

111<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 3141

To amend title XIX of the Social Security Act to provide for a DSH redistribution pool from unexpended Medicaid DSH allotments in order to increase Medicaid DSH allotments for low DSH States and to provide grants for health access networks serving the uninsured.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 9, 2009

Mr. SULLIVAN (for himself, Mr. BOREN, Mr. LUCAS, and Mr. COLE) introduced the following bill; which was referred to the Committee on Energy and Commerce

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## A BILL

To amend title XIX of the Social Security Act to provide for a DSH redistribution pool from unexpended Medicaid DSH allotments in order to increase Medicaid DSH allotments for low DSH States and to provide grants for health access networks serving the uninsured.

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 “Strengthening the  
5       Health Care Safety Net Act of 2009”.

1 **SEC. 2. APPLICATION OF UNEXPENDED MEDICAID DSH AL-**  
2 **LOTMENTS FOR INCREASED ALLOTMENTS**  
3 **FOR LOW DSH STATES AND FOR HEALTH**  
4 **NETWORK ACCESS GRANTS.**

5 (a) ESTABLISHMENT OF DSH REDISTRIBUTION  
6 POOL FROM UNEXPENDED MEDICAID DSH ALLOT-  
7 MENTS.—Subsection (f) of section 1923 of the Social Se-  
8 curity Act (42 U.S.C. 1396r-4) is amended—

9 (1) by redesignating paragraph (7) as para-  
10 graph (8); and

11 (2) by inserting after paragraph (6) the fol-  
12 lowing new paragraph:

13 “(7) DSH REDISTRIBUTION POOL FROM POR-  
14 TION OF UNEXPENDED DSH ALLOTMENTS TO FUND  
15 INCREASE IN ALLOTMENTS FOR LOW DSH STATES  
16 AND HEALTH NETWORK ACCESS GRANTS.—

17 “(A) ESTABLISHMENT.—There is estab-  
18 lished a DSH redistribution pool in the amount  
19 provided under this paragraph. Such amount  
20 shall be determined by the Secretary at the be-  
21 ginning of each fiscal year and the Secretary  
22 may adjust such amount in subsequent fiscal  
23 years to take into account errors in estimates  
24 made for previous fiscal years. The amount in  
25 such pool shall be available for obligation and  
26 expenditure without fiscal year limitation.

1           “(B) ADDITION OF UNEXPENDED DSH AL-  
2           LOTMENTS.—At the beginning of each fiscal  
3           year (beginning with fiscal year 2010), there  
4           shall be added to the DSH redistribution pool  
5           an amount equal to the amount by which—

6                   “(i) the total of the DSH allotments  
7                   for all States for the third preceding fiscal  
8                   year; exceeded

9                   “(ii) the total Federal financial par-  
10                  ticipation under this title attributable to  
11                  such allotments for such fiscal year.

12           “(C) REDUCTION FOR EXPENDITURES RE-  
13           SULTING FROM INCREASED ALLOTMENTS FOR  
14           LOW DSH STATES AND FOR HEALTH NETWORK  
15           ACCESS GRANTS.—At the beginning of each fis-  
16           cal year (beginning with fiscal year 2011), there  
17           shall be subtracted from the DSH redistribu-  
18           tion pool an amount equal to the sum of—

19                   “(i) the aggregate increase in Federal  
20                   financial participation under this title at-  
21                   tributable to the amendments made by sec-  
22                   tion 2(b) of the Strengthening the Health  
23                   Care Safety Net Act of 2009 for the pre-  
24                   vious fiscal year; and

1                   “(ii) the amount obligated on grants  
2                   under subsection (k) for such previous fis-  
3                   cal year.”.

