

107TH CONGRESS  
1ST SESSION

# S. 1471

To amend titles XIX and XXI of the Social Security Act to ensure that children enrolled in the medicaid and State children's health insurance program are identified and treated for lead poisoning.

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## IN THE SENATE OF THE UNITED STATES

SEPTEMBER 26, 2001

Mr. TORRICELLI (for himself, Mr. REED, Mrs. CLINTON, Mr. WELLSTONE, Mr. DURBIN, Mrs. CARNAHAN, and Mr. LIEBERMAN) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend titles XIX and XXI of the Social Security Act to ensure that children enrolled in the medicaid and State children's health insurance program are identified and treated for lead poisoning.

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 "Children's Lead  
5 Screening Accountability For Early-Intervention Act of  
6 2001" or the "Children's Lead SAFE Act".

1 **SEC. 2. FINDINGS AND PURPOSES.**

2 (a) FINDINGS.—Congress finds that—

3 (1) lead poisoning remains a serious environ-  
4 mental risk, especially to the health of young chil-  
5 dren;

6 (2) childhood lead poisoning can cause reduc-  
7 tions in IQ, attention span, reading, and learning  
8 disabilities, and other growth and behavior problems;

9 (3) children under the age of 6 are at the great-  
10 est risk of suffering the effects of lead poisoning be-  
11 cause of the sensitivity of their developing brains  
12 and nervous systems, while children under the age of  
13 3 are especially at risk due to their stage of develop-  
14 ment and hand-to-mouth activities;

15 (4) poor children and minority children are at  
16 substantially higher risk of lead poisoning;

17 (5) three-fourths of all children ages 1 through  
18 5 found to have an elevated blood lead level in a  
19 Centers for Disease Control and Prevention nation-  
20 ally representative sample were enrolled in or tar-  
21 geted by Federal health care programs, specifically  
22 the medicaid program, the special supplemental nu-  
23 trition program for women, infants, and children  
24 (WIC), and the community health centers programs  
25 under section 330 of the Public Health Service Act,

1 equating to an estimated 688,000 children nation-  
2 wide;

3 (6) the General Accounting Office estimates  
4 that  $\frac{2}{3}$  of the 688,000 children who have elevated  
5 blood lead levels and are enrolled in or targeted by  
6 Federal health care programs have never been  
7 screened for lead;

8 (7) although the Health Care Financing Admin-  
9 istration has required mandatory blood lead  
10 screenings for children enrolled in the medicaid pro-  
11 gram who are not less than 1 nor more than 5 years  
12 of age, less than 20 percent of these children have  
13 received such screenings;

14 (8) the Health Care Financing Administration  
15 mandatory screening policy has not been effective, or  
16 sufficient, to properly identify and screen children  
17 enrolled in the medicaid program who are at risk;

18 (9) only about  $\frac{1}{2}$  of State programs have  
19 screening policies consistent with Federal policy; and

20 (10) adequate treatment services are not uni-  
21 formly available for children with elevated blood lead  
22 levels.

23 (b) PURPOSE.—The purpose of this Act is to create  
24 a lead screening safety net that will, through the medicaid  
25 and State children's health insurance program, ensure

1 that children enrolled in those programs receive blood lead  
2 screenings and appropriate followup care.

3 **SEC. 3. INCREASED LEAD POISONING SCREENINGS AND**  
4 **TREATMENTS UNDER THE MEDICAID PRO-**  
5 **GRAM.**

6 (a) REPORTING REQUIREMENT.—Section  
7 1902(a)(43)(D) of the Social Security Act (42 U.S.C.  
8 1396a(a)(43)(D)) is amended—

9 (1) in clause (iii), by striking “and” at the end;

10 (2) in clause (iv), by striking the semicolon and  
11 inserting “, and”; and

12 (3) by adding at the end the following new  
13 clause:

14 “(v) the number of children who are  
15 under the age of 3 and enrolled in the  
16 State plan under this title and the number  
17 of those children who have received a blood  
18 lead screening test;”.

