

104TH CONGRESS
2D SESSION

S. 2186

To provide access to health care insurance coverage for children.

IN THE SENATE OF THE UNITED STATES

OCTOBER 1, 1996

Mr. KERRY (for himself and Mr. KENNEDY) introduced the following bill;
which was read twice and referred to the Committee on Labor and
Human Resources

A BILL

To provide access to health care insurance coverage for
children.

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; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Healthy Children Family Assistance Health Insurance
6 Program Act of 1996”.

7 (b) **TABLE OF CONTENTS.**—The table of contents of
8 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Findings.

TITLE I—COVERAGE FOR CHILDREN AND PREGNANT WOMEN

Subtitle A—Definitions

Sec. 100. Definitions.

Subtitle B—Participating State Program

Sec. 101. Establishment of participating State programs.

Sec. 102. Program to provide access to health plans to eligible children and pregnant women.

Sec. 103. Notice of intent to participate.

Sec. 104. Payments to States for operating and administrative costs.

TITLE II—QUALIFYING POLICIES

Subtitle A—Qualifying Policies

Sec. 201. General description of qualifying children's policy.

Sec. 202. General description of qualifying pregnant woman's policy.

Subtitle B—Access and Preexisting Condition Limitations

Sec. 211. Limitation on preexisting condition exclusion period.

Subtitle C—General Duties and Responsibilities of the Secretary

Sec. 221. Regulations.

TITLE III—ASSISTANCE TO FAMILIES AND PREGNANT WOMEN

Sec. 301. Requirement to operate program.

Sec. 302. Assistance with qualifying children's health plan or qualifying pregnant woman's health plan premiums.

Sec. 303. Assistance with cost-sharing for qualifying children's health plans or qualifying pregnant woman's health plan.

Sec. 304. Eligibility determinations.

Sec. 305. End-of-year reconciliation for premium assistance.

Sec. 306. Penalties for material misrepresentation and false information.

Sec. 307. Enrollment outreach.

Sec. 308. Aggregate Federal payments.

Sec. 309. Definitions and determinations of income.

Sec. 310. References to individual.

TITLE IV—MISCELLANEOUS PROVISIONS

Sec. 401. Employer may not discriminate against subsidy eligible individuals.

Sec. 402. Maintenance of effort.

Sec. 403. Sense of the Committee regarding financing.

1 SEC. 2. FINDINGS.

2 Congress finds that—

1 (1) it is in the national interest to ensure that
2 every American child has access to affordable health
3 care;

4 (2) no family should be forced to choose be-
5 tween health care for its children and other essential
6 needs;

7 (3) 10,500,000 American children under the
8 age of 19 have no health insurance coverage, and 90
9 percent of these children have parents who work,
10 and too many of these children go without needed
11 health care;

12 (4) families have an obligation to contribute to
13 the cost of health insurance coverage for their chil-
14 dren, consistent with their ability to pay; and

15 (5) the Federal Government has an obligation
16 to help families provide health insurance coverage
17 for children.

18 **TITLE I—COVERAGE FOR CHIL-**
19 **DREN AND PREGNANT**
20 **WOMEN**

21 **Subtitle A—Definitions**

22 **SEC. 100. DEFINITIONS.**

23 For purposes of this Act:

1 (1) ELIGIBLE CHILD.—The term “eligible
2 child” means an individual who is under 19 years of
3 age.

4 (2) PARTICIPATING STATE.—The term “partici-
5 pating State” means any State that establishes a
6 program under subtitle B.

7 (3) QUALIFYING CHILDREN’S POLICY.—The
8 term “qualifying children’s policy” means a policy
9 that meets the standards described in section 201.

10 (4) QUALIFYING PREGNANT WOMAN’S POL-
11 ICY.—The term “qualifying pregnant woman’s pol-
12 icy” means a policy that meets the standards de-
13 scribed in section 202.

