

1 greater of such FMAP for the State for fiscal year
2 2008 or fiscal year 2009 shall be substituted for the
3 State's FMAP for fiscal year 2010, before the appli-
4 cation of this section; and

5 (3) fiscal year 2011 is less than the FMAP as
6 so determined for fiscal year 2008, fiscal year 2009
7 (after the application of paragraph (1)), or fiscal
8 year 2010 (after the application of paragraph (2)),
9 the greatest of such FMAP for the State for fiscal
10 year 2008, fiscal year 2009, or fiscal year 2010 shall
11 be substituted for the State's FMAP for fiscal year
12 2011, before the application of this section, but only
13 for the first calendar quarter in fiscal year 2011.

14 (b) GENERAL 4.9 PERCENTAGE POINT INCREASE.—

15 (1) IN GENERAL.—Subject to subsections (e),
16 (f), and (g) and paragraph (2), for each State for
17 calendar quarters during the recession adjustment
18 period (as defined in subsection (h)(2)), the FMAP
19 (after the application of subsection (a)) shall be in-
20 creased (without regard to any limitation otherwise
21 specified in section 1905(b) of the Social Security
22 Act) by 4.9 percentage points.

23 (2) SPECIAL ELECTION FOR TERRITORIES.—In
24 the case of a State that is not one of the 50 States
25 or the District of Columbia, paragraph (1) shall only

1 apply if the State makes a one-time election, in a
2 form and manner specified by the Secretary and for
3 the entire recession adjustment period, to apply the
4 increase in FMAP under paragraph (1) and a 10
5 percent increase under subsection (d) instead of ap-
6 plying a 20 percent increase under subsection (d).

7 (c) ADDITIONAL ADJUSTMENT TO REFLECT IN-
8 CREASE IN UNEMPLOYMENT.—

9 (1) IN GENERAL.—Subject to subsections (e),
10 (f), and (g), in the case of a State that is a high
11 unemployment State (as defined in paragraph (2))
12 for a calendar quarter during the recession adjust-
13 ment period, the FMAP (taking into account the ap-
14 plication of subsections (a) and (b)) for such quarter
15 shall be further increased by the high unemployment
16 percentage point adjustment specified in paragraph
17 (3) for the State for the quarter.

18 (2) HIGH UNEMPLOYMENT STATE.—

19 (A) IN GENERAL.—In this subsection, sub-
20 ject to subparagraph (B), the term “high unem-
21 ployment State” means, with respect to a cal-
22 endar quarter in the recession adjustment pe-
23 riod, a State that is 1 of the 50 States or the
24 District of Columbia and for which the State
25 unemployment increase percentage (as com-

1 puted under paragraph (5)) for the quarter is
2 not less than 1.5 percentage points.

3 (B) MAINTENANCE OF STATUS.—If a
4 State is a high unemployment State for a cal-
5 endar quarter, it shall remain a high unemploy-
6 ment State for each subsequent calendar quar-
7 ter ending before July 1, 2010.

8 (3) HIGH UNEMPLOYMENT PERCENTAGE POINT
9 ADJUSTMENT.—

10 (A) IN GENERAL.—The high unemploy-
11 ment percentage point adjustment specified in
12 this paragraph for a high unemployment State
13 for a quarter is equal to the product of—

14 (i) the SMAP for such State and
15 quarter (determined after the application
16 of subsection (a) and before the application
17 of subsection (b)); and

18 (ii) subject to subparagraph (B), the
19 State unemployment reduction factor spec-
20 ified in paragraph (4) for the State and
21 quarter.

22 (B) MAINTENANCE OF ADJUSTMENT
23 LEVEL FOR CERTAIN QUARTERS.—In no case
24 shall the State unemployment reduction factor
25 applied under subparagraph (A)(ii) for a State

1 for a quarter (beginning on or after January 1,
2 2009, and ending before July 1, 2010) be less
3 than the State unemployment reduction factor
4 applied to the State for the previous quarter
5 (taking into account the application of this sub-
6 paragraph).

7 (4) STATE UNEMPLOYMENT REDUCTION FAC-
8 TOR.—In the case of a high unemployment State for
9 which the State unemployment increase percentage
10 (as computed under paragraph (5)) with respect to
11 a calendar quarter is—

12 (A) not less than 1.5, but is less than 2.5,
13 percentage points, the State unemployment re-
14 duction factor for the State and quarter is 6
15 percent;

16 (B) not less than 2.5, but is less than 3.5,
17 percentage points, the State unemployment re-
18 duction factor for the State and quarter is 12
19 percent; or

20 (C) not less than 3.5 percentage points,
21 the State unemployment reduction factor for
22 the State and quarter is 14 percent.