4           (b) INCREASE IN DSH ALLOTMENTS FOR LOW DSH  
5 STATES; QUALIFICATION OF LOW DSH STATES BASED  
6 ON FISCAL YEAR 2005 DATA.—Subsection (f)(5) of such  
7 section is amended—

8                   (1) in subparagraph (B)—

9                           (A) by striking “and” at the end of clause  
10                   (ii);

11                           (B) in clause (iii)—

12                                   (i) by striking “2009” and inserting  
13                                   “2015”;

14                                   (ii) by inserting “, subject to subpara-  
15                                   graph (D),” after “shall be”; and

16                                   (iii) by redesignating such clause as  
17                                   clause (iv); and

18                           (C) by inserting after clause (ii) the fol-  
19                   lowing new clause:

20                                   “(iii) each succeeding fiscal year be-  
21                                   fore fiscal year 2015 shall be, subject to  
22                                   subparagraph (D), the DSH allotment for  
23                                   the State for the previous fiscal year in-  
24                                   creased by 16 percent; and”;

1           (2) by adding at the end the following new sub-  
2 paragraphs:

3                   “(C) ADDITIONAL STATES COVERED FOR  
4 FISCAL YEAR 2010 AND SUBSEQUENT YEARS.—

5 In the case of a State not described in subpara-  
6 graph (B) in which the total expenditures under  
7 the State plan (including Federal and State  
8 shares) for disproportionate share hospital ad-  
9 justments under this section for fiscal year  
10 2005, as reported to the Administrator of the  
11 Centers for Medicare & Medicaid Services as of  
12 August 31, 2008, is greater than 0 but less  
13 than 3 percent of the State’s total amount of  
14 expenditures under the State plan for medical  
15 assistance during the fiscal year, the DSH al-  
16 lotment for the State with respect to—

17                   “(i) fiscal year 2010 and any suc-  
18 ceeding fiscal year before fiscal year 2015  
19 shall be, subject to subparagraph (D), the  
20 DSH allotment for the State for the pre-  
21 vious fiscal year increased by 16 percent;  
22 and

23                   “(ii) any subsequent fiscal year shall  
24 be, subject to subparagraph (D), the DSH  
25 allotment for the State for the previous fis-

1 cal year subject to an increase for inflation  
2 as provided in paragraph (3)(A).

3 “(D) LIMITATION ON INCREASES TO  
4 AMOUNT AVAILABLE FROM DSH REDISTRIBU-  
5 TION POOL.—If the Secretary estimates for a  
6 fiscal year (beginning with fiscal year 2010)  
7 that—

8 “(i) the amount of additional expendi-  
9 tures in the fiscal year resulting from the  
10 application of an increase in DSH allot-  
11 ments under subparagraphs (B) and (C)  
12 beginning with fiscal year 2010 of 16 per-  
13 cent (instead of the application of an in-  
14 crease for inflation as provided in para-  
15 graph (3)(A)), exceeds

16 “(ii) the amount available for obliga-  
17 tion from the DSH redistribution pool  
18 under paragraph (7) for the fiscal year,  
19 the Secretary shall reduce the increase in the  
20 DSH allotments otherwise provided under such  
21 subparagraphs for the fiscal year in a pro-rata  
22 manner so that the amount of additional ex-  
23 penditures in the fiscal year resulting from the  
24 application of such subparagraphs is equal to  
25 the amount described in clause (ii) for the fiscal

1           year. A reduction in a DSH allotment for a  
2           State under this subparagraph shall not affect  
3           the computation of the DSH allotment for the  
4           State under subparagraph (B) or (C) for the  
5           subsequent fiscal year.”.

6           (c) DEMONSTRATION GRANTS TO HEALTH ACCESS  
7 NETWORKS.—Such section is further amended by adding  
8 at the end the following new subsection:

9           “(k) DEMONSTRATION GRANTS TO HEALTH ACCESS  
10 NETWORKS.—

11           “(1) IN GENERAL.—From the amount of funds  
12 made available under paragraph (6)(A) of this sub-  
13 section from funds made available under subsection  
14 (d)(7) for a fiscal year, the Secretary shall award  
15 demonstration grants under this subsection to health  
16 access networks for such fiscal year for the purpose  
17 of improving access, quality, and continuity of care  
18 for uninsured individuals through better coordina-  
19 tion of care by the network.