19 (b) MANDATORY SCREENING REQUIREMENTS.—Sec-  
20 tion 1902(a) of the Social Security Act (42 U.S.C.  
21 1396a(a)) is amended—

22 (1) in paragraph (64), by striking “and” at the  
23 end;

24 (2) in paragraph (65), by striking the period  
25 and inserting “; and”; and

1           (3) by inserting after paragraph (65) the fol-  
2           lowing new paragraph:

3           “(66) provide that each contract entered into  
4           between the State and an entity (including a health  
5           insuring organization and a medicaid managed care  
6           organization) that is responsible for the provision  
7           (directly or through arrangements with providers of  
8           services) of medical assistance under the State plan  
9           shall provide for—

10           “(A) compliance with mandatory blood  
11           lead screening requirements that are consistent  
12           with prevailing guidelines of the Centers for  
13           Disease Control and Prevention for such screen-  
14           ing; and

15           “(B) coverage of qualified lead treatment  
16           services described in section 1905(x) including  
17           diagnosis, treatment, and follow-up furnished  
18           for children with elevated blood lead levels in  
19           accordance with prevailing guidelines of the  
20           Centers for Disease Control and Prevention.”.

21           (c) REIMBURSEMENT FOR TREATMENT OF CHIL-  
22           DREN WITH ELEVATED BLOOD LEAD LEVELS.—Section  
23           1905 of the Social Security Act (42 U.S.C. 1396d) is  
24           amended—

25           (1) in subsection (a)—

1 (A) in paragraph (26), by striking “and”  
2 at the end;

3 (B) by redesignating paragraph (27) as  
4 paragraph (28); and

5 (C) by inserting after paragraph (26) the  
6 following new paragraph:

7 “(27) qualified lead treatment services (as de-  
8 fined in subsection (x)); and”; and

9 (2) by adding at the end the following new sub-  
10 section:

11 “(x)(1) In this subsection:

12 “(A) The term ‘qualified lead treatment serv-  
13 ices’ means the following:

14 “(i) Lead-related medical management, as  
15 defined in subparagraph (B).

16 “(ii) Lead-related case management, as de-  
17 fined in subparagraph (C), for a child described  
18 in paragraph (2).

19 “(iii) Lead-related anticipatory guidance,  
20 as defined in subparagraph (D), provided as  
21 part of—

22 “(I) prenatal services;

23 “(II) early and periodic screening, di-  
24 agnostic, and treatment services (EPSDT)  
25 described in subsection (r) and available

1 under subsection (a)(4)(B) (including as  
2 described and available under imple-  
3 menting regulations and guidelines) to in-  
4 dividuals enrolled in the State plan under  
5 this title who have not attained age 21;  
6 and

7 “(III) routine pediatric preventive  
8 services.

9 “(B) The term ‘lead-related medical manage-  
10 ment’ means the provision and coordination of the  
11 diagnostic, treatment, and follow-up services pro-  
12 vided for a child diagnosed with an elevated blood  
13 lead level (EBLL) that includes—

14 “(i) a clinical assessment, including a  
15 physical examination and medically indicated  
16 tests (in addition to diagnostic blood lead level  
17 tests) and other diagnostic procedures to deter-  
18 mine the child’s developmental, neurological,  
19 nutritional, and hearing status, and the extent,  
20 duration, and possible source of the child’s ex-  
21 posure to lead;

22 “(ii) repeat blood lead level tests furnished  
23 when medically indicated for purposes of moni-  
24 toring the blood lead concentrations in the  
25 child;

1           “(iii) pharmaceutical services, including  
2 chelation agents and other drugs, vitamins, and  
3 minerals prescribed for treatment of an EBLI;

4           “(iv) medically indicated inpatient services  
5 including pediatric intensive care and emer-  
6 gency services;

7           “(v) medical nutrition therapy when medi-  
8 cally indicated by a nutritional assessment, that  
9 shall be furnished by a dietitian or other nutri-  
10 tion specialist who is authorized to provide such  
11 services under State law;

12           “(vi) referral—

13           “(I) when indicated by a nutritional  
14 assessment, to the State agency or con-  
15 tractor administering the program of as-  
16 sistance under the special supplemental  
17 nutrition program for women, infants and  
18 children (WIC) under section 17 of the  
19 Child Nutrition Act of 1966 (42 U.S.C.  
20 1786) and coordination of clinical manage-  
21 ment with that program; and

22           “(II) when indicated by a clinical or  
23 developmental assessment, to the State  
24 agency responsible for early intervention  
25 and special education programs under the

1                   Individuals with Disabilities Education Act  
2                   (20 U.S.C. 1400 et seq.); and

3                   “(vii) environmental investigation, as de-  
4                   fined in subparagraph (E).