23 (5) COMPUTATION OF STATE UNEMPLOYMENT
24 INCREASE PERCENTAGE.—

1 (A) IN GENERAL.—In this subsection, the
2 “State unemployment increase percentage” for
3 a State for a calendar quarter is equal to the
4 number of percentage points (if any) by
5 which—

6 (i) the average monthly unemployment
7 rate for the State for months in the most
8 recent previous 3-consecutive-month period
9 for which data are available, subject to
10 subparagraph (C); exceeds

11 (ii) the lowest average monthly unem-
12 ployment rate for the State for any 3-con-
13 secutive-month period preceding the period
14 described in clause (i) and beginning on or
15 after January 1, 2006.

16 (B) AVERAGE MONTHLY UNEMPLOYMENT
17 RATE DEFINED.—In this paragraph, the term
18 “average monthly unemployment rate” means
19 the average of the monthly number unemployed,
20 divided by the average of the monthly civilian
21 labor force, seasonally adjusted, as determined
22 based on the most recent monthly publications
23 of the Bureau of Labor Statistics of the De-
24 partment of Labor.

25 (C) SPECIAL RULE.—With respect to—

1 (i) the first 2 calendar quarters of the
2 recession adjustment period, the most re-
3 cent previous 3-consecutive-month period
4 described in subparagraph (A)(i) shall be
5 the 3-consecutive-month period beginning
6 with October 2008; and

7 (ii) the last 2 calendar quarters of the
8 recession adjustment period, the most re-
9 cent previous 3-consecutive-month period
10 described in such subparagraph shall be
11 the 3-consecutive-month period beginning
12 with December 2009.

13 (d) INCREASE IN CAP ON MEDICAID PAYMENTS TO
14 TERRITORIES.—Subject to subsections (f) and (g) , with
15 respect to entire fiscal years occurring during the reces-
16 sion adjustment period and with respect to fiscal years
17 only a portion of which occurs during such period (and
18 in proportion to the portion of the fiscal year that occurs
19 during such period), the amounts otherwise determined for
20 Puerto Rico, the Virgin Islands, Guam, the Northern Mar-
21 iana Islands, and American Samoa under subsections (f)
22 and (g) of section 1108 of the Social Security Act (42
23 U.S.C. 1308) shall each be increased by 20 percent (or,
24 in the case of an election under subsection (b)(2), 10 per-
25 cent).

1 (e) SCOPE OF APPLICATION.—The increases in the
2 FMAP for a State under this section shall apply for pur-
3 poses of title XIX of the Social Security Act and—

4 (1) the increases applied under subsections (a),
5 (b), and (c) shall not apply with respect—

6 (A) to payments under parts A, B, and D
7 of title IV or title XXI of such Act (42 U.S.C.
8 601 et seq. and 1397aa et seq.);

9 (B) to payments under title XIX of such
10 Act that are based on the enhanced FMAP de-
11 scribed in section 2105(b) of such Act (42
12 U.S.C. 1397ee(b)); and

13 (C) to payments for disproportionate share
14 hospital (DSH) payment adjustments under
15 section 1923 of such Act (42 U.S.C. 1396r-4);
16 and

17 (2) the increase provided under subsection (c)
18 shall not apply with respect to payments under part
19 E of title IV of such Act.

20 (f) STATE INELIGIBILITY AND LIMITATION.—

21 (1) IN GENERAL.—Subject to paragraphs (2)
22 and (3), a State is not eligible for an increase in its
23 FMAP under subsection (a), (b), or (c), or an in-
24 crease in a cap amount under subsection (d), if eligi-
25 bility standards, methodologies, or procedures under

1 its State plan under title XIX of the Social Security
2 Act (including any waiver under such title or under
3 section 1115 of such Act (42 U.S.C. 1315)) are
4 more restrictive than the eligibility standards, meth-
5 odologies, or procedures, respectively, under such
6 plan (or waiver) as in effect on July 1, 2008.

7 (2) STATE REINSTATEMENT OF ELIGIBILITY
8 PERMITTED.—Subject to paragraph (3), a State that
9 has restricted eligibility standards, methodologies, or
10 procedures under its State plan under title XIX of
11 the Social Security Act (including any waiver under
12 such title or under section 1115 of such Act (42
13 U.S.C. 1315)) after July 1, 2008, is no longer ineli-
14 gible under paragraph (1) beginning with the first
15 calendar quarter in which the State has reinstated
16 eligibility standards, methodologies, or procedures
17 that are no more restrictive than the eligibility
18 standards, methodologies, or procedures, respec-
19 tively, under such plan (or waiver) as in effect on
20 July 1, 2008.