14 (5) SECRETARY.—The term “Secretary” means
15 the Secretary of Health and Human Services.

16 **Subtitle B—Participating State**
17 **Program**

18 **SEC. 101. ESTABLISHMENT OF PARTICIPATING STATE PRO-**
19 **GRAMS.**

20 (a) IN GENERAL.—A State shall be a participating
21 State for purposes of this subtitle if such State establishes
22 the program described in section 102 for making enroll-
23 ment in a health plan providing a qualifying children’s pol-
24 icy available to each eligible child in the State and a quali-

1 fying pregnant woman’s policy available to each eligible
2 pregnant woman in the State.

3 (b) DESIGNATION OF STATE AGENCY.—A State may
4 designate an appropriate State agency to administer the
5 State program under this subtitle.

6 **SEC. 102. PROGRAM TO PROVIDE ACCESS TO HEALTH**
7 **PLANS TO ELIGIBLE CHILDREN AND PREG-**
8 **NANT WOMEN.**

9 (a) IN GENERAL.—

10 (1) PROGRAM DESCRIBED.—A State program
11 described in this section is a program under which
12 the State negotiates and contracts with at least 1
13 health plan providing—

14 (A) a qualifying children’s policy in order
15 to make such a plan available to eligible chil-
16 dren residing in the State; and

17 (B) a qualifying pregnant woman’s policy
18 in order to make such a plan available to preg-
19 nant women residing in the State.

20 (2) MINIMUM REQUIREMENT.—At least one
21 health plan with which a State contracts under para-
22 graph (1) must offer a broad access delivery system
23 (as defined by the Secretary consistent with para-
24 graph (3)).

1 (3) BROAD ACCESS DELIVERY SYSTEM.—In de-
2 fining a broad access delivery system under this
3 paragraph, the Secretary shall ensure that such a
4 system under such definition permits access to the
5 majority of speciality and nonspeciality providers in
6 a service area, whether in-network or out-of-network
7 (in the case of a network plan) at a payment rate
8 for non-network providers that is consistent with re-
9 imbursement by fee-for-service plans in the area in-
10 volved and that does not establish cost-sharing for
11 use of services of non-network providers that is
12 greater than that typical of fee-for-service plans in
13 the area involved.

14 (b) ADDITIONAL STATE RESPONSIBILITIES.—A
15 State program described in this section shall—

16 (1)(A) with respect to a qualifying children’s
17 policy, provide for the cost-effective enrollment of
18 each eligible child in a health plan offering a qualify-
19 ing children’s policy; and

20 (B) with respect to a qualifying pregnant wom-
21 an’s policy, provide for the cost-effective enrollment
22 of each pregnant woman in a health plan offering a
23 qualifying pregnant woman’s policy;

24 (2) provide information on health plans offering
25 a qualifying children’s policy or qualifying pregnant

1 woman's policy through the State program and the
2 availability of subsidies under title III; and

3 (3) comply with any other requirements estab-
4 lished by the Secretary.

5 **SEC. 103. NOTICE OF INTENT TO PARTICIPATE.**

6 (a) IN GENERAL.—Each State shall file with the Sec-
7 retary a notice of intent to be treated as a participating
8 State under this subtitle by no later than January 1,
9 1998, and no later than January 1 of each subsequent
10 year.

11 (b) ADDITIONAL INFORMATION IN NOTICE OF IN-
12 TENT.—Each notice of intent for a participating State
13 submitted under subsection (a) must contain a plan for
14 implementing the program described in section 102.

15 **SEC. 104. PAYMENTS TO STATES FOR OPERATING AND AD-
16 MINISTRATIVE COSTS.**

17 The Secretary shall provide for payment to each par-
18 ticipating State for each calendar quarter, beginning with
19 any quarter beginning on or after June 1, 1998, in an
20 amount equal to—

21 (1) 100 percent of the total amount estimated
22 by the Secretary to be expended by the State during
23 such quarter for premium assistance and cost shar-
24 ing assistance under the program described in sec-
25 tion 102; and

1 (2) 75 percent of the total amount estimated by
2 the Secretary to be expended by the State during
3 such quarter for proper and efficient administration
4 of the program described in section 102.