5                   “(C) The term ‘lead-related case management’  
6                   means the coordination, provision, and oversight of  
7                   the nonmedical services for a child with an EBLL  
8                   necessary to achieve reductions in the child’s blood  
9                   lead levels, improve the child’s nutrition, and secure  
10                  needed resources and services to protect the child by  
11                  a case manager trained to develop and oversee a  
12                  multi-disciplinary plan for a child with an EBLL or  
13                  by a childhood lead poisoning prevention program,  
14                  as defined by the Secretary. Such services include—

15                  “(i) assessing the child’s environmental,  
16                  nutritional, housing, family, and insurance sta-  
17                  tus and identifying the family’s immediate  
18                  needs to reduce lead exposure through an initial  
19                  home visit;

20                  “(ii) developing a multidisciplinary case  
21                  management plan of action that addresses the  
22                  provision and coordination of each of the fol-  
23                  lowing items as appropriate—

1           “(I) determination of whether or not  
2           such services are covered under the State  
3           plan under this title;

4           “(II) lead-related medical manage-  
5           ment of an EBLL (including environ-  
6           mental investigation);

7           “(III) nutrition services;

8           “(IV) family lead education;

9           “(V) housing;

10          “(VI) early intervention services;

11          “(VII) social services; and

12          “(VIII) other services or programs  
13          that are indicated by the child’s clinical  
14          status and environmental, social, edu-  
15          cational, housing, and other needs;

16          “(iii) assisting the child (and the child’s  
17          family) in gaining access to covered and non-  
18          covered services in the case management plan  
19          developed under clause (ii);

20          “(iv) providing technical assistance to the  
21          provider that is furnishing lead-related medical  
22          management for the child; and

23          “(v) implementation and coordination of  
24          the case management plan developed under

1 clause (ii) through home visits, family lead edu-  
2 cation, and referrals.

3 “(D) The term ‘lead-related anticipatory guid-  
4 ance’ means education and information for families  
5 of children and pregnant women enrolled in the  
6 State plan under this title about prevention of child-  
7 hood lead poisoning that addresses the following top-  
8 ics:

9 “(i) The importance of lead screening tests  
10 and where and how to obtain such tests.

11 “(ii) Identifying lead hazards in the home.

12 “(iii) Specialized cleaning, home mainte-  
13 nance, nutritional, and other measures to mini-  
14 mize the risk of childhood lead poisoning.

15 “(iv) The rights of families under the Resi-  
16 dential Lead-Based Paint Hazard Reduction  
17 Act of 1992 (42 U.S.C. 4851 et seq.).

18 “(E) The term ‘environmental investigation’  
19 means the process of determining the source of a  
20 child’s exposure to lead by an individual that is cer-  
21 tified or registered to perform such investigations  
22 under State or local law, including the collection and  
23 analysis of information and environmental samples  
24 from a child’s living environment. For purposes of  
25 this subparagraph, a child’s living environment in-

1 includes the child’s residence or residences, residences  
2 of frequently visited caretakers, relatives, and play-  
3 mates, and the child’s day care site. Such investiga-  
4 tions shall be conducted in accordance with the  
5 standards of the Department of Housing and Urban  
6 Development for the evaluation and control of lead-  
7 based paint hazards in housing and in compliance  
8 with State and local health agency standards for en-  
9 vironmental investigation and reporting.