21 (3) SPECIAL RULES.—A State shall not be in-
22 eligible under paragraph (1)—

23 (A) before July 1, 2009, on the basis of a
24 restriction that was applied after July 1, 2008,

1 and before the date of the enactment of this
2 Act; or

3 (B) on the basis of a restriction that was
4 effective under State law as of July 1, 2008,
5 and would have been in effect as of such date,
6 but for a delay (of not longer than 1 calendar
7 quarter) in the approval of a request for a new
8 waiver under section 1115 of such Act with re-
9 spect to such restriction.

10 (4) STATE'S APPLICATION TOWARD RAINY DAY
11 FUND.—A State is not eligible for an increase in its
12 FMAP under subsection (b) or (c), or an increase in
13 a cap amount under subsection (d), if any amounts
14 attributable (directly or indirectly) to such increase
15 are deposited or credited into any reserve or rainy
16 day fund of the State.

17 (5) RULE OF CONSTRUCTION.—Nothing in
18 paragraph (1) or (2) shall be construed as affecting
19 a State's flexibility with respect to benefits offered
20 under the State Medicaid program under title XIX
21 of the Social Security Act (42 U.S.C. 1396 et seq.)
22 (including any waiver under such title or under sec-
23 tion 1115 of such Act (42 U.S.C. 1315)).

24 (6) NO WAIVER AUTHORITY.—The Secretary
25 may not waive the application of this subsection or

1 subsection (g) under section 1115 of the Social Se-
2 curity Act or otherwise.

3 (g) REQUIREMENT FOR CERTAIN STATES.—In the
4 case of a State that requires political subdivisions within
5 the State to contribute toward the non-Federal share of
6 expenditures under the State Medicaid plan required
7 under section 1902(a)(2) of the Social Security Act (42
8 U.S.C. 1396a(a)(2)), the State is not eligible for an in-
9 crease in its FMAP under subsection (a), (b), or (c), or
10 an increase in a cap amount under subsection (d), if it
11 requires that such political subdivisions pay a greater per-
12 centage of the non-Federal share of such expenditures for
13 quarters during the recession adjustment period, than the
14 percentage that would have been required by the State
15 under such plan on September 30, 2008, prior to applica-
16 tion of this section.

17 (h) DEFINITIONS.—In this section, except as other-
18 wise provided:

19 (1) FMAP.—The term “FMAP” means the
20 Federal medical assistance percentage, as defined in
21 section 1905(b) of the Social Security Act (42
22 U.S.C. 1396d(b)), as determined without regard to
23 this section except as otherwise specified.

24 (2) RECESSION ADJUSTMENT PERIOD.—The
25 term “recession adjustment period” means the pe-

1 riod beginning on October 1, 2008, and ending on
2 December 31, 2010.

3 (3) SECRETARY.—The term “Secretary” means
4 the Secretary of Health and Human Services.

5 (4) SMAP.—The term “SMAP” means, for a
6 State, 100 percent minus the Federal medical assist-
7 ance percentage..

8 (5) STATE.—The term “State” has the mean-
9 ing given such term in section 1101(a)(1) of the So-
10 cial Security Act (42 U.S.C. 1301(a)(1)) for pur-
11 poses of title XIX of the Social Security Act (42
12 U.S.C. 1396 et seq.).

13 (i) SUNSET.—This section shall not apply to items
14 and services furnished after the end of the recession ad-
15 justment period.

16 **SEC. 5002. MORATORIA ON CERTAIN REGULATIONS.**

17 (a) EXTENSION OF MORATORIA ON CERTAIN MED-
18 ICAID REGULATIONS.—The following sections are each
19 amended by striking “April 1, 2009” and inserting “July
20 1, 2009”:

21 (1) Section 7002(a)(1) of the U.S. Troop Read-
22 iness, Veterans’ Care, Katrina Recovery, and Iraq
23 Accountability Appropriations Act, 2007 (Public
24 Law 110–28), as amended by section 7001(a)(1) of

1 the Supplemental Appropriations Act, 2008 (Public
2 Law 110–252).

3 (2) Section 206 of the Medicare, Medicaid, and
4 SCHIP Extension Act of 2007 (Public Law 110-
5 173), as amended by section 7001(a)(2) of the Sup-
6 plemental Appropriations Act, 2008 (Public Law
7 110–252).

8 (3) Section 7001(a)(3)(A) of the Supplemental
9 Appropriations Act, 2008 (Public Law 110–252).

