

**MOTION TO RECOMMIT H.R. 3963 WITH
INSTRUCTIONS
OFFERED BY MR. BARTON OF TEXAS**

**[page and line references are to version as posted on the
Rules Committee website]**

Mr. Barton moves to recommit the bill H.R. 3963 to the Committee on Energy and Commerce with instructions to report the same back to the House forthwith with the following amendments:

Strike section 104 (relating to CHIP performance bonus payments) (page 28, line 1, through page 42, line 20).

After section 109 (page 51, after line 9), insert the following:

**1 SEC. 110. REQUIRING OUTREACH AND COVERAGE BEFORE
2 EXPANSION OF ELIGIBILITY.**

**3 (a) STATE PLAN REQUIRED TO SPECIFY HOW IT
4 WILL ACHIEVE COVERAGE FOR 90 PERCENT OF TAR-
5 GETED LOW-INCOME CHILDREN.—**

6 (1) IN GENERAL.—Section 2102(a) (42 U.S.C.
7 1397bb(a)) is amended—

**8 (A) in paragraph (6), by striking “and” at
9 the end;**

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

3 (C) by adding at the end the following new
4 paragraph:

5 “(8) how the eligibility and benefits provided
6 for under the plan for each fiscal year (beginning
7 with fiscal year 2009) will allow for the State’s an-
8 nual funding allotment to cover at least 90 percent
9 of the eligible targeted low-income children in the
10 State.”.

11 (2) EFFECTIVE DATE.—The amendments made
12 by paragraph (1) shall apply to State child health
13 plans for fiscal years beginning with fiscal year
14 2009.

15 (b) LIMITATION ON PROGRAM EXPANSIONS UNTIL
16 LOWEST INCOME ELIGIBLE INDIVIDUALS ENROLLED.—
17 Section 2105(c) (42 U.S.C. 1397dd(c)), as amended in
18 this Act, is amended by adding at the end the following
19 new paragraph:

20 “(13) LIMITATION ON INCREASED COVERAGE
21 OF HIGHER INCOME CHILDREN.—For child health
22 assistance furnished in a fiscal year beginning with
23 fiscal year 2008:

24 “(A) SPECIAL RULES FOR PAYMENT FOR
25 CHILDREN WITH FAMILY INCOME ABOVE 200

1 PERCENT OF POVERTY LINE.—In the case of
2 child health assistance for a targeted low-in-
3 come child in a family the income of which ex-
4 ceeds 200 percent (but does not exceed 300
5 percent) of the poverty line applicable to a fam-
6 ily of the size involved no payment shall be
7 made under this section for such assistance un-
8 less the State demonstrates to the satisfaction
9 of the Secretary that—

10 “(i) the State has met the 90 percent
11 retrospective coverage test specified in sub-
12 paragraph (B)(i) for the previous fiscal
13 year; and

14 “(ii) the State will meet the 90 per-
15 cent prospective coverage test specified in
16 subparagraph (B)(ii) for the fiscal year.

17 “(B) 90 PERCENT COVERAGE TESTS.—

18 “(i) RETROSPECTIVE TEST.—The 90
19 percent retrospective coverage test speci-
20 fied in this clause is, for a State for a fis-
21 cal year, that on average during the fiscal
22 year, the State has enrolled under this title
23 or title XIX at least 90 percent of the indi-
24 viduals residing in the State who—

1 “(I) are children under 19 years
2 of age (or are pregnant women) and
3 are eligible for medical assistance
4 under title XIX; or

5 “(II) are targeted low-income
6 children whose family income does not
7 exceed 200 percent of the poverty line
8 and who are eligible for child health
9 assistance under this title.