5 **TITLE II—QUALIFYING POLICIES**

6 **Subtitle A—Qualifying Policies**

7 **SEC. 201. GENERAL DESCRIPTION OF QUALIFYING CHILDREN'S POLICY.**

8
9 (a) DESCRIPTION.—For purposes of this Act, a qualifying children's policy is a policy for children under the
10 age of 19 that—
11

12 (1) provides coverage consistent with coverage
13 provided under high quality group health plans as
14 determined appropriate by the Secretary;

15 (2) meets the special needs of children as determined appropriate by the Secretary; and
16

17 (3) provides for coverage of early and periodic
18 screening, diagnosis and treatment services (as defined in title XIX of the Social Security Act).
19

20 (b) PREVENTIVE SERVICES.—No cost sharing requirements shall be imposed for preventive services provided under this section.
21
22

1 **SEC. 202. GENERAL DESCRIPTION OF QUALIFYING PREG-**
 2 **NANT WOMAN'S POLICY.**

3 (a) DESCRIPTION.—For purposes of this Act, a quali-
 4 fying pregnant woman's policy is a policy for pregnant
 5 women that provides coverage for prenatal care, delivery,
 6 and post-natal care as determined appropriate by the Sec-
 7 retary.

8 (b) PREVENTIVE SERVICES.—No cost sharing re-
 9 quirements shall be imposed for preventive services pro-
 10 vided under this section.

11 **Subtitle B—Access and Preexisting**
 12 **Condition Limitations**

13 **SEC. 211. LIMITATION ON PREEXISTING CONDITION EXCLU-**
 14 **SION PERIOD.**

15 (a) ELIGIBLE CHILDREN AND PREGNANT WOMEN.—
 16 No preexisting condition exclusion shall be imposed with
 17 respect to the following:

18 (1) A child eligible for coverage under section
 19 2741 of the Public Health Service Act (as added by
 20 section 102 of the Health Insurance Portability and
 21 Accountability Act of 1996).

22 (2) Newborns if coverage under a qualifying
 23 children's policy is applied for within 90 days of the
 24 date of birth of the child involved.

25 (3) Pregnant women.

1 (4) A child eligible for a full subsidy under title
2 III.

3 (b) OTHER CHILDREN.—A preexisting condition ex-
4 clusion may be imposed with respect to a child not de-
5 scribed in subsection (a), except that any such preexisting
6 condition exclusion may not extend for a period in excess
7 of 6-months after the enrollment date, nor may any look-
8 back period extend for a period in excess of 6-months.

9 (c) DEFINITION.—As used in this section, the term
10 “preexisting condition exclusion” shall have the meaning
11 given such term by section 2701(b)(1) of the Public
12 Health Service Act (as added by section 102 of the Health
13 Insurance Portability and Accountability Act of 1996).

14 **Subtitle C—General Duties and**
15 **Responsibilities of the Secretary**

16 **SEC. 221. REGULATIONS.**

17 The Secretary may issue regulations and interim final
18 regulations to implement the program established under
19 this Act.

20 **TITLE III—ASSISTANCE TO FAMI-**
21 **LIES AND PREGNANT WOMEN**

22 **SEC. 301. REQUIREMENT TO OPERATE PROGRAM.**

23 In order to qualify for payments under section 308,
24 each State shall have in effect a program for furnishing
25 premium assistance and cost-sharing assistance in accord-

1 ance with this title for calendar years beginning after
2 1997.