10 “(2) For purposes of paragraph (1)(A)(ii), a child de-  
11 scribed in this paragraph is a child who—

12 “(A) has attained 6 months but has not at-  
13 tained 6 years of age; and

14 “(B) has been identified as having a blood lead  
15 level that equals or exceeds 20 micrograms per deci-  
16 liter (or after 2 consecutive tests, equals or exceeds  
17 15 micrograms per deciliter, or the applicable num-  
18 ber of micrograms designated for such tests under  
19 prevailing guidelines of the Centers for Disease Con-  
20 trol and Prevention).”.

21 (d) ENHANCED MATCH FOR DATA COMMUNICATIONS  
22 SYSTEM.—Section 1903(a)(3) of the Social Security Act  
23 (42 U.S.C. 1396b(a)(3)) is amended—

24 (1) in subparagraph (D), by striking “plus” at  
25 the end and inserting “and”; and

1           (2) by inserting after subparagraph (D), the  
2 following new subparagraph:

3           “(E)(i) 90 percent of so much of the sums  
4 expended during such quarter as are attrib-  
5 utable to the design, development, or installa-  
6 tion of an information retrieval system that  
7 may be easily accessed and used by other feder-  
8 ally-funded means-tested public benefit pro-  
9 grams to determine whether a child is enrolled  
10 in the State plan under this title and whether  
11 an enrolled child has received mandatory early  
12 and periodic screening, diagnostic, and treat-  
13 ment services, as described in section 1905(r);  
14 and

15           “(ii) 75 percent of so much of the sums ex-  
16 pended during such quarter as are attributable  
17 to the operation of a system (whether such sys-  
18 tem is operated directly by the State or by an-  
19 other person under a contract with the State)  
20 of the type described in clause (i); plus”.

21           (e) REPORT.—The Secretary of Health and Human  
22 Services, acting through the Administrator of the Health  
23 Care Financing Administration, annually shall report to  
24 Congress on the number of children enrolled in the med-  
25 icaid program under title XIX of the Social Security Act

1 (42 U.S.C. 1396 et seq.) who have received a blood lead  
2 screening test during the prior fiscal year, noting the per-  
3 centage that such children represent as compared to all  
4 children enrolled in that program.

5 (f) EMERGENCY MEASURES.—

6 (1) IN GENERAL.—Subject to paragraph (2),  
7 the Secretary of Health and Human Services or the  
8 State agency administering the State plan under  
9 title XIX of the Social Security Act (42 U.S.C. 1396  
10 et seq.) shall use funds provided under title XIX of  
11 that Act to reimburse a State or entity for expendi-  
12 tures for medically necessary activities in the home  
13 of a lead-poisoned child with an EBLL of at least  
14 20, or a pregnant woman with an EBLL of at least  
15 20, to prevent additional exposure to lead, including  
16 specialized cleaning of lead-contaminated dust, emer-  
17 gency relocation, safe repair of peeling paint, dust  
18 control, and other activities that reduce lead expo-  
19 sure. Such reimbursement, when provided by the  
20 State agency administering the State plan under  
21 title XIX of the Social Security Act, shall be consid-  
22 ered medical assistance for purposes of section  
23 1903(a) of such Act.

24 (2) LIMITATION.—Not more than \$1,000 in ex-  
25 penditures for the emergency measures described in

1 paragraph (1) may be incurred on behalf of a child  
2 or pregnant woman to which that paragraph applies.

3 (g) **RULE OF CONSTRUCTION.**—Nothing in this Act  
4 or any amendment made by this Act shall be construed  
5 as requiring a child enrolled in the State medicaid pro-  
6 gram under title XIX of the Social Security Act to under-  
7 go a lead blood screening test if the child’s parent or  
8 guardian objects to the test on the ground that the test  
9 is inconsistent with the parent’s or guardian’s religious be-  
10 liefs.

11 **SEC. 4. BONUS PROGRAM FOR IMPROVEMENT OF CHILD-**  
12 **HOOD LEAD SCREENING RATES.**

13 (a) **IN GENERAL.**—The Secretary of Health and  
14 Human Services (in this section referred to as the “Sec-  
15 retary”) may establish a program to improve the blood  
16 lead screening rates of States for children under the age  
17 of 3 enrolled in the medicaid program.