20           “(2) HEALTH ACCESS NETWORK DEFINED.—

21           “(A) IN GENERAL.—In this subsection, the  
22 term ‘health access network’ means an entity  
23 representing a collection of safety net providers,  
24 including hospitals, community health centers,  
25 public health departments, physicians, safety

1 net health plans, federally qualified health cen-  
2 ters, or other recognized safety net providers,  
3 that—

4 “(i) is organized for the purpose of re-  
5 structuring and improving the access, qual-  
6 ity, and continuity of care to the uninsured  
7 and underinsured; and

8 “(ii) offers patients access to all levels  
9 of care, including primary, outpatient, spe-  
10 cialty, certain ancillary services, and acute  
11 inpatient care, within a community or  
12 across a broad spectrum of providers  
13 across a service region or State.

14 “(B) INCLUSION OF SECTION 330 NET-  
15 WORKS AND PLANS.—Such term includes net-  
16 works and plans that meet the requirements for  
17 funding under section 330(e)(1)(C) of the Pub-  
18 lic Health Service Act (42 U.S.C.  
19 254b(e)(1)(C)).

20 “(C) INCLUSION OF INTEGRATED HEALTH  
21 CARE SYSTEMS.—

22 “(i) IN GENERAL.—Such term also in-  
23 cludes an integrated health care system  
24 (including a pediatric system).



1           “(ii) DEFINITION.—For purposes of  
2           this subparagraph, the term ‘integrated  
3           health care system (including a pediatric  
4           system)’ means a health care provider  
5           that—

6                   “(I) is organized to provide care  
7                   in a coordinated fashion; and

8                   “(II) assures access to a full  
9                   range of primary, specialty, and hos-  
10                  pital care, to uninsured and under-in-  
11                  sured individuals, as appropriate.

12           “(3) APPLICATION AND PLAN REQUIREMENT.—

13                   “(A) IN GENERAL.—In order to be eligible  
14                  for a grant under this subsection, a health ac-  
15                  cess network shall—

16                   “(i) submit an application, in such  
17                   form and manner as the Secretary shall  
18                   specify;

19                   “(ii) submit with such application a  
20                   plan that meets the requirements of sub-  
21                   paragraph (B);

22                   “(iii) identify in such plan measurable  
23                   performance targets for at least 3 of the  
24                   goals described in subparagraph (B); and

1           “(iv) agree that a portion of the pay-  
2           ment of grant funds for patient care serv-  
3           ices after the first year for which such pay-  
4           ment is made shall be contingent upon the  
5           health access network demonstrating suc-  
6           cess in achieving such targets.

7           “(B) PLAN REQUIREMENTS.—A health ac-  
8           cess network that desires a grant under this  
9           subsection shall submit a plan to the Secretary  
10          that details how the network intends through  
11          the grant—

12                 “(i) to manage costs associated with  
13                 the provision of health care services to un-  
14                 insured and underinsured individuals  
15                 served by the network;

16                 “(ii) to improve access to, and the  
17                 availability of, health care services provided  
18                 to uninsured and underinsured individuals  
19                 served by the network;

20                 “(iii) to enhance the quality and co-  
21                 ordination of health care services provided  
22                 to uninsured and underinsured individuals  
23                 served by the network;

1           “(iv) to improve the health status of  
2           uninsured and underinsured individuals  
3           served by the network; and

4           “(v) to reduce health disparities in the  
5           population of uninsured and underinsured  
6           individuals served by the network.

7           Nothing in this paragraph shall be construed as  
8           requiring a health access network operating in  
9           a State to operate on a statewide basis or oth-  
10          erwise to serve all uninsured and underinsured  
11          individuals in area served.

12           “(C) AUTHORITY TO LIMIT NUMBER OF  
13          GRANTS.—In awarding grants under this sub-  
14          section, the Secretary may limit the grants in  
15          a manner so that each grantee is able to pro-  
16          vide patient care services to the number of un-  
17          insured individuals specified by each network in  
18          its grant application.

19           “(4) USE OF FUNDS.—

20           “(A) IN GENERAL.—A health access net-  
21          work that receives funds under a grant under  
22          this subsection shall expend an amount equal to  
23          at least 90 percent of such funds for the provi-  
24          sion of (or payment for) direct patient care  
25          services.

