

106TH CONGRESS  
1ST SESSION

# H. R. 2691

To amend the Internal Revenue Code of 1986 and titles XVIII and XIX of the Social Security Act to provide a range of long-term care services.

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## IN THE HOUSE OF REPRESENTATIVES

AUGUST 3, 1999

Mr. STARK (for himself, Mr. MARKEY, Mr. MCGOVERN, Mr. MCDERMOTT, Mr. MOAKLEY, Mr. OLVER, Mr. CAPUANO, and Mr. GORDON) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on Commerce, Government Reform, and Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend the Internal Revenue Code of 1986 and titles XVIII and XIX of the Social Security Act to provide a range of long-term care 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Omnibus Long-Term Care Improvement Act of 1999”.

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

Sec. 1. Short title; table of contents.

#### TITLE I—EXPANSION OF LONG-TERM CARE PROTECTION

Sec. 101. Refundable credit for long-term care.

#### TITLE II—MEDICARE LONG-TERM CARE IMPROVEMENTS

##### Subtitle A—Medicare SNF, HHA, and Other Improvements

Sec. 201. Expanded long-term care services under medicare program for dependent individuals.

Sec. 202. Coverage of substitute adult day care services under medicare.

Sec. 203. Establishment of medicare home health care case managers for long term home health spells of illness.

Sec. 204. Post acute care improvement.

Sec. 205. Additional payments to home health agencies for most expensive cases.

Sec. 206. Strengthening the post-hospital referral process.

Sec. 207. Clarification of the definition of homebound.

##### Subtitle B—Encouraging Provision of Hospice Care

Sec. 211. Providing hospice information for certain beneficiaries at time of hospital discharge.

Sec. 212. Encouraging physician education in hospice care.

Sec. 213. Inclusion of hospice care under Federal Employees Health Benefits Program (FEHBP).

##### Subtitle C—QMB Improvements

Sec. 221. Mechanism promoting provision of medicare cost-sharing assistance to eligible low-income medicare beneficiaries.

#### TITLE III—NURSING HOME QUALITY PROTECTIONS

Sec. 301. Information on nursing facility staffing.

Sec. 302. Assessment of fees to recover costs of resurveying or reinspecting facilities.

Sec. 303. Establishment of program to prevent abuse of nursing facility residents.

Sec. 304. Inclusion of abusive nursing facility workers in the database established as part of national health care fraud and abuse data collection program.

Sec. 305. Prevention and training demonstration project.

Sec. 306. Effective date.

#### TITLE IV—ACCESS TO LONG-TERM CARE INSURANCE

##### Subtitle A—Group Long-Term Care Insurance

Sec. 401. Federal employees group long-term care insurance.

##### “CHAPTER 90—LONG-TERM CARE INSURANCE

“Sec.

“9001. Definitions.

“9002. Contracting authority.

“9003. Minimum standards for contractors.

- “9004. Long-term care benefits.
- “9005. Financing.
- “9006. Preemption.
- “9007. Studies, reports, and audits.
- “9008. Claims for benefits.
- “9009. Jurisdiction of courts.
- “9010. Regulations.
- “9011. Authorization of appropriations.

Sec. 402. Making available group long-term care insurance to others.

Subtitle B—Extension of Consumer Protection Standards to All Long-Term  
Care Insurance Policies

Sec. 411. Extension of consumer protection standards to all long-term care in-  
surance policies.

TITLE V—ADDITION OF NATIONAL FAMILY CAREGIVER PROGRAM  
TO THE OLDER AMERICANS ACT OF 1965

Sec. 501. National family caregiver support program.

“PART D—NATIONAL FAMILY CAREGIVER SUPPORT PROGRAM

“Subpart 1—State Grant Program

- “Sec. 341. Program authorized.
- “Sec. 342. Maintenance of effort.

“Subpart 2—National Innovation Programs

- “Sec. 345. Innovation grant program.
- “Sec. 346. Activities of National significance.

Sec. 502. Allotments.

Sec. 503. Availability of title III–D funds for reallotment.

Sec. 504. Conforming amendments.

Sec. 505. Effective date.

TITLE VI—MEDICARE FOR CAREGIVERS

Subtitle A—Access to Medicare Benefits for Caregivers

Sec. 601. Access to medicare benefits for caregivers.

“PART D—MEDICARE BENEFITS FOR CAREGIVERS

- “Sec. 1859. Program benefits; eligibility.
- “Sec. 1859A. Enrollment process; coverage.
- “Sec. 1859B. Medicare Caregiver Trust Fund.
- “Sec. 1859C. Oversight and accountability.
- “Sec. 1859D. Administration and miscellaneous.

Subtitle B—COBRA Protection for Caregivers

CHAPTER 1—AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME  
SECURITY ACT OF 1974

Sec. 611. COBRA continuation benefits for certain caregivers who lost health  
coverage.

## CHAPTER 2—AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT

Sec. 612. COBRA continuation benefits for certain caregivers.

## CHAPTER 3—AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986

Sec. 613. COBRA continuation benefits for certain caregivers.

## Subtitle C—Financing

Sec. 621. Reference to financing provisions.

TITLE VII—SOCIAL SECURITY BENEFIT FOR LONG-TERM  
CAREGIVERS

Sec. 701. Social security credit for long-term caregivers.

1     **TITLE I—REFUNDABLE CREDIT**  
 2                     **FOR LONG-TERM CARE**

3     **SEC. 101. REFUNDABLE CREDIT FOR LONG-TERM CARE.**

4             (a) GENERAL RULE.—Subpart C of part IV of sub-  
 5 chapter A of chapter 1 of the Internal Revenue Code of  
 6 1986 (relating to refundable credits) is amended by redес-  
 7 ignating section 35 as section 36 and by inserting after  
 8 section 34 the following new section:

9     **“SEC. 35. FAMILY CARE CREDIT.**

10            “(a) ALLOWANCE OF CREDIT.—There shall be al-  
 11 lowed as a credit against the tax imposed by this chapter  
 12 for the taxable year an amount equal to the sum of \$1,000  
 13 multiplied by the number of applicable individuals with re-  
 14 spect to whom the taxpayer is an eligible caregiver for the  
 15 taxable year.

16            “(b) LIMITATION BASED ON ADJUSTED GROSS IN-  
 17 COME.—

18                    “(1) IN GENERAL.—The amount of the credit  
 19             allowable under subsection (a) shall be reduced (but

1 not below zero) by \$50 for each \$1,000 (or fraction  
2 thereof) by which the taxpayer's modified adjusted  
3 gross income exceeds the threshold amount. For  
4 purposes of the preceding sentence, the term 'modi-  
5 fied adjusted gross income' means adjusted gross in-  
6 come increased by any amount excluded from gross  
7 income under section 911, 931, or 933.

8 “(2) THRESHOLD AMOUNT.—For purposes of  
9 paragraph (1), the term ‘threshold amount’ means—

10 “(A) \$110,000 in the case of a joint re-  
11 turn,

12 “(B) \$75,000 in the case of an individual  
13 who is not married, and

14 “(C) \$55,000 in the case of a married in-  
15 dividual filing a separate return.

16 For purposes of this paragraph, marital status shall  
17 be determined under section 7703.

18 “(c) DEFINITIONS.—For purposes of this section—

19 “(1) APPLICABLE INDIVIDUAL.—

20 “(A) IN GENERAL.—The term ‘applicable  
21 individual’ means, with respect to any taxable  
22 year, any individual who has been certified, be-  
23 fore the due date for filing the return of tax for  
24 the taxable year (without extensions), by a phy-  
25 sician (as defined in section 1861(r)(1) of the

1 Social Security Act) as being an individual with  
2 long-term care needs described in subparagraph  
3 (B) for a period—

4 “(i) which is at least 180 consecutive  
5 days, and

6 “(ii) a portion of which occurs within  
7 the taxable year.

8 Such term shall not include any individual oth-  
9 erwise meeting the requirements of the pre-  
10 ceeding sentence unless within the 39½ month  
11 period ending on such due date (or such other  
12 period as the Secretary prescribes) a physician  
13 (as so defined) has certified that such indi-  
14 vidual meets such requirements.

15 “(B) INDIVIDUALS WITH LONG-TERM CARE  
16 NEEDS.—An individual is described in this sub-  
17 paragraph if the individual meets any of the fol-  
18 lowing requirements:

19 “(i) The individual is at least 6 years  
20 of age and—

21 “(I) is unable to perform (with-  
22 out substantial assistance from an-  
23 other individual) at least 3 activities  
24 of daily living (as defined in section

1 7702B(c)(2)(B)) due to a loss of  
2 functional capacity, or

3 “(II) requires substantial super-  
4 vision to protect such individual from  
5 threats to health and safety due to se-  
6 vere cognitive impairment and is un-  
7 able to perform at least 1 activity of  
8 daily living (as so defined) or to the  
9 extent provided in regulations pre-  
10 scribed by the Secretary (in consulta-  
11 tion with the Secretary of Health and  
12 Human Services), is unable to engage  
13 in age appropriate activities, or

14 “(III) requires substantial super-  
15 vision to protect such individual from  
16 threats to health and safety due to a  
17 severe psychological disability, mental  
18 retardation, or related developmental  
19 disabilities and would otherwise re-  
20 quire residence in a psychiatric hos-  
21 pital, an intermediate care facility for  
22 the mentally retarded, or similar resi-  
23 dential facility approved by the Sec-  
24 retary of Health and Human Services.

1           “(ii) The individual is at least 2 but  
2           not 6 years of age and is unable due to a  
3           loss of functional capacity to perform  
4           (without substantial assistance from an-  
5           other individual) at least 2 of the following  
6           activities: eating, transferring, or mobility.

7           “(iii) The individual is under 2 years  
8           of age and requires specific durable med-  
9           ical equipment by reason of a severe health  
10          condition or requires a skilled practitioner  
11          trained to address the individual’s condi-  
12          tion to be available if the individual’s par-  
13          ents or guardians are absent.

14          “(C) PSYCHOLOGICAL DISABILITY DE-  
15          FINED.—In this section, the term ‘psychological  
16          disability’ shall refer to diagnosable clinical con-  
17          ditions on Axis I or Axis II of the current edi-  
18          tion of the American Psychiatric Association’s  
19          Diagnostic and Statistical Manual of Mental  
20          Disorders and is of a severity that requires sub-  
21          stantial supervision or residence in a psychiatric  
22          hospital or similar residential facility approved  
23          by the Secretary.

24          “(D) MENTAL RETARDATION DEFINED.—  
25          In this section, the term ‘mental retardation’



1 shall have the same meaning as ‘developmental  
2 disabilities’ as defined in section 102 of the De-  
3 velopmental Disabilities Assistance and Bill of  
4 Rights Act (42 U.S.C. 6000) consistent with  
5 the requirements of section 305(a)(2)(E) and is  
6 of a severity that requires substantial super-  
7 vision or residence in an intermediate care facil-  
8 ity for the mentally retarded, or similar residen-  
9 tial facility approved by the Secretary of Health  
10 and Human Services.

11 “(2) ELIGIBLE CAREGIVER.—

12 “(A) IN GENERAL.—A taxpayer shall be  
13 treated as an eligible caregiver for any taxable  
14 year with respect to the following individuals:

15 “(i) The taxpayer.

16 “(ii) The taxpayer’s spouse.

17 “(iii) An individual with respect to  
18 whom the taxpayer is allowed a deduction  
19 under section 151 for the taxable year.

20 “(iv) An individual who would be de-  
21 scribed in clause (iii) for the taxable year  
22 if section 151(c)(1)(A) were applied by  
23 substituting for the exemption amount an  
24 amount equal to the sum of the exemption  
25 amount, the standard deduction under sec-

1           tion 63(c)(2)(C), and any additional stand-  
2           ard deduction under section 63(c)(3) which  
3           would be applicable to the individual if  
4           clause (iii) applied.

5           “(v) An individual who would be de-  
6           scribed in clause (iii) for the taxable year  
7           if—

8                   “(I) the requirements of clause  
9                   (iv) are met with respect to the indi-  
10                  vidual, and

11                   “(II) the requirements of sub-  
12                   paragraph (B) are met with respect to  
13                   the individual in lieu of the support  
14                   test of section 152(a).

15           “(B) RESIDENCY TEST.—The require-  
16           ments of this subparagraph are met if an indi-  
17           vidual has as his principal place of abode the  
18           home of the taxpayer and—

19                   “(i) in the case of an individual who  
20                   is an ancestor or descendant of the tax-  
21                   payer or the taxpayer’s spouse, is a mem-  
22                   ber of the taxpayer’s household for over  
23                   half the taxable year, or

1           “(ii) in the case of any other indi-  
2           vidual, is a member of the taxpayer’s  
3           household for the entire taxable year.

4           “(C) SPECIAL RULES WHERE MORE THAN  
5           1 ELIGIBLE CAREGIVER.—

6           “(i) IN GENERAL.—If more than 1 in-  
7           dividual is an eligible caregiver with re-  
8           spect to the same applicable individual for  
9           taxable years ending with or within the  
10          same calendar year, a taxpayer shall be  
11          treated as the eligible caregiver if each  
12          such individual (other than the taxpayer)  
13          files a written declaration (in such form  
14          and manner as the Secretary may pre-  
15          scribe) that such individual will not claim  
16          such applicable individual for the credit  
17          under this section.

18          “(ii) NO AGREEMENT.—If each indi-  
19          vidual required under clause (i) to file a  
20          written declaration under clause (i) does  
21          not do so, the individual with the highest  
22          modified adjusted gross income (as defined  
23          in section 32(c)(5)) shall be treated as the  
24          eligible caregiver.

1                   “(iii) MARRIED INDIVIDUALS FILING  
2                   SEPARATELY.—In the case of married indi-  
3                   viduals filing separately, the determination  
4                   under this subparagraph as to whether the  
5                   husband or wife is the eligible caregiver  
6                   shall be made under the rules of clause (ii)  
7                   (whether or not one of them has filed a  
8                   written declaration under clause (i)).

9                   “(d) IDENTIFICATION REQUIREMENT.—No credit  
10                  shall be allowed under this section to a taxpayer with re-  
11                  spect to any applicable individual unless the taxpayer in-  
12                  cludes the name and taxpayer identification number of  
13                  such individual, and the identification number of the phy-  
14                  sician or licensed independent practitioner licensed by the  
15                  State to render relevant diagnosis certifying such indi-  
16                  vidual, on the return of tax for the taxable year.

17                  “(e) TAXABLE YEAR MUST BE FULL TAXABLE  
18                  YEAR.—Except in the case of a taxable year closed by rea-  
19                  son of the death of the taxpayer, no credit shall be allow-  
20                  able under this section in the case of a taxable year cov-  
21                  ering a period of less than 12 months.”.

22                  (b) CONFORMING AND CLERICAL AMENDMENTS.—

23                         (1) Paragraph (2) of section 6213(g) of such  
24                         Code (relating to mathematical or clerical error) is  
25                         amended—

1 (A) by striking “and” at the end of sub-  
2 paragraph (K), by striking the period at the  
3 end of subparagraph (L) and inserting “, and”,  
4 and by inserting after subparagraph (L) the fol-  
5 lowing new subparagraph:

6 “(M) an omission of a correct TIN or phy-  
7 sician identification required under section  
8 24(e) (relating to family care credit) to be in-  
9 cluded on a return.”, and

10 (B) in the matter preceding clause (i) of  
11 subparagraph (L), by striking “or 32” and in-  
12 serting “32, or 35”.

13 (2) The table of sections for subpart C of part  
14 IV of subchapter A of chapter 1 of such Code is  
15 amended by striking the item relating to section 35  
16 and inserting the following:

“Sec. 35. Family care credit.  
“Sec. 36. Overpayments of tax.”

17 (c) APPROPRIATIONS FOR REFUND.—Section  
18 1324(b)(2) of title 31, United States Code, is amended  
19 by inserting before the period “, or of section 35 of such  
20 Code”.

21 (d) EFFECTIVE DATE.—The amendments made by  
22 this section shall apply to taxable years beginning after  
23 December 31, 2000.

1       **TITLE II—MEDICARE LONG-**  
2       **TERM CARE IMPROVEMENTS**  
3       **Subtitle A—Medicare SNF, HHA,**  
4       **and Other Improvements**

5       **SEC. 201. EXPANDED LONG-TERM IN-HOME, COMMUNITY-**  
6                   **BASED, AND RESPITE CARE SERVICES UNDER**  
7                   **MEDICARE PROGRAM FOR DEPENDENT INDI-**  
8                   **VIDUALS.**

9       (a) IN GENERAL.—

10           (1) PART A.—Section 1812 of the Social Secu-  
11       rity Act (42 U.S.C. 1395d) is amended—

12           (A) in subsection (a)—

13           (i) in paragraph (2)(B), by striking  
14       “subsection (f),” and inserting “subsection  
15       (f) and section 1889,”

16           (ii) by striking “and” at the end of  
17       paragraph (3),

18           (iii) by striking the period at the end  
19       of paragraph (4) and inserting “; and”,  
20       and

21           (iv) by adding at the end the following  
22       new paragraph:

23           “(5) long-term care services consisting of ex-  
24       tended care services (in accordance with section  
25       1889).”; and

1 (B) in subsection (b)(2), by striking “post-  
2 hospital” and inserting “except as provided in  
3 section 1889, post-hospital”.

4 (2) PART B.—Section 1861(s)(2) of such Act  
5 (42 U.S.C. 1395x(s)(2)) is amended—

6 (A) in subparagraph (S), by striking  
7 “and” at the end;

8 (B) in subparagraph (T), by striking the  
9 period at the end and inserting “; and”; and

10 (C) by inserting after subparagraph (T)  
11 the following new subparagraph:

12 “(U) long-term care services consisting of  
13 in-home, community-based, and respite care (in  
14 accordance with section 1889);”.

15 (b) DESCRIPTION OF SERVICES; ELIGIBILITY.—Title  
16 XVIII of such Act is amended by inserting after section  
17 1888 the following new section:

18 “LONG-TERM CARE SERVICES FOR DEPENDENT  
19 INDIVIDUALS

20 “SEC. 1889. (a) IN GENERAL.—An individual enti-  
21 tled to benefits under this part shall be entitled to have  
22 payments made on the individual’s behalf for long-term  
23 care services if—

24 “(1) the individual is a dependent individual;  
25 and

1           “(2) such services are provided in accordance  
2 with a case management plan developed by a case  
3 management agency.

4           “(b) SERVICES PROVIDED.—In this section, the term  
5 ‘long-term care services’ means—

6           “(1) in-home, community-based, and respite  
7 care (as defined in subsection (e)); and

8           “(2) extended care services (as defined in sec-  
9 tion 1861(h) (1) and (3) through (7)), but only with  
10 respect to a chronically dependent individual.

11          “(c) PAYMENT FOR SERVICES.—

12          “(1) IN GENERAL.—Subject to paragraphs (2)  
13 and (3), the amount payable for long-term care serv-  
14 ices under this section shall be determined in accord-  
15 ance with a fee schedule for such services established  
16 by the Secretary.

17          “(2) IMPOSITION OF DEDUCTIBLE.—The  
18 amount otherwise payable for long-term care services  
19 under this section furnished during a calendar year  
20 shall be reduced by an amount equal to the deduct-  
21 ible imposed for Part B Services for the year under  
22 section 1833(b).

