



RESOLUTION 2008- 35

RESOLUTION IN SUPPORT OF HR 4598, REMOVING THE INMATE LIMITATIONS FROM MEDICAID, MEDICARE, AND SSI BENEFITS FOR PERSONS IN CUSTODY PENDING DISPOSITION OF CHARGES.

WHEREAS, the U.S. Code of Federal Regulations, Title 42, Part 435.1008 states that federal financial participation (FFP) is not available in expenditures for services provided to individuals who are inmates of public institutions, and

WHEREAS, States being unable to assume federal share of providing medical services to FFP eligible persons being held in county jails and detention facilities, tend to terminate and sometimes suspend eligibility, and

WHEREAS, this immediate cessation of benefits occurs prior to the issuance of formal charges or conviction, and

WHEREAS, as the result of this regulation to immediately cease FFP for medical benefits, all costs of medical care must be borne solely by counties:

WHEREAS, counties must provide medical services to all persons incarcerated in local jails and detention facilities, and

WHEREAS, between the time when Medicaid Managed Care was implemented in New Mexico in 1997 and the spring of 2001, over 60 mental health care facilities closed their doors, and

WHEREAS, detention facilities' mental and medical costs have sharply increased with the closure of the more that 60 public mental health care facilities since the closures inadvertently moved those mental health patients to detention facilities that lacked sufficient mental health care resources

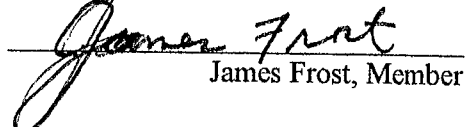
NOW THEREFORE, BE IT RESOLVED, that the Torrance County Board of County Commissioners requests and strongly urges Congress to amend necessary federal statutes to allow federal financial participation for medical benefits to incarcerated individuals until convicted and sentenced to secure detention.

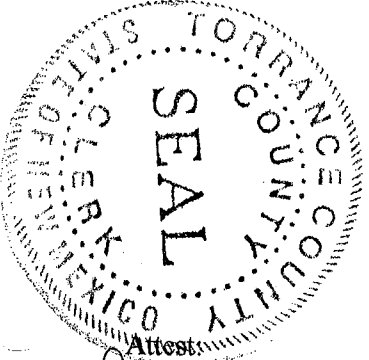
PASSED, APPROVED AND ADOPTED this 14th day of May, 2008.

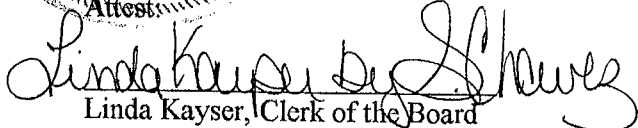
TORRANCE COUNTY COMMISSION


Leroy Candelaria, Chairman


Paul M. (Tito) Chavez, Member


James Frost, Member




Linda Kayser, Clerk of the Board

.....
(Original Signature of Member)

110TH CONGRESS
2D SESSION

H. R. _____

To amend titles XVI, XVIII, XIX, and XXI of the Social Security Act to remove inmate limitations on Medicaid, Medicare, SSI, and SCHIP benefits for persons in custody pending disposition of charges.

IN THE HOUSE OF REPRESENTATIVES

Mr. HASTINGS of Florida (for himself, Mr. HOLT, and Mr. BURGESS) introduced the following bill; which was referred to the Committee on

A BILL

To amend titles XVI, XVIII, XIX, and XXI of the Social Security Act to remove inmate limitations on Medicaid, Medicare, SSI, and SCHIP benefits for persons in custody pending disposition of charges.

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 “Restoring the Partner-
5 ship for County Health Care Costs Act of 2008”.

1 **SEC. 2. FINDINGS.**

2 Congress makes the following findings:

3 (1) The presumption of innocence is integral to
4 the Anglo-Saxon legal tradition and the American
5 criminal justice system.

6 (2) Terminating benefits to inmates of county
7 jails to prevent criminals from receiving Federal
8 benefits violates the presumption of innocence, be-
9 cause it does not distinguish between persons await-
10 ing disposition of charges and those who have been
11 duly convicted and sentenced.

12 (3) The United States Supreme Court ruled in
13 *Estelle v. Gamble*, 429 U.S. 97 (1976) that jail in-
14 mates are guaranteed health care under the Con-
15 stitution.

16 (4) Fulfilling the constitutional obligations
17 under *Estelle* to provide health care for inmates con-
18 stitutes a major portion of local jail operating costs.

19 (5) Many people charged with crimes and
20 awaiting trial are released upon posting of bond, re-
21 leased on their own recognizance, released under
22 house arrest or other alternative means of detention.
23 These individuals continue to be eligible for benefits
24 under Medicare, Medicaid, or Supplemental Security
25 Income while awaiting trial. Some individuals who
26 are charged with crimes and incarcerated in county

1 jails are ultimately acquitted of the crime or the
2 charges may be dropped and the individual released.

3 (6) Otherwise eligible individuals who have been
4 charged with a crime and incarcerated, but not con-
5 victed, should continue to be eligible for Federal
6 health benefits, such as Medicare, Medicaid, or Sup-
7 plemental Security Income, until such time as they
8 may be convicted and sentenced to an institution.

9 **SEC. 3. REMOVAL OF INMATE LIMITATION ON BENEFITS**
10 **UNDER MEDICAID, MEDICARE, SSI, AND**
11 **SCHIP.**

12 (a) **MEDICAID.**—The subdivision (A) of section
13 1905(a) of the Social Security Act (42 U.S.C. 1396d(a))
14 that follows paragraph (28) is amended by inserting “or
15 in custody pending disposition of charges” after “patient
16 in a medical institution”.

17 (b) **MEDICARE.**—Section 1862(a)(3) of such Act (42
18 U.S.C. 1395y(a)(3)) is amended by inserting “in the case
19 of services furnished to individuals who are in custody
20 pending disposition of charges,” after “1880(e)”.

21 (c) **SSI.**—Section 1611(e)(1) of such Act (42 U.S.C.
22 1382(e)(1)) is amended by adding at the end the following
23 new subparagraph:

1 “(K) As used in subparagraph (A), the term ‘inmate
2 of a public institution’ does not include an individual who
3 is in custody pending disposition of charges.”.

4 (d) SCHIP.—Section 2110(b)(1) of such Act (42
5 U.S.C. 1397jj(b)(1)) is amended by inserting “(except as
6 an individual in custody pending disposition of charges)”
7 after “inmate of a public institution”.

8 (e) EFFECTIVE DATE.—The amendments made by
9 this section shall take effect on the first day of the first
10 calendar quarter beginning more than 60 days after the
11 date of the enactment of this Act and shall apply to items
12 and services furnished, and supplemental security income
13 benefits paid, for periods beginning on or after such date.