3 **SEC. 302. ASSISTANCE WITH QUALIFYING CHILDREN'S**
4 **HEALTH PLAN OR QUALIFYING PREGNANT**
5 **WOMAN'S HEALTH PLAN PREMIUMS.**

6 (a) ELIGIBILITY.—

7 (1) IN GENERAL.—An eligible individual (as de-
8 fined in section 309(5)) who has been determined by
9 a State under section 304 to be a premium subsidy
10 eligible individual (as defined in paragraph (2)) shall
11 be eligible for premium assistance in the amount de-
12 termined under subsection (b).

13 (2) PREMIUM SUBSIDY ELIGIBLE INDIVID-
14 UAL.—For purposes of this title, the term “premium
15 subsidy eligible individual” means any individual
16 who—

17 (A) is an eligible child (as defined in sec-
18 tion 100(1)) or a pregnant woman;

19 (B) is not eligible for medical assistance
20 under a State plan under title XIX of the So-
21 cial Security Act; and

22 (C) has a family income determined under
23 section 309(4) which does not exceed 300 per-
24 cent of the poverty line.

1 (3) LIMITATION ON USE OF ASSISTANCE.—A
2 premium subsidy eligible individual who receives pre-
3 mium assistance under this title shall use such as-
4 sistance only for payments toward the premium
5 under a qualifying children’s health plan (as defined
6 in section 309(1)) or a qualifying pregnant woman’s
7 health plan (as defined in section 309) in which the
8 individual is enrolled.

9 (b) AMOUNT OF ASSISTANCE.—

10 (1) IN GENERAL.—

11 (A) DETERMINATION OF AMOUNT.—The
12 amount of premium assistance for a month for
13 a premium subsidy eligible individual is an
14 amount equal to the least of—

15 (i) the subsidy percentage specified in
16 paragraph (3) multiplied by $\frac{1}{12}$ th of the
17 annual premium paid for coverage under a
18 qualifying children’s health plan or a quali-
19 fying pregnant woman’s health plan in
20 which the individual is enrolled; or

21 (ii) the subsidy percentage specified in
22 paragraph (3) multiplied by $\frac{1}{12}$ th of the
23 weighted average annual premium rate (as
24 determined under subparagraph (B)).

1 (B) WEIGHTED AVERAGE ANNUAL PRE-
2 MIUM RATE.—For purposes of this paragraph,
3 the term “weighted average annual premium
4 rate” means the average premium for the quali-
5 fying children’s health plans or qualifying preg-
6 nant woman’s health plan (as the case may be)
7 offered in the area in which the individual re-
8 sides (as determined by the State), weighted to
9 reflect the total enrollment of individuals among
10 such plans.

11 (3) SUBSIDY PERCENTAGE.—For purposes of
12 paragraph (1)(A), the term “subsidy percentage”
13 means 100 percent reduced (but not below zero) by
14 .86 percentage point for each 1 percentage point (or
15 portion thereof) by which such individual’s family in-
16 come exceeds 185 percent of the poverty line. The
17 subsidy percentage for an individual with a family
18 income of 300 percent of poverty or more shall be
19 zero.

20 (4) SPECIAL RULE.—If an employer contribu-
21 tion toward the premium under a health plan that
22 is available to a premium subsidy eligible individual
23 through the employer is made or offered to be made
24 on behalf of the individual, the amount of any pre-

1 mium subsidy under this section shall be reduced by
2 the amount of such employer contribution.

3 (c) PAYMENTS.—

4 (1) IN GENERAL.—The amount of the premium
5 assistance available to a premium subsidy eligible in-
6 dividual under subsection (b) shall be paid in the
7 case of an individual enrolled in a health plan under
8 a State program under subtitle A of title I, by the
9 State directly to the plan in which the individual is
10 enrolled. Payments under the preceding sentence
11 shall commence in the first month during which the
12 individual is enrolled in a qualifying children’s
13 health plan or qualifying pregnant woman’s health
14 plan and determined under section 304 to be a pre-
15 mium subsidy eligible individual.