23          “(3) ALTERNATIVE PAYMENT UNDER COMPETI-  
24 TIVE BIDDING.—



1           “(A) IN GENERAL.—Notwithstanding the  
2 preceding provisions of this subsection, to the  
3 maximum extent feasible, the Secretary may, by  
4 region, use a competitive process to contract for  
5 the provision of long-term care services.

6           “(B) PAYMENT.—Payment under this  
7 paragraph shall be made on the basis of nego-  
8 tiated all-inclusive rates. The amount of pay-  
9 ment made by the Secretary to a provider of  
10 long-term care services for services covered  
11 under a contract shall be less than the aggre-  
12 gate amount of the payments that the Secretary  
13 would have otherwise made for the services.

14           “(C) CONTRACT PERIOD.—A contract pe-  
15 riod shall be three years (subject to renewal), as  
16 long as the entity continues to meet quality and  
17 other contractual standards.

18           “(d) DEPENDENT INDIVIDUAL DEFINED.—

19           “(1) IN GENERAL.—In this section, the term  
20 ‘dependent individual’ means an individual—

21           “(A) who is unable to perform (without  
22 substantial assistance from another individual)  
23 because of physical or cognitive impairment at  
24 least 2 of the following activities of daily living:

1 bathing, dressing, continence, toileting, trans-  
2 ferring, and eating; or

3 “(B) who has a similar level of disability  
4 due to cognitive impairment that requires sub-  
5 stantial direction, instruction, or supervision of  
6 another individual in order—

7 “(i) to perform 2 or more of the ac-  
8 tivities of daily living described in subpara-  
9 graph (A), or

10 “(ii) to remain in the community  
11 without causing harm to self or others be-  
12 cause of inappropriate behavioral patterns;  
13 and

14 “(C) with respect to whom the provision of  
15 in-home, community-based, and respite care  
16 services is likely to reduce or postpone more se-  
17 rious and expensive medical or institutional care  
18 the cost of which would be borne by public pro-  
19 grams (including programs under this title or  
20 title XIX).

21 “(2) CHRONICALLY DEPENDENT INDIVIDUAL.—

22 In this section, the term ‘chronically dependent indi-  
23 vidual’ means an individual described in paragraph  
24 (1) who—

1           “(A) for purposes of subparagraph (A) of  
2 such paragraph, is unable to perform at least 3  
3 of the activities of daily living described in such  
4 subparagraph; or

5           (B) for purposes of subparagraph (B)(i) of  
6 such paragraph, has a level of disability that re-  
7 quires direction, instruction, or supervision of  
8 another individual to perform 3 or more of such  
9 activities of daily living;

10           “(C) with respect to whom the provision of  
11 extended care services is likely to reduce or  
12 postpone more serious and expensive medical or  
13 institutional care the cost of which would be  
14 borne by public programs (including programs  
15 under this title or title XIX).

16           “(3) ACTIVITIES OF DAILY LIVING DEFINED.—  
17 The ‘activities of daily living’ referred to in this sub-  
18 section are as follows:

19           “(A) Eating.

20           “(B) Bathing.

21           “(C) Dressing.

22           “(D) Toileting.

23           “(E) Transferring in and out of a bed or  
24 in and out of a chair.

25           “(F) Continence.

1       “(e) IN-HOME, COMMUNITY-BASED, AND RESPITE  
2 CARE.—

3           “(1) IN GENERAL.—For purposes of this sec-  
4 tion, the term ‘in-home, community-based, and res-  
5 pite care’ means the items and services described in  
6 paragraph (2) furnished to an individual by a com-  
7 munity-based, or home care agency (as defined in  
8 section 1861(uu)) or by others under arrangements  
9 with them made by the agency provided in the com-  
10 munity or a place of residence used as such individ-  
11 ual’s home (other than services described in para-  
12 graph (2)(H)).

13           “(2) SERVICES DESCRIBED.—The items and  
14 services described in this paragraph are as follows:

15           “(A) Nursing care provided by or under  
16 the supervision of a registered professional  
17 nurse.

18           “(B) Services of a homemaker/home health  
19 aide who has successfully completed a training  
20 and competency evaluation program approved  
21 by the Secretary.

22           “(C) Personal care services.

23           “(D) Medical social services.

24           “(E) Physical, occupational, or respiratory  
25 therapy or speech-language pathology.

1           “(F) Medical supplies (other than drugs  
2           and biologicals) and durable medical equipment,  
3           while under such a plan.

4           “(G) Patient and caregiver (including fam-  
5           ily caregiver) education and training to develop  
6           skills necessary to permit the individual to re-  
7           main in the home setting.

8           “(H) Adult day care and other community  
9           care services furnished outside of the place of  
10          residence.

11          “(I) Such other community- or home-based  
12          items and services (other than room and board)  
13          as the Secretary may approve.

14          “(f) CASE MANAGEMENT REQUIREMENTS.—

15                 “(1) REQUESTS FOR ASSESSMENT.—Each indi-  
16                 vidual entitled to benefits under this title (or an-  
17                 other person on such individual’s behalf) may re-  
18                 quest a case management agency to conduct an as-  
19                 sessment under this section to determine whether  
20                 the individual is a dependent individual or a chron-  
21                 ically dependent individual.

22                 “(2) DESCRIPTION OF PLANS.—For purposes of  
23                 this section, a ‘case management plan’ means, with  
24                 respect to an individual, a written plan of care  
25                 which—

1           “(A) is established and periodically re-  
2 viewed and revised by a case management agen-  
3 cy; and

4           “(B) reflects the individual’s needs identi-  
5 fied in the assessment under paragraph (1).

6           “(3) CASE MANAGEMENT AGENCY DEFINED.—

7 In this section, the term ‘case management agency’  
8 means a nonprofit or public agency or organization  
9 (or a nonprofit or public subdivision of such an  
10 agency or organization) certified by the Secretary to  
11 conduct assessments and establish case management  
12 plans under this subsection which—

13           “(A) is experienced in conducting assess-  
14 ments, in establishing and periodically reviewing  
15 and revising case management plans for nurs-  
16 ing facility services and in-home care, and in  
17 coordinating and reviewing the quality of the  
18 provision of such services and care;

19           “(B) is capable of efficiently and effectively  
20 performing directly or through contracts under  
21 paragraph (4) such duties; and

22           “(C) does not provide nursing facility serv-  
23 ices or in-home care and does not have a direct  
24 or indirect ownership or control interest in, or

1 direct or indirect affiliation or relationship with,  
2 an entity that provides, such services or care.

3 “(4) CONTRACTING OUT CERTAIN FUNC-  
4 TIONS.—The Secretary shall permit a case manage-  
5 ment agency, to the extent necessary to carry out  
6 functions under this section, to provide for assess-  
7 ments and case management plans through con-  
8 tracts with nonprofit or public organizations which  
9 (except as provided by regulation) do not provide  
10 nursing facility services or in-home care and do not  
11 have a direct or indirect ownership or control inter-  
12 est in, or direct or indirect affiliation or relationship  
13 with, an entity that provides, such services or care.”.

14 (c) CONFORMING AMENDMENTS.—(1) Section 1833  
15 (a)(1) of such Act (42 U.S.C. 1395l(a)(1)) is amended—

16 (A) by striking “and (P)” and inserting “(P)”;  
17 and

18 (B) by striking the semicolon at the end and in-  
19 serting the following: “, and (Q) with respect to ex-  
20 penses incurred for services described in section  
21 1861(s)(2)(P), the amounts paid shall be the  
22 amounts determined under section 1889(e);”.

23 (2) Section 1861 of such Act (42 U.S.C. 1395x) is  
24 amended by adding at the end the following new sub-  
25 section:

1 “COMMUNITY-BASED OR HOME CARE AGENCY

2 “(uu) The term ‘community-based or home care  
3 agency’ means a public agency or private organization, or  
4 a subdivision of such an agency or organization, which is  
5 a community-based or home health agency (as defined in  
6 subsection (o)) or—

7 “(1) is a substitute adult day care services pro-  
8 vider as defined in subsection vv (as added by the  
9 Omnibus Long-Term Care Improvement Act of  
10 1999) or other community-based provider which pro-  
11 vides long-term, caregiver, and respite services as  
12 defined by the Secretary, or

13 “(2) is engaged in providing services of home-  
14 maker/home health aides and personal care aides;

15 “(3) maintains clinical records on all patients;

16 “(4) in the case of an agency or organization in  
17 any State in which State or applicable local law pro-  
18 vides for the licensing of agencies or organizations of  
19 this nature—

20 “(A) is licensed pursuant to such law or

21 “(B) is approved, by the agency of such  
22 State or locality, responsible for licensing agen-  
23 cies or organizations of this nature, as meeting  
24 the standards established for such licensing;  
25 and



1           “(5) meets such other requirements as the Sec-  
2           retary may find necessary in the interest of the  
3           health and safety of individuals who are furnished  
4           services by such agency or organization and for the  
5           effective and efficient operation of the program.”.

6           (d) EFFECTIVE DATE.—The amendments made by  
7           this section shall apply to items and services furnished on  
8           or after January 1, 2001.

9           **SEC. 202. COVERAGE OF SUBSTITUTE ADULT DAY CARE**  
10   **SERVICES UNDER MEDICARE.**

11           (a) SUBSTITUTE ADULT DAY CARE SERVICES BEN-  
12           EFIT.—

13                   (1) IN GENERAL.—Section 1861(m) of the So-  
14           cial Security Act (42 U.S.C. 1395x(m)) is  
15           amended—

16                           (A) in the matter preceding paragraph (1),  
17                           by inserting “or paragraph (8)” after “para-  
18                           graph (7)”;

19                           (B) in paragraph (6), by striking “and” at  
20                           the end;

21                           (C) in paragraph (7), by adding “and” at  
22                           the end; and

23                           (D) by inserting after paragraph (7), the  
24                           following new paragraph:



1           “(iv) A program of supervised activities de-  
2           signed to promote physical and mental health and  
3           furnished to the individual by the adult day care fa-  
4           cility in a group setting for a period of not fewer  
5           than four and not greater than twelve hours per day.

6           “(2)(A) Except as provided in subparagraph (B), the  
7           term ‘adult day care facility’ means a public agency or  
8           private organization, or a subdivision of such an agency  
9           or organization, that—

10           “(i) is engaged in providing skilled nursing  
11           services and other therapeutic services;

12           “(ii) meets such standards established by the  
13           Secretary to assure quality of care and such other  
14           requirements as the Secretary finds necessary in the  
15           interest of the health and safety of individuals who  
16           are furnished services in the facility; and

17           “(iii) meets the requirements of paragraphs (2)  
18           through (8) of subsection (o).

19           “(B) The Secretary may waive the requirement of a  
20           surety bond under paragraph (7) of subsection (o) in the  
21           case of an agency or organization that provides a com-  
22           parable surety bond under State law.

23           “(C) For purposes of payment for home health serv-  
24           ices consisting of substitute adult day care services fur-  
25           nished under this title, any reference to a home health

1 agency is deemed to be a reference to an adult day care  
2 facility.”.

3 (3) CONFORMING AMENDMENTS.—Sections  
4 1814(a)(2)(C) and 1835(a)(2)(A)(i) of such Act (42  
5 U.S.C. 1395f(a)(2)(C) and 42 U.S.C.  
6 1395f(a)(2)(C)) are each amended by striking “sec-  
7 tion 1861(m)(7)” and inserting “paragraph (7) or  
8 (8) of section 1861(m)”.

9 (b) PAYMENT FOR SUBSTITUTE ADULT DAY CARE  
10 SERVICES.—

11 (1) REASONABLE COST.—Section 1861(v)(1)(L)  
12 of such Act (42 U.S.C. 1395x(v)(1)(L)) is amended  
13 by adding at the end the following new clause:

14 “(x) In the case home health services consisting of  
15 substitute adult day care services, the following rules  
16 apply:

17 “(I) The Secretary shall determine each compo-  
18 nent (as defined by the Secretary) of substitute  
19 adult day care services (under subsection  
20 (vv)(1)(B)(i)) furnished to an individual under the  
21 plan of care established under subsection (m) with  
22 respect to such services.

23 “(II) The Secretary shall estimate the amount  
24 that would otherwise be payable under this subpara-  
25 graph for all home health services under that plan

1 of care other than substitute adult day care services  
2 for a week or other period specified by the Sec-  
3 retary.

4 “(III) The total amount payable for home  
5 health services consisting of substitute adult day  
6 care services may not exceed 95 percent of the  
7 amount estimated to be payable under subclause (II)  
8 furnished under the plan by a home health agency.

9 “(IV) No payment may be made under this title  
10 for home health services consisting of substitute  
11 adult day care services described in clauses (ii), (iii),  
12 and (iv) of subsection (uu)(1)(B).”.

13 (2) PROSPECTIVE PAYMENT SYSTEM.—Section  
14 1895 of such Act (42 U.S.C. 1395fff) is amended by  
15 adding at the end the following new subsection:

16 “(e) PAYMENT RATE FOR SUBSTITUTE ADULT DAY  
17 CARE SERVICES.—In the case home health services con-  
18 sisting of substitute adult day care services, the following  
19 rules apply:

20 “(1) The Secretary shall determine each compo-  
21 nent (as defined by the Secretary) of substitute  
22 adult day care services (under section  
23 1861(vv)(1)(B)(i)) furnished to an individual under  
24 the plan of care established under section 1861(m)  
25 with respect to such services.

1           “(2) The Secretary shall estimate the amount  
2           that would otherwise be payable under this section  
3           for all home health services under that plan of care  
4           other than substitute adult day care services for a  
5           week or other period specified by the Secretary.

6           “(3) The total amount payable for home health  
7           services consisting of substitute adult day care serv-  
8           ices may not exceed 95 percent of the amount esti-  
9           mated to be payable under paragraph (2) furnished  
10          under the plan by a home health agency.

11          “(4) No payment may be made under this title  
12          for home health services consisting of substitute  
13          adult day care services described in clauses (ii), (iii),  
14          and (iv) of section 1861(vv)(1)(B).”.

15          (c) ADJUSTMENT IN CASE OF OVERUTILIZATION OF  
16          SUBSTITUTE ADULT DAY CARE SERVICES.—

17                 (1) MONITORING EXPENDITURES.—The Sec-  
18                 retary of Health and Human Services shall monitor  
19                 the expenditures made under the Medicare Program  
20                 under title XVIII of the Social Security Act for  
21                 home health services furnished under section  
22                 1861(m) of such Act for a fiscal year beginning with  
23                 fiscal year 2002, including substitute adult day care  
24                 services under paragraph (8) of such section (as  
25                 added by subsection (a)), and compare such expendi-

1 tures to expenditures that the Secretary estimates  
2 would have been made for home health services for  
3 that fiscal year if subsection (a) had not been en-  
4 acted.

5 (2) REQUIRED REDUCTION IN PAYMENT  
6 RATE.—If the Secretary determines, after making  
7 the comparison under paragraph (1) and making  
8 such adjustments for changes in demographics and  
9 age of the Medicare beneficiary population as the  
10 Secretary determines appropriate, that expenditures  
11 for home health services including such substitute  
12 adult day care services exceed expenditures that  
13 would have been made for home health services fur-  
14 nished under section 1861(m) of such Act for a year  
15 if subsection (a) had not been enacted, then the Sec-  
16 retary shall adjust the rate of payment to adult day  
17 care facilities so that total expenditures for home  
18 health services furnished under such section in a fis-  
19 cal year does not exceed the Secretary's estimate of  
20 such expenditures if subsection (a) had not been en-  
21 acted.

22 (d) EFFECTIVE DATE.—The amendments made by  
23 this section shall apply to items and services furnished on  
24 or after the date that is the earlier of—

25 (1) January 1, 2001, or

1           (2) the date on which the prospective payment  
2           system, for home health services furnished under the  
3           medicare program, under section 1895 of the Social  
4           Security Act (42 U.S.C. 1395fff) is established and  
5           implemented.

6 **SEC. 203. ESTABLISHMENT OF MEDICARE HOME HEALTH**  
7                           **CARE CASE MANAGERS FOR LONG TERM**  
8                           **HOME HEALTH SPELLS OF ILLNESS.**

9           (a) REQUIREMENT FOR CASE MANAGEMENT PLAN  
10          FOR BENEFICIARIES REQUIRING EXTENDED HOME  
11          HEALTH SERVICES.—

12           (1) IN GENERAL.—Section 1861(m) of the So-  
13          cial Security Act (42 U.S.C. 1395x(m)) is amended,  
14          in the matter preceding paragraph (1), by inserting  
15          after “under a plan (for furnishing such items and  
16          services to such individual) established and periodi-  
17          cally reviewed by a physician” the following: “and,  
18          in the case of such services furnished (or likely to  
19          be required to be furnished) for an extended period  
20          (as defined by the Secretary in regulations), under  
21          a home health case management plan (as defined in  
22          subsection (ww)(2)) established by a home health  
23          case manager (as defined in subsection (ww)(1)) in  
24          consultation with the physician and, if available, the  
25          family of the individual”.



1           (2) DEFINITIONS.—Section 1861 of such Act  
2           (42 U.S.C. 1395x), as amended by sections 201 and  
3           202, is further amended by adding at the end the  
4           following new subsection:

5                     “Home Health Case Manager

6           “(ww)(1) The term ‘home health case manager’  
7 means a public agency or private organization (or a sub-  
8 division thereof) that—

9                     “(A) develops, coordinates, and monitors the  
10 delivery of home health services by home health  
11 agencies to an individual and may authorize pay-  
12 ment of such home health services;

13                    “(B) has experience and expertise in the fur-  
14 nishing of home health services; and

15                    “(C) meets such other standards as the Sec-  
16 retary finds necessary for the effective and efficient  
17 development and oversight of home health case man-  
18 agement plans and to ensure the health and safety  
19 of individuals furnished services under such a plan.

20           “(2) The term ‘home health case management plan’  
21 means a structured plan for the delivery of home health  
22 services that is developed by a home health case manager,  
23 after consultation with the physician and, if available, the  
24 family of the individual involved.

1       “(3) The term ‘home health case manager services’  
2 means the development, coordination, and monitoring of  
3 a home health case management plan for an individual  
4 furnished (or likely to be required to be furnished) home  
5 health services for an extended period (as defined by the  
6 Secretary in regulations under subsection (m)) and in-  
7 cludes the periodic review of such a plan.”.

8           (3) GUIDANCE ON INITIATION OF CASE MAN-  
9       AGER SERVICES.—The Secretary of Health and  
10       Human Services shall provide guidance on the proc-  
11       ess or processes that may be used to identify Medi-  
12       care beneficiaries requiring home health services for  
13       extended periods and to develop home health case  
14       management plans on a timely basis.

15           (4) LIMITATION ON REFERRALS.—Section 1877  
16       of the Social Security Act (42 U.S.C. 1395nn) shall  
17       apply to a referral by a home health case manager  
18       to a home health agency in the same manner as  
19       such section applies to a referral by a physician to  
20       an entity described in section 1877(a)(2) of such  
21       Act.

22           (b) COVERAGE OF AND PAYMENT FOR HOME  
23       HEALTH CASE MANAGER SERVICES.—

24           (1) PART A.—

1           (A) COVERAGE.—Section 1812(a)(3) of  
2 such Act (42 U.S.C. 1395d(a)(3)) is amended  
3 by inserting before the semicolon “, and home  
4 health case manager services (as defined in sec-  
5 tion 1861(ww)(3))”.