10 (b) **ADDITIONAL MEDICAID MORATORIUM.**—Not-
11 withstanding any other provision of law, with respect to
12 expenditures for services furnished during the period be-
13 ginning on December 8, 2008 and ending on June 30,
14 2009, the Secretary of Health and Human Services shall
15 not take any action (through promulgation of regulation,
16 issuance of regulatory guidance, use of Federal payment
17 audit procedures, or other administrative action, policy, or
18 practice, including a Medical Assistance Manual trans-
19 mittal or letter to State Medicaid directors) to implement
20 the final regulation relating to clarification of the defini-
21 tion of outpatient hospital facility services under the Med-
22 icaid program published on November 7, 2008 (73 Federal
23 Register 66187).

24 **SEC. 5003. TRANSITIONAL MEDICAID ASSISTANCE (TMA).**

25 (a) **18-MONTH EXTENSION.**—

1 (1) IN GENERAL.—Sections 1902(e)(1)(B) and
2 1925(f) of the Social Security Act (42 U.S.C.
3 1396a(e)(1)(B), 1396r–6(f)) are each amended by
4 striking “September 30, 2003” and inserting “De-
5 cember 31, 2010”.

6 (2) EFFECTIVE DATE.—The amendments made
7 by this subsection shall take effect on July 1, 2009.

8 (b) STATE OPTION OF INITIAL 12-MONTH ELIGI-
9 BILITY.—Section 1925 of the Social Security Act (42
10 U.S.C. 1396r–6) is amended—

11 (1) in subsection (a)(1), by inserting “but sub-
12 ject to paragraph (5)” after “Notwithstanding any
13 other provision of this title”;

14 (2) by adding at the end of subsection (a) the
15 following:

16 “(5) OPTION OF 12-MONTH INITIAL ELIGIBILITY
17 PERIOD.—A State may elect to treat any reference
18 in this subsection to a 6-month period (or 6 months)
19 as a reference to a 12-month period (or 12 months).
20 In the case of such an election, subsection (b) shall
21 not apply.”; and

22 (3) in subsection (b)(1), by inserting “but sub-
23 ject to subsection (a)(5)” after “Notwithstanding
24 any other provision of this title”.

1 (c) REMOVAL OF REQUIREMENT FOR PREVIOUS RE-
2 CEIPT OF MEDICAL ASSISTANCE.—Section 1925(a)(1) of
3 such Act (42 U.S.C. 1396r–6(a)(1)), as amended by sub-
4 section (b)(1), is further amended—

5 (1) by inserting “subparagraph (B) and” before
6 “paragraph (5)”;

7 (2) by redesignating the matter after “RE-
8 QUIREMENT.—” as a subparagraph (A) with the
9 heading “IN GENERAL.—” and with the same inden-
10 tation as subparagraph (B) (as added by paragraph
11 (3)); and

12 (3) by adding at the end the following:

13 “(B) STATE OPTION TO WAIVE REQUIRE-
14 MENT FOR 3 MONTHS BEFORE RECEIPT OF
15 MEDICAL ASSISTANCE.—A State may, at its op-
16 tion, elect also to apply subparagraph (A) in
17 the case of a family that was receiving such aid
18 for fewer than three months or that had applied
19 for and was eligible for such aid for fewer than
20 3 months during the 6 immediately preceding
21 months described in such subparagraph.”.

22 (d) CMS REPORT ON ENROLLMENT AND PARTICIPA-
23 TION RATES UNDER TMA.—Section 1925 of such Act (42
24 U.S.C. 1396r–6), as amended by this section, is further

1 amended by adding at the end the following new sub-
2 section:

3 “(g) COLLECTION AND REPORTING OF PARTICIPA-
4 TION INFORMATION.—

5 “(1) COLLECTION OF INFORMATION FROM
6 STATES.—Each State shall collect and submit to the
7 Secretary (and make publicly available), in a format
8 specified by the Secretary, information on average
9 monthly enrollment and average monthly participa-
10 tion rates for adults and children under this section
11 and of the number and percentage of children who
12 become ineligible for medical assistance under this
13 section whose medical assistance is continued under
14 another eligibility category or who are enrolled under
15 the State’s child health plan under title XXI. Such
16 information shall be submitted at the same time and
17 frequency in which other enrollment information
18 under this title is submitted to the Secretary.

19 “(2) ANNUAL REPORTS TO CONGRESS.—Using
20 the information submitted under paragraph (1), the
21 Secretary shall submit to Congress annual reports
22 concerning enrollment and participation rates de-
23 scribed in such paragraph.”.