18 (b) **PAYMENTS.**—If the Secretary establishes a pro-  
19 gram under subsection (a), the Secretary, using State-spe-  
20 cific blood lead screening data, shall, subject to the avail-  
21 ability of appropriations, annually pay a State an amount  
22 determined as follows:

23 (1) \$25 per each 2 year-old child enrolled in the  
24 medicaid program in the State who has received the  
25 minimum required (for that age) screening blood

1 lead level tests (capillary or venous samples) to de-  
2 termine the presence of elevated blood lead levels,  
3 as established by the Centers for Disease Control  
4 and Prevention, if the State rate for such screenings  
5 exceeds 65 but does not exceed 75 percent of all 2  
6 year-old children in the State.

7 (2) \$50 per each such child who has received  
8 such minimum required tests if the State rate for  
9 such screenings exceeds 75 but does not exceed 85  
10 percent of all 2 year-old children in the State.

11 (3) \$75 per each such child who has received  
12 such minimum required tests if the State rate for  
13 such screenings exceeds 85 percent of all 2 year-old  
14 children in the State.

15 (c) USE OF BONUS FUNDS.—Funds awarded to a  
16 State under subsection (b) shall only be used—

17 (1) by the State department of health in the  
18 case of a child with an elevated blood lead level who  
19 is enrolled in medicaid or another Federal means-  
20 tested program designed to reduce the source of the  
21 child's exposure to lead; or

22 (2) in accordance with guidelines for the use of  
23 such funds developed by the Secretary in collabora-  
24 tion with the Secretary of Housing and Urban De-  
25 velopment.

1 (d) AUTHORIZATION OF APPROPRIATIONS.—There is  
 2 authorized to be appropriated to carry out this section,  
 3 \$30,000,000 for each of fiscal years 2002 through 2006.

4 **SEC. 5. AUTHORIZATION TO USE SCHIP FUNDS FOR BLOOD**  
 5 **LEAD SCREENING.**

6 (a) OPTIONAL APPLICATION TO SCHIP.—

7 (1) IN GENERAL.—Section 2107(e)(1) of the  
 8 Social Security Act (42 U.S.C. 1397gg(e)(1)) is  
 9 amended by adding at the end the following new  
 10 subparagraph:

11 “(E) At State option, section 1902(a)(66)  
 12 (relating to blood lead screening and coverage  
 13 of qualified lead treatment services defined in  
 14 section 1905(x)).”.

15 (2) CONFORMING AMENDMENT.—Section  
 16 2110(a) of the Social Security Act (42 U.S.C.  
 17 1397jj(a)) is amended—

18 (A) by redesignating paragraph (28) as  
 19 paragraph (29); and

20 (B) by inserting after paragraph (27) the  
 21 following new paragraph:

22 “(28) qualified lead treatment services (as de-  
 23 fined in section 1905(x)), but only if the State has  
 24 elected under section 2107(e)(1)(E) to apply section

1 1902(a)(66) to the State child health plan under  
 2 this title.”.

3 (b) INCLUSION IN MEDICAID REPORTING REQUIRE-  
 4 MENT.—

5 (1) IN GENERAL.—Section 1902(a)(43)(D)(v)  
 6 of the Social Security Act (42 U.S.C.  
 7 1396a(a)(43)(D)(v)), as added by section 3(a)(3), is  
 8 amended by inserting “or, if the State has elected  
 9 under section 2107(e)(1)(E) to apply paragraph  
 10 (66) to the State child health plan under title XXI,  
 11 in the State plan under title XXI,” after “this title”.

12 (2) REPORT TO CONGRESS.—Section 3(e) of  
 13 this Act is amended—

14 (A) by inserting “or in the State children’s  
 15 health insurance program under title XXI of  
 16 that Act (42 U.S.C 1397aa et seq.)” after “(42  
 17 U.S.C. 1396 et seq.)”; and

18 (B) by striking “that program” and insert-  
 19 ing “those programs”.

20 **SEC. 6. EFFECTIVE DATE.**

21 This Act and the amendments made by this Act take  
 22 effect on the date that is 18 months after the date of en-  
 23 actment of this Act.

○