

105TH CONGRESS
1ST SESSION

S. 525

To amend the Public Health Service Act to provide access to health care insurance coverage for children.

IN THE SENATE OF THE UNITED STATES

APRIL 8, 1997

Mr. HATCH (for himself, Mr. KENNEDY, Ms. SNOWE, Mr. KERRY, Mr. JEFFORDS, Mr. DODD, Mr. STEVENS, Mr. ROCKEFELLER, Mr. BENNETT, Mr. DASCHLE, Mr. COLLINS, Mr. WELLSTONE, Mr. SMITH of Oregon, Mr. BINGAMAN, Mr. CAMPBELL, Mrs. MURRAY, Mr. REED, Mrs. BOXER, Mr. LAUTENBERG, Mr. DURBIN, and Mr. REID) introduced the following bill; which was read twice and referred to the Committee on Labor and Human Resources

A BILL

To amend the Public Health Service Act to provide access to health care insurance coverage for children.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Child Health Insurance and Lower Deficit Act”.

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

Sec. 1. Short title; table of contents.

Sec. 2. Purposes.

Sec. 3. Amendment to Public Health Service Act.

“TITLE XXVIII—CHILDREN’S HEALTH INSURANCE GRANT
PROGRAM

“PART A—STATE PROGRAMS

“Sec. 2801. Authority to establish.

“Sec. 2802. Requirements for qualifying children’s policy.

“Sec. 2803. Requirements for qualifying children’s direct service benefit
option.

“Sec. 2804. Other requirements.

“PART B—ASSISTANCE

“Subpart 1—Assistance to Families

“Sec. 2821. Eligibility determinations.

“Sec. 2822. Assistance to families.

“Sec. 2823. Penalties for material misrepresentation and false informa-
tion.

“Sec. 2824. Aggregate Federal grant payments.

“Sec. 2825. Authorization of appropriations and deficit reduction.

“Subpart 2—Services for Pregnant Women, New Mothers, and Infants

“Sec. 2831. Program for pregnant women and infants.

“PART C—DEFINITIONS AND MISCELLANEOUS PROVISIONS

“Subpart 1—Definitions

“Sec. 2841. Definitions.

“Subpart 2—Miscellaneous Provisions

“Sec. 2851. Other contributions to premiums.

“Sec. 2852. Maintenance of effort.

“Sec. 2853. Application of other requirements and State flexibility.

“Sec. 2854. Regulations.

Sec. 4. Conforming amendments.

Sec. 5. Effective date.

1 SEC. 2. PURPOSES.

2 It is the purpose of this Act to benefit American fami-
3 lies by—

4 (1) providing grants to States to develop and
5 implement a voluntary program to help purchase
6 health coverage for uninsured, needy children; and

1 (2) acquiring resources targeted to help reduce
 2 the Federal budget deficit that, if unchecked, will re-
 3 quire American families to devote an increasing pro-
 4 portion of their tax liability to service the debt.

5 **SEC. 3. AMENDMENT TO PUBLIC HEALTH SERVICE ACT.**

6 The Public Health Service Act (42 U.S.C. 201 et
 7 seq.) is amended by adding at the end the following:

8 **“TITLE XXVIII—CHILDREN’S**
 9 **HEALTH INSURANCE GRANT**
 10 **PROGRAM**

11 “PART A—VOLUNTARY STATE GRANT PROGRAMS

12 **“SEC. 2801. AUTHORITY TO ESTABLISH.**

13 “(a) STATE ELECTION.—Each State may elect to es-
 14 tablish a children’s health insurance program that com-
 15 plies with this title.

16 “(b) STATE PLAN.—

17 “(1) IN GENERAL.—To apply to participate
 18 under this part, a State shall, not later than 90 days
 19 prior to the beginning of the calendar year in which
 20 the State program is to begin, prepare and submit
 21 to the Secretary a State plan for the operation of
 22 the program.

23 “(2) APPROVAL BY SECRETARY.—The State
 24 plan submitted by a State under paragraph (1) must

1 be approved by the Secretary in order for the State
 2 to be eligible to receive a grant under this title.