1 (e) EFFECTIVE DATE.—The amendments made by
2 subsections (b) through (d) shall take effect on July 1,
3 2009.

4 **SEC. 5004. STATE ELIGIBILITY OPTION FOR FAMILY PLAN-**
5 **NING SERVICES.**

6 (a) COVERAGE AS OPTIONAL CATEGORICALLY
7 NEEDY GROUP.—

8 (1) IN GENERAL.—Section 1902(a)(10)(A)(ii)
9 of the Social Security Act (42 U.S.C.
10 1396a(a)(10)(A)(ii)), as amended by section 3003(a)
11 of the Health Insurance Assistance for the Unem-
12 ployed Act of 2009, is amended—

13 (A) in subclause (XIX), by striking “or” at
14 the end;

15 (B) in subclause (XX), by adding “or” at
16 the end; and

17 (C) by adding at the end the following new
18 subclause:

19 “(XXI) who are described in subsection (ee)
20 (relating to individuals who meet certain income
21 standards);”.

22 (2) GROUP DESCRIBED.—Section 1902 of such
23 Act (42 U.S.C. 1396a), as amended by section
24 3003(a) of the Health Insurance Assistance for the

1 Unemployed Act of 2009, is amended by adding at
2 the end the following new subsection:

3 “(ee)(1) Individuals described in this subsection are
4 individuals—

5 “(A) whose income does not exceed an in-
6 come eligibility level established by the State
7 that does not exceed the highest income eligi-
8 bility level established under the State plan
9 under this title (or under its State child health
10 plan under title XXI) for pregnant women; and

11 “(B) who are not pregnant.

12 “(2) At the option of a State, individuals de-
13 scribed in this subsection may include individuals
14 who, had individuals applied on or before January 1,
15 2007, would have been made eligible pursuant to the
16 standards and processes imposed by that State for
17 benefits described in clause (XV) of the matter fol-
18 lowing subparagraph (G) of section subsection
19 (a)(10) pursuant to a waiver granted under section
20 1115.

21 “(3) At the option of a State, for purposes of
22 subsection (a)(17)(B), in determining eligibility for
23 services under this subsection, the State may con-
24 sider only the income of the applicant or recipient.”.

1 (3) LIMITATION ON BENEFITS.—Section
2 1902(a)(10) of the Social Security Act (42 U.S.C.
3 1396a(a)(10)) is amended in the matter following
4 subparagraph (G)—

5 (A) by striking “and (XIV)” and inserting
6 “(XIV)”; and

7 (B) by inserting “, and (XV) the medical
8 assistance made available to an individual de-
9 scribed in subsection (ee) shall be limited to
10 family planning services and supplies described
11 in section 1905(a)(4)(C) including medical di-
12 agnosis and treatment services that are pro-
13 vided pursuant to a family planning service in
14 a family planning setting” after “cervical can-
15 cer”.

16 (4) CONFORMING AMENDMENTS.—Section
17 1905(a) of the Social Security Act (42 U.S.C.
18 1396d(a)), as amended by section 3003(c)(2) of the
19 Health Insurance Assistance for the Unemployed
20 Act of 2009, is amended in the matter preceding
21 paragraph (1)—

22 (A) in clause (xiii), by striking “or” at the
23 end;

24 (B) in clause (xiv), by adding “or” at the
25 end; and

1 (C) by inserting after clause (xiii) the fol-
2 lowing:

3 “(xv) individuals described in section
4 1902(ee),”.

5 (b) PRESUMPTIVE ELIGIBILITY.—

6 (1) IN GENERAL.—Title XIX of the Social Se-
7 curity Act (42 U.S.C. 1396 et seq.) is amended by
8 inserting after section 1920B the following:

9 “PRESUMPTIVE ELIGIBILITY FOR FAMILY PLANNING
10 SERVICES

11 “SEC. 1920C. (a) STATE OPTION.—State plan ap-
12 proved under section 1902 may provide for making med-
13 ical assistance available to an individual described in sec-
14 tion 1902(ee) (relating to individuals who meet certain in-
15 come eligibility standard) during a presumptive eligibility
16 period. In the case of an individual described in section
17 1902(ee), such medical assistance shall be limited to fam-
18 ily planning services and supplies described in
19 1905(a)(4)(C) and, at the State’s option, medical diag-
20 nosis and treatment services that are provided in conjunc-
21 tion with a family planning service in a family planning
22 setting.