6           (B) ELIGIBILITY.—Section 1814(a)(2)(C)  
7 of such Act (42 U.S.C. 1395f(a)(2)(C)) is  
8 amended by inserting “and, in the case of such  
9 services furnished (or likely to be required to be  
10 furnished) for an extended period (as defined  
11 by the Secretary under section 1861(m)), under  
12 a home health case management plan that has  
13 been established and periodically reviewed by a  
14 home health case manager” after “is periodi-  
15 cally reviewed by a physician”.

16           (C) PAYMENT.—Section 1812 of such Act  
17 (42 U.S.C. 1395d) is amended by adding at the  
18 end the following new subsection:

19           “(h)(1) Payment under this part for home health  
20 case manager services (as defined in section 1861(ww)(3))  
21 shall be made pursuant to the fee schedule established by  
22 the Secretary under section 1834(m).

23           “(2) Payment may be made under this title for home  
24 health case manager services with respect to an individual  
25 only—

1           “(A) for the initial development of the home  
2 health case management plan for the individual, and

3           “(B) for the subsequent review and modifica-  
4 tion of such plan, as provided by the Secretary in  
5 regulations.”.

6           (2) PART B.—

7           (A) COVERAGE.—Section 1832(a)(2)(A) of  
8 such Act (42 U.S.C. 1395k(a)(2)(A)) is amend-  
9 ed by inserting before the semicolon “, and  
10 home health case manager services (as defined  
11 in section 1861(w)(3))”.

12           (B) ELIGIBILITY.—Section 1835(a)(2) of  
13 such Act (42 U.S.C. 1395n(a)(2)) is amended  
14 by inserting “and, in the case of such services  
15 furnished (or likely to be required to be fur-  
16 nished) for an extended period (as defined by  
17 the Secretary under section 1861(m)), under a  
18 home health case management plan that has  
19 been established and periodically reviewed by a  
20 home health case manager” after “is periodi-  
21 cally reviewed by a physician”.

22           (C) PAYMENT.—Section 1833 of such Act  
23 (42 U.S.C. 1395l) is amended—

24           (i) in subsection (a)(2)—

1 (I) by striking “and” at the end  
2 of subparagraph (F);

3 (II) by adding “and” at the end  
4 of subparagraph (G); and

5 (III) by adding after subpara-  
6 graph (G) the following new subpara-  
7 graph:

8 “(H) subject to subsection (u), with re-  
9 spect to home health case manager services (as  
10 defined in section 1861(w)(3), the amount de-  
11 termined under the fee schedule established  
12 under section 1834(m);”, and

13 (ii) by adding at the end the following  
14 new subsection:

15 “(u) Payment may be made under this title for home  
16 health case manager services with respect to an individual  
17 only—

18 “(1) for the initial development of the home  
19 health case management plan for the individual, and

20 “(2) for the subsequent review and modification  
21 of such plan, as provided by the Secretary in regula-  
22 tions.”.

23 (3) ESTABLISHMENT OF FEE SCHEDULE.—Sec-  
24 tion 1834 of such Act (42 U.S.C. 1395m) is amend-  
25 ed by adding at the end the following new section:

1       “(m) ESTABLISHMENT OF FEE SCHEDULE FOR  
2 HOME HEALTH CASE MANAGER SERVICES.—

3               “(1) IN GENERAL.—The Secretary shall estab-  
4 lish a fee schedule for payment for home health case  
5 manager services. Such schedule may provide for  
6 rates that differ for such services that comprise the  
7 establishment of a home health case management  
8 plan and that comprise review and modification of  
9 such a plan.

10              “(2) CONSIDERATIONS.—In establishing such  
11 fee schedule, the Secretary shall consider appro-  
12 priate regional and operational differences and ad-  
13 justments to payment rates to account for inflation  
14 and other relevant factors.

15              “(3) CONSULTATION.—In establishing the fee  
16 schedule for home health case manager services  
17 under this subsection, the Secretary shall consult  
18 with appropriate organizations representing individ-  
19 uals and entities who furnish referral services for  
20 home health services and share with such organiza-  
21 tions relevant data in establishing such schedule.

22              “(4) ALTERNATIVE PAYMENT UNDER COMPETI-  
23 TIVE BIDDING.—

24                      “(A) IN GENERAL.—Notwithstanding the  
25 preceding provisions of this subsection, the Sec-

1           retary may, by region, use a competitive process  
2           to contract with home health case managers for  
3           furnishing home health case manager services.

4           “(B) PAYMENT.—Payment under this  
5           paragraph shall be made on the basis of nego-  
6           tiated all-inclusive rates. The amount of pay-  
7           ment made by the Secretary to a home health  
8           case manager for home health case manager  
9           services under this title for services covered  
10          under a contract shall be less than the aggre-  
11          gate amount of the payments that the Secretary  
12          would have otherwise made for the services.

13          “(C) CONTRACT PERIOD.—A contract pe-  
14          riod shall be three years (subject to renewal), as  
15          long as the entity continues to meet quality and  
16          other contractual standards.”.

17          (c) EFFECTIVE DATE.—The amendments made by  
18          this section apply with respect to home health services fur-  
19          nished on or after October 1, 2001.

20          (d) REPORT TO CONGRESS ON FEASIBILITY OF CASE  
21          MANAGERS WITH RESPECT TO OTHER MEDICARE SERV-  
22          ICES.—

23                  (1) STUDY.—The Secretary of Health and  
24          Human Services shall conduct a study of the types  
25          of services consisting of post-acute hospital care fur-

1 nished under the Medicare program under title  
2 XVIII of the Social Security Act to determine  
3 whether use of case managers and case management  
4 plans similar to home health case managers (as de-  
5 fined in section 1861(wv)(1)) and home health case  
6 management plans (as defined in section  
7 1861(wv)(2)) is feasible and appropriate for each  
8 such type of service. In conducting the study, the  
9 Secretary shall also determine whether such case  
10 managers and case management plans may improve  
11 quality of care and patient outcomes under the  
12 Medicare program, may result in cost savings to the  
13 program, and may reduce incidents of waste, fraud  
14 and abuse against the program.

15 (2) REPORT.—Not later than January 1, 2002,  
16 the Secretary shall submit to Congress a report con-  
17 taining the determinations made pursuant to the  
18 study conducted under paragraph (1) and any rec-  
19 ommendations for legislative and administrative ac-  
20 tion the Secretary deems appropriate.

21 **SEC. 204. POST ACUTE CARE IMPROVEMENT.**

22 (a) IDENTIFICATION OF CONDITIONS.—The Sec-  
23 retary of Health and Human Services shall identify at  
24 least 10 medical conditions, classified by diagnosis-related  
25 groups under section 1886(d)(4) of the Social Security



1 Act, which consistently require an intense level of post-  
2 acute care, either by health care providers or by private  
3 caregivers.

4 (b) REQUIREMENT FOR COMPREHENSIVE CASE MAN-  
5 AGEMENT PLAN OF CARE.—

6 (1) IN GENERAL.—Each subsection (d) hospital  
7 shall provide, in the case of an inpatient classified  
8 a voluntary discharge classified within a medical  
9 condition identified under subsection (a) and before  
10 the date of the discharge, a comprehensive case  
11 management plan of care that includes a program of  
12 education, training, and assistance to the private  
13 caregiver, designed to stabilize or improve the indi-  
14 vidual’s health and to reduce the likelihood of hos-  
15 pital readmission.

16 (2) REDUCTION IN PAYMENT FOR FAILURE.—  
17 Payment under section 1886(d) of the Social Secu-  
18 rity Act for a voluntary discharge classified within a  
19 medical condition identified under subsection (a)  
20 shall be reduced by 50 percent unless there has been  
21 established (before the date of the discharge) the  
22 plan of care and program of assistance described in  
23 paragraph (1).

24 (c) ADJUSTMENT OF DRG WEIGHTING FACTORS.—  
25 For the medical conditions identified under subsection (a),

1 the Secretary shall adjust the weighting factor established  
2 under section 1886(d)(4)(B) of the Social Security Act in  
3 order to compensate for the average reasonable cost to a  
4 hospital for providing (directly or through a contract with  
5 another provider) for the comprehensive case management  
6 plan of care and providing for caregiver education, train-  
7 ing, and assistance described in subsection (b)(1).

8 **SEC. 205. ADDITIONAL PAYMENTS TO HOME HEALTH AGEN-**  
9 **CIES FOR MOST EXPENSIVE CASES.**

10 (a) PAYMENTS FOR OUTLIERS.—

11 (1) IN GENERAL.—Subject to paragraph (2),  
12 from amounts appropriated pursuant to subsection  
13 (e), the Secretary of Health and Human Services  
14 shall pay an additional amount to home health agen-  
15 cies furnishing qualified home health services during  
16 a cost reporting period beginning on or after Octo-  
17 ber 1, 1997, under the medicare program (under  
18 title XVIII of the Social Security Act).

19 (2) LIMITATION OF PAYMENTS.—No payment  
20 shall be made under this section to a home health  
21 agency that, as of the date of the enactment of this  
22 Act, has ceased furnishing home health services for  
23 which payment may be made under the medicare  
24 program (under such title).

1 (b) DESCRIPTION OF QUALIFIED SERVICES.—For  
2 purposes of additional payment amounts under this sec-  
3 tion by the Secretary to home health agencies, qualified  
4 home health services are home health services furnished  
5 under the medicare program for the treatment of condi-  
6 tions within a diagnosis described in subsection (c).

7 (c) DESCRIPTION OF DIAGNOSIS.—A diagnosis de-  
8 scribed in this subsection is one of the following diagnoses  
9 as classified in St. Anthony’s ICD–9–CM Code Book for  
10 Physician Payment:

11 (1) diabetes mellitus (ICD–9–CM code 250).

12 (2) essential hypertension (ICD–9–CM code  
13 401).

14 (3) other forms of chronic ischemic heart dis-  
15 ease (ICD–9–CM code 414).

16 (4) heart failure (ICD–9–CM code 428).

17 (5) acute, but ill-defined cerebrovascular disease  
18 (ICD–9–CM code 436).

19 (6) pneumonia, organism unspecified (ICD–9–  
20 CM code 486).

21 (7) chronic airway obstruction, not elsewhere  
22 classified (ICD–9–CM code 496).

23 (8) chronic ulcer of skin (ICD–9–CM code  
24 707).

1           (9) symptoms involving urinary system (ICD-  
2           9-CM code 788).

3           (10) fracture of neck of femur (ICD-9-CM  
4           code 820).

5           (d) DETERMINATION OF AGENCY-SPECIFIC PAY-  
6           MENT AMOUNT.—

7           (1) CERTIFICATION OF QUANTITY OF QUALI-  
8           FIED HOME HEALTH SERVICES FURNISHED.—

9           (A) IN GENERAL.—With respect to a fiscal  
10           year, a home health agency may submit to the  
11           Secretary a certification of the number of pa-  
12           tients to whom the agency furnished qualified  
13           home health services during the agency's cost  
14           reporting period beginning in that fiscal year.

15           (B) DEADLINE FOR SUBMISSION.—

16           (i) IN GENERAL.—Such certification  
17           shall be submitted to the Secretary during  
18           the 30-day period beginning on the date  
19           the agency submits to the Secretary a cost  
20           report for the cost reporting period begin-  
21           ning in such fiscal year.

22           (ii) TRANSITION RULE.—In the case  
23           of an agency with a cost reporting period  
24           beginning on or after October 1, 1997,  
25           that ends before the date of the enactment

1 of this Act, with respect to such cost re-  
2 porting period, the 30-day period under  
3 clause (i) begins 60 days after the date of  
4 the enactment of this Act.

5 (2) DETERMINATION OF AGGREGATE QUALI-  
6 FIED HOME HEALTH SERVICES FURNISHED.—From  
7 data contained in certifications submitted under  
8 paragraph (1) with respect to cost reporting periods  
9 beginning in fiscal years 1998, 1999, and 2000, the  
10 Secretary shall determine, with respect to a fiscal  
11 year, the number of patients who have received  
12 qualified home health services furnished by agencies  
13 submitting such certifications for that fiscal year.  
14 The Secretary shall make determination by not later  
15 than 120 days after all cost reports for that fiscal  
16 year have been received.

17 (3) AGENCY-SPECIFIC PERCENTAGE OF AGGRE-  
18 GATE AMOUNT.—For each home health agency sub-  
19 mitting a certification under paragraph (1) for a fis-  
20 cal year described in paragraph (2), the Secretary  
21 shall determine an agency-specific percentage by di-  
22 viding the number of patients certified by the home  
23 health agency for that fiscal year by the national  
24 total specified in paragraph (2) for that fiscal year.

1           (4) PAYMENT AMOUNT.—The Secretary shall  
2           pay for a fiscal year described in paragraph (2) to  
3           a home health agency making the certification under  
4           paragraph (1) an amount equal to the product of the  
5           percentage determined under paragraph (3) and the  
6           amount appropriated for such fiscal year under sub-  
7           section (e).

8           (e) AUTHORIZATION OF APPROPRIATIONS.—There is  
9           authorized to be appropriated from the Federal Hospital  
10          Insurance Trust Fund (established under section 1817 of  
11          the Social Security Act (42 U.S.C. 1395i)) for making ad-  
12          ditional payments to home health agencies under this sec-  
13          tion, \$250,000,000 in each of the fiscal years 2000  
14          through 2002.

15          (f) TERMINATION.—The Secretary shall not make ad-  
16          ditional payments under this section for cost reporting pe-  
17          riods, or portions of cost reporting periods, beginning on  
18          or after the date of the implementation of the prospective  
19          payment system for home health services under section  
20          1895 of the Social Security Act (42 U.S.C. 1395fff).

21          (g) LIMITATION ON JUDICIAL REVIEW.—There shall  
22          be no administrative or judicial review under section 1869  
23          of the Social Security Act (42 U.S.C. 1395ff), section  
24          1878 of such Act (42 U.S.C. 1395oo), or otherwise of any

1 action of the Secretary with respect to the determination  
2 of an additional payment amount under this section.

3 **SEC. 206. STRENGTHENING THE POST-HOSPITAL REFER-**  
4 **RAL PROCESS.**

5 (a) IN GENERAL.—Section 1861(ee)(2)(H)(ii) of the  
6 Social Security Act (42 U.S.C. 1395x(ee)(2)(H)(ii)) is  
7 amended by inserting “(including any post-acute care hos-  
8 pital provider, such as home health agencies, skilled nurs-  
9 ing facilities, comprehensive outpatient rehabilitation facil-  
10 ity, hospice program, or other hospital)” after “any enti-  
11 ty”.

12 (b) EFFECTIVE DATE.—The amendment made by  
13 subsection (a) applies to discharge plans developed on or  
14 after January 1, 2000.

15 **SEC. 207 CLARIFICATION OF THE DEFINITION OF HOME-**  
16 **BOUND.**

17 (a) IN GENERAL.—The last sentence of sections  
18 1814(a) and 1835(a) of the Social Security Act (42 U.S.C.  
19 1395f(a); 1395n(a)) are each amended—

20 (1) by striking ‘leave home,’ and inserting  
21 ‘leave home and’; and

22 (2) by striking ‘, and that absences’ and all  
23 that follows before the period.

1 (b) EFFECTIVE DATE.—The amendments made by  
2 subsection (a) shall apply to items and services provided  
3 on or after the date of enactment of this Act.

## 4 **Subtitle B—Encouraging Provision** 5 **of Hospice Care**

### 6 **SEC. 211. PROVIDING HOSPICE INFORMATION FOR CER-** 7 **TAIN BENEFICIARIES AT TIME OF HOSPITAL** 8 **DISCHARGE.**

9 (a) IN GENERAL.—Section 1861(ee)(2) of the Social  
10 Security Act (42 U.S.C. 1395x(ee)(2)) is amended by add-  
11 ing at the end the following new subparagraph:

12 “(I)(i) In the case of a discharge identified  
13 under clause (ii), the discharge plan shall assure  
14 that the patient has been provided counseling and  
15 information about the benefits for hospice care  
16 under this title, including information on hospice  
17 programs that operate in the service area of the hos-  
18 pital.

19 “(ii) The Secretary shall designate, by diag-  
20 nosis-related groups established under section  
21 1886(d)(4), those discharges which are strongly in-  
22 dicative of a chronic terminal condition (such as con-  
23 gestive heart failure, chronic pulmonary disease) for  
24 which hospice care may provide assistance.”.



1 (b) ADJUSTMENT OF PAYMENT.—Section 1886(d)(4)  
 2 of such Act (42 U.S.C. 1395ww(d)(4)) is amended by add-  
 3 ing at the end the following new subparagraph:

4 “(D) In establishing weighting factors under this  
 5 paragraph with respect to discharges designated under  
 6 section clause (ii) of 1861(ee)(2)(I), the Secretary shall  
 7 take into account the counseling and information required  
 8 under clause (i) of such section.”.

9 (c) EFFECTIVE DATE.—The amendments made by  
 10 this section apply to discharges occurring on or after Jan-  
 11 uary 1, 2002.

12 **SEC. 212. ENCOURAGING PHYSICIAN EDUCATION IN HOS-**  
 13 **PICE CARE.**

14 (a) PERMITTING PAYMENT TO HOSPICE PROGRAMS  
 15 FOR COSTS OF MEDICAL EDUCATION.—Section  
 16 1886(k)(2) of the Social Security Act (42 U.S.C.  
 17 1395ww(k)(2)) is amended—

18 (1) by redesignating subparagraphs (C) and  
 19 (D) as subparagraphs (D) and (E), respectively; and

20 (2) by inserting after subparagraph (B) the fol-  
 21 lowing new subparagraph:

22 “(C) a hospice program;”.

23 (b) INCLUDING HOSPICE PROGRAMS AMONG QUALI-  
 24 FIED CONSORTIA FOR CERTAIN DEMONSTRATION

1 PROJECTS.—Section 4628(b)(1) of the Balanced Budget  
2 Act of 1997 is amended—

3 (1) by redesignating subparagraph (G) as sub-  
4 paragraph (H); and

5 (2) by inserting after subparagraph (F) the fol-  
6 lowing new subparagraph:

7 “(G) A hospice program.”.

8 **SEC. 213. INCLUSION OF HOSPICE CARE UNDER FEDERAL**  
9 **EMPLOYEES HEALTH BENEFITS PROGRAM**  
10 **(FEHBP).**

11 (a) IN GENERAL.—Section 8902 of title 5, United  
12 States Code, is amended by adding at the end the fol-  
13 lowing new subsection:

14 “(p) The terms of any contract under this chapter  
15 shall include coverage of hospice care (as described in title  
16 XVIII of the Social Security Act).”.

17 (b) EFFECTIVE DATE.—The amendment made by  
18 subsection (a) applies to contracts as of January 1, 2001.