10 “(ii) PROSPECTIVE TEST.—The 90
11 percent prospective test specified in this
12 clause is, for a State for a fiscal year, that
13 on average during the fiscal year, the State
14 will enroll under this title or title XIX at
15 least 90 percent of the individuals residing
16 in the State who—

17 “(I) are children under 19 years
18 of age (or are pregnant women) and
19 are eligible for medical assistance
20 under title XIX; or

21 “(II) are targeted low-income
22 children whose family income does not
23 exceed such percent of the poverty
24 line (in excess of 200 percent) as the
25 State elects consistent with this para-

1 graph and who are eligible for child
2 health assistance under this title.

3 “(C) GRANDFATHER.—Subparagraphs (A)
4 and (B) shall not apply to the provision of child
5 health assistance—

6 “(i) to a targeted low-income child
7 who is enrolled for child health assistance
8 under this title as of September 30, 2007;

9 “(ii) to a pregnant woman who is en-
10 rolled for assistance under this title as of
11 September 30, 2007, through the comple-
12 tion of the post-partum period following
13 completion of her pregnancy; and

14 “(iii) for items and services furnished
15 before October 1, 2008, to an individual
16 who is not a targeted low-income child and
17 who is enrolled for assistance under this
18 title as of September 30, 2007.”.

19 (c) STANDARDIZATION OF INCOME DETERMINA-
20 TIONS.—

21 (1) IN GENERAL.—Section 2110 (42 U.S.C.
22 1397jj) is amended by adding at the end the fol-
23 lowing new subsection:

24 “(d) STANDARDIZATION OF INCOME DETERMINA-
25 TIONS.—In determining family income under this title (in-

1 cluding in the case of a State child health plan that pro-
2 vides health benefits coverage in the manner described in
3 section 2101(a)(2)), a State shall base such determination
4 on gross income (including amounts that would be in-
5 cluded in gross income if they were not exempt from in-
6 come taxation).”.

7 (2) EFFECTIVE DATE.—the amendment made
8 by paragraph (1) shall apply to determinations (and
9 redeterminations) of income made on or after Octo-
10 ber 1, 2008.

Amend section 112 (page 59, line 13, through page
74, line 15) to read as follows:

11 **SEC. 112. PHASE-OUT OF COVERAGE FOR NONPREGNANT**
12 **ADULTS UNDER CHIP; CONDITIONS FOR COV-**
13 **ERAGE OF PARENTS.**

14 (a) IN GENERAL.—Title XXI (42 U.S.C. 1397aa et
15 seq.) is amended by adding at the end the following new
16 section:

17 **“SEC. 2111. PHASE-OUT OF COVERAGE FOR NONPREGNANT**
18 **ADULTS.**

19 “(a) TERMINATION OF COVERAGE FOR NONPREG-
20 NANT ADULTS.—

21 “(1) NO NEW CHIP WAIVERS; AUTOMATIC EX-
22 TENSIONS AT STATE OPTION THROUGH 2008.—Not-

1 withstanding section 1115 or any other provision of
2 this title, except as provided in this subsection—

3 “(A) the Secretary shall not on or after the
4 date of the enactment of the Children’s Health
5 Insurance Program Reauthorization Act of
6 2007, approve or renew a waiver, experimental,
7 pilot, or demonstration project that would allow
8 funds made available under this title to be used
9 to provide child health assistance or other
10 health benefits coverage to a nonpregnant
11 adult; and

12 “(B) notwithstanding the terms and condi-
13 tions of an applicable existing waiver, the provi-
14 sions of paragraph (2) shall apply for purposes
15 of any period beginning on or after January 1,
16 2009, in determining the period to which the
17 waiver applies, the individuals eligible to be cov-
18 ered by the waiver, and the amount of the Fed-
19 eral payment under this title.

20 “(2) TERMINATION OF CHIP COVERAGE UNDER
21 APPLICABLE EXISTING WAIVERS AT THE END OF
22 2008.—

23 “(A) IN GENERAL.—No funds shall be
24 available under this title for child health assist-
25 ance or other health benefits coverage that is

1 provided to a nonpregnant adult under an ap-
2 plicable existing waiver after December 31,
3 2008.