23 “(b) DEFINITIONS.—For purposes of this section:

24 “(1) PRESUMPTIVE ELIGIBILITY PERIOD.—The
25 term ‘presumptive eligibility period’ means, with re-

1 spect to an individual described in subsection (a),
2 the period that—

3 “(A) begins with the date on which a
4 qualified entity determines, on the basis of pre-
5 liminary information, that the individual is de-
6 scribed in section 1902(ee); and

7 “(B) ends with (and includes) the earlier
8 of—

9 “(i) the day on which a determination
10 is made with respect to the eligibility of
11 such individual for services under the State
12 plan; or

13 “(ii) in the case of such an individual
14 who does not file an application by the last
15 day of the month following the month dur-
16 ing which the entity makes the determina-
17 tion referred to in subparagraph (A), such
18 last day.

19 “(2) QUALIFIED ENTITY.—

20 “(A) IN GENERAL.—Subject to subpara-
21 graph (B), the term ‘qualified entity’ means
22 any entity that—

23 “(i) is eligible for payments under a
24 State plan approved under this title; and

1 “(ii) is determined by the State agen-
2 cy to be capable of making determinations
3 of the type described in paragraph (1)(A).

4 “(B) RULE OF CONSTRUCTION.—Nothing
5 in this paragraph shall be construed as pre-
6 venting a State from limiting the classes of en-
7 tities that may become qualified entities in
8 order to prevent fraud and abuse.

9 “(c) ADMINISTRATION.—

10 “(1) IN GENERAL.—The State agency shall pro-
11 vide qualified entities with—

12 “(A) such forms as are necessary for an
13 application to be made by an individual de-
14 scribed in subsection (a) for medical assistance
15 under the State plan; and

16 “(B) information on how to assist such in-
17 dividuals in completing and filing such forms.

18 “(2) NOTIFICATION REQUIREMENTS.—A quali-
19 fied entity that determines under subsection
20 (b)(1)(A) that an individual described in subsection
21 (a) is presumptively eligible for medical assistance
22 under a State plan shall—

23 “(A) notify the State agency of the deter-
24 mination within 5 working days after the date
25 on which determination is made; and

1 “(B) inform such individual at the time
2 the determination is made that an application
3 for medical assistance is required to be made by
4 not later than the last day of the month fol-
5 lowing the month during which the determina-
6 tion is made.

7 “(3) APPLICATION FOR MEDICAL ASSIST-
8 ANCE.—In the case of an individual described in
9 subsection (a) who is determined by a qualified enti-
10 ty to be presumptively eligible for medical assistance
11 under a State plan, the individual shall apply for
12 medical assistance by not later than the last day of
13 the month following the month during which the de-
14 termination is made.

15 “(d) PAYMENT.—Notwithstanding any other provi-
16 sion of law, medical assistance that—

17 “(1) is furnished to an individual described in
18 subsection (a)—

19 “(A) during a presumptive eligibility pe-
20 riod;

21 “(B) by a entity that is eligible for pay-
22 ments under the State plan; and

23 “(2) is included in the care and services covered
24 by the State plan,

1 shall be treated as medical assistance provided by such
2 plan for purposes of clause (4) of the first sentence of
3 section 1905(b).”.

4 (2) CONFORMING AMENDMENTS.—

5 (A) Section 1902(a)(47) of the Social Se-
6 curity Act (42 U.S.C. 1396a(a)(47)) is amend-
7 ed by inserting before the semicolon at the end
8 the following: “and provide for making medical
9 assistance available to individuals described in
10 subsection (a) of section 1920C during a pre-
11 sumptive eligibility period in accordance with
12 such section”.

13 (B) Section 1903(u)(1)(D)(v) of such Act
14 (42 U.S.C. 1396b(u)(1)(D)(v)) is amended—

15 (i) by striking “or for” and inserting
16 “for”; and

17 (ii) by inserting before the period the
18 following: “, or for medical assistance pro-
19 vided to an individual described in sub-
20 section (a) of section 1920C during a pre-
21 sumptive eligibility period under such sec-
22 tion”.

23 (c) CLARIFICATION OF COVERAGE OF FAMILY PLAN-
24 NING SERVICES AND SUPPLIES.—Section 1937(b) of the

1 Social Security Act (42 U.S.C. 1396u–7(b)) is amended
2 by adding at the end the following:

3 “(5) COVERAGE OF FAMILY PLANNING SERV-
4 ICES AND SUPPLIES.—Notwithstanding the previous
5 provisions of this section, a State may not provide
6 for medical assistance through enrollment of an indi-
7 vidual with benchmark coverage or benchmark-equiv-
8 alent coverage under this section unless such cov-
9 erage includes for any individual described in section
10 1905(a)(4)(C), medical assistance for family plan-
11 ning services and supplies in accordance with such
12 section.”.