1       **Subtitle C—QMB Improvements**

2       **SEC. 221. MECHANISM PROMOTING PROVISION OF MEDI-**  
3                   **CARE COST-SHARING ASSISTANCE TO ELIGI-**  
4                   **BLE LOW-INCOME MEDICARE BENE-**  
5                   **FICIARIES.**

6           (a) IN GENERAL.—Part A of title XI of the Social  
7 Security Act is amended by adding at the end the fol-  
8 lowing:

9       “PROMOTING PROVISION OF MEDICARE COST-SHARING  
10       ASSISTANCE UNDER MEDICAID PROGRAM FOR IDEN-  
11       TIFIED LOW-INCOME MEDICARE BENEFICIARIES

12       “SEC. 1148. (a) REQUIREMENT FOR DATA  
13 MATCH.—

14           “(1) REQUESTING MATCHING INFORMATION.—

15       The Commissioner of Social Security shall, not less  
16 often than annually beginning with 2001, transmit  
17 to the Secretary of the Treasury a list of the names  
18 and TINs of medicare beneficiaries (as defined in  
19 section 6103(l)(15) of the Internal Revenue Code of  
20 1986) and request that such Secretary disclose to  
21 the Secretary of Health and Human Services the in-  
22 formation described in subparagraph (A) of such  
23 section.

24           “(2) SPECIFICATION OF INCOME LEVELS.—The  
25 Secretary shall specify—

1           “(A) the items that will be included in de-  
2           termination of income for purposes of applying  
3           this section and section 6103(l)(15)(A)(i) of the  
4           Internal Revenue Code of 1986; and

5           “(B) the levels of such income (based upon  
6           a percentage of the Federal poverty guidelines)  
7           that individuals may have and qualify for med-  
8           ical assistance under section 1902(a)(10)(E)(i)  
9           of the Social Security Act (relating to assist-  
10          ance for medicare cost-sharing benefits under  
11          the medicaid program).

12          “(b) NOTICE TO INDIVIDUALS IDENTIFIED.—

13           “(1) INITIAL ELIGIBILITY.—The Secretary  
14          promptly shall provide for an appropriate notice to  
15          each individual identified under subsection (a) who  
16          is described in section 6103(l)(15)(A)(i), of the fol-  
17          lowing:

18           “(A) Subject to subparagraph (B), the in-  
19          dividual is deemed eligible for some form of  
20          medical assistance for some medicare cost-shar-  
21          ing under clause (i) or (iii) of section  
22          1902(a)(10)(E), depending on the individual’s  
23          level of income.

24           “(B) By accepting such assistance the in-  
25          dividual is obligated to notify the Secretary if

1 the individual is not eligible for such assistance  
2 due to—

3 “(i) the individual having tax-exempt  
4 income;

5 “(ii) the individual having countable  
6 assets in excess of the maximum permis-  
7 sible assets, if the individual resides in a  
8 State that imposes an asset test for such  
9 eligibility; or

10 “(iii) the individual otherwise is not  
11 eligible for such assistance.

12 “(C) if the individual accepts such assist-  
13 ance notwithstanding that the individual is not  
14 eligible, the individual is liable to the State for  
15 the amount of medical assistance provided (with  
16 interest).

17 “(2) CONTINUED ELIGIBILITY.—The Secretary  
18 shall provide for an appropriate notice to each indi-  
19 vidual identified under subsection (a) who is de-  
20 scribed in section 6103(l)(15)(A)(ii), of the fol-  
21 lowing: ‘Unless the individual declines coverage or  
22 indicates otherwise, the individual will be enrolled  
23 for the appropriate assistance with medicare cost-  
24 sharing under the State plan operated under title  
25 XIX for the State in which the individual resides.’

1       “(c) NOTICE TO STATE.—In the case of an individual  
2 who is identified under this section and resides in a State,  
3 the Secretary shall provide for appropriate notice to the  
4 State of the individual’s eligibility for medical assistance  
5 under clause (i) or (iii) of section 1902(a)(10)(E), as the  
6 case may be.”.

7       (b) CONFORMING AMENDMENT TO MEDICAID PRO-  
8 GRAM.—Section 1902 of such Act (42 U.S.C. 1396a) is  
9 amended by adding at the end the following:

10       “(aa) A State shall treat an individual who is identi-  
11 fied under section 1148(b) as being eligible for medical  
12 assistance under clause (i) or (ii) of subsection (a)(10)(E)  
13 as being so eligible, until the Secretary notifies the State  
14 otherwise, with respect to medical assistance for items and  
15 services furnished on or after the date of the notice.”.

16       (c) AUTHORIZATION OF DISCLOSURE.—Section  
17 6103(l) of the Internal Revenue Code of 1986 (relating  
18 to disclosure of returns and return information for pur-  
19 poses other than tax administration) is amended by add-  
20 ing at the end the following new paragraph:

21               “(15) DISCLOSURE OF CERTAIN INFORMATION  
22       IN ORDER TO QUALIFY FOR MEDICARE COST-SHAR-  
23       ING ASSISTANCE.—

24               “(A) IN GENERAL.—The Secretary shall,  
25               upon written request from the Commissioner of

1 Social Security, disclose to the Secretary of  
2 Health and Human Services, whether with re-  
3 spect to any medicare beneficiary (as defined in  
4 paragraph (12)(E)(i)) identified by the  
5 Commissioner—

6 “(i) there has not been filed an in-  
7 come tax return for the most recent period  
8 for which the Secretary has information; or  
9 there has been such a return filed and the  
10 amount of the gross income (or the sum of  
11 such elements of gross income as the Sec-  
12 retary of Health and Human Services may  
13 specify) is below such level (or levels) as  
14 such Secretary may specify to carry out  
15 section 1148(b) of the Social Security Act,  
16 treating the number of dependents as the  
17 size of the family involved; and

18 “(ii) whether, for such an individual  
19 who qualified for medicare cost-sharing as-  
20 sistance described in section 1148 at any  
21 time in the previous year, the individual is  
22 still described in clause (i).

23 “(B) DISCLOSURE BY HEALTH CARE FI-  
24 NANCING ADMINISTRATION.—With respect to  
25 information disclosed under subparagraph (A),

1 the Administrator of the Health Care Financing  
2 Administration may disclose to the appropriate  
3 officials of a State responsible for administra-  
4 tion of a State plan under title XIX of the So-  
5 cial Security Act the name, address, and TIN  
6 of the preliminary eligibility determination.

7 “(C) SPECIAL RULES.—

8 “(i) RESTRICTIONS ON DISCLO-  
9 SURE.—Information may be disclosed  
10 under this paragraph only for purposes of,  
11 and to the extent necessary in, determining  
12 the extent to which an individual bene-  
13 ficiary is entitled to medical assistance  
14 under a State plan under title XIX of the  
15 Social Security Act for some or all medi-  
16 care cost-sharing.

17 “(ii) TIMELY RESPONSES TO RE-  
18 QUESTS.—Any request made under sub-  
19 paragraph (A) shall be complied with as  
20 soon as possible but in no event later than  
21 60 days after the date the report was  
22 made.”.



1           **TITLE III—NURSING HOME**  
2           **QUALITY PROTECTIONS**

3   **SEC. 301. INFORMATION ON NURSING FACILITY STAFFING.**

4           (a) **MEDICARE AMENDMENTS.**—Section 1819 of the  
5 Social Security Act (42 U.S.C. 1395i–3) is amended—

6                   (1) in subsection (b), by adding at the end the  
7 following new paragraph:

8                           “(8) **INFORMATION ON NURSE STAFFING.**—A  
9 skilled nursing facility shall post for each wing or  
10 floor of the facility the names of the licensed and  
11 unlicensed nursing staff on duty at any time and the  
12 number of residents on such wing or floor for whom  
13 they are responsible.”; and

14                   (2) in subsection (g)(2)(A)(ii)—

15                           (A) by striking “and” at the end of sub-  
16 clause (II);

17                           (B) by striking the period at the end of  
18 subclause (III) and inserting “; and”; and

19                           (C) by adding at the end the following new  
20 subclause:

21   “(IV) a review of the adequacy of  
22 staffing in the skilled nursing facility  
23 to meet residents’ needs 24 hours a  
24 day, 7 days a week.”.

1 (b) MEDICAID AMENDMENTS.—Section 1919 of the  
2 Social Security Act (42 U.S.C. 1396r) is amended—

3 (1) in subsection (b), by adding at the end the  
4 following new paragraph:

5 “(8) INFORMATION ON NURSE STAFFING.—A  
6 nursing facility shall post for each wing or floor of  
7 the facility the names of the licensed and unlicensed  
8 nursing staff on duty at any time and the number  
9 of residents on such wing or floor for whom they are  
10 responsible.”; and

11 (2) in subsection (g)(2)(A)(ii)—

12 (A) by striking “and” at the end of sub-  
13 clause (II);

14 (B) by striking the period at the end of  
15 subclause (III) and inserting “; and”; and

16 (C) by adding at the end the following new  
17 subclause:

18 “(IV) a review of the adequacy of  
19 staffing in the nursing facility to meet  
20 residents’ needs 24 hours a day, 7  
21 days a week.”.

22 (c) EFFECTIVE DATE.—The amendments made by  
23 this section take effect on the first day of the first month  
24 that begins at least 3 months after the date of the enact-  
25 ment of this Act.

1 **SEC. 302. FEES FOR RESURVEYS AND REINSPECTIONS.**

2 (a) **MEDICARE AMENDMENTS.**—

3 (1) **IN GENERAL.**—Section 1819(g) of the So-  
4 cial Security Act (42 U.S.C. 1395i–3(g)) is amended  
5 by adding at the end the following new paragraph:

6 “(6) **FEES FOR RESURVEYS AND REINSPEC-**  
7 **TIONS.**—Each State shall assess against a skilled  
8 nursing facility a fee to recover the actual costs and  
9 expenses of the State in conducting any re-surveys  
10 or reinspections that are conducted in addition to  
11 the annual standard survey in those cases in which  
12 violations are found and deficiencies are cited in the  
13 initial survey and the resurvey or reinspection is re-  
14 quired to determine whether the facility has achieved  
15 compliance.”.

16 (2) **DISALLOWANCE OF MEDICARE PAYMENT TO**  
17 **COVER ADDITIONAL FEES AND CIVIL MONEY PEN-**  
18 **ALTIES.**—Section 1861(v)(1) of such Act (42 U.S.C.  
19 1395x(v)(1)) is amended by adding at the end the  
20 following new subparagraph:

21 “(V) In determining the reasonable costs for skilled  
22 nursing facilities, there shall not be included costs in-  
23 curred by the facility—

24 “(i) because of a fee assessed under subsection  
25 (g)(6) of section 1819 or section 1919;

1           “(ii) because of the imposition of any civil  
2 money penalty (whether levied by the Secretary or a  
3 State); or

4           “(iii) because of any appeal relating to such a  
5 fee or penalty.”.

6           (b) MEDICAID AMENDMENTS.—

7           (1) IN GENERAL.—Section 1919(g) of the So-  
8 cial Security Act (42 U.S.C. 1395i–3(g)) is amended  
9 by adding at the end the following new paragraph:

10           “(6) FEES FOR RESURVEYS AND REINSPEC-  
11 TIONS.—Each State shall assess against a nursing  
12 facility a fee to recover the actual costs and expenses  
13 of the State in conducting any re-surveys or re-  
14 inspections that are conducted in addition to the an-  
15 nual standard survey in those cases in which viola-  
16 tions are found and deficiencies are cited in the ini-  
17 tial survey and the resurvey or reinspection is re-  
18 quired to determine whether the facility has achieved  
19 compliance.”.

20           (2) DISALLOWANCE OF MEDICAID PAYMENT TO  
21 COVER ADDITIONAL FEES AND CIVIL MONEY PEN-  
22 ALTIES.—Section 1903(i)(8) of such Act (42 U.S.C.  
23 1396b(i)(8)) is amended, in clause (A), by striking  
24 “under section 1919(h)” and inserting “by the Sec-  
25 retary of the State, payment of a fee assessed under

1 subsection (g)(6) of section 1819 or section 1919, or  
2 payment of any expenses of an appeal relating to  
3 such a penalty or fee”.

4 **SEC. 303. ESTABLISHMENT OF PROGRAM TO PREVENT**  
5 **ABUSE OF NURSING FACILITY RESIDENTS.**

6 (a) NURSING FACILITY AND SKILLED NURSING FA-  
7 CILITY REQUIREMENTS.—

8 (1) MEDICAID PROGRAM.—Section 1919(b) of  
9 the Social Security Act (42 U.S.C. 1396r(b)) is  
10 amended by adding at the end the following:

11 “(8) SCREENING OF NURSING FACILITY WORK-  
12 ERS.—

13 “(A) BACKGROUND CHECKS ON APPLI-  
14 CANTS.—Subject to subparagraph (B)(ii), be-  
15 fore hiring a nursing facility worker, a nursing  
16 facility shall—

17 “(i) give the worker written notice  
18 that the facility is required to perform  
19 background checks with respect to appli-  
20 cants;

21 “(ii) require, as a condition of employ-  
22 ment, that such worker—

23 “(I) provide a written statement  
24 disclosing any conviction for a rel-

1 evant crime or finding of patient or  
2 resident abuse;

3 “(II) provide a statement signed  
4 by the worker authorizing the facility  
5 to request the search and exchange of  
6 criminal records;

7 “(III) provide in person a copy of  
8 the worker’s fingerprints; and

9 “(IV) provide any other identi-  
10 fication information the Secretary  
11 may specify in regulation;

12 “(iii) initiate a check of the data col-  
13 lection system established under section  
14 1128E in accordance with regulations pro-  
15 mulgated by the Secretary to determine  
16 whether such system contains any disquali-  
17 fying information with respect to such  
18 worker; and

19 “(iv) if that system does not contain  
20 any such disqualifying information—

21 “(I) request that the State ini-  
22 tiate a State and national criminal  
23 background check on such worker in  
24 accordance with the provisions of sub-  
25 section (e)(8); and

1                   “(II) furnish to the State the in-  
2                   formation described in subclauses (II)  
3                   through (IV) of clause (ii) not more  
4                   than 7 days (excluding Saturdays,  
5                   Sundays, and legal public holidays  
6                   under section 6103(a) of title 5,  
7                   United States Code) after completion  
8                   of the check against the system initi-  
9                   ated under clause (iii).

10                   “(B) PROHIBITION ON HIRING OF ABUSIVE  
11                   WORKERS.—

12                   “(i) IN GENERAL.—A nursing facility  
13                   may not knowingly employ any nursing fa-  
14                   cility worker who has any conviction for a  
15                   relevant crime or with respect to whom a  
16                   finding of patient or resident abuse has  
17                   been made.

18                   “(ii) PROBATIONARY EMPLOYMENT.—  
19                   After complying with the requirements of  
20                   clauses (i), (ii), and (iii) of subparagraph  
21                   (A), a nursing facility may provide for a  
22                   probationary period of employment for a  
23                   nursing facility worker pending completion  
24                   of the check against the data collection  
25                   system described under subparagraph

1 (A)(iii) and the background check de-  
2 scribed under subparagraph (A)(iv). Such  
3 facility shall maintain direct supervision of  
4 the worker during the worker's proba-  
5 tionary period of employment.

6 “(C) REPORTING REQUIREMENTS.—A  
7 nursing facility shall report to the State any in-  
8 stance in which the facility determines that a  
9 nursing facility worker has committed an act of  
10 resident neglect or abuse or misappropriation of  
11 resident property in the course of employment  
12 by the facility.

13 “(D) USE OF INFORMATION.—

14 “(i) IN GENERAL.—A nursing facility  
15 that obtains information about a nursing  
16 facility worker pursuant to clauses (iii) and  
17 (iv) of subparagraph (A) may use such in-  
18 formation only for the purpose of deter-  
19 mining the suitability of the worker for  
20 employment.

21 “(ii) IMMUNITY FROM LIABILITY.—A  
22 nursing facility that, in denying employ-  
23 ment for an applicant, reasonably relies  
24 upon information about a nursing facility  
25 worker provided by the State pursuant to



1 subsection (e)(8) or section 1128E shall  
2 not be liable in any action brought by the  
3 worker based on the employment deter-  
4 mination resulting from the information.

5 “(iii) CRIMINAL PENALTY.—Whoever  
6 knowingly violates the provisions of clause  
7 (i) shall be fined in accordance with title  
8 18, United States Code, imprisoned for not  
9 more than 2 years, or both.

10 “(E) CIVIL PENALTY.—

11 “(i) IN GENERAL.—A nursing facility  
12 that violates the provisions of this para-  
13 graph shall be subject to a civil penalty in  
14 an amount not to exceed—

15 “(I) for the first such violation,  
16 \$2,000; and

17 “(II) for the second and each  
18 subsequent violation within any 5-year  
19 period, \$5,000.

20 “(ii) KNOWING RETENTION OF WORK-  
21 ER.—In addition to any civil penalty under  
22 clause (i), a nursing facility that—

23 “(I) knowingly continues to em-  
24 ploy a nursing facility worker in viola-  
25 tion of subparagraph (A) or (B); or

1                   “(II) knowingly fails to report a  
2                   nursing facility worker under subpara-  
3                   graph (C);

4                   shall be subject to a civil penalty in an  
5                   amount not to exceed \$5,000 for the first  
6                   such violation, and \$10,000 for the second  
7                   and each subsequent violation within any  
8                   5-year period.

9                   “(F) DEFINITIONS.—In this paragraph:

10                   “(i) CONVICTION FOR A RELEVANT  
11                   CRIME.—The term ‘conviction for a rel-  
12                   evant crime’ means any Federal or State  
13                   criminal conviction for—

14                   “(I) any offense described in  
15                   paragraphs (1) through (4) of section  
16                   1128(a); and

17                   “(II) such other types of offenses  
18                   as the Secretary may specify in regu-  
19                   lations.

20                   “(ii) DISQUALIFYING INFORMATION.—  
21                   The term ‘disqualifying information’ means  
22                   information about a conviction for a rel-  
23                   evant crime or a finding of patient or resi-  
24                   dent abuse.

1           “(iii) FINDING OF PATIENT OR RESI-  
2           DENT ABUSE.—The term ‘finding of pa-  
3           tient or resident abuse’ means any sub-  
4           stantiated finding by a State agency under  
5           subsection (g)(1)(C) or a Federal agency  
6           that a nursing facility worker has com-  
7           mitted.—

8                       “(I) an act of patient or resident  
9                       abuse or neglect or a misappropriation  
10                      of patient or resident property; or

11                     “(II) such other types of acts as  
12                     the Secretary may specify in regula-  
13                     tions.

14           “(iv) NURSING FACILITY WORKER.—  
15           The term ‘nursing facility worker’ means  
16           any individual that has direct access to a  
17           patient of a nursing facility under an em-  
18           ployment or other contract with such facil-  
19           ity. Such term includes individuals who are  
20           licensed or certified by the State to provide  
21           such services, and nonlicensed individuals  
22           providing such services, as defined by the  
23           Secretary, including nurse assistants,  
24           nurse aides, home health aides, and per-  
25           sonal care workers and attendants.”.