3 “(c) USE OF FUNDS.—Under a program under this
 4 title, a participating State shall provide subsidies, consist-
 5 ent with section 2822, for coverage under a qualifying
 6 children’s policy and a qualifying children’s direct service
 7 benefit option.

8 **“SEC. 2802. REQUIREMENTS FOR QUALIFYING CHILDREN’S**
 9 **POLICY.**

10 “(a) IN GENERAL.—Each participating State—

11 “(1) shall contract with health insurance issu-
 12 ers to make qualifying children’s policies available to
 13 subsidy eligible children in the State;

14 “(2) shall ensure that qualifying children’s poli-
 15 cies are available to all eligible children in the State
 16 and that each eligible child has the opportunity to
 17 enroll for coverage under such policies;

18 “(3) shall ensure that a qualifying children’s
 19 policy provides coverage for the care described in
 20 subsections (b) and (c);

21 “(4) shall provide for the payment of premium
 22 and cost sharing subsidies (in amounts as defined by
 23 the State in accordance with section 2822), that
 24 may include vouchers, to or on behalf of subsidy eli-

1 gible children, except that a State electing to partici-
2 pate may not—

3 “(A) provide a premium subsidy that is
4 less than 95 percent for a subsidy eligible child
5 in a family with a family income below 185 per-
6 cent of the poverty line for a family of the size
7 involved;

8 “(B) allow the imposition of cost-sharing
9 requirements for preventive services provided to
10 a subsidy eligible child; or

11 “(C) enter into a contract with a health in-
12 surance issuer offering a qualifying children’s
13 policy that requires that a subsidy eligible child
14 (in a family with a family income below 150
15 percent of the poverty line for a family of the
16 size involved) pay more than 20 percent of the
17 cost-sharing otherwise applied under such con-
18 tract as applied with respect to a particular
19 item or service unless the cost-sharing required
20 under the contract involved has been deemed by
21 the Secretary as not being a barrier to care for
22 children of families below 150 percent of pov-
23 erty line for a family of the size involved.

24 “(b) COVERAGE FOR MEDICAL CARE.—For purposes
25 of this title, a qualifying children’s policy is a policy for

1 an eligible child that provides coverage for medical care
 2 for such child that is the equivalent of the medical assist-
 3 ance available (other than cost sharing) to children under
 4 the State plan under title XIX of the Social Security Act
 5 (42 U.S.C. 1396 et seq.).

6 “(c) ACCESS TO SPECIALITY CARE FOR SPECIAL
 7 NEEDS CHILDREN.—Each participating State shall as-
 8 sure that each qualifying children’s policy ensure access
 9 to pediatric primary and speciality care providers, includ-
 10 ing centers of pediatric specialized treatment expertise.

11 “(d) ACCESS.—

12 “(1) ACCESS TO POLICIES.—In carrying out
 13 subsection (a)(1), a participating State shall, subject
 14 to the funding limitation described in section
 15 2822(d), ensure that subsidy eligible children have
 16 access to a qualifying children’s policy provided by
 17 a health insurance issuer serving the area in which
 18 the eligible child resides. Such policies may be of-
 19 fered to eligible children residing in the State
 20 through existing public and private purchasing spon-
 21 sors.

22 “(2) TO TRADITIONAL PROVIDERS.—A partici-
 23 pating State shall ensure that a qualifying children’s
 24 policy provides access to traditional providers who
 25 have experience in serving populations covered under

1 this title and in areas in which such populations re-
2 side.

3 **“SEC. 2803 REQUIREMENTS FOR QUALIFYING CHILDREN’S**
4 **DIRECT SERVICE BENEFIT OPTION.**

5 “(a) IN GENERAL.—Each participating State—

6 “(1) for each area of the State served by a
7 health center (as defined in section 330), shall con-
8 tract directly with the health center to provide serv-
9 ices under the program under this title for subsidy
10 eligible children who choose to receive services from
11 the health center;

12 “(2) shall ensure that under a qualifying chil-
13 dren’s direct service benefit option, coverage is pro-
14 vided for the care described in subsections (c) and
15 (d);

16 “(3) shall ensure that services described in sub-
17 section (c) which are not made available by a health
18 center are provided either—

19 “(A) through contracts for direct payment
20 to specific networks of providers; or

21 “(B) through the purchase of wraparound
22 insurance; and

23 “(4) shall provide for payments in accordance
24 with subsection (b).