13 (d) EFFECTIVE DATE.—The amendments made by
14 this section take effect on the date of the enactment of
15 this Act and shall apply to items and services furnished
16 on or after such date.

17 **SEC. 5005. PROTECTIONS FOR INDIANS UNDER MEDICAID**
18 **AND CHIP.**

19 (a) PREMIUMS AND COST SHARING PROTECTION
20 UNDER MEDICAID.—

21 (1) IN GENERAL.—Section 1916 of the Social
22 Security Act (42 U.S.C. 1396o) is amended—

23 (A) in subsection (a), in the matter pre-
24 ceding paragraph (1), by striking “and (i)” and
25 inserting “, (i), and (j)”; and

1 (B) by adding at the end the following new
2 subsection:

3 “(j) NO PREMIUMS OR COST SHARING FOR INDIANS
4 FURNISHED ITEMS OR SERVICES DIRECTLY BY INDIAN
5 HEALTH PROGRAMS OR THROUGH REFERRAL UNDER
6 CONTRACT HEALTH SERVICES.—

7 “(1) NO COST SHARING FOR ITEMS OR SERV-
8 ICES FURNISHED TO INDIANS THROUGH INDIAN
9 HEALTH PROGRAMS.—

10 “(A) IN GENERAL.—No enrollment fee,
11 premium, or similar charge, and no deduction,
12 copayment, cost sharing, or similar charge shall
13 be imposed against an Indian who is furnished
14 an item or service directly by the Indian Health
15 Service, an Indian Tribe, Tribal Organization,
16 or Urban Indian Organization or through refer-
17 ral under contract health services for which
18 payment may be made under this title.

19 “(B) NO REDUCTION IN AMOUNT OF PAY-
20 MENT TO INDIAN HEALTH PROVIDERS.—Pay-
21 ment due under this title to the Indian Health
22 Service, an Indian Tribe, Tribal Organization,
23 or Urban Indian Organization, or a health care
24 provider through referral under contract health
25 services for the furnishing of an item or service

1 to an Indian who is eligible for assistance under
2 such title, may not be reduced by the amount
3 of any enrollment fee, premium, or similar
4 charge, or any deduction, copayment, cost shar-
5 ing, or similar charge that would be due from
6 the Indian but for the operation of subpara-
7 graph (A).

8 “(2) RULE OF CONSTRUCTION.—Nothing in
9 this subsection shall be construed as restricting the
10 application of any other limitations on the imposi-
11 tion of premiums or cost sharing that may apply to
12 an individual receiving medical assistance under this
13 title who is an Indian.”.

14 (2) CONFORMING AMENDMENT.—Section
15 1916A(b)(3) of such Act (42 U.S.C. 1396o–1(b)(3))
16 is amended—

17 (A) in subparagraph (A), by adding at the
18 end the following new clause:

19 “(vi) An Indian who is furnished an
20 item or service directly by the Indian
21 Health Service, an Indian Tribe, Tribal
22 Organization or Urban Indian Organiza-
23 tion or through referral under contract
24 health services.”; and

1 (B) in subparagraph (B), by adding at the
2 end the following new clause:

3 “(ix) Items and services furnished to
4 an Indian directly by the Indian Health
5 Service, an Indian Tribe, Tribal Organiza-
6 tion or Urban Indian Organization or
7 through referral under contract health
8 services.”.

9 (3) EFFECTIVE DATE.—The amendments made
10 by this subsection shall take effect on October 1,
11 2009.

12 (b) TREATMENT OF CERTAIN PROPERTY FROM RE-
13 SOURCES FOR MEDICAID AND CHIP ELIGIBILITY.—

14 (1) MEDICAID.—Section 1902 of the Social Se-
15 curity Act (42 U.S.C. 1396a), as amended by sec-
16 tion 3003(a) of the Health Insurance Assistance for
17 the Unemployed Act of 2009 and section 5004, is
18 amended by adding at the end the following new
19 subsection:

20 “(ff) Notwithstanding any other requirement of this
21 title or any other provision of Federal or State law, a State
22 shall disregard the following property from resources for
23 purposes of determining the eligibility of an individual who
24 is an Indian for medical assistance under this title:

1 “(1) Property, including real property and im-
2 provements, that is held in trust, subject to Federal
3 restrictions, or otherwise under the supervision of
4 the Secretary of the Interior, located on a reserva-
5 tion, including any federally recognized Indian
6 Tribe’s reservation, pueblo, or colony, including
7 former reservations in Oklahoma, Alaska Native re-
8 gions established by the Alaska Native Claims Set-
9 tlement Act, and Indian allotments on or near a res-
10 ervation as designated and approved by the Bureau
11 of Indian Affairs of the Department of the Interior.