1           (2) MEDICARE PROGRAM.—Section 1819(b) of  
2           the Social Security Act (42 U.S.C. 1395i–3(b)) is  
3           amended by adding at the end the following:

4           “(8) SCREENING OF SKILLED NURSING FACIL-  
5           ITY WORKERS.—

6           “(A) BACKGROUND CHECKS ON APPLI-  
7           CANTS.—Subject to subparagraph (B)(ii), be-  
8           fore hiring a skilled nursing facility worker, a  
9           skilled nursing facility shall—

10           “(i) give the worker written notice  
11           that the facility is required to perform  
12           background checks with respect to appli-  
13           cants;

14           “(ii) require, as a condition of employ-  
15           ment, that such worker—

16           “(I) provide a written statement  
17           disclosing any conviction for a rel-  
18           evant crime or finding of patient or  
19           resident abuse;

20           “(II) provide a statement signed  
21           by the worker authorizing the facility  
22           to request the search and exchange of  
23           criminal records;

24           “(III) provide in person a copy of  
25           the worker’s fingerprints; and

1                   “(IV) provide any other identi-  
2                   fication information the Secretary  
3                   may specify in regulation;

4                   “(iii) initiate a check of the data col-  
5                   lection system established under section  
6                   1128E in accordance with regulations pro-  
7                   mulgated by the Secretary to determine  
8                   whether such system contains any disquali-  
9                   fying information with respect to such  
10                  worker; and

11                  “(iv) if that system does not contain  
12                  any such disqualifying information—

13                         “(I) request that the State ini-  
14                         tiate a State and national criminal  
15                         background check on such worker in  
16                         accordance with the provisions of sub-  
17                         section (e)(6); and

18                         “(II) furnish to the State the in-  
19                         formation described in subclauses (II)  
20                         through (IV) of clause (ii) not more  
21                         than 7 days (excluding Saturdays,  
22                         Sundays, and legal public holidays  
23                         under section 6103(a) of title 5,  
24                         United States Code) after completion

1 of the check against the system initi-  
2 ated under clause (iii).

3 “(B) PROHIBITION ON HIRING OF ABUSIVE  
4 WORKERS.—

5 (i) IN GENERAL.—A skilled nursing facility may  
6 not knowingly employ any skilled nursing facility  
7 worker who has any conviction for a relevant crime  
8 or with respect to whom a finding of patient or resi-  
9 dent abuse has been made.

10 “(ii) PROBATIONARY EMPLOYMENT.—

11 After complying with the requirements of  
12 clauses (i), (ii), and (iii) of subparagraph  
13 (A), a skilled nursing facility may provide  
14 for a probationary period of employment  
15 for a skilled nursing facility worker pend-  
16 ing completion of the check against the  
17 data collection system described under sub-  
18 paragraph (A)(iii) and the background  
19 check described under subparagraph  
20 (A)(iv). Such facility shall maintain direct  
21 supervision of the covered individual dur-  
22 ing the worker’s probationary period of  
23 employment.

24 “(C) REPORTING REQUIREMENTS.—A  
25 skilled nursing facility shall report to the State

1 any instance in which the facility determines  
2 that a skilled nursing facility worker has com-  
3 mitted an act of resident neglect or abuse or  
4 misappropriation of resident property in the  
5 course of employment by the facility.

6 “(D) USE OF INFORMATION.—

7 “(i) IN GENERAL.—A skilled nursing  
8 facility that obtains information about a  
9 skilled nursing facility worker pursuant to  
10 clauses (iii) and (iv) of subparagraph (A)  
11 may use such information only for the pur-  
12 pose of determining the suitability of the  
13 worker for employment.

14 “(ii) IMMUNITY FROM LIABILITY.—A  
15 skilled nursing facility that, in denying em-  
16 ployment for an applicant, reasonably re-  
17 lies upon information about a skilled nurs-  
18 ing facility worker provided by the State  
19 pursuant to subsection (e)(6) or section  
20 1128E shall not be liable in any action  
21 brought by the worker based on the em-  
22 ployment determination resulting from the  
23 information.

24 “(iii) CRIMINAL PENALTY.—Whoever  
25 knowingly violates the provisions of clause

1 (i) shall be fined in accordance with title  
2 18, United States Code, imprisoned for not  
3 more than 2 years, or both.

4 “(E) CIVIL PENALTY.—

5 “(i) IN GENERAL.—A skilled nursing  
6 facility that violates the provisions of this  
7 paragraph shall be subject to a civil pen-  
8 alty in an amount not to exceed—

9 “(I) for the first such violation,  
10 \$2,000; and

11 “(II) for the second and each  
12 subsequent violation within any 5-year  
13 period, \$5,000.

14 “(ii) KNOWING RETENTION OF WORK-  
15 ER.—In addition to any civil penalty under  
16 clause (i), a skilled nursing facility that—

17 “(I) knowingly continues to em-  
18 ploy a skilled nursing facility worker  
19 in violation of subparagraph (A) or  
20 (B); or

21 “(II) knowingly fails to report a  
22 skilled nursing facility worker under  
23 subparagraph (C);

24 shall be subject to a civil penalty in an  
25 amount not to exceed \$5,000 for the first



1 such violation, and \$10,000 for the second  
2 and each subsequent violation within any  
3 5-year period.

4 “(F) DEFINITIONS.—In this paragraph:

5 “(i) CONVICTION FOR A RELEVANT  
6 CRIME.—The term ‘conviction for a rel-  
7 evant crime’ means any Federal or State  
8 criminal conviction for—

9 “(I) any offense described in  
10 paragraphs (1) through (4) of section  
11 1128(a); and

12 “(II) such other types of offenses  
13 as the Secretary may specify in regu-  
14 lations.

15 “(ii) DISQUALIFYING INFORMATION.—  
16 The term ‘disqualifying information’ means  
17 information about a conviction for a rel-  
18 evant crime or a finding of patient or resi-  
19 dent abuse.

20 “(iii) FINDING OF PATIENT OR RESI-  
21 DENT ABUSE.—The term ‘finding of pa-  
22 tient or resident abuse’ means any sub-  
23 stantiated finding by a State agency under  
24 subsection (g)(1)(C) or a Federal agency

1 that a skilled nursing facility worker has  
2 committed—

3 “(I) an act of patient or resident  
4 abuse or neglect or a misappropriation  
5 of patient or resident property; or

6 “(II) such other types of acts as  
7 the Secretary may specify in regula-  
8 tions.

9 “(iv) SKILLED NURSING FACILITY  
10 WORKER.—The term ‘skilled nursing facil-  
11 ity worker’ means any individual that has  
12 direct access to a patient of a skilled nurs-  
13 ing facility under an employment or other  
14 contract with such facility. Such term in-  
15 cludes individuals who are licensed or cer-  
16 tified by the State to provide such services,  
17 and nonlicensed individuals providing such  
18 services, as defined by the Secretary, in-  
19 cluding nurse assistants, nurse aides, home  
20 health aides, and personal care workers  
21 and attendants.”.

22 (b) STATE REQUIREMENTS.—

23 (1) MEDICAID PROGRAM.—

24 (A) EXPANSION OF STATE REGISTRY TO  
25 COLLECT INFORMATION ABOUT NURSING FACIL-

1           ITY EMPLOYEES OTHER THAN NURSE AIDES.—  
2           Section 1919 of the Social Security Act (42  
3           U.S.C. 1396r) is amended—

4                   (i) in subsection (e)(2)—

5                           (I) in the paragraph heading, by  
6                           striking “NURSE AIDE REGISTRY” and  
7                           inserting “NURSING FACILITY EM-  
8                           PLOYEE REGISTRY”;

9                           (II) in subparagraph (A)—

10                                   (aa) by striking “By not  
11                                   later than January 1, 1989, the”  
12                                   and inserting “The”;

13                                   (bb) by striking “a registry  
14                                   of all individuals” and inserting  
15                                   “a registry of (I) all individuals”;  
16                                   and

17                                   (cc) by inserting before the  
18                                   period “, and (II) all other nurs-  
19                                   ing facility employees with re-  
20                                   spect to whom the State has  
21                                   made a finding described in sub-  
22                                   paragraph (B)”;

23                           (III) in subparagraph (B), by  
24                           striking “involving an individual listed

1 in the registry” and inserting “involv-  
2 ing a nursing facility employee”; and

3 (IV) in subparagraph (C), by  
4 striking “nurse aide” and inserting  
5 “nursing facility employee or appli-  
6 cant for employment”; and

7 (ii) in subsection (g)(1)—

8 (I) in subparagraph (C)—

9 (aa) in the first sentence, by  
10 striking “nurse aide” and insert-  
11 ing “nursing facility employee”;  
12 and

13 (bb) in the third sentence,  
14 by striking “nurse aide” each  
15 place it appears and inserting  
16 “nursing facility employee”; and

17 (II) in subparagraph (D), by  
18 striking “nurse aide” each place it ap-  
19 pears and inserting “nursing facility  
20 employee”.

21 (B) FEDERAL AND STATE REQUIREMENT  
22 TO CONDUCT BACKGROUND CHECKS.—Section  
23 1919(e) of the Social Security Act (42 U.S.C.  
24 1396r(e)) is amended by adding at the end the  
25 following:

1           “(8) FEDERAL AND STATE REQUIREMENTS  
2 CONCERNING CRIMINAL BACKGROUND CHECKS ON  
3 NURSING FACILITY EMPLOYEES.—

4           “(A) IN GENERAL.—Upon receipt of a re-  
5 quest by a nursing facility pursuant to sub-  
6 section (b)(8) that is accompanied by the infor-  
7 mation described in subclauses (II) through  
8 (IV) of subsection (b)(8)(A)(ii), a State, after  
9 checking appropriate State records and finding  
10 no disqualifying information (as defined in sub-  
11 section (b)(8)(F)(ii)), shall submit such request  
12 and information to the Attorney General and  
13 shall request the Attorney General to conduct a  
14 search and exchange of records with respect to  
15 the individual as described in subparagraph  
16 (B).

17           “(B) SEARCH AND EXCHANGE OF  
18 RECORDS BY ATTORNEY GENERAL.—Upon re-  
19 ceipt of a submission pursuant to subparagraph  
20 (A), the Attorney General shall direct a search  
21 of the records of the Federal Bureau of Inves-  
22 tigation for any criminal history records cor-  
23 responding to the fingerprints or other positive  
24 identification information submitted. The Attor-  
25 ney General shall provide any corresponding in-

1           formation resulting from the search to the  
2           State.

3           “(C) STATE REPORTING OF INFORMATION  
4           TO NURSING FACILITY.—Upon receipt of the in-  
5           formation provided by the Attorney General  
6           pursuant to subparagraph (B), the State  
7           shall—

8                   “(i) review the information to deter-  
9                   mine whether the individual has any con-  
10                  viction for a relevant crime (as defined in  
11                  subsection (b)(8)(F)(i));

12                   “(ii) report to the nursing facility the  
13                  results of such review; and

14                   “(iii) in the case of an individual with  
15                  a conviction for a relevant crime, report  
16                  the existence of such conviction of such in-  
17                  dividual to the database established under  
18                  section 1128E.

19           “(D) FEES FOR PERFORMANCE OF CRIMI-  
20           NAL BACKGROUND CHECKS.—

21                   “(i) AUTHORITY TO CHARGE FEES.—

22                           “(I) ATTORNEY GENERAL.—The  
23                           Attorney General may charge a fee to  
24                           any State requesting a search and ex-  
25                           change of records pursuant to this

1 paragraph and subsection (b)(8) for  
2 conducting the search and providing  
3 the records. The amount of such fee  
4 shall not exceed the lesser of the ac-  
5 tual cost of such activities or \$50.  
6 Such fees shall be available to the At-  
7 torney General, or, in the Attorney  
8 General's discretion, to the Federal  
9 Bureau of Investigation, until ex-  
10 pended.

11 “(II) STATE.—A State may  
12 charge a nursing facility a fee for ini-  
13 tiating the criminal background check  
14 under this paragraph and subsection  
15 (b)(8), including fees charged by the  
16 Attorney General, and for performing  
17 the review and report required by sub-  
18 paragraph (C). The amount of such  
19 fee shall not exceed the actual cost of  
20 such activities.

21 “(ii) PROHIBITION ON CHARGING AP-  
22 PPLICANTS OR EMPLOYEES.—An entity may  
23 not impose on an applicant for employment  
24 or an employee any charges relating to the

1 performance of a background check under  
2 this paragraph.

3 “(E) REGULATIONS.—

4 “(i) IN GENERAL.—In addition to the  
5 Secretary’s authority to promulgate regula-  
6 tions under this title, the Attorney Gen-  
7 eral, in consultation with the Secretary,  
8 may promulgate such regulations as are  
9 necessary to carry out the Attorney Gen-  
10 eral’s responsibilities under this paragraph  
11 and subsection (b)(8), including regula-  
12 tions regarding the security, confiden-  
13 tiality, accuracy, use, destruction, and dis-  
14 semination of information, audits and rec-  
15 ordkeeping, and the imposition of fees.

16 “(ii) APPEAL PROCEDURES.—The At-  
17 torney General, in consultation with the  
18 Secretary, shall promulgate such regula-  
19 tions as are necessary to establish proce-  
20 dures by which an applicant or employee  
21 may appeal or dispute the accuracy of the  
22 information obtained in a background  
23 check conducted under this paragraph. Ap-  
24 peals shall be limited to instances in which  
25 an applicant or employee is incorrectly



1 identified as the subject of the background  
2 check, or when information about the ap-  
3 plicant or employee has not been updated  
4 to reflect changes in the applicant's or em-  
5 ployee's criminal record.

6 “(F) REPORT.—Not later than 2 years  
7 after the date of enactment of this paragraph,  
8 the Attorney General shall submit a report to  
9 Congress on—

10 “(i) the number of requests for  
11 searches and exchanges of records made  
12 under this section;

13 “(ii) the disposition of such requests;  
14 and

15 “(iii) the cost of responding to such  
16 requests.”.

17 (2) MEDICARE PROGRAM.—

18 (A) EXPANSION OF STATE REGISTRY TO  
19 COLLECT INFORMATION ABOUT SKILLED NURS-  
20 ING FACILITY EMPLOYEES OTHER THAN NURSE  
21 AIDES.—Section 1819 of the Social Security  
22 Act (42 U.S.C. 1395i-3) is amended—

23 (i) in subsection (e)(2)—

24 (I) in the paragraph heading, by  
25 striking “NURSE AIDE REGISTRY” and

1 inserting “SKILLED NURSING CARE  
2 EMPLOYEE REGISTRY”;

3 (II) in subparagraph (A)—

4 (aa) by striking “By not  
5 later than January 1, 1989, the”  
6 and inserting “The”;

7 (bb) by striking “a registry  
8 of all individuals” and inserting  
9 “a registry of (I) all individuals”;  
10 and

11 (cc) by inserting before the  
12 period “; and (II) all other  
13 skilled nursing facility employees  
14 with respect to whom the State  
15 has made a finding described in  
16 subparagraph (B)”;

17 (III) in subparagraph (B), by  
18 striking “involving an individual listed  
19 in the registry” and inserting “involv-  
20 ing a skilled nursing facility em-  
21 ployee”; and

22 (IV) in subparagraph (C), by  
23 striking “nurse aide” and inserting  
24 “skilled nursing facility employee or  
25 applicant for employment”; and

1 (ii) in subsection (g)(1)—

2 (I) in subparagraph (C)—

3 (aa) in the first sentence, by  
4 striking “nursing aide” and in-  
5 serting “skilled nursing facility  
6 employee”; and

7 (bb) in the third sentence,  
8 by striking “nurse aide” each  
9 place it appears and inserting  
10 “skilled nursing facility em-  
11 ployee”; and

12 (II) in subparagraph (D), by  
13 striking “nurse aide” each place it ap-  
14 pears and inserting “skilled nursing  
15 facility employee”.

16 (B) FEDERAL AND STATE REQUIREMENT  
17 TO CONDUCT BACKGROUND CHECKS.—Section  
18 1819(e) of the Social Security Act (42 U.S.C.  
19 1395i–3(e)) is amended by adding at the end  
20 the following:

21 “(6) FEDERAL AND STATE REQUIREMENTS  
22 CONCERNING CRIMINAL BACKGROUND CHECKS ON  
23 SKILLED NURSING FACILITY EMPLOYEES.—

24 “(A) IN GENERAL.—Upon receipt of a re-  
25 quest by a skilled nursing facility pursuant to

1 subsection (b)(8) that is accompanied by the in-  
2 formation described in subclauses (II) through  
3 (IV) of subsection (b)(8)(A)(ii), a State, after  
4 checking appropriate State records and finding  
5 no disqualifying information (as defined in sub-  
6 section (b)(8)(F)(ii)), shall submit such request  
7 and information to the Attorney General and  
8 shall request the Attorney General to conduct a  
9 search and exchange of records with respect to  
10 the individual as described in subparagraph  
11 (B).

12 “(B) SEARCH AND EXCHANGE OF  
13 RECORDS BY ATTORNEY GENERAL.—Upon re-  
14 ceipt of a submission pursuant to subparagraph  
15 (A), the Attorney General shall direct a search  
16 of the records of the Federal Bureau of Inves-  
17 tigation for any criminal history records cor-  
18 responding to the fingerprints or other positive  
19 identification information submitted. The Attor-  
20 ney General shall provide any corresponding in-  
21 formation resulting from the search to the  
22 State.

23 “(C) STATE REPORTING OF INFORMATION  
24 TO SKILLED NURSING FACILITY.—Upon receipt  
25 of the information provided by the Attorney

1           General pursuant to subparagraph (B), the  
2           State shall—

3                   “(i) review the information to deter-  
4                   mine whether the individual has any con-  
5                   viction for a relevant crime (as defined in  
6                   subsection (b)(8)(F)(i));

7                   “(ii) report to the skilled nursing fa-  
8                   cility the results of such review; and

9                   “(iii) in the case of an individual with  
10                  a conviction for a relevant crime, report  
11                  the existence of such conviction of such in-  
12                  dividual to the database established under  
13                  section 1128E.

14                  “(D) FEES FOR PERFORMANCE OF CRIMI-  
15                  NAL BACKGROUND CHECKS.—

16                   “(i) AUTHORITY TO CHARGE FEES.—

17                           “(I) ATTORNEY GENERAL.—The  
18                   Attorney General may charge a fee to  
19                   any State requesting a search and ex-  
20                   change of records pursuant to this  
21                   paragraph and subsection (b)(8) for  
22                   conducting the search and providing  
23                   the records. The amount of such fee  
24                   shall not exceed the lesser of the ac-  
25                   tual cost of such activities or \$50.

1           Such fees shall be available to the At-  
2           torney General, or, in the Attorney  
3           General’s discretion, to the Federal  
4           Bureau of Investigation until ex-  
5           pended.

6           “(II) STATE.—A State may  
7           charge a skilled nursing facility a fee  
8           for initiating the criminal background  
9           check under this paragraph and sub-  
10          section (b)(8), including fees charged  
11          by the Attorney General, and for per-  
12          forming the review and report re-  
13          quired by subparagraph (C). The  
14          amount of such fee shall not exceed  
15          the actual cost of such activities.

16          “(ii) PROHIBITION ON CHARGING AP-  
17          PLICANTS OR EMPLOYEES.—An entity may  
18          not impose on an applicant for employment  
19          or an employee any charges relating to the  
20          performance of a background check under  
21          this paragraph.

22          “(E) REGULATIONS.—

23          “(i) IN GENERAL.—In addition to the  
24          Secretary’s authority to promulgate regula-  
25          tions under this title, the Attorney Gen-

1 eral, in consultation with the Secretary,  
2 may promulgate such regulations as are  
3 necessary to carry out the Attorney Gen-  
4 eral’s responsibilities under this paragraph  
5 and subsection (b)(9), including regula-  
6 tions regarding the security confidentiality,  
7 accuracy, use, destruction, and dissemina-  
8 tion of information, audits and record-  
9 keeping, and the imposition of fees.