25 “(b) PAYMENTS.—

1 “(1) IN GENERAL.—Under a qualifying chil-
2 dren’s direct service benefit option, a State may
3 not—

4 “(A) require that a subsidy eligible child in
5 a family with a family income below 185 per-
6 cent of the poverty line for a family of the size
7 involved pay more than 5 percent of the
8 capitated payment rate;

9 “(B) allow the imposition of cost-sharing
10 requirements for preventive services provided to
11 a subsidy eligible child;

12 “(C) enter into a contract that requires
13 that a subsidy eligible child (in a family with a
14 family income below 150 percent of the poverty
15 line for a family of the size involved) pay more
16 than 20 percent of the cost-sharing otherwise
17 applied by the health center, unless the cost-
18 sharing required under the contract involved
19 has been deemed by the Secretary as not being
20 a barrier to care for children of families below
21 150 percent of the poverty line for a family of
22 the size involved.

23 “(c) COVERAGE FOR MEDICAL CARE.—For purposes
24 of this title, a qualifying children’s direct service benefit
25 option is an option for a eligible child that provides cov-

1 erage for medical care for such child that is the equivalent
 2 of the medical assistance available (other than cost shar-
 3 ing) to children under the State plan under title XIX of
 4 the Social Security Act (42 U.S.C. 1396 et seq.).

5 “(d) ACCESS TO SPECIALITY CARE FOR SPECIAL
 6 NEEDS CHILDREN.—Each qualified children’s direct serv-
 7 ice benefit option shall assure access to pediatric primary
 8 and speciality care providers, including centers of pediatric
 9 specialized treatment expertise.

10 **“SEC. 2804. OTHER REQUIREMENTS.**

11 “(a) IN GENERAL.—A participating State shall—

12 “(1) take steps to ensure that information
 13 about the availability of the program, requirements
 14 for family participation in the program, benefits of-
 15 fered, and the application process are disseminated
 16 effectively to potential participants;

17 “(2) have in effect an outreach system under
 18 which families eligible for assistance under this title
 19 are assisted in enrolling in the State program and
 20 are enrolled at a wide variety of locations, including
 21 through of traditional providers of care;

22 “(3) ensure that every subsidy eligible children
 23 have the opportunity to apply for assistance under
 24 the State program under this title pursuant to State
 25 law;

1 “(4) if the State determines that a child is eligi-
2 ble for cost-sharing assistance under this title, notify
3 the health plan in which such child is participating
4 in a timely manner of such eligibility;

5 “(5) provide to any subsidy eligible child whose
6 claim for assistance under the State program is de-
7 nied or is not acted on within a reasonable period
8 of time, an opportunity under State law for an ad-
9 ministrative hearing on such denial or inaction be-
10 fore the State agency;

11 “(6) provide to the public, a general description
12 of the rules (including the objective criteria used) es-
13 tablished by the State for making decisions concern-
14 ing eligibility for assistance under the State pro-
15 gram; and

16 “(7) use funds received under this title only in
17 accordance with the provisions of this title.

18 “(b) DESIGNATION OF STATE AGENCY.—A partici-
19 pating State may designate an appropriate State agency
20 to administer the State program under this title.

1 “PART B—ASSISTANCE

2 “Subpart 1—Assistance to Families

3 “SEC. 2821. ELIGIBILITY DETERMINATIONS.

