

107TH CONGRESS  
1ST SESSION

# H. R. 2513

To amend title XI of the Social Security Act to clarify that the Secretary of Health and Human Services has the authority to treat certain State payments made in an approved demonstration project as medical assistance under the medicaid program for purposes of a rebate agreement under section 1927 of the Social Security Act, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 17, 2001

Mr. ALLEN (for himself, Mr. BALDACCI, and Mr. SANDERS) introduced the following bill; which was referred to the Committee on Energy and Commerce

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## A BILL

To amend title XI of the Social Security Act to clarify that the Secretary of Health and Human Services has the authority to treat certain State payments made in an approved demonstration project as medical assistance under the medicaid program for purposes of a rebate agreement under section 1927 of the Social Security Act, 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 “State Prescription  
5       Drug Flexibility Act of 2001”.

1 **SEC. 2. FINDINGS.**

2 Congress makes the following findings:

3 (1) Access to prescription drugs is important to  
4 all Americans.

5 (2) Many low-income individuals cannot afford  
6 to purchase the drugs prescribed by their doctors.  
7 Others skip doses or split pills contrary to their doc-  
8 tor's orders because they cannot afford to refill their  
9 prescriptions.

10 (3) Low-income individuals who use their lim-  
11 ited financial resources to obtain needed drugs may  
12 do so by foregoing other expenditures important to  
13 their health and well-being.

14 (4) One of the objectives of the medicaid pro-  
15 gram set forth in section 1901 of the Social Security  
16 Act (42 U.S.C. 1396) is to enable each State, as far  
17 as practicable under the conditions in such State, to  
18 provide medical assistance on behalf of families with  
19 dependent children and of aged, blind, or disabled  
20 individuals, whose income and resources are insuffi-  
21 cient to meet the costs of necessary medical services.

22 (5) As part of carrying out this objective, every  
23 State has elected the option of providing prescription  
24 drugs as a benefit under the medicaid program,  
25 thereby providing an important means of increasing

1 the access of low-income individuals to drugs pre-  
2 scribed by their doctors.

3 (6) Section 1115 of the Social Security Act (42  
4 U.S.C. 1315) provides the Secretary of Health and  
5 Human Services with broad authority to—

6 (A) approve any experimental, pilot, or  
7 demonstration project which, in the judgment  
8 of the Secretary, is likely to assist in promoting  
9 the objectives of the medicaid program; and

10 (B) waive compliance with any of the State  
11 plan requirements of the medicaid program  
12 under section 1902 of the Social Security Act  
13 (42 U.S.C. 1396a), including paragraphs (14)  
14 (relating to limitations on cost sharing under  
15 section 1916 of that Act (42 U.S.C. 1396o))  
16 and (54) (relating to applicable requirements of  
17 section 1927 of that Act (42 U.S.C. 1396r–8)),  
18 in order to conduct such a project.

19 (7) Medicaid demonstration projects help pro-  
20 mote the objectives of the medicaid program, includ-  
21 ing obtaining information about options for increas-  
22 ing access to prescription drugs for low-income indi-  
23 viduals.

24 (8) Both Maine and Vermont have, with the ap-  
25 proval of the Secretary of Health and Human Re-

1 sources, implemented demonstration projects to ex-  
2 pand access to prescription drugs under the med-  
3 icaid program. Thousands of individuals with no  
4 other prescription drug insurance benefits are en-  
5 rolled in those programs.

6 (9) Terminating medicaid demonstration  
7 projects prior to their planned expiration dates may  
8 result in a significant waste of public funds and may  
9 be detrimental to those individuals who have come to  
10 rely on such projects.

11 **SEC. 3. CLARIFICATION OF SECRETARIAL AUTHORITY**  
12 **WITH RESPECT TO TREATMENT OF CERTAIN**  
13 **PAYMENTS MADE IN AN APPROVED DEM-**  
14 **ONSTRATION PROJECT.**

15 (a) IN GENERAL.—Section 1115 of the Social Secu-  
16 rity Act (42 U.S.C. 1315) is amended by adding at the  
17 end the following:

18 “(g) Notwithstanding any other provision of law, with  
19 respect to any experimental, pilot, or demonstration  
20 project conducted by a State that was approved by the  
21 Secretary under subsection (a) prior to January 31, 2001,  
22 and that waives compliance with, or makes inapplicable,  
23 certain requirements of section 1902 for the purposes of  
24 establishing an outpatient prescription drug program for

1 residents of the State who are not otherwise eligible for  
2 medical assistance under title XIX—

3           “(1) any expenditures, payments, or outlays by  
4 the State for covered outpatient drugs under the  
5 project shall be treated as payments made under the  
6 State plan under title XIX for covered outpatient  
7 drugs defined in section 1927(k)(2) for purposes of  
8 a rebate agreement under section 1927, regardless  
9 of whether such expenditures, payments, or outlays  
10 of the State are offset or reimbursed, in whole or in  
11 part, by rebates received under such an agreement;

12           “(2) any such expenditures, payments, or out-  
13 lays by the State are consistent with the objectives  
14 of the medicaid program set forth in section 1901;

15           “(3) any such expenditures, payments, or out-  
16 lays by the State shall be considered amounts ex-  
17 pended for medical assistance in the form of pre-  
18 scribed drugs, as defined in section 1905(a)(12),  
19 under the State plan under title XIX; and

20           “(4) the requirements of section 1916 shall not  
21 apply with respect to any enrollment fees, premiums,  
22 deductions, copayments, cost sharing, or similar  
23 charges imposed upon individuals participating in  
24 such project.”.

1       (b) EFFECTIVE DATE.—The amendment made by  
2 subsection (a) takes effect on the date of enactment of  
3 this Act and applies to State expenditures, payments, or  
4 outlays under an experimental, pilot, or demonstration  
5 project described in section 1115(g) of the Social Security  
6 Act (as added by subsection (a)) made before, on, or after  
7 such date.

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