10 “(ii) APPEAL PROCEDURES.—The At-  
11 torney General, in consultation with the  
12 Secretary, shall promulgate such regula-  
13 tions as are necessary to establish proce-  
14 dures by which an applicant or employee  
15 may appeal or dispute the accuracy of the  
16 information obtained in a background  
17 check conducted under this paragraph. Ap-  
18 peals shall be limited to instances in which  
19 an applicant or employee is incorrectly  
20 identified as the subject of the background  
21 check, or when information about the ap-  
22 plicant or employee has not been updated  
23 to reflect changes in the applicant’s or em-  
24 ployee’s criminal record.

1           “(F) REPORT.—Not later than 2 years  
2           after the date of enactment of this paragraph,  
3           the Attorney General shall submit a report to  
4           Congress on—

5                   “(i) the number of requests for  
6                   searches and exchanges of records made  
7                   under this section;

8                   “(ii) the disposition of such requests;  
9                   and

10                   “(iii) the cost of responding to such  
11                   requests.”.

12           (c) APPLICATION TO OTHER ENTITIES PROVIDING  
13 LONG-TERM CARE SERVICES.—

14                   (1) MEDICAID.—Section 1902(a) of the Social  
15                   Security Act (42 U.S.C. 1396a) is amended—

16                           (A) in paragraph (65), by striking the pe-  
17                           riod and inserting “; and”; and

18                           (B) by inserting after paragraph (65) the  
19                           following:

20                                   “(66) provide that any entity that is eligible to  
21                                   be paid under the State plan for providing long-term  
22                                   care services for which medical assistance is avail-  
23                                   able under the State plan to individuals requiring  
24                                   long-term care complies with the requirements of  
25                                   subsections (b)(8) and (e)(8) of section 1919.”.



1           (2) MEDICARE.—Part D of title XVIII of the  
2           Social Security Act (42 U.S.C. 1395x et seq.) is  
3           amended by adding at the end the following:

4           “APPLICATION OF SKILLED NURSING FACILITY PREVEN-  
5           TIVE ABUSE PROVISIONS TO ANY PROVIDER OF  
6           SERVICES OR OTHER ENTITY PROVIDING LONG-TERM  
7           CARE SERVICES

8           “SEC. 1897. The requirements of subsections (b)(8)  
9           and (e)(6) of section 1819 shall apply to any provider of  
10          services or any other entity that is eligible to be paid under  
11          this title for providing long-term care services to an indi-  
12          vidual entitled to benefits under part A or enrolled under  
13          part B (including an individual provided with a  
14          Medicare+Choice plan offered by a Medicare+Choice or-  
15          ganization under part C).”.

16       **SEC. 304. INCLUSION OF ABUSIVE NURSING FACILITY**  
17                               **WORKERS IN THE DATABASE ESTABLISHED**  
18                               **AS PART OF NATIONAL HEALTH CARE FRAUD**  
19                               **AND ABUSE DATA COLLECTION PROGRAM.**

20          (a) INCLUSION OF ABUSIVE ACTS WITHIN A LONG-  
21          TERM CARE FACILITY.—Section 1128E(g)(1)(A) of the  
22          Social Security Act (42 U.S.C. 1320a-7e(g)(1)(A)) is  
23          amended—

24               (1) by redesignating clause (v) as clause (vi);  
25          and

26               (2) by inserting after clause (iv), the following:

1                   “(v) A finding of abuse, neglect, or  
2                   mistreatment of a patient or a resident of  
3                   a long-term care facility, or misappropriation  
4                   of such a patient’s or resident’s prop-  
5                   erty.”.

6           (b) **COVERAGE OF LONG-TERM CARE FACILITY EM-**  
7 **PLOYEES.**—Section 1128E(g)(2) of the Social Security  
8 Act (42 U.S.C. 1320a–7e(g)(2)) is amended by inserting  
9 “, and includes any employee of a long-term care facility  
10 that has direct access to a patient or resident of such a  
11 facility under an employment or other contract with the  
12 facility (including individuals who are licensed or certified  
13 by the State to provide services at the facility, and non-  
14 licensed individuals, as defined by the Secretary, providing  
15 services at the facility, including nurse assistants, nurse  
16 aides, home health aides, and personal care workers and  
17 attendants)” before the period.

18           (c) **REPORTING BY LONG-TERM CARE FACILITIES.**—

19                   (1) **IN GENERAL.**—Section 1128E(b)(1) of the  
20 Social Security Act (42 U.S.C. 1320a–7e(b)(1)) is  
21 amended by striking “and health plan” and insert-  
22 ing “, health plan, and long-term care facility”.

23                   (2) **CORRECTION OF INFORMATION.**—Section  
24 1128E(c)(2) of the Social Security Act (42 U.S.C.  
25 1320a–7e(c)(2)) is amended by striking “and health

1 plan” and inserting “, health plan, and long-term  
2 care facility”.

3 (3) TREATMENT OF FEES FOR PURPOSES OF  
4 COST REPORTS.—Section 1128E(d)(2) of the Social  
5 Security Act (42 U.S.C. 1320a–7e(d)(2)) is amend-  
6 ed by adding at the end the following: “A long-term  
7 care facility may not include a fee assessed pursuant  
8 to this subsection as an allowable item on a cost re-  
9 port submitted under title XVIII or XIX.”.

10 (d) ACCESS TO REPORTED INFORMATION.—Section  
11 1128E(d)(1) of the Social Security Act (42 U.S.C. 1320a–  
12 7e(d)(1)) is amended by striking “and health plans” and  
13 inserting “, health plans, long-term care facilities, and em-  
14 ployees of long-term care facilities”.

15 (e) MANDATORY CHECK OF DATABASE BY LONG-  
16 TERM CARE FACILITIES.—Section 1128E(d) of the Social  
17 Security Act (42 U.S.C. 1320a–7e(d)) is amended by add-  
18 ing at the end the following:

19 “(3) MANDATORY CHECK OF DATABASE BY  
20 LONG-TERM CARE FACILITIES.—A long-term care fa-  
21 cility shall check the database maintained under this  
22 section prior to hiring under an employment or other  
23 contract, any individual as an employee of such a fa-  
24 cility who will have direct access to a patient or resi-  
25 dent of the facility (including individuals who are li-

1 censed or certified by the State to provide services  
2 at the facility, and nonlicensed individuals, as de-  
3 fined by the Secretary, that will provide services at  
4 the facility, including nurse assistants, nurse aides,  
5 home health aides, and personal care workers and  
6 attendants).”.

7 (f) DEFINITION OF LONG-TERM CARE FACILITY.—  
8 Section 1128E(g) of the Social Security Act (42 U.S.C.  
9 1320a–7e(g)) is amended by adding at the end the fol-  
10 lowing:

11 “(6) LONG-TERM CARE FACILITY.—The term  
12 ‘long-term care facility’ means a skilled nursing fa-  
13 cility (as defined in section 1819(a)), a nursing facil-  
14 ity (as defined in section 1919(a)), or any other fa-  
15 cility that provides long-term care services, including  
16 a home health agency, an assisted living facility, a  
17 residential facility that provides such services, and a  
18 hospice facility.”.

19 (g) AUTHORIZATION OF APPROPRIATIONS.—There is  
20 authorized to be appropriated to carry out the amend-  
21 ments made by this section, \$10,200,000 for fiscal year  
22 2000.

1 **SEC. 305. PREVENTION AND TRAINING DEMONSTRATION**  
2 **PROJECT.**

3 (a) **ESTABLISHMENT.**—The Secretary of Health and  
4 Human Services shall establish a demonstration program  
5 to provide grants to develop information on best practices  
6 in patient abuse prevention training (including behavior  
7 training and interventions) for managers and staff of hos-  
8 pital and health care facilities.

9 (b) **ELIGIBILITY.**—To be eligible to receive a grant  
10 under subsection (a), an entity shall be a public or private  
11 nonprofit entity and prepare and submit to the Secretary  
12 of Health and Human Services an application at such  
13 time, in such manner, and containing such information as  
14 the Secretary may require.

15 (c) **USE OF FUNDS.**—Amounts received under a  
16 grant under this section shall be used to—

17 (1) examine ways to improve collaboration be-  
18 tween State health care survey and provider certifi-  
19 cation agencies, long-term care ombudsman pro-  
20 grams, the long-term care industry, and local com-  
21 munity members;

22 (2) examine patient care issues relating to regu-  
23 latory oversight, community involvement, and facility  
24 staffing and management with a focus on staff  
25 training, staff stress management, and staff super-  
26 vision;

1           (3) examine the use of patient abuse prevention  
2 training programs by long-term care entities, includ-  
3 ing the training program developed by the National  
4 Association of Attorneys General, and the extent to  
5 which such programs are used; and

6           (4) identify and disseminate best practices for  
7 preventing and reducing patient abuse.

8           (d) AUTHORIZATION OF APPROPRIATIONS.—There is  
9 authorized to be appropriated such sums as may be nec-  
10 essary to carry out this section.

11 **SEC. 306. EFFECTIVE DATE.**

12           The provisions of and amendments made by the Act  
13 shall effective on and after the date of enactment of this  
14 Act, without regard to whether implementing regulations  
15 are in effect.

16           **TITLE IV—ACCESS TO LONG-**  
17           **TERM CARE INSURANCE**  
18           **Subtitle A—Group Long-Term Care**  
19           **Insurance**

20 **SEC. 401. FEDERAL EMPLOYEES GROUP LONG-TERM CARE**  
21           **INSURANCE.**

22           (a) IN GENERAL.—Subpart G of part III of title 5,  
23 United States Code, is amended by adding at the end the  
24 following new chapter:

1           **“CHAPTER 90—LONG-TERM CARE**  
 2                                   **INSURANCE**

“Sec.

“9001. Definitions.

“9002. Contracting authority.

“9003. Minimum standards for contractors.

“9004. Long-term care benefits.

“9005. Financing.

“9006. Preemption.

“9007. Studies, reports, and audits.

“9008. Claims for benefits.

“9009. Jurisdiction of courts.

“9010. Regulations.

“9011. Authorization of appropriations.

3   **“§ 9001. Definitions**

4           “For the purpose of this chapter, the term—

5                   “(1) ‘annuitant’ means an individual referred to  
 6           in section 8901(3);

7                   “(2) ‘employee’ means an individual referred to  
 8           in subparagraphs (A) through (D), and (F) through  
 9           (I) of section 8901(1); but does not include an em-  
 10          ployee excluded by regulation of the Office under  
 11          section 9011;

12                  “(3) ‘Office’ means the Office of personnel  
 13          Management;

14                  “(4) ‘other eligible individual’ means the  
 15          spouse, former spouse, parent or parent-in-law of an  
 16          employee or annuitant, or other individual specified  
 17          by the Office;

18                  “(5) ‘qualified carrier’ means an insurer li-  
 19          censed to do business in each of the States and

1 meeting the requirements of a qualified insurer in  
2 each of the of the States;

3 “(6) ‘qualified contract’ means a contract meet-  
4 ing the conditions prescribed in section 9002; and

5 “(7) ‘State’ means a State or territory or pos-  
6 session of the United States, and includes the Dis-  
7 trict of Columbia.

8 **“§ 9002. Contracting authority**

9 “(a) The Office may, without regard to section 3709  
10 of the Revised Statutes (41 U.S.C. 5) or any other statute  
11 requiring competitive bidding, purchase from 1 or more  
12 qualified carriers a policy or policies of group long-term  
13 care insurance to provide benefits as specified by this  
14 chapter. The Office shall ensure that each resulting con-  
15 tract is awarded on the basis of contractor qualifications,  
16 price, and reasonable competition to the maximum extent  
17 practicable.

18 “(b) The Office may design a benefits package or  
19 packages and negotiate final offerings with qualified car-  
20 riers.

21 “(c) Each contract shall be for a uniform term of 5  
22 years, unless terminated earlier by the Office.

23 “(d) Premium rates charged under a contract entered  
24 into under this section shall reasonably reflect the cost of



1 the benefits provided under that contract as determined  
2 by the Office.

3 “(e) The coverage and benefits made available to in-  
4 dividuals under a contract entered into under this section  
5 are guaranteed to be renewable and may not be canceled  
6 by the carrier except for nonpayment of premium.

7 “(f) The Office may withdraw an offering under this  
8 section based on open season participation rates, the com-  
9 position of the risk pool, or both.

10 **“§ 9003. Minimum standards for contractors**

11 “At the minimum, to be a qualified carrier under this  
12 chapter, a company shall—

13 “(1) be licensed as an insurance company and  
14 approved to issue group long-term care insurance in  
15 all States and to do business in each of the States;  
16 and

17 “(2) be in compliance with the requirements im-  
18 posed on issuers of qualified long-term care con-  
19 tracts by section 4980C of the Internal Revenue  
20 Code of 1986.

21 **“§ 9004. Long-term care benefits**

22 “The benefits provided under this chapter shall be  
23 long-term care benefits which, at a minimum, shall be  
24 compliant with the most recent standards recommended  
25 by the National Association of Insurance Commissioners.

1 **“§ 9005. Financing**

2 (a) The amount necessary to pay the premium for  
3 enrollment of an enrolled employee shall be withheld from  
4 the pay of each enrolled employee.

5 “(b) Except as provided under subsection (d), the  
6 amount necessary to pay the premium for enrollment of  
7 an enrolled of an enrolled annuitant shall be withheld from  
8 the annuity of each enrolled annuitant.

9 “(c) The amount necessary to pay the premium for  
10 enrollment of a spouse may be withheld from pay or annu-  
11 ity, as appropriate.

12 “(d) An employee, annuitant, or other eligible indi-  
13 vidual, whose pay or annuity is insufficient to cover the  
14 withholding required for enrollment, shall, at the discre-  
15 tion of the withholding required for enrollment, shall, at  
16 the discretion of the Office, pay the premium for enroll-  
17 ment directly to the carrier.

18 “(e) Each carrier participating in the program estab-  
19 lished under chapter shall maintain the funds related to  
20 this program separate and apart from funds related to  
21 other contracts and other lines of business.

22 “(f) The costs of the Office in adjudicating a claims  
23 dispute under section 9008, including costs related to an  
24 inquiry not culminating a dispute, shall be reimbursed by  
25 the carrier involved in the dispute or inquiry. Such funds

1 shall be available to the Office for the administration of  
2 this chapter.

3 **“§ 9006. Preemption**

4 “This chapter shall supersede and preempt any State  
5 or local law which is determined by the Office to be incon-  
6 sistent with—

7 “(1) the provisions of this chapter; or

8 “(2) after consultation with the National Asso-  
9 ciation of Insurance Commissioners, the efficient  
10 provision of a nationwide long-term care insurance  
11 program for Federal employees.

12 **“§ 9007. Studies, reports, and audits**

13 “(a) Each qualified carrier entering into a contract  
14 under this chapter shall—

15 “(1) furnish such reasonable reports as the Of-  
16 fice determines to be necessary to enable the carrier  
17 to carry out the functions under this chapter; and

18 “(2) permit the Office and representatives of  
19 the General Accounting Office to examine such  
20 records of the carrier as may be necessary to carry  
21 out the purposes of this chapter.

22 “(b) Each Federal agency shall keep such records,  
23 make such certifications, and furnish the Office, the car-  
24 rier, or both, with such information and reports as the  
25 Office may require.

1 **“§ 9008. Claims for benefits.**

2 “(a) A claim for benefits under this chapter shall be  
3 filed within 4 years after the date on which the reimburs-  
4 able costs was incurred or the service was provided.

5 “(b) The Office shall adjudicate a claims dispute aris-  
6 ing under this chapter and shall require the contractor to  
7 pay for any benefit or provide any service the Office deter-  
8 mines appropriate under the applicable contract.

9 “(c)(1) Except as provided under paragraph (2), ben-  
10 efits payable under this chapter for any reimbursable cost  
11 incurred or service provided are secondary to any other  
12 benefit payable for such cost or service. No payment may  
13 be made where there is no legal obligation for such pay-  
14 ment.

15 “(2)(A) Benefits payable under the programs de-  
16 scribed under subparagraph (B) shall be secondary to ben-  
17 efits payable under this chapter.

18 “(B) The programs referred to under subparagraph  
19 (A) are—

20 “(i) the program of medical assistance under  
21 title XIX of the Social Security Act (42 U.S.C.  
22 1396); and

23 “(ii) any other Federal or State programs that  
24 the Office may specify in regulations that provide  
25 health benefit coverage designed to be secondary to  
26 other insurance coverage.

1 **“§ 9009. Jurisdiction of courts**

2 “A claimant under this chapter may file suit against  
3 the carrier of the long-term care insurance policy covering  
4 such claimant in the district courts of the United States,  
5 after exhausting all available administrative remedies.

6 **“§ 9010. Regulations**

7 “(a) The office shall prescribe regulations necessary  
8 to carry out this chapter.

9 “(b) The regulations of the Office may prescribe the  
10 time at which and the conditions under which an eligible  
11 individual may enroll in the program established under  
12 this chapter.

13 “(c) The Office may not exclude—

14 “(1) an employee or group of employees solely  
15 on the basis of the hazardous nature of employment;  
16 or

17 “(2) an employee who is occupying a position  
18 on a part-time career employment basis, as defined  
19 in section 3401(2).

20 “(d) The regulations of the Office shall provide for  
21 the beginning and ending dates of coverage of employees,  
22 annuitants, former spouses, and other eligible individuals  
23 under this chapter, and any requirements for continuation  
24 or conversion of coverage.

1 **“§ 9011. Authorization of appropriations**

2 “There are authorized to be appropriated such sums  
3 as may be necessary for the purposes of carrying out sec-  
4 tions 9002 and 9010.”.

5 “(b) EFFECTIVE DATE.—The amendments made by  
6 subsection (a) shall take effect on the date of enactment  
7 of this Act, except that no coverage may be effective until  
8 the first day of the first applicable pay period in October,  
9 which occurs more than 1 year after the date of enactment  
10 of this Act.

11 **SEC. 402. MAKING AVAILABLE GROUP LONG-TERM CARE IN-**  
12 **SURANCE TO OTHERS.**

13 (a) PRESIDENTIAL PLAN.—

14 (1) SUBMISSION.—Not later than 2 years after  
15 the date of the enactment of this Act, the President  
16 shall submit to Congress a plan under which employ-  
17 ees who are not entitled to purchase long-term care  
18 benefits insurance under chapter 90 of title 5,  
19 United States Code, as added by section 401(a) may  
20 purchase insurance of the type offered under such  
21 chapter to Federal employees.

22 (2) ADMINISTRATION.—Under the plan sub-  
23 mitted under paragraph (1), the President shall des-  
24 ignate an agency or entity that would be responsible  
25 for the administration of the plan.

1           (3) FINANCIAL SELF-SUFFICIENCY.—The plan  
2           submitted shall assure that costs of the program  
3           under chapter 90 of title 5, United States Code, are  
4           not affected by the implementation of the plan.

5           (b) IMPLEMENTATION.—The plan submitted under  
6           subsection (a) shall go into effect on the first January 1  
7           following 3 years after the date of the enactment of this  
8           Act, unless the Congress provides otherwise.