12 “(2) For any federally recognized Tribe not de-
13 scribed in paragraph (1), property located within the
14 most recent boundaries of a prior Federal reserva-
15 tion.

16 “(3) Ownership interests in rents, leases, royalti-
17 es, or usage rights related to natural resources (in-
18 cluding extraction of natural resources or harvesting
19 of timber, other plants and plant products, animals,
20 fish, and shellfish) resulting from the exercise of fed-
21 erally protected rights.

22 “(4) Ownership interests in or usage rights to
23 items not covered by paragraphs (1) through (3)
24 that have unique religious, spiritual, traditional, or
25 cultural significance or rights that support subsist-

1 ence or a traditional lifestyle according to applicable
2 tribal law or custom.”.

3 (2) APPLICATION TO CHIP.—Section 2107(e)(1)
4 of such Act (42 U.S.C. 1397gg(e)(1)) is amended by
5 adding at the end the following new subparagraph:

6 “(E) Section 1902(ff) (relating to dis-
7 regard of certain property for purposes of mak-
8 ing eligibility determinations).”.

9 (c) CONTINUATION OF CURRENT LAW PROTECTIONS
10 OF CERTAIN INDIAN PROPERTY FROM MEDICAID ESTATE
11 RECOVERY.—Section 1917(b)(3) of the Social Security
12 Act (42 U.S.C. 1396p(b)(3)) is amended—

13 (1) by inserting “(A)” after “(3)”; and

14 (2) by adding at the end the following new sub-
15 paragraph:

16 “(B) The standards specified by the Sec-
17 retary under subparagraph (A) shall require
18 that the procedures established by the State
19 agency under subparagraph (A) exempt income,
20 resources, and property that are exempt from
21 the application of this subsection as of April 1,
22 2003, under manual instructions issued to carry
23 out this subsection (as in effect on such date)
24 because of the Federal responsibility for Indian
25 Tribes and Alaska Native Villages. Nothing in

1 (1) MEDICAID STATE PLAN AMENDMENT.—Sec-
2 tion 1902(a) of the Social Security Act (42 U.S.C.
3 1396a(a)) is amended—

4 (A) in paragraph (70), by striking “and”
5 at the end;

6 (B) in paragraph (71), by striking the pe-
7 riod at the end and inserting “; and”; and

8 (C) by inserting after paragraph (71), the
9 following new paragraph:

10 “(72) in the case of any State in which 1 or
11 more Indian Health Programs or Urban Indian Or-
12 ganizations furnishes health care services, provide
13 for a process under which the State seeks advice on
14 a regular, ongoing basis from designees of such In-
15 dian Health Programs and Urban Indian Organiza-
16 tions on matters relating to the application of this
17 title that are likely to have a direct effect on such
18 Indian Health Programs and Urban Indian Organi-
19 zations and that—

20 “(A) shall include solicitation of advice
21 prior to submission of any plan amendments,
22 waiver requests, and proposals for demonstra-
23 tion projects likely to have a direct effect on In-
24 dians, Indian Health Programs, or Urban In-
25 dian Organizations; and

1 (1) in subparagraph (A), by striking “para-
2 graph (6)” and inserting “paragraph (6) and sub-
3 paragraph (E)”; and

4 (2) by adding at the end the following new sub-
5 paragraph:

6 “(E) TEMPORARY INCREASE IN ALLOT-
7 MENTS DURING RECESSION.—

8 “(i) IN GENERAL.—Subject to clause
9 (ii), the DSH allotment for any State—

10 “(I) for fiscal year 2009 is equal
11 to 102.5 percent of the DSH allot-
12 ment that would be determined under
13 this paragraph for the State for fiscal
14 year 2009 without application of this
15 subparagraph, notwithstanding sub-
16 paragraph (B);

17 “(II) for fiscal year 2010 is equal
18 to 102.5 percent of the the DSH al-
19 lotment for the State for fiscal year
20 2009, as determined under subclause
21 (I); and

22 “(III) for each succeeding fiscal
23 year is equal to the DSH allotment
24 for the State under this paragraph de-

1 terminated without applying subclauses
2 (I) and (II).

3 “(ii) APPLICATION.—Clause (i) shall
4 not apply to a State for a year in the case
5 that the DSH allotment for such State for
6 such year under this paragraph determined
7 without applying clause (i) would grow
8 higher than the DSH allotment specified
9 under clause (i) for the State for such
10 year.”.