16 (2) ADJUSTMENTS FOR COST-SHARING.—
17 Amounts paid to plans under this subsection shall be
18 adjusted to account for cost-sharing assistance pro-
19 vided to cost-sharing subsidy eligible individuals
20 under section 303.

21 (3) INDIVIDUAL RESPONSIBILITY.—An individ-
22 ual shall be responsible for paying any portion of the
23 premium for the qualifying children’s health plan or
24 the qualifying pregnant woman’s health plan in

1 which the individual is enrolled that is not paid as
2 premium assistance under paragraph (1).

3 **SEC. 303. ASSISTANCE WITH COST-SHARING FOR QUALIFY-**
4 **ING CHILDREN'S HEALTH PLANS OR QUALI-**
5 **FYING PREGNANT WOMAN'S HEALTH PLAN.**

6 (a) ELIGIBILITY.—

7 (1) IN GENERAL.—An eligible individual (as de-
8 fined in section 309(5)) who has been determined by
9 a State under section 304 to be a cost-sharing sub-
10 sidy eligible individual (as defined in paragraph (2))
11 shall be eligible for cost-sharing assistance in accord-
12 ance with subsection (b).

13 (2) COST-SHARING SUBSIDY ELIGIBLE INDIVID-
14 UAL.—For purposes of this title, the term “cost-
15 sharing subsidy eligible individual” means any pre-
16 mium subsidy eligible individual whose family in-
17 come is less than 150 percent of the poverty line.

18 (b) COST-SHARING ASSISTANCE.—A cost-sharing
19 subsidy eligible individual enrolled in a qualifying chil-
20 dren's health plan or a qualifying pregnant woman's
21 health plan shall be eligible for cost-sharing assistance
22 consisting of a reduction in the amount of copayment ap-
23 plied with respect to an item or service to an amount equal
24 to in the case of an individual with a family income that
25 is less than 150 percent of the poverty line, 20 percent

1 of the copayment amount otherwise applicable under the
2 plan, rounded to the nearest dollar.

3 (c) NOTIFICATION OF HEALTH PLANS.—If a State
4 determines that an individual is eligible for cost-sharing
5 assistance under this section the State shall notify the
6 health plan in which such individual is enrolled in a timely
7 manner, if the individual enrolled in a health plan under
8 a State program under subtitle B of title I.

9 **SEC. 304. ELIGIBILITY DETERMINATIONS.**

10 (a) IN GENERAL.—The Secretary shall promulgate
11 regulations specifying requirements for State programs
12 under this title with respect to determining eligibility for
13 premium and cost-sharing assistance.

14 (b) SPECIFICATIONS FOR REGULATIONS.—The regu-
15 lations promulgated by the Secretary under subsection (a)
16 shall include the following requirements:

17 (1) APPLICATIONS.—A State program shall
18 provide that an individual may file an application for
19 assistance with an agency designated by the State at
20 any time, in person or by mail.

21 (2) APPLICATION FORM.—A State program
22 shall provide for the use of an application form de-
23 veloped by the Secretary. Such form shall—

24 (A) be simple in form and understandable
25 to the average individual;

1 (B) in the case of a State with a signifi-
2 cant number of residents with limited English-
3 speaking proficiency, be in languages other than
4 English, as appropriate for the State;

5 (C) require the provision of information
6 necessary to make a determination as to wheth-
7 er an individual is eligible for assistance, includ-
8 ing a declaration of estimated income by the in-
9 dividual; and

10 (D) require attachment of such docu-
11 mentation as deemed necessary by the Sec-
12 retary in order to ensure eligibility for assist-
13 ance.

14 (3) DISTRIBUTION OF APPLICATIONS.—A State
15 program shall make applications accessible at loca-
16 tions where individuals are most likely to obtain the
17 applications.

18 (4) REQUIREMENT TO SUBMIT REVISED APPLI-
19 CATION.—A State program shall require individuals
20 to submit revised applications to reflect changes in
21 estimated family incomes, including changes in em-
22 ployment status of family members, during the year.
23 The State shall revise the amount of any premium
24 assistance based on such a revised application.