4 “(B) APPLICATION OF ENHANCED FMAP.—

5 The enhanced FMAP determined under section
6 2105(b) shall apply to expenditures under an
7 applicable existing waiver for the provision of
8 child health assistance or other health benefits
9 coverage to a nonpregnant childless adult dur-
10 ing the period beginning on the date of the en-
11 actment of this subsection and ending on De-
12 cember 31, 2008.

13 “(3) STATE OPTION TO APPLY FOR MEDICAID
14 WAIVER TO CONTINUE COVERAGE FOR NONPREG-
15 NANT ADULTS.—

16 “(A) IN GENERAL.—Each State for which
17 coverage under an applicable existing waiver is
18 terminated under paragraph (2)(A) may sub-
19 mit, not later than September 30, 2008, an ap-
20 plication to the Secretary for a waiver under
21 section 1115 of the State plan under title XIX
22 to provide medical assistance to a nonpregnant
23 childless adult whose coverage is so terminated
24 (in this subsection referred to as a ‘Medicaid
25 nonpregnant childless adults waiver’).

1 “(B) DEADLINE FOR APPROVAL.—The
2 Secretary shall make a decision to approve or
3 deny an application for a Medicaid nonpregnant
4 childless adults waiver submitted under sub-
5 paragraph (A) within 90 days of the date of the
6 submission of the application. If no decision has
7 been made by the Secretary as of December 31,
8 2008, on the application of a State for a Med-
9 icaid nonpregnant childless adults waiver that
10 was submitted to the Secretary by September
11 30, 2008, the application shall be deemed ap-
12 proved.

13 “(C) STANDARD FOR BUDGET NEU-
14 TRALITY.—The budget neutrality requirement
15 applicable with respect to expenditures for med-
16 ical assistance under a Medicaid nonpregnant
17 childless adults waiver shall—

18 “(i) in the case of 2009, allow expend-
19 itures for medical assistance under title
20 XIX for all such adults to not exceed the
21 total amount of payments made to the
22 State under paragraph (3)(B) for 2008,
23 increased by the percentage increase (if
24 any) in the projected nominal per capita
25 amount of National Health Expenditures

1 for 2009 over 2008, as most recently pub-
2 lished by the Secretary; and

3 “(ii) in the case of any succeeding
4 year, allow such expenditures to not exceed
5 the amount in effect under this subpara-
6 graph for the preceding year, increased by
7 the percentage increase (if any) in the pro-
8 jected nominal per capita amount of Na-
9 tional Health Expenditures for the year in-
10 volved over the preceding year, as most re-
11 cently published by the Secretary.

12 “(b) APPLICABLE EXISTING WAIVER.—For purposes
13 of this section—

14 “(1) IN GENERAL.—The term ‘applicable exist-
15 ing waiver’ means a waiver, experimental, pilot, or
16 demonstration project under section 1115, grand-
17 fathered under section 6102(c)(3) of the Deficit Re-
18 duction Act of 2005, or otherwise conducted under
19 authority that—

20 “(A) would allow funds made available
21 under this title to be used to provide child
22 health assistance or other health benefits cov-
23 erage to—

24 “(i) a parent of a targeted low-income
25 child;

1 “(ii) a nonpregnant childless adult; or

2 “(iii) individuals described in both
3 clauses (i) and (ii); and

4 “(B) was in effect on October 1, 2007.

5 “(2) DEFINITIONS.—The term ‘nonpregnant
6 adult’ means any individual who is not a targeted
7 low-income pregnant woman (as defined in section
8 2112(d)(2)) or a targeted low-income child.”.

