMENDMENT TO TITLE XXI.—  
24           Section 2107(e)(1) of such Act (42 U.S.C.  
25           1397gg(e)(1)), as amended by subsection (b), is

1 amended by adding at the end the following new  
2 subparagraph:

3 “(F) Section 1939 (relating to authoriza-  
4 tion to receive data potentially pertinent to eli-  
5 gibility determinations).”.

6 (3) CONFORMING AMENDMENT TO PROVIDE AC-  
7 CESS TO DATA ABOUT ENROLLMENT IN INSURANCE  
8 FOR PURPOSES OF EVALUATING APPLICATIONS AND  
9 FOR SCHIP.—Section 1902(a)(25)(I)(i) of such Act  
10 (42 U.S.C. 1396a(a)(25)(I)(i)) is amended—

11 (A) by inserting “(and, at State option, in-  
12 dividuals who are potentially eligible or who  
13 apply)” after “with respect to individuals who  
14 are eligible”; and

15 (B) by inserting “under this title (and, at  
16 State option, child health assistance under title  
17 XXI)” after “the State plan”.

18 (e) EFFECTIVE DATE.—The amendments made by  
19 this section are effective on January 1, 2008.

○