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(Original Signature of Member)

110TH CONGRESS
2D SESSION

H. R. 5998

To nullify any effectiveness of the August 17, 2007, State health official letter issued by the Centers for Medicare & Medicaid Services.

IN THE HOUSE OF REPRESENTATIVES

Mr. PALLONE (for himself, Ms. SHEA-PORTER, and [see ATTACHED LIST of cosponsors]) introduced the following bill; which was referred to the Committee on _____

A BILL

To nullify any effectiveness of the August 17, 2007, State health official letter issued by the Centers for Medicare & Medicaid Services.

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 “Protecting Children’s
5 Health Coverage Act of 2008”.

1 **SEC. 2. NULLIFYING ANY EFFECTIVENESS OF AUGUST 17,**
2 **2007, LETTER.**

3 (a) IN GENERAL.—With respect to the August 17th
4 Letter (as defined in subsection (c)(1)), the following shall
5 apply:

6 (1) Such Letter shall have no force or effect.

7 (2) The Secretary of Health and Human Serv-
8 ices is prohibited from applying or enforcing any pol-
9 icy, directive, or requirement contained in such Let-
10 ter, or any other policy, directive, or requirement
11 issued on or after August 17, 2007, substantially
12 similar to those contained in such Letter, unless
13 such policy, directive, or requirement is explicitly
14 contained in a regulation in effect before such date.

15 (3) In order to restore States, to the maximum
16 extent practicable, to the position they would have
17 been in if the August 17 Letter had not been issued
18 or applied, to the extent that a State's request
19 (through CHIP or Medicaid plan amendment, dem-
20 onstration project, or otherwise) made before the
21 date of the enactment of this Act to extend health
22 insurance through CHIP or Medicaid to uninsured
23 children, or to maintain previously existing CHIP or
24 Medicaid eligibility for children—

25 (A) was denied, in whole or in part, by
26 CMS on or after August 17, 2007, and before

1 the date of the enactment of this Act based, in
2 whole or in part, on the application of any pol-
3 icy, directive, or requirement contained in the
4 August 17th Letter, CMS shall, upon the writ-
5 ten request of a State made within 30 days
6 after such date of enactment, reconsider and
7 issue a new decision on the State's request
8 within 30 days of the date of such written re-
9 quest and without reliance on any such policy,
10 directive, or requirement;

11 (B) was approved before such date of en-
12 actment but had been modified, in whole or in
13 part, by a State before such approval specifi-
14 cally in response to the application of any such
15 policy, directive, or requirement, CMS shall,
16 upon the written request of the State made
17 within 30 days after such date of enactment,
18 issue a decision to approve or disapprove re-
19 moval of the modification (and restoration of
20 the original request) within 30 days of the date
21 of such written request and without reliance on
22 any such policy, directive, or requirement; or

23 (C) has been modified by a State, but not
24 acted upon by CMS, before such date of enact-
25 ment specifically in response to the application

1 of any such policy, directive, or requirement,
2 upon the written request of the State made
3 within 30 days after such date of enactment,
4 the modification shall be deemed withdrawn and
5 the request, with such modification withdrawn,
6 shall be treated, effective as of the date of such
7 written request, as if the modification had never
8 been included with respect to such request and
9 the CMS deadline otherwise applicable to acting
10 on such request shall continue to apply without
11 regard to the withdrawal of such modification.

12 (b) CONSTRUCTION.— Nothing in this section, or the
13 enactment of this section, may be construed to suggest
14 that the August 17th Letter ever had any force or effect.

15 (c) DEFINITIONS.—In this section:

16 (1) The term “August 17th Letter” means the
17 State Health Official Letter #07–001 from the Di-
18 rector of the Center for Medicaid and State Oper-
19 ations of CMS dated August 17, 2007, to State
20 Health Officials, and includes the State Health Of-
21 fice Letter #08–003 from such Director dated May
22 7, 2008, to such Officials regarding application of
23 such August 17, 2007, letter.

1 (2) The term “CHIP” means the State Chil-
2 dren’s Health Insurance Program under title XXI of
3 the Social Security Act.

4 (3) The term “CMS” means the Centers for
5 Medicare & Medicaid Services.

6 (4) The term “Medicaid” means the program
7 under title XIX of the Social Security Act.

8 (5) The term “State” has the meaning given
9 such term for purposes of CHIP.