9           **Subtitle B—Extension of Consumer**  
10           **Protection Standards to All**  
11           **Long-Term Care Insurance Poli-**  
12           **cies**

13           **SEC. 411. EXTENSION OF CONSUMER PROTECTION STAND-**  
14           **ARDS TO ALL LONG-TERM CARE INSURANCE**  
15           **POLICIES.**

16           (a) IN GENERAL.—Any issuer of a long-term care in-  
17           surance contract (other than a qualified long-term care in-  
18           surance contract) that fails to comply with the require-  
19           ments of subsections (c) and (d) of section 4980C of the  
20           Internal Revenue Code of 1986 (insofar as they would  
21           apply to a qualified long-term care insurance contract),  
22           as adjusted to conform with the most recent version avail-  
23           able of the long-term care insurance model regulation and  
24           the long-term care insurance model Act promulgated by  
25           the National Association of Insurance Commissioners, is

1 subject to a civil monetary penalty of \$100 per insured  
2 for each day of any such failure. Nothing in this section,  
3 shall preclude a State from requiring additional consumer  
4 protections in any long-term care insurance contract.

5 (b) COLLECTION.—The provisions of section 1128A  
6 of the Social Security Act (other than subsections (a) and  
7 (b)) shall apply to civil money penalties under this section  
8 in the same manner as they apply to a penalty or pro-  
9 ceeding under section 1128A(a) of such Act.

10 (c) DEFINITIONS.—For purposes of this section, the  
11 term “qualified long-term care insurance contract” has  
12 the meaning given such term in 7702B of the Internal  
13 Revenue Code of 1986.

14 (d) EFFECTIVE DATE.—The requirement of sub-  
15 section (a) shall apply to actions taken after December  
16 31, 1999.

17 **TITLE V—ADDITION OF NA-**  
18 **TIONAL FAMILY CAREGIVER**  
19 **PROGRAM TO THE OLDER**  
20 **AMERICANS ACT OF 1965**

21 **SEC. 501. NATIONAL FAMILY CAREGIVER SUPPORT PRO-**  
22 **GRAM.**

23 (a) ESTABLISHMENT OF PROGRAM.—Part D of title  
24 III of the Older Americans Act of 1965 (42 U.S.C. 3030h  
25 et seq.) is amended to read as follows:



1           **“PART D—NATIONAL FAMILY CAREGIVER**

2                           **SUPPORT PROGRAM**

3                           **“Subpart 1—State Grant Program**

4   **“SEC. 341. PROGRAM AUTHORIZED.**

5           “(a)(1) IN GENERAL.—The Assistant Secretary shall  
6 carry out a program under this subpart for making grants  
7 to States under State plans approved under section 307  
8 for multi-faceted systems of support for families and other  
9 informal providers of in-home and community care to  
10 older individuals.

11          “(2) AUTHORIZATION.—There are authorized to be  
12 appropriated \$125,000,000 for fiscal year 2000, and such  
13 sums as may be necessary for each of the fiscal years 2001  
14 through 2004, to carry out the programs under this part.

15          “(b) COORDINATION WITH SERVICE PROVIDERS.—  
16 In carrying out this subpart, each area agency on aging  
17 shall coordinate with other community agencies and vol-  
18 untary organizations providing the types of services for  
19 which funding is available under this subpart.

20          “(c) FAMILY CAREGIVER SUPPORT SERVICES.—The  
21 services to be provided through a State program under  
22 this subpart shall include—

23                 “(1) the provision of information to caregivers  
24                 about available services;

25                 “(2) assistance to caregivers in gaining access  
26                 to such services;

1           “(3) individual counseling, the organization of  
2           support groups, and the provision of caregiver train-  
3           ing to help families make decisions and solve prob-  
4           lems relating to their caregiving roles;

5           “(4) respite care to enable families and other  
6           informal caregivers to be temporarily relieved from  
7           their caregiving responsibilities; and

8           “(5) the provision of supplemental services, on  
9           a limited basis, to complement the care provided by  
10          families and other informal caregivers.

11          “(d) ELIGIBILITY.—In order for a caregiver or care-  
12          givers of an older individual to be eligible to receive serv-  
13          ices provided by a State program under this subpart, the  
14          State must—

15                 “(1) determine that the older individual meets  
16                 the condition specified in either subparagraph (A)(i)  
17                 or (B) of section 102(28); and

18                 “(2) give priority for services to older individ-  
19                 uals and families with the greatest social and eco-  
20                 nomic need, consistent with the requirements of sec-  
21                 tion 305(a)(2)(E).

22          “(e) REQUIREMENTS FOR QUALITY STANDARDS AND  
23          ACCOUNTABILITY.—A State receiving assistance under  
24          this subpart shall comply with the following:

1           “(1) QUALITY STANDARDS.—A State shall have  
2           in place mechanisms designed to ensure the quality  
3           of services provided with assistance under this sub-  
4           part.

5           “(2) DATA AND RECORDS.—A State shall col-  
6           lect data and furnish records at the times and in the  
7           standardized format that the Assistant Secretary  
8           may require in order to enable the Assistant Sec-  
9           retary to monitor State program administration and  
10          compliance, and to evaluate and compare the effec-  
11          tiveness of State programs under this subpart.

12          “(3) REPORTING.—A State shall report to the  
13          Assistant Secretary on the data and information re-  
14          quired under paragraph (2), including the services  
15          and activities funded under this subpart, and stand-  
16          ards and methods by which the quality of services  
17          shall be assured.

18          “(f) AVAILABILITY OF FUNDS.—

19                 “(1) IN GENERAL.—The program under this  
20                 subpart shall be carried out in each fiscal year using  
21                 the balance of funds appropriated under section  
22                 341(a) for such fiscal year and remaining after the  
23                 reservation of funds under sections 345 and 346 for  
24                 carrying out subpart 2.

1           “(2) USE OF FUNDS FOR ADMINISTRATION OF  
2           AREA PLANS.—Amounts made available to a State  
3           under this subpart may be used, in addition to  
4           amounts available in accordance with section  
5           303(c)(1), for the costs of the administration of area  
6           plans.

7           “(3) FEDERAL SHARE.—

8                   “(A) IN GENERAL.—Notwithstanding sec-  
9                   tion 304(d)(1)(D), amounts made available to a  
10                   State under this subpart shall be available to  
11                   pay not more than 75 percent of the costs of  
12                   services provided under this subpart.

13                   “(B) LIMITATION.—Federal funds and  
14                   cost sharing by recipients of services provided  
15                   under this subpart cannot be used or the non-  
16                   federal share of funds under this subpart.

17   **“SEC. 342. MAINTENANCE OF EFFORT.**

18           “Funds made available under this subpart shall be  
19           in addition to, and may not be used to supplant, any funds  
20           that are or would otherwise be expended under any Fed-  
21           eral, State, or local law by a State or unit of general pur-  
22           pose local government (including area agencies on aging)  
23           which have in their planning and service areas existing  
24           services equivalent to the services which may be funded  
25           under this subpart.

1           **“Subpart 2—National Innovation Programs**

2   **“SEC. 345. INNOVATION GRANT PROGRAM.**

3           “(a) IN GENERAL.—The Assistant Secretary shall  
4 carry out a program for making grants on a competitive  
5 basis to foster the development and testing of new ap-  
6 proaches to sustaining the efforts of families and other  
7 informal caregivers of older individuals, and to serving  
8 particular groups of caregivers of older individuals, includ-  
9 ing minority caregivers and distant caregivers.

10          “(b) EVALUATION AND DISSEMINATION OF RE-  
11 SULTS.—The Assistant Secretary shall provide for the  
12 evaluation of the effectiveness of programs and activities  
13 funded with grants under this subpart, and for the dis-  
14 semination to States of descriptions and evaluations of  
15 such programs and activities, to enable States to incor-  
16 porate successful approaches into their program under  
17 this part.

18          “(c) AVAILABILITY OF FUNDS.—

19               “(1) IN GENERAL.—The Assistant Secretary  
20 shall reserve up to 10 percent of the amount appro-  
21 priated for each fiscal year under section 341(a) to  
22 carry out the program under this section.

23               “(2) NATIVE AMERICAN PROGRAMS.—20 per-  
24 cent of the amounts reserved for each fiscal year  
25 under paragraph (1) shall be made available for pro-  
26 grams and activities for Native Americans.

1 **“SEC. 346. ACTIVITIES OF NATIONAL SIGNIFICANCE.**

2 “(a) IN GENERAL.—The Assistant Secretary shall,  
3 directly or by grant or contract, carry out activities of na-  
4 tional significance to promote quality and continuous im-  
5 provements in the support provided to family and other  
6 informal caregivers of older individuals through program  
7 evaluation, training, technical assistance and research.

8 “(b) AVAILABILITY OF FUNDS.—The Assistant Sec-  
9 retary shall reserve up to 2 percent of the amount appro-  
10 priated for each fiscal year under section 341(a) to carry  
11 out the program under this section.”.

12 **SEC. 502. ALLOTMENTS.**

13 Section 304(a)(1) of the Older Americans Act of  
14 1965 (42 U.S.C. 3024(a)(1)) is amended in the first sen-  
15 tence by inserting “remaining after reservations of funds  
16 in accordance with sections 345 and 346” after “from the  
17 sums appropriated under section 341(a) for each fiscal  
18 year”.

19 **SEC. 503. AVAILABILITY OF TITLE III-D FUNDS FOR REAL-**  
20 **LOTMENT.**

21 Section 304(b) of the Older Americans Act of 1965  
22 (42 U.S.C. 3024(b)) is amended in the first sentence by  
23 striking “part B or C” and inserting “part B, C, or D”.

24 **SEC. 504. CONFORMING AMENDMENTS.**

25 (a) RELOCATION OF PROVISIONS CONCERNING IN-  
26 HOME SERVICES FOR FRAIL OLDER INDIVIDUALS.—Sec-

1 tion 321(a)(5) of the Older Americans Act of 1965 (42  
2 U.S.C. 3030d(a)(5)) is amended by striking “including”  
3 and all that follows and inserting “including—

4 “(A) client assessment, case management,  
5 and development and coordination of commu-  
6 nity services;

7 “(B) in-home services for frail older indi-  
8 viduals (including supportive services for vic-  
9 tims of Alzheimer’s disease and related dis-  
10 orders with neurological and organic brain dys-  
11 function, and for the families of such individ-  
12 uals);

13 “(C) supportive activities to meet the spe-  
14 cial needs of caregivers, including caretakers  
15 who provide in-home services to frail older indi-  
16 viduals;

17 “(D) in-home and other community serv-  
18 ices, including home health, homemaker, shop-  
19 ping, escort, reader, and letter writing services,  
20 to assist older individuals to live independently  
21 in a home environment;”.

22 **SEC. 505. EFFECTIVE DATE.**

23 The amendments made by this title shall take effect  
24 on October 1, 1999.

1           **TITLE VI—MEDICARE FOR**  
2                           **CAREGIVERS**  
3           **Subtitle A—Access to Medicare**  
4                           **Benefits for Caregivers**

5   **SEC. 601. ACCESS TO MEDICARE BENEFITS FOR CARE-**  
6                           **GIVERS.**

7           “(a) IN GENERAL.—Title XVIII of the Social Secu-  
8 rity Act is amended—

9                   (1) by redesignating section 1859 and part D  
10 as section 1858 and part E, respectively; and

11                   (2) by inserting after such section the following  
12 new part:

13                   **“Part D—Medicare Benefits for Caregivers**

14 **“SEC. 1859. PROGRAM BENEFITS; ELIGIBILITY.**

15           “(a) ENTITLEMENT TO MEDICARE BENEFITS FOR  
16 ENROLLED INDIVIDUALS.—

17                   “(1) IN GENERAL.—An individual enrolled  
18 under this part is entitled to the same benefits  
19 under this title as an individual entitled to benefits  
20 under part A and enrolled under part B.

21                   “(2) DEFINITIONS.—For purposes of this part:

22                           “(A) FEDERAL OR STATE COBRA CONTINU-  
23 ATION PROVISION.—The term ‘Federal or State  
24 COBRA continuation provision’ has the mean-  
25 ing given the term ‘COBRA continuation provi-



1 sion’ in section 2791(d)(4) of the Public Health  
2 Service Act and includes a comparable State  
3 program, as determined by the Secretary.

4 “(B) FEDERAL HEALTH INSURANCE PRO-  
5 GRAM DEFINED.—The term ‘Federal health in-  
6 surance program’ means any of the following:

7 “(i) MEDICARE.—Part A or part B of  
8 this title (other than by reason of this  
9 part).

10 “(ii) MEDICAID.—A State plan under  
11 title XIX.

12 “(iii) FEHBP.—The Federal employ-  
13 ees health benefit program under chapter  
14 89 of title 5, United States Code.

15 “(iv) TRICARE.—The TRICARE  
16 program (as defined in section 1072(7) of  
17 title 10, United States Code).

18 “(v) ACTIVE DUTY MILITARY.—Health  
19 benefits under title 10, United States  
20 Code, to an individual as a member of the  
21 uniformed services of the United States.

22 “(C) GROUP HEALTH PLAN.—The term  
23 ‘group health plan’ has the meaning given such  
24 term in section 2791(a)(1) of the Public Health  
25 Service Act.

1       “(b) ELIGIBILITY OF CAREGIVERS.—An individual  
2 who meets the following requirements with respect to a  
3 month is eligible to enroll under this part with respect to  
4 such month:

5           “(1) ELIGIBLE FOR CAREGIVER TAX CREDIT.—  
6 The individual is eligible for a caregiver tax credit  
7 under section 35 of the Internal Revenue Code of  
8 1986 by virtue of providing care to a medicare eligi-  
9 ble individual.

10          “(2) CAREGIVING PRECLUDING EMPLOYER-  
11 BASED HEALTH INSURANCE COVERAGE.—The Sec-  
12 retary determines that the caregiving provided by  
13 the individual to the medicare-eligible individual rea-  
14 sonably precludes employment and the obtaining of  
15 employer-provided health insurance and in the ab-  
16 sence of such caregiving there is a likelihood that  
17 there would be an increase in costs under this title,  
18 title XIX, or other public health care programs.

19          “(3) NOT ELIGIBLE FOR COVERAGE UNDER  
20 GROUP HEALTH PLANS OR FEDERAL HEALTH INSUR-  
21 ANCE PROGRAMS.—The individual is not eligible for  
22 benefits or coverage under a Federal health insur-  
23 ance program (as defined in subsection (a)(2)(B)) or  
24 under a group health plan (other than such eligi-  
25 bility merely through a Federal or State COBRA

1 continuation provision) as of the last day of the  
2 month involved.

3 **“SEC. 1859A. ENROLLMENT PROCESS; COVERAGE.**

4 “(a) IN GENERAL.—An individual may enroll in the  
5 program established under this part only in such manner  
6 and form as may be prescribed by regulations.

7 “(b) DATE COVERAGE BEGINS.—

8 “(1) IN GENERAL.—The period during which  
9 an individual is entitled to benefits under this part  
10 shall begin on the first day of the first month that  
11 begins after the date the individual first satisfies eli-  
12 gibility for enrollment under section 1859, but in no  
13 case earlier than July 1, 2001.

14 “(2) AUTHORITY TO PROVIDE FOR PARTIAL  
15 MONTHS OF COVERAGE.—Under regulations, the  
16 Secretary may, in the Secretary’s discretion, provide  
17 for coverage periods that include portions of a  
18 month in order to avoid lapses of coverage.

19 “(3) LIMITATION ON PAYMENTS.—No payments  
20 may be made under this title with respect to the ex-  
21 penses of an individual enrolled under this part un-  
22 less such expenses were incurred by such individual  
23 during a period which, with respect to the individual,  
24 is a coverage period under this section.

25 “(d) TERMINATION OF COVERAGE.—

1           “(1) IN GENERAL.—An individual’s coverage  
2 period under this part shall continue until the indi-  
3 vidual’s enrollment has been terminated at the ear-  
4 liest of the following:

5           “(A) NOTICE.—The individual files notice  
6 (in a form and manner prescribed by the Sec-  
7 retary) that the individual no longer wishes to  
8 participate in the insurance program under this  
9 part.

10           “(B) LOSS OF ELIGIBILITY.—The indi-  
11 vidual no longer meets the conditions described  
12 in section 1859(b)(1).

13           “(C) MEDICARE ELIGIBILITY.—The indi-  
14 vidual becomes entitled to benefits under part A  
15 or enrolled under part B (other than by reason  
16 of this part).

17           “(2) EFFECTIVE DATE OF TERMINATION.—

18           “(A) NOTICE.—The termination of a cov-  
19 erage period under paragraph (1)(A) shall take  
20 effect at the close of the month following for  
21 which the notice is filed.

22           “(B) LOSS OF ELIGIBILITY.—The termi-  
23 nation of a coverage period under paragraph  
24 (1)(B) shall take effect at the close of the  
25 month following the month in which the Sec-

1           retary determines that the individual no longer  
2           meets the conditions referred to in such para-  
3           graph.

4                   “(C) MEDICARE ELIGIBILITY.—The termi-  
5           nation of a coverage period under paragraph  
6           (1)(C) shall take effect as of the first day of the  
7           month in which the individual attains 65 years  
8           of age or becomes entitled to benefits under  
9           part A or enrolled for benefits under part B  
10          (other than by reason of this part).

11 **“SEC. 1859B. MEDICARE CAREGIVER TRUST FUND.**

12          “(a) ESTABLISHMENT OF TRUST FUND.—

13                   “(1) IN GENERAL.—There is hereby created on  
14          the books of the Treasury of the United States a  
15          trust fund to be known as the ‘Medicare Caregiver  
16          Trust Fund’ (in this section referred to as the  
17          ‘Trust Fund’). The Trust Fund shall consist of such  
18          gifts and bequests as may be made as provided in  
19          section 201(i)(1) and such amounts as may be de-  
20          posited in, or appropriated to, such fund as provided  
21          in this title.

22                   “(2) TRANSFER OF SAVINGS FROM NEW FRAUD  
23          AND ABUSE INITIATIVES.—

24                   “(A) IN GENERAL.—There is hereby trans-  
25          ferred to the Trust Fund from the Federal

1 Hospital Insurance Trust Fund and from the  
2 Federal Supplementary Medical Insurance  
3 Trust Fund amounts equivalent to the amounts  
4 (specified under subparagraph (B)) of the re-  
5 ductions in expenditures under such respective  
6 trust fund as may be attributable to the enact-  
7 ment of the Medicare Fraud and Overpayment  
8 Act of 1999.

9 “(B) USE OF CBO ESTIMATES.—For each  
10 fiscal year during the 10-fiscal-year period be-  
11 ginning with fiscal year 2000, the amounts  
12 under subparagraph (A) shall be the amounts  
13 described in such subparagraph as determined  
14 by the Congressional Budget Office at the time  
15 of, and in connection with the enactment of the  
16 Omnibus Long-Term Care Improvement Act of  
17 1999. For subsequent fiscal years, the amounts  
18 under subparagraph (A) shall be the amount  
19 determined under this subparagraph for the  
20 previous fiscal year increased by the same per-  
21 centage as the percentage increase in aggregate  
22 expenditures under this title from the second  
23 previous fiscal year to the previous fiscal year.