1 (c) EFFECTIVENESS OF ELIGIBILITY.—A determina-
 2 tion by a State that an individual is a premium or cost-
 3 sharing subsidy eligible individual shall be effective for the
 4 calendar year for which such determination is made unless
 5 a revised application submitted under subsection (b)(4) in-
 6 dicates that an individual is no longer eligible for assist-
 7 ance.

8 (d) COORDINATION.—Determinations made pursuant
 9 to this section may be coordinated with determinations of
 10 eligibility for State-administered health programs to the
 11 extent that such coordination brings about administrative
 12 efficiencies.

13 **SEC. 305. END-OF-YEAR RECONCILIATION FOR PREMIUM**
 14 **ASSISTANCE.**

15 (a) IN GENERAL.—

16 (1) REQUIREMENT TO FILE STATEMENT.—An
 17 individual who received premium assistance under
 18 this title from a State for any month in a calendar
 19 year shall file with the State an income reconcili-
 20 ation statement to verify the individual's family in-
 21 come for the year. Such a statement shall be filed
 22 at such time, and contain such information, as the
 23 State may specify in accordance with regulations
 24 promulgated by the Secretary.

1 (2) NOTICE OF REQUIREMENT.—The State
2 shall provide a written notice of the requirement
3 under paragraph (1) at the end of the year to an in-
4 dividual who received premium assistance under this
5 title in any month during the year.

6 (b) RECONCILIATION OF PREMIUM ASSISTANCE
7 BASED ON ACTUAL INCOME.—

8 (1) IN GENERAL.—Based on and using the in-
9 come reported in the reconciliation statement filed
10 under subsection (a) with respect to an individual,
11 the State shall compute the amount of premium as-
12 sistance that should have been provided under this
13 title with respect to the individual for the year in-
14 volved.

15 (2) OVERPAYMENT OF ASSISTANCE.—If the
16 total amount of the premium assistance provided
17 was greater than the amount computed under para-
18 graph (1), the individual is liable to pay an amount
19 equal to the amount of the excess payment. The in-
20 dividual shall pay such amount to the State if the
21 individual enrolled in a health plan under a State
22 program under subtitle A of title I.

23 (3) UNDERPAYMENT OF ASSISTANCE.—If the
24 total amount of the premium assistance provided
25 was less than the amount computed under para-

1 graph (1), the State shall pay to the individual an
2 amount equal to the amount of the deficit.

3 (4) STATE OPTION.—The State may, in accord-
4 ance with regulations promulgated by the Secretary,
5 establish a procedure under which any overpayments
6 or underpayments of premium assistance determined
7 under paragraphs (2) and (3) with respect to an in-
8 dividual for a year may be collected or paid, as ap-
9 propriate, through adjustments to the premium as-
10 sistance furnished to such individual in the succeed-
11 ing year.

12 (c) PENALTIES FOR FAILURE TO FILE.—In the case
13 of an individual who is required to file a statement under
14 this section in a year who fails to file such a statement,
15 the entire amount of the premium assistance provided in
16 such year shall be considered an excess amount under sub-
17 section (b)(2) and such individual shall not be eligible for
18 premium assistance under this title until such statement
19 is filed. The State, using rules established by the Sec-
20 retary, shall waive the application of this subsection if the
21 individual establishes, to the satisfaction of the State
22 under such rules, good cause for the failure to file the
23 statement on a timely basis.

1 **SEC. 306. PENALTIES FOR MATERIAL MISREPRESENTATION**
2 **AND FALSE INFORMATION.**

3 (a) IN GENERAL.—Any individual who knowingly
4 makes a material misrepresentation of information or pro-
5 vides false information in an application for assistance
6 under this title under section 304 or an income reconcili-
7 ation statement under section 305 shall be liable to the
8 Federal Government for the amount any premium assist-
9 ance received by the individual on the basis of such mis-
10 representation or false information and interest on such
11 amount at a rate specified by the Secretary, and shall,
12 in addition, be liable to the Federal Government for
13 \$2,000 or, if greater, 3 times the amount of any premium
14 assistance received by the individual on the basis of such
15 misrepresentation or false information.