4 “(a) IN GENERAL.—The following requirements shall
5 apply with respect to eligibility determinations for assist-
6 ance under this title:

7 “(1) APPLICATIONS.—A State program shall
8 provide that an individual may file an application for
9 assistance in any manner determined appropriate by
10 the State. Such applications shall—

11 “(A) be in an understandable form and
12 generally accessible to individuals;

13 “(B) require the provision of information
14 necessary to make a determination as to wheth-
15 er a child is eligible for assistance; and

16 “(C) require attachment of such docu-
17 mentation as deemed necessary by the Sec-
18 retary in order to verify eligibility for assist-
19 ance.

20 “(2) TERM.—The State program may provide
21 for a determination of eligibility under this section
22 to be effective for a 6-month period or longer.

23 “(b) COORDINATION.—Eligibility determinations
24 made pursuant to this section may be coordinated with
25 determinations of eligibility for State-administered health

1 programs to the extent that such coordination brings
 2 about administrative efficiencies.

3 **“SEC. 2822. ASSISTANCE TO FAMILIES.**

4 “(a) STATE APPLICABLE INCOME CRITERIA.—For
 5 purposes of this title, the applicable income criteria used
 6 by the State for purposes of determining whether a child
 7 is a subsidy eligible child, shall be based on the income
 8 of the family of the subsidy eligible child expressed as a
 9 percentage of the poverty line for a family of the size in-
 10 volved. In establishing the applicable eligibility criteria and
 11 subsidy level, the State shall give priority to families in
 12 the State with the lowest family incomes, except that the
 13 State shall establish a higher income criterion for families
 14 with a disabled child.

15 “(b) PAYMENTS.—

16 “(1) IN GENERAL.—The amount of the assist-
 17 ance available to a subsidy eligible child shall be
 18 paid directly to—

19 “(A) in the case of a child enrolled in a
 20 qualifying children’s policy, the health insur-
 21 ance issuer offering the qualifying children’s
 22 policy (unless such plan is a group health plan
 23 in which case such payment may be made di-
 24 rectly to the group health plan or the health in-
 25 surance issuer offering health insurance cov-

1 erage through the group health plan, or to the
2 individual); or

3 “(B) in the case of an individual receiving
4 benefits under a qualifying children’s direct
5 service benefit option, to the provider and the
6 health insurance issuer if applicable with whom
7 the State has contracted under section 2803.

8 “(2) INDIVIDUAL RESPONSIBILITY.—An individ-
9 ual shall be responsible for any portion of the pre-
10 mium or cost sharing not subsidized by the State.

11 “(c) SPECIAL RULE.—

12 “(1) IN GENERAL.—If a subsidy eligible child
13 enrolls in a group health plan, a premium subsidy
14 under this title shall be applied only to the amount
15 of the employee contribution for coverage for a sub-
16 sidy eligible child.

17 “(2) RULE OF CONSTRUCTION.—Nothing in
18 this section shall be construed to require that an em-
19 ployer provide a qualifying children’s policy to an eli-
20 gible child regardless of whether such child is eligible
21 for a subsidy under this title.

22 “(d) LIMITATION.—Nothing in this title shall be con-
23 strued to require that a State provide assistance to sub-
24 sidy eligible children under this part in an amount that
25 exceeds the total amount available to the State under sec-

tion 2826 (including State matching funds) for carrying out the program under this title. If the State determines that such available amount is not sufficient to provide premium subsidies and other assistance under this part to all subsidy eligible children in the State, the State may adjust the applicable eligibility criteria appropriately or adjust the State program in another manner specified by the Secretary prior to the program year.

“SEC. 2823. PENALTIES FOR MATERIAL MISREPRESENTATION AND FALSE INFORMATION.

“A participating State shall establish penalties to be applied to any individual who knowingly and willfully makes a material misrepresentation of information or provides false information in an application for assistance under this part, and shall otherwise enforce the provisions of this title as determined appropriate by the State.

“SEC. 2824. AGGREGATE FEDERAL GRANT PAYMENTS.