24 “(b) INCORPORATION OF PROVISIONS.—

1           “(1) IN GENERAL.—Subject to paragraph (2),  
2           subsections (b) through (i) of section 1841 shall  
3           apply with respect to the Trust Fund and this title  
4           in the same manner as they apply with respect to  
5           the Federal Supplementary Medical Insurance Trust  
6           Fund and part B, respectively.

7           “(2) MISCELLANEOUS REFERENCES.—In apply-  
8           ing provisions of section 1841 under paragraph  
9           (1)—

10                   “(A) any reference in such section to ‘this  
11                   part’ is construed to refer to this part D;

12                   “(B) any reference in section 1841(h) to  
13                   section 1840(d) and in section 1841(i) to sec-  
14                   tions 1840(b)(1) and 1842(g) are deemed ref-  
15                   erences to comparable authority exercised under  
16                   this part; and

17                   “(C) payments may be made under section  
18                   1841(g) to the Trust Funds under sections  
19                   1817 and 1841 as reimbursement to such funds  
20                   for payments they made for benefits provided  
21                   under this part.

22   **“SEC. 1859C. OVERSIGHT AND ACCOUNTABILITY.**

23           “(a) THROUGH ANNUAL REPORTS OF TRUSTEES.—  
24   The Board of Trustees of the Medicare Caregiver Trust  
25   Fund under section 1859B(b)(1) shall report on an an-

1 nual basis to Congress concerning the status of the Trust  
2 Fund and the need for adjustments in the program under  
3 this part to maintain financial solvency of the program  
4 under this part.

5 “(b) PERIODIC GAO REPORTS.—The Comptroller  
6 General of the United States shall periodically submit to  
7 Congress reports on the adequacy of the financing of cov-  
8 erage provided under this part. The Comptroller General  
9 shall include in such report such recommendations for ad-  
10 justments in such financing and coverage as the comp-  
11 troller general deems appropriate in order to maintain fi-  
12 nancial solvency of the program under this part.

13 **“SEC. 1859D. ADMINISTRATION AND MISCELLANEOUS.**

14 “(a) TREATMENT FOR PURPOSES OF TITLE.—Ex-  
15 cept as otherwise provided in this part—

16 “(1) individuals enrolled under this part shall  
17 be treated for purposes of this title as though the in-  
18 dividual were entitled to benefits under part A and  
19 enrolled under part B; and

20 “(2) benefits described in section 1859 shall be  
21 payable under this title to such individuals in the  
22 same manner as if such individuals were so entitled  
23 and enrolled.

24 “(b) NOT TREATED AS MEDICARE PROGRAM FOR  
25 PURPOSES OF MEDICAID PROGRAM.—For purposes of ap-



1 plying title XIX (including the provision of medicare cost-  
2 sharing assistance under such title), an individual who is  
3 enrolled under this part shall not be treated as being enti-  
4 tled to benefits under this title.

5 “(c) NOT TREATED AS MEDICARE PROGRAM FOR  
6 PURPOSES OF COBRA CONTINUATION PROVISIONS.—In  
7 applying a COBRA continuation provision (as defined in  
8 section 2791(d)(4) of the Public Health Service Act), any  
9 reference to an entitlement to benefits under this title  
10 shall not be construed to include entitlement to benefits  
11 under this title pursuant to the operation of this part.”.

12 (b) CONFORMING AMENDMENTS TO SOCIAL SECU-  
13 RITY ACT PROVISIONS.—

14 (1) Section 201(i)(1) of the Social Security Act  
15 (42 U.S.C. 401(i)(1)) is amended by striking “or the  
16 Federal Supplementary Medical Insurance Trust  
17 Fund” and inserting “the Federal Supplementary  
18 Medical Insurance Trust Fund, and the Medicare  
19 Caregiver Trust Fund”.

20 (2) Section 201(g)(1)(A) of such Act (42  
21 U.S.C. 401(g)(1)(A)) is amended by striking “ and  
22 the Federal Supplementary Medical Insurance Trust  
23 Fund established by title XVIII” and inserting “,  
24 the Federal Supplementary Medical Insurance Trust

1 Fund, and the Medicare Caregiver Trust Fund es-  
2 tablished by title XVIII”.

3 (3) Section 1820(i) of such Act (42 U.S.C.  
4 1395i-4(i)) is amended by striking “part D” and in-  
5 serting “part E”.

6 (4) Part C of title XVIII of such Act is  
7 amended—

8 (A) in section 1851(a)(2)(B) (42 U.S.C.  
9 1395w-21(a)(2)(B)), by striking “1859(b)(3)”  
10 and inserting “1858(b)(3);

11 (B) in section 1851(a)(2)(C) (42 U.S.C.  
12 1395w-21(a)(2)(C)), by striking “1859(b)(2)”  
13 and inserting “1858(b)(2)”;

14 (C) in section 1852(a)(1) (42 U.S.C.  
15 1395w-22(a)(1)), by striking “1859(b)(3)”  
16 and inserting “1858(b)(3)”;

17 (D) in section 1852(a)(3)(B)(ii) (42  
18 U.S.C. 1395w-22(a)(3)(B)(ii)), by striking  
19 “1859(b)(2)(B)” and inserting  
20 “1858(b)(2)(B)”;

21 (E) in section 1853(a)(1)(A) (42 U.S.C.  
22 1395w-23(a)(1)(A)), by striking “1859(e)(4)”  
23 and inserting “1858(e)(4)”;

1 (F) in section 1853(a)(3)(D) (42 U.S.C.  
2 1395w-23(a)(3)(D)), by striking “1859(e)(4)”  
3 and inserting “1858(e)(4)”.

4 (5) Section 1853(c) of such Act (42 U.S.C.  
5 1395w-23(c)) is amended—

6 (A) in paragraph (1), by striking “or (7)”  
7 and inserting “, (7), or (8)”, and

8 (B) by adding at the end the following:

9 “(8) ADJUSTMENT FOR CAREGIVER.—In apply-  
10 ing this subsection with respect to individuals enti-  
11 tled to benefits under part D, the Secretary shall  
12 provide for an appropriate adjustment in the  
13 Medicare+Choice capitation rate as may be appro-  
14 priate to reflect differences between the population  
15 served under such part and the population under  
16 parts A and B.”.

17 (c) OTHER CONFORMING AMENDMENTS.—

18 (1) Section 138(b)(4) of the Internal Revenue  
19 Code of 1986 is amended by striking “1859(b)(3)”  
20 and inserting “1858(b)(3)”.

21 (2)(A) Section 602(2)(D)(ii) of the Employee  
22 Retirement Income Security Act of 1974 (29 U.S.C.  
23 1162(2)) is amended by inserting “(not including an  
24 individual who is so entitled pursuant to enrollment  
25 under section 1859A)” after “Social Security Act”.

1 (B) Section 2202(2)(D)(ii) of the Public Health  
 2 Service Act (42 U.S.C. 300bb–2(2)(D)(ii) is amend-  
 3 ed by inserting “(not including an individual who is  
 4 so entitled pursuant to enrollment under section  
 5 1859A)” after “Social Security Act”.

6 (C) Section 4980B(f)(2)(B)(i)(V) of the Inter-  
 7 nal Revenue Code of 1986 is amended by inserting  
 8 “(not including an individual who is so entitled pur-  
 9 suant to enrollment under section 1859A)” after  
 10 “Social Security Act”.

11 **Subtitle B—COBRA Protection for**  
 12 **Caregivers**

13 **CHAPTER 1—AMENDMENTS TO THE EM-**  
 14 **PLOYEE RETIREMENT INCOME SECU-**  
 15 **RITY ACT OF 1974**

16 **SEC. 611. COBRA CONTINUATION BENEFITS FOR CERTAIN**  
 17 **CAREGIVERS WHO LOST HEALTH COVERAGE.**

18 (a) ESTABLISHMENT OF NEW QUALIFYING  
 19 EVENT.—

20 (1) IN GENERAL.—Section 603 of the Employee  
 21 Retirement Income Security Act of 1974 (29 U.S.C.  
 22 1163) is amended by inserting after paragraph (6)  
 23 the following new paragraph:

1           “(7) The termination of group health plan cov-  
2           erage as a result of the covered employee becoming  
3           a qualified caregiver.”.

4           (2) QUALIFIED CAREGIVER DEFINED.—Section  
5           607 of such Act (29 U.S.C. 1167) is amended—

6                   (A) in paragraph (3)—

7                           (i) in subparagraph (A), by inserting  
8                           “except as otherwise provided in this para-  
9                           graph,” after “means,”; and

10                           (ii) by adding at the end the following  
11                           new subparagraph:

12                           “(D) SPECIAL RULE FOR QUALIFYING  
13                           CAREGIVERS.—In the case of a qualifying event  
14                           described in section 603(7), the term ‘qualified  
15                           beneficiary’ means a qualified caregiver and any  
16                           other individual who, on the day before such  
17                           qualifying event, is a beneficiary under the plan  
18                           on the basis of the individual’s relationship to  
19                           such qualified caregiver.”; and

20                           (B) by adding at the end the following new  
21                           paragraph:

22                           “(6) QUALIFIED CAREGIVER.—The term ‘quali-  
23                           fied caregiver’ means with respect to a qualifying  
24                           event describe in section 603(7), an individual who

1 becomes eligible for a caregiver tax credit under sec-  
2 tion 35 of the Internal Revenue Code of 1986.”.

3 (b) EFFECTIVE DATE.—The amendments made by  
4 this section shall apply to qualifying events occurring on  
5 or after January 1, 2001. In the case of a qualifying event  
6 occurring on or after such date and before the date of  
7 the enactment of this Act, such event shall be deemed (for  
8 purposes of such amendments) to have occurred on the  
9 date of the enactment of this Act.

10 **CHAPTER 2—AMENDMENTS TO THE**  
11 **PUBLIC HEALTH SERVICE ACT**

12 **SEC. 612. COBRA CONTINUATION BENEFITS FOR CERTAIN**  
13 **CAREGIVERS.**

14 (a) ESTABLISHMENT OF NEW QUALIFYING  
15 EVENT.—

16 (1) IN GENERAL.—Section 2203 of the Public  
17 Health Service Act (42 U.S.C. 300bb–3) is amended  
18 by inserting after paragraph (5) the following new  
19 paragraph:

20 “(6) The termination of group health plan cov-  
21 erage as a result of a covered employee becoming a  
22 qualified caregiver.”.

23 (2) QUALIFIED CAREGIVER DEFINED.—Section  
24 2208 of such Act (42 U.S.C. 300bb–8) is  
25 amended—

1 (A) in paragraph (3)—

2 (i) in subparagraph (A), by inserting  
3 “except as otherwise provided in this para-  
4 graph,” after “means,”; and

5 (ii) by adding at the end the following  
6 new subparagraph:

7 “(C) SPECIAL RULE FOR QUALIFYING  
8 CAREGIVERS.—In the case of a qualifying event  
9 described in section 2203(6), the term ‘qualified  
10 beneficiary’ means a qualified caregiver and any  
11 other individual who, on the day before such  
12 qualifying event, is a beneficiary under the plan  
13 on the basis of the individual’s relationship to  
14 such qualified caregiver.”; and

15 (B) by adding at the end the following new  
16 paragraph:

17 “(5) QUALIFIED CAREGIVER.—The term ‘quali-  
18 fied caregiver’ means, with respect to a qualifying  
19 event described in section 2203(6), an individual  
20 who becomes eligible for a caregiver tax credit under  
21 section 35 of the Internal Revenue Code of 1986.”.

22 (b) EFFECTIVE DATE.—The amendments made by  
23 this section shall apply to qualifying events occurring on  
24 or after January 1, 2001. In the case of a qualifying event  
25 occurring on or after such date and before the date of

1 the enactment of this Act, such event shall be deemed (for  
 2 purposes of such amendments) to have occurred on the  
 3 date of the enactment of this Act.

4       **CHAPTER 3—AMENDMENTS TO THE**  
 5       **INTERNAL REVENUE CODE OF 1986**

6       **SEC. 613. COBRA CONTINUATION BENEFITS FOR CERTAIN**  
 7               **CAREGIVERS.**

8       (a) ESTABLISHMENT OF NEW QUALIFYING  
 9 EVENT.—

10               (1) IN GENERAL.—Section 4980B(f)(3) of the  
 11 Internal Revenue Code of 1986 is amended by in-  
 12 sserting after subparagraph (F) the following new  
 13 subparagraph:

14                       “(G) The termination of group health plan  
 15 coverage as a result of a covered employee be-  
 16 coming a qualified caregiver.”.

17               (2) QUALIFIED CAREGIVER DEFINED.—Section  
 18 4980B(g) of such Code is amended—

19                       (A) in paragraph (1)—

20                               (i) in subparagraph (A), by inserting  
 21 “except as otherwise provided in this para-  
 22 graph,” after “means,”; and

23                               (ii) by adding at the end the following  
 24 new subparagraph:



1           “(E) SPECIAL RULE FOR QUALIFIED CARE-  
2           GIVERS.—In the case of a qualifying event de-  
3           scribed in subsection (f)(3)(G), the term ‘quali-  
4           fied beneficiary’ means a qualified caregiver and  
5           any other individual who, on the day before  
6           such qualifying event, is a beneficiary under the  
7           plan on the basis of the individual’s relationship  
8           to such qualified caregiver.”; and

9           (B) by adding at the end the following new  
10          paragraph:

11          “(5) QUALIFIED CAREGIVER.—The term ‘quali-  
12          fied caregiver’ means, with respect to a qualifying  
13          event described in subsection (f)(3)(G), an individual  
14          who becomes eligible for a caregiver tax credit under  
15          section 35.”.

16          (b) EFFECTIVE DATE.—The amendments made by  
17          this section shall apply to qualifying events occurring on  
18          or after January 1, 2001. In the case of a qualifying event  
19          occurring on or after such date and before the date of  
20          the enactment of this Act, such event shall be deemed (for  
21          purposes of such amendments) to have occurred on the  
22          date of the enactment of this Act.

## 1                   **Subtitle C—Financing**

### 2   **SEC. 621. REFERENCE TO FINANCING PROVISIONS.**

3           Any increase in payments under the medicare pro-  
 4   gram under title XVIII of the Social Security Act that  
 5   results from the enactment of this title shall be offset by  
 6   reductions in payments under such program pursuant to  
 7   the anti-fraud and anti-abuse provisions enacted as part  
 8   of the Medicare Fraud and Overpayment Act of 1999.

## 9   **TITLE VII—SOCIAL SECURITY** 10   **BENEFIT FOR LONG-TERM** 11   **CAREGIVERS**

### 12   **SEC. 701. SOCIAL SECURITY CREDIT FOR LONG-TERM** 13                   **CAREGIVERS.**

14           (a) IN GENERAL.—Title II of the Social Security Act  
 15   is amended by adding after section 233 (42 U.S.C. 433)  
 16   the following new section:

17           “BENEFITS IN CASE OF CERTAIN LONG-TERM  
 18                                   CAREGIVERS

19                   “Definitions and Related Rules

20           “SEC. 234. (a) For the purposes of this section—

21                   “(1) The term ‘eligible caregiver’ has the mean-  
 22           ing given such term in section 35(e)(3) of the Inter-  
 23           nal Revenue Code of 1986.

1           “(2) The term ‘applicable individual’ has the  
2 meaning given such term in section 35(c)(1)(A) of  
3 the Internal Revenue Code of 1986.

4           “(3) The term ‘qualifying period’ means, in  
5 connection with any individual, any period of leave  
6 of not less than 84 consecutive days for which such  
7 individual has been principally engaged in providing  
8 service as an eligible caregiver to an applicable indi-  
9 vidual.

10           “(4) The term ‘period of leave’ means a period  
11 in which the eligible caregiver is not employed and  
12 which is preceded by a continuous period of at least  
13 60 months in which the individual was employed at  
14 least 20 hours per week on average.

15           “Deemed Wages of Eligible Caregiver

16           “(b)(1) For purposes of determining entitlement to  
17 and the amount of any monthly benefit for any month  
18 after December 1999, or entitlement to and the amount  
19 of any lump-sum death payment in the case of a death  
20 after such month, payable under this title on the basis  
21 of the wages and self-employment income of any indi-  
22 vidual, and for purposes of section 216(i)(3), such indi-  
23 vidual shall be deemed to have been paid during each  
24 month ending during any qualifying period commencing  
25 after he or she attained age 18 wages (in addition to any

1 wages actually paid to him or her) at an amount per  
2 month equal to the greater of the amount of wages or self-  
3 employment income actually paid or derived during such  
4 month or the monthly rate of wages and self-employment  
5 income derived by dividing—

6           “(A) the arithmetic mean of the total wages  
7           and self-employment income credited to such indi-  
8           vidual for each of the last 3 calendar years ending  
9           at least one year before the commencement of such  
10          qualifying period, by

11           “(B) 12 months.

12          “(2) This subsection shall not be applicable in the  
13 case of any monthly benefit or lump-sum death payment  
14 if a larger such benefit or payment, as the case may be,  
15 would be payable without its application.

16           “Citizenship and Residency Requirements

17          “(c)(1) An individual shall not be treated as an eligi-  
18 ble caregiver for purposes of subsection (b) unless such  
19 individual—

20           “(A) is throughout the qualifying period a resi-  
21 dent of the United States (as defined in paragraph  
22 (2)), and

23           “(B)(i) is throughout the qualifying period a  
24 citizen of the United States or an alien lawfully ad-  
25 mitted for permanent residence, and

1           “(ii) in the case of an individual who was not  
2           a citizen of the United States throughout the quali-  
3           fying period, has resided in the United States (as  
4           defined in subsection 210(i)) continuously during the  
5           5 years immediately preceding the qualifying period.

6           “(2) For purposes of paragraph (1)(A), the term  
7           ‘United States’ means the 50 States and the District of  
8           Columbia.

9                           “Identification Requirements

10           “(c) An individual shall not be treated as an eligible  
11           caregiver for purposes of subsection (b) unless such indi-  
12           vidual provides the Secretary with the name and taxpayer  
13           identification number of the applicable individual with re-  
14           spect to whom the individual is an eligible caregiver, and  
15           the identification number of the physician certifying such  
16           individual, on whatever application may be required to ob-  
17           tain benefits under this section.

18                           “Treatment of Multiple Eligible Caregivers

19           “(d) If more than 1 individual is an eligible caregiver  
20           with respect to the same applicable individual for a period,  
21           the Secretary shall apply rules similar to the rules de-  
22           scribed in section 35(e)(2)(C)(i) of the Internal Revenue  
23           Code of 1986.

1 “Annual Reimbursement of Federal Old-Age and  
2 Survivors Insurance Trust Fund

3 “(e) There are authorized to be appropriated to the  
4 Federal Old-Age and Survivors Insurance Trust Fund for  
5 the fiscal year ending September 30, 2002, and for each  
6 fiscal year thereafter, such sums as the Commissioner of  
7 Social Security deems necessary on account of—

8 “(1) payments made under this section during  
9 the second preceding fiscal year and all fiscal years  
10 prior thereto to individuals entitled to benefits under  
11 this section,

12 “(2) the additional administrative expenses re-  
13 sulting from the payments described in paragraph  
14 (1), and

15 “(3) any loss in interest to such Trust Fund re-  
16 sulting from such payments and expenses,

17 in order to place such Trust Fund in the same position  
18 at the end of such fiscal year as it would have been in  
19 if such payments had not been made.”.

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