

AMENDMENT TO 3962
OFFERED BY MR. HASTINGS OF FLORIDA

Base text: HR 3962 as introduced

In title IX of division B, add at the end the following new section:

1 SEC. 1910. REMOVAL OF INMATE LIMITATION ON BENEFITS
2 UNDER MEDICAID, MEDICARE, SSI, AND
3 SCHIP.

4 (a) FINDINGS.—Congress makes the following find-
5 ings:

6 (1) The United States Supreme Court has in-
7 terpreted the 8th Amendment to require govern-
8 mental entities to provide medical care to persons in-
9 voluntarily confined in jails, detention centers, and
10 prisons.

11 (2) The Federal Government does not provide
12 benefits under the Medicare, Medicaid, Supplemental
13 Security Income (SSI), or State Children’s Health
14 Insurance (SCHIP) Program health benefits to in-
15 mates even if the person is awaiting trial in jail and
16 has not been convicted. However, beneficiaries who
17 are released after posting bond, or who are released
18 under their own recognizance, or who are released

1 under house arrest may continue to receive Medi-
2 care, Medicaid, SSI, and SCHIP benefits.

3 (3) The cost of providing health care in prisons
4 and jails has increased exponentially due in part to
5 high incarceration rates, infectious diseases, chronic
6 conditions, substance abuse treatment, mental ill-
7 ness, aging prison populations, rising prescription
8 drug costs, and mandatory sentencing laws.

9 (4) Providing health care for inmates con-
10 stitutes a major portion of local jail operating costs.
11 Requiring county governments to cover health care
12 costs for inmates who have not been convicted places
13 an unnecessary burden on local governments who
14 have been negatively impacted by recession, wide-
15 spread budget deficits, and cuts to safety net pro-
16 grams and services.

17 (5) Jails generally have a higher instance of
18 mentally ill inmates because jails frequently serve as
19 holding places for low-income persons who are wait-
20 ing placement in a mental facility and for mentally
21 ill persons who commit nuisance crimes because of
22 inadequate access to treatment in their communities.

23 (6) The rising cost of bail has also contributed
24 to an overall increase in the jail population and
25 health care costs for inmates. The high cost of bail

1 has contributed to the disproportionate rate of incar-
2 ceration among African-Americans and Latinos.

3 (7) Terminating benefits to people in county
4 jails who are awaiting trial violates the presumption
5 of innocence, because it does not distinguish between
6 persons awaiting disposition of charges and those
7 who have been duly convicted and sentenced.

8 (8) Otherwise eligible individuals who have been
9 charged with a crime and incarcerated, but not con-
10 victed, should continue to be eligible for Federal
11 health benefits, such as Medicare, Medicaid, SSI, or
12 SCHIP, until such time as they may be convicted
13 and sentenced to an institution. SSI payments
14 should be held until the inmate has been acquitted
15 and released, or until the inmate has completed his
16 or her sentence and been released.

17 (b) MEDICAID.—The subdivision A of section 1905(a)
18 of the Social Security Act (42 U.S.C. 1396d(a)) that fol-
19 lows paragraph (28) is amended by inserting “or in cus-
20 tody pending disposition of charges” after “patient in a
21 medical institution”.

22 (c) MEDICARE.—Section 1862(a)(3) of such Act (42
23 U.S.C. 1395y(a)(3)) is amended by inserting “in the case
24 of services furnished to individuals who are in custody
25 pending disposition of charges,” after “1880(e)”.

1 (d) SSI.—Section 1611(e)(1) of such Act (42 U.S.C.
2 1382(e)(1)) is amended by adding at the end the following
3 new subparagraph:

4 “(K)(i) As used in subparagraph (A), the term ‘in-
5 mate of a public institution’ does not include an individual
6 who is in custody pending disposition of charges.

7 “(ii) In the case of an individual who is an eligible
8 individual or eligible spouse for purposes of this title only
9 because of the application of the definition in clause (i),
10 any supplemental security income benefits otherwise pay-
11 able shall be withheld until such time as the individual
12 is no longer either in custody pending disposition of
13 charges or an inmate of a public institution or shall be
14 paid to the individual’s estate if the individual dies before
15 the pending charges are disposed of or while the individual
16 is an inmate of a public institution.”.

17 (e) SCHIP.—Section 2110(b)(1) of such Act (42
18 U.S.C. 1397jj(b)(1)) is amended by inserting “(except as
19 an individual in custody pending disposition of charges)”
20 after “inmate of a public institution”.

21 (f) EFFECTIVE DATE.—The amendments made by
22 this section shall take effect on the first day of the first
23 calendar quarter beginning more than 60 days after the
24 date of the enactment of this Act and shall apply to items

- 1 and services furnished, and supplemental security income
- 2 benefits paid, for periods beginning on or after such date.