“(a) PAYMENT SCHEDULE.—

“(1) STATE AMOUNT.—

“(A) IN GENERAL.—A participating State shall be eligible to receive a grant in an amount under this title that bears the same relationship to the amount appropriated for such year under section 2825 (and available after the reservation under paragraph (7)), as the total number

1 of uninsured eligible children in the State in a
2 base year as determined appropriate by the Sec-
3 retary bears to the total number of uninsured
4 eligible children in all participating States in
5 such base year.

6 “(B) STATE ALLOCATION ADJUST-
7 MENTS.—

8 “(i) STUDY.—Not later than Septem-
9 ber 30, 1998, the Secretary shall conduct
10 a study, and prepare and submit to the ap-
11 propriate committees of Congress a report,
12 concerning methodology for providing the
13 State allotment under subparagraph (A)
14 that takes into account an equitable ad-
15 justment to the formula based on vari-
16 ations in costs among States.

17 “(ii) IMPLEMENTATION OF METH-
18 ODOLOGY.—If determined appropriate and
19 feasible by the Secretary, the Secretary
20 shall, not later than January 1, 1999, im-
21 plement by regulation a methodology for
22 the determination of the maximum amount
23 under subparagraph (A) that takes into ac-
24 count the relative number of uninsured eli-
25 gible children in a State in the base year

1 described in subparagraph (A) and the rel-
2 ative cost of the delivery of services to
3 those children.

4 “(2) PAYMENT.—Subject to paragraph (1), the
5 Secretary shall provide for payment under a grant to
6 each participating State for each calendar quarter,
7 beginning with any quarter beginning on or after
8 April 1, 1998, of an amount equal to—

9 “(A)(i) 100 percent of the total amount es-
10 timated by the Secretary to have been expended
11 by the State during such prior quarter for pre-
12 mium and cost-sharing assistance under this
13 title for enrollment in qualifying children’s poli-
14 cies and for coverage under the qualifying chil-
15 dren’s direct service benefit option through the
16 programs operated under part A; less

17 “(ii) the State matching amount as deter-
18 mined under paragraph (3) for such prior quar-
19 ter; and

20 “(B) 50 percent of the total amount esti-
21 mated by the Secretary to be expended by the
22 State during such prior quarter for the proper
23 and efficient administration of the program de-
24 scribed in this part.

25 “(3) STATE MATCHING PERCENTAGE.—

1 “(A) IN GENERAL.—With respect to the
 2 calendar quarter for which the payment is to be
 3 made under this section, the State will be re-
 4 sponsible for contributing an amount equal to
 5 40 percent of the percentage of the amount the
 6 State is responsible for expending for medical
 7 assistance under title XIX of the Social Secu-
 8 rity Act, based on the State percentage deter-
 9 mined under section 1905(b) of such Act (42
 10 U.S.C. 1396d(b)), for the State for the calendar
 11 quarter involved.

12 “(B) LIMITATION.—In no case shall the
 13 State responsibility under subparagraph (A) for
 14 a calendar quarter be less than an amount
 15 equal to 10 percent of the amount determined
 16 under paragraph (2)(A)(i) for the State for the
 17 calendar quarter involved.

18 “(C) TERRITORIES.—In the case of Puerto
 19 Rico, the Virgin Islands, Guam, American
 20 Samoa, and the Northern Mariana Islands, the
 21 State percentage for purposes of determining
 22 the State matching amount under subpara-
 23 graph (A) shall be 20 percent.

24 “(4) AVAILABILITY OF FUNDS.—Except as pro-
 25 vided in paragraph (5), amounts provided to a State

1 under this section shall remain available until ex-
2 pended by the State.

3 “(5) REDISTRIBUTION.—The Secretary shall
4 establish a procedure for the redistribution of any
5 funds—

6 “(A) not expended by a State under this
7 title; and

8 “(B) as determined by the Secretary, after
9 consultation with the governor of the State,
10 that are unlikely to be used in the future by the
11 State.

12 “(6) STATE REQUEST FOR REDUCTION IN
13 FUNDS.—Nothing in this section shall be construed
14 to prohibit a State from requesting only a portion of
15 the amount allotted to the State under this section.