16 (b) COLLECTION OF PENALTY AMOUNTS.—A State
17 which receives an application for assistance or an income
18 reconciliation statement with respect to which a material
19 misrepresentation has been made or false information has
20 been provided shall collect the penalty amount required
21 under subsection (a) and submit such amount to the Sec-
22 retary in a timely manner.

23 **SEC. 307. ENROLLMENT OUTREACH.**

24 The Secretary shall promulgate regulations under
25 which each State operating a program for premium assist-
26 ance under this title shall have in effect an enrollment out-

1 reach system under which individuals may be assisted in
2 enrolling under this Act by health care providers who fur-
3 nish services to such individuals.

4 **SEC. 308. AGGREGATE FEDERAL PAYMENTS.**

5 (a) IN GENERAL.—The Secretary shall provide for
6 payment to each participating State for each calendar
7 quarter, beginning with any quarter beginning on or after
8 June 1, 1998, in an amount equal to—

9 (1) 100 percent of the total amount estimated
10 by the Secretary to be expended by the State during
11 such quarter for premium and cost-sharing assist-
12 ance under this title for enrollment in qualifying
13 children’s health plans or qualifying pregnant wom-
14 an’s health plans through the programs operated
15 under title I; and

16 (2) 75 percent of the total amount estimated by
17 the Secretary to be expended by the State during
18 such quarter for proper and efficient administration
19 of the program described in this title.

20 (b) REDUCTION IN PAYMENTS FOR ADMINISTRATIVE
21 ERRORS.—

22 (1) IN GENERAL.—In the case of administrative
23 errors described in paragraph (2), matching pay-
24 ments available to a State under subsection (a) shall

1 be reduced by an amount determined appropriate by
2 the Secretary.

3 (2) ADMINISTRATIVE ERRORS DESCRIBED.—

4 The administrative errors described in this para-
5 graph include the following:

6 (A) An eligibility error rate for premium
7 assistance to the extent the applicable error
8 rate exceeds the maximum permissible error
9 rate specified by the Secretary.

10 (B) Misappropriations or other expendi-
11 tures that the Secretary finds are attributable
12 to malfeasance or misfeasance.

13 (c) AUDITS.—The Secretary shall conduct regular
14 audits of the activities conducted under this title.

15 (d) BUDGETARY TREATMENT.—This section con-
16 stitutes budget authority in advance of appropriations
17 Acts, and represents the obligation of the Federal Govern-
18 ment to provide payments to the States in accordance with
19 this section.

20 **SEC. 309. DEFINITIONS AND DETERMINATIONS OF INCOME.**

21 For purposes of this title:

22 (1) QUALIFYING CHILDREN'S HEALTH PLAN.—

23 The term “qualifying children’s health plan” means
24 a health plan providing the qualifying children’s pol-
25 icy as described in section 201.

1 (2) QUALIFYING PREGNANT WOMAN'S HEALTH
2 PLAN.—The term “Qualifying pregnant woman’s
3 health plan” means a health plan providing the
4 qualifying pregnant woman’s policy as described in
5 section 202.

6 (3) CHILD.—The term “child“ means an indi-
7 vidual who is under 19 years of age.

8 (4) DETERMINATIONS OF INCOME.—

9 (A) FAMILY INCOME.—The term “family
10 income” means, with respect to an individual
11 who—

12 (i) is not a dependent (as defined in
13 subparagraph (B)) of another individual,
14 the sum of the modified adjusted gross in-
15 comes (as defined in subparagraph (D))
16 for the individual, the individual’s spouse,
17 and children who are dependents of the in-
18 dividual; or

19 (ii) is a dependent of another individ-
20 ual, the sum of the modified adjusted gross
21 incomes for the other individual, the other
22 individual’s spouse, and children who are
23 dependents of the other individual.