1           “(B) RULE OF CONSTRUCTION REGARDING  
2           DIRECT PATIENT CARE SERVICES.—For pur-  
3           poses of subparagraph (A), the term ‘direct pa-  
4           tient care services’ means, with respect to a  
5           health access network, services, such as spe-  
6           cialty medical care and diagnostic services, that  
7           are not available or are insufficiently available  
8           through the network’s providers other than  
9           under a grant under this subsection.

10           “(C) PREFERENCE FOR SERVICES  
11           THROUGH SAFETY NET PROVIDERS.—In pur-  
12           chasing direct patient care services for unin-  
13           sured and underinsured individuals under a  
14           grant under this subsection, health access net-  
15           works shall, to the maximum extent feasible,  
16           endeavor to purchase such services from safety  
17           net providers.

18           “(5) SUPPLEMENT, NOT SUPPLANT.—Funds  
19           paid to a health access network under a grant under  
20           this subsection shall supplement and not supplant,  
21           other Federal or State payments that are made to  
22           the network to support the provision of health care  
23           services to low-income or uninsured patients.

24           “(6) FUNDING.—

1           “(A) AVAILABILITY OF FUNDS FROM DSH  
2 REDISTRIBUTION POOL.—To carry out this sub-  
3 section there is hereby made available for each  
4 fiscal year (beginning with fiscal year 2010 and  
5 ending with fiscal year 2014) and appropriated  
6 from the DSH redistribution pool established  
7 under subsection (d)(7), an amount equal to—

8                   “(i) the amount available for obliga-  
9 tion from such pool in such fiscal year, re-  
10 duced by

11                   “(ii) the Secretary’s estimate of the  
12 aggregate increase in Federal financial  
13 participation under this title for the fiscal  
14 year that will be attributable to the amend-  
15 ments made by section 2(b) of the  
16 Strengthening the Health Care Safety Net  
17 Act of 2009.

18           “(B) TREATMENT OF GRANT FUNDS.—  
19 Payments to a health access network under a  
20 grant under this subsection shall not be treated  
21 as a disproportionate share hospital payment  
22 adjustments under this section and shall not be  
23 counted against the DSH allotment for any  
24 State.

1           “(C) NO STATE MATCHING REQUIRED.—  
2           Nothing in this subsection shall be construed as  
3           requiring a State to provide for any State  
4           matching funds to receive funds under this sub-  
5           section.

6           “(D) AVAILABILITY.—The amount of any  
7           grant to a health access network under this  
8           subsection shall remain available for expendi-  
9           ture under the grant through the end of the  
10          third fiscal year after the fiscal year in which  
11          the grant is made.”.

12          (d) CONFORMING DATE OF APPLICATION OF DSH  
13          HOSPITAL REQUIREMENT TO AVAILABILITY OF FUNDING  
14          FOR LOW DSH STATES.—Subsection (d)(2)(A)(ii) of such  
15          section is amended by inserting before the period at the  
16          end the following: “(or, in the case of a low DSH State  
17          described in subparagraph (B) or (C) of subsection (f)(5),  
18          the date of the enactment of the Strengthening the Safety  
19          Net Act of 2009)”.

20          (e) REPORTING USING UNIFIED REPORTING DOCU-  
21          MENT.—Not later than 60 days after the date of the en-  
22          actment of this Act, the Secretary of Health and Human  
23          Services shall develop a unified reporting document for all  
24          disproportionate share hospital (DSH) allocations and ex-  
25          penditures under section 1923 of the Social Security Act.

1 Beginning in fiscal year 2010 each State receiving a DSH  
2 allocation under such section shall be required by the Sec-  
3 retary to report all expenditures against the allocation  
4 using such unified reporting document. This requirement  
5 shall apply to States regardless of whether the DSH ex-  
6 penditures occur through a waiver.

7 (f) EFFECTIVE DATE.—The amendments made by  
8 this section shall apply beginning with fiscal year 2010.

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