16 “(7) RESERVATION.—

17 “(A) IN GENERAL.—Of the amount appro-
18 priated to carry out this Act for a fiscal year,
19 the Secretary shall reserve .15 percent of such
20 amount for allocation among the territories de-
21 scribed in paragraph (2)(C).

22 “(B) ALLOCATION.—A territory described
23 in paragraph (2)(C) shall be eligible to receive
24 an amount that bears the same relationship to
25 the amount reserved for such year under sub-

1 paragraph (A), as the total number of unin-
 2 sured eligible children in the territory in a base
 3 year as determined appropriate by the Sec-
 4 retary bears to the total number of uninsured
 5 eligible children in all participating territories
 6 in such base year.

7 “(b) REDUCTION IN PAYMENTS FOR ADMINISTRA-
 8 TIVE ERRORS.—

9 “(1) IN GENERAL.—In the case of administra-
 10 tive errors described in paragraph (2), matching
 11 payments available to a State under subsection (a)
 12 shall be reduced by an amount determined appro-
 13 priate by the Secretary.

14 “(2) ADMINISTRATIVE ERRORS DESCRIBED.—
 15 The administrative errors described in this para-
 16 graph include the following:

17 “(A) An eligibility error rate for premium
 18 assistance to the extent the applicable error
 19 rate exceeds the maximum permissible error
 20 rate specified by the Secretary.

21 “(B) Misappropriations or other expendi-
 22 tures that the Secretary finds are attributable
 23 to malfeasance or misfeasance.

24 “(c) AUDITS.—The Secretary shall conduct regular
 25 audits of the activities conducted under this part.

1 “(d) BUDGETARY TREATMENT.—Subject to section
 2 2825, this section constitutes budget authority in advance
 3 of appropriations Acts, and represents the obligation of
 4 the Federal Government to provide payments to the States
 5 in accordance with this section.

6 “(e) NONENTITLEMENT.—Nothing in this title shall
 7 be construed as providing an individual with an entitle-
 8 ment to assistance under this title.

9 **“SEC. 2825. AUTHORIZATION OF APPROPRIATIONS AND**
 10 **DEFICIT REDUCTION.**

11 “(a) AUTHORIZATION OF APPROPRIATIONS.—There
 12 is authorized to be appropriated to make Federal pay-
 13 ments under this title—

14 “(1) for fiscal year 1998, \$3,000,000,000;

15 “(2) for fiscal year 1999, \$3,000,000,000;

16 “(3) for fiscal year 2000, \$4,000,000,000;

17 “(4) for fiscal year 2001, \$5,000,000,000; and

18 “(5) for fiscal year 2002, \$5,000,000,000.

19 “(b) DEFICIT REDUCTION TARGETS.—For purposes
 20 of this section, the deficit reduction target shall be—

21 “(1) for fiscal year 1998, \$3,000,000,000;

22 “(2) for fiscal year 1999, \$3,000,000,000;

23 “(3) for fiscal year 2000, \$2,000,000,000;

24 “(4) for fiscal year 2001, \$1,000,000,000; and

25 “(5) for fiscal year 2002, \$1,000,000,000.

1 Any amount of revenue available under this subsection
 2 shall be deposited into the Treasury and used for deficit
 3 reduction.

4 “(c) REDUCTION IN AUTHORIZED AMOUNT.—

5 “(1) IN GENERAL.—If, with respect to a fiscal
 6 year, the total estimated amount of revenue derived
 7 for the financing of the program under this title is
 8 less than the total target amount determined under
 9 paragraph (2), then the amount referred to for the
 10 following fiscal year under subsection (a) shall be re-
 11 duced by the amount by which the amount of such
 12 estimated revenue is less than the total target
 13 amount determined under paragraph (2) for such
 14 fiscal year multiplied by $\frac{2}{3}$.

15 “(2) TOTAL TARGET AMOUNT.—For purposes
 16 of paragraph (1), the total target amount for a fiscal
 17 year shall be equal to the sum of—

18 “(A) the amount authorized to be appro-
 19 priated for such year under subsection (a); and

20 “(B) the deficit reduction target for such
 21 fiscal year under subsection (b).