24 (B) DEPENDENT.—The term “dependent”
25 shall have the meaning given such term under

1 section 152 of the Internal Revenue Code of
2 1986.

3 (C) SPECIAL RULE FOR FOSTER CHIL-
4 DREN.—For purposes of subparagraph (A), a
5 child who is placed in foster care by a State
6 agency shall not be considered a dependent of
7 another individual.

8 (D) MODIFIED ADJUSTED GROSS IN-
9 COME.—The term “modified adjusted gross in-
10 come” means adjusted gross income (as defined
11 in section 62(a) of the Internal Revenue Code
12 of 1986)—

13 (i) determined without regard to sec-
14 tions 135, 162(l), 911, 931, and 933 of
15 such Code, and

16 (ii) increased by—

17 (I) the amount of interest re-
18 ceived or accrued by the individual
19 during the taxable year which is ex-
20 empt from tax, and

21 (II) the amount of the social se-
22 curity benefits (as defined in section
23 86(d) of such Code) received during
24 the taxable year to the extent not in-

1 cluded in gross income under section
2 86 of such Code.

3 The determination under the preceding sen-
4 tence shall be made without regard to any car-
5 ryover or carryback.

6 (E) RULES RELATING TO DISREGARD OF
7 CERTAIN INCOME.—The Secretary may promul-
8 gate rules under which spousal income may be
9 disregarded in instances where a spouse is not
10 part of a family unit.

11 (5) POVERTY LINE.—The term “poverty line”
12 means the income official poverty line (as defined by
13 the Office of Management and Budget, and revised
14 annually in accordance with section 673(2) of the
15 Omnibus Budget Reconciliation Act of 1981) that—

16 (A) in the case of a family of less than five
17 individuals, is applicable to a family of the size
18 involved; and

19 (B) in the case of a family of more than
20 four individuals, is applicable to a family of
21 four persons.

22 **SEC. 310. REFERENCES TO INDIVIDUAL.**

23 For purposes of this title, any reference to an individ-
24 ual shall include a reference to the parent or guardian of
25 such individual.

1 **TITLE IV—MISCELLANEOUS**
2 **PROVISIONS**

3 **SEC. 401. EMPLOYER MAY NOT DISCRIMINATE AGAINST**
4 **SUBSIDY ELIGIBLE INDIVIDUALS.**

5 (a) **GENERAL RULE.**—Any employer which elects to
6 make employer contributions on behalf of an individual
7 who is an employee of such employer, or who is a depend-
8 ent of such employee, for health insurance coverage shall
9 not condition, or vary, such contributions with respect to
10 any such individual by reason of such individual's status
11 as an individual eligible for premium assistance under title
12 III.

13 (b) **ELIMINATION OF CONTRIBUTIONS.**—An employer
14 shall not be treated as failing to meet the requirements
15 of subsection (a) if the employer ceases to make employer
16 contributions for health insurance coverage for all its em-
17 ployees.

18 **SEC. 402. MAINTENANCE OF EFFORT.**

19 A participating State may not modify the eligibility
20 requirements for children or pregnant women under the
21 State program under title XIX of the Social Security Act,
22 as in effect on July 1, 1996, in any manner that would
23 have the effect of reducing the eligibility of children or
24 pregnant women for coverage under such program.

1 **SEC. 403. SENSE OF THE COMMITTEE REGARDING FINANC-**
2 **ING.**

3 It is the sense of the Committee on Labor and
4 Human Resources of the Senate that the program estab-
5 lished under this Act should be fully financed in a budget
6 neutral manner by offsetting revenues derived from in-
7 creasing the taxes on tobacco and providing for reductions
8 in undeserved corporate tax breaks.

○