9 (b) CONFORMING AMENDMENTS.—

10 (1) Section 2107(f) (42 U.S.C. 1397gg(f)) is
11 amended—

12 (A) by striking “, the Secretary” and in-
13 serting “:

14 “(1) The Secretary”;

15 (B) in the first sentence, by striking
16 “childless”;

17 (C) by striking the second sentence; and

18 (D) by adding at the end the following new
19 paragraph:

20 “(2) The Secretary may not approve, extend,
21 renew, or amend a waiver, experimental, pilot, or
22 demonstration project with respect to a State after
23 the date of enactment of the Children’s Health In-
24 surance Program Reauthorization Act of 2007 that

1 would waive or modify the requirements of section
2 2111.”.

3 (2) Section 6102(c) of the Deficit Reduction
4 Act of 2005 (Public Law 109–171; 120 Stat. 131)
5 is amended by striking “Nothing” and inserting
6 “Subject to section 2111 of the Social Security Act,
7 as added by section 112 of the Children’s Health In-
8 surance Program Reauthorization Act of 2007, noth-
9 ing”.

In the paragraph (8)(A) added by section 114(a),
strike (on page 76, line 12)“would exceed 300 percent of
the poverty line” and all that follows through “type of ex-
pense or type of income” (on line 16) and insert “will ex-
ceed 300 percent of the poverty line.”.

Amend the paragraph (9)(B) added by section
116(e) (page 85, beginning on line 21) to read as follows:

10 “(B) HIGHER INCOME ELIGIBILITY
11 STATE.—A higher income eligibility State de-
12 scribed in this clause is a State that applies
13 under its State child health plan an eligibility
14 income standard for targeted low-income chil-
15 dren that exceeds 300 percent of the poverty
16 line.”.

Amend section 211 (page 130, line 9, through page 146, line 11) to read as follows:

1 **SEC. 211. APPLICATION OF CITIZENSHIP DOCUMENTATION**
2 **REQUIREMENTS.**

3 (a) IN GENERAL.—Section 2105(c) (42 U.S.C.
4 1397dd(c)), as amended by sections 114(a) and 116(c),
5 is amended by adding at the end the following new para-
6 graph:

7 “(10) APPLICATION OF CITIZENSHIP DOCU-
8 MENTATION REQUIREMENTS.—

9 “(A) IN GENERAL.—Subject to subpara-
10 graph (B), no payment may be made under this
11 section to a State with respect to amounts ex-
12 pended for child health assistance for an indi-
13 vidual who declares under section
14 1137(d)(1)(A) to be a citizen or national of the
15 United States for purposes of establishing eligi-
16 bility for benefits under this title, unless the re-
17 quirement of section 1903(x) is met.

18 “(B) TREATMENT OF PREGNANT
19 WOMEN.—For purposes of applying subpara-
20 graph (A) in the case of a pregnant woman who
21 qualifies for child health assistance by virtue of
22 the application of section 457.10 of title 42,
23 Code of Federal Regulations, the requirement

1 of such section shall be deemed to be satisfied
2 by the presentation of documentation of per-
3 sonal identity described in section
4 274A(b)(1)(D) of the Immigration and Nation-
5 ality Act or any other documentation of per-
6 sonal identity of such other type as the Sec-
7 retary finds, by regulation, provides a reliable
8 means of identification.”.

9 (b) EFFECTIVE DATE.—The amendment made by
10 paragraph (1) shall apply to eligibility determinations and
11 redeterminations made after March 31, 2008.

In the paragraph (11) added by section 301(a), add
at the end the following (page 160, after line 13):

12 “(O) REQUIREMENT FOR CERTAIN
13 STATES.—Effective October 1, 2009, any State
14 that provides for child health assistance under
15 this title for children in families with income
16 that exceeds 200 percent of the poverty line
17 shall elect and implement the option under this
18 paragraph.”.

In section 605 (on page 251, beginning on line 8),
strike “Nothing in this Act allows Federal payment for
individuals who are not legal residents.” and insert “Not-
withstanding any other provision of law, no Federal pay-

ment shall be made under title XXI of the Social Security Act for any individual who is not a legal resident of the United States.”.

Strike section 613 (page 255, lines 14 through 20).