22 “(3) REVENUE IN EXCESS OF ESTIMATES.—If
 23 the estimated amount of revenue described in para-
 24 graph (1) for a fiscal year is greater than the total
 25 target amount under paragraph (2) for such fiscal

7 "SEC. 2831. PROGRAM FOR PREGNANT WOMEN AND IN-
8 FANTS.

16 “(b) COORDINATION.—A State shall take actions to
17 ensure that the program established under this section is
18 coordinated with the programs operated by the State
19 under title V of the Social Security Act (42 U.S.C. 705).

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4 **“SEC. 2841. DEFINITIONS.**

6 “(1) ELIGIBLE CHILD.—The term “eligible
7 child” means an individual who is 18 years of age
8 or younger.

“(3) POVERTY LINE.—The term ‘poverty line’ means the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) that is applicable to a family of the size involved.

“(5) QUALIFYING CHILDREN’S DIRECT SERVICE
BENEFIT OPTION.—The term ‘qualifying children’s
direct service benefit option’ means the provision of
direct medical assistance under the standards de-
scribed in section 2803.

1 “(6) STATE.—The term ‘State’ means each of
2 the several States, the District of Columbia, Puerto
3 Rico, the Virgin Islands, Guam, American Samoa,
4 and the Northern Mariana Islands.

5 “(7) SUBSIDY ELIGIBLE CHILD.—The term
6 ‘subsidy eligible child’ means a child who—

7 “(A) meets reasonable eligibility criteria
8 established by the State, and has a family in-
9 come that falls within the applicable income cri-
10 teria (as defined in section 2822), for purposes
11 of providing subsidies under the State program;

12 “(B) is an eligible child;

13 “(C) is a citizen or qualified alien (as de-
14 fined in section 431(b) of the Personal Respon-
15 sibility and Work Opportunity Reconciliation
16 Act of 1996 (8 U.S.C. 1641(b));

17 “(D) is not eligible for medical assistance
18 under the State plan under title XIX of the So-
19 cial Security Act, except that nothing in this
20 title shall be construed to require that an indi-
21 vidual be denied medical assistance under a
22 State plan under title XIX of the Social Secu-
23 rity Act (42 U.S.C. 1396 et seq.) in order for
24 that child to be eligible to receive assistance
25 under the State program under this title; and

1 “(E) has not been covered under a group
 2 health plan (unless such coverage was termi-
 3 nated as a result of a change in employment
 4 status) during the 6-month period ending on
 5 the date on which the individual applies for
 6 subsidy-eligible health coverage under this title.

7 For purposes of subparagraph (E), enrollment in a
 8 health plan under a COBRA continuation provision
 9 (as defined in section 2791(d)(4)) shall not con-
 10 stitute enrollment in a group health plan.

11 “(b) DEFINITIONS RELATING TO INCOME.—In this
 12 title:

13 “(1) FAMILY INCOME.—The term ‘family in-
 14 come’ means, with respect to an individual who—

15 “(A) is not a dependent of another individ-
 16 ual, the sum of the modified adjusted gross in-
 17 comes for the individual, the individual’s
 18 spouse, and children who are dependents of the
 19 individual; or

20 “(B) is a dependent of another individual,
 21 the sum of the modified adjusted gross incomes
 22 for the other individual, the other individual’s
 23 spouse, and children who are dependents of the
 24 other individual.

1 The Secretary may promulgate rules under which
 2 spousal income may be disregarded in instances
 3 where a spouse is not part of a family unit.

4 “(2) DEPENDENT.—The term ‘dependent’ has
 5 the meaning given such term under section 152 of
 6 the Internal Revenue Code of 1986. For purposes of
 7 this paragraph, a child who is placed in foster care
 8 by a State agency shall not be considered a depend-
 9 ent of another individual.

10 “(3) MODIFIED ADJUSTED GROSS INCOME.—
 11 The term ‘modified adjusted gross income’ means
 12 adjusted gross income (as defined in section 62(a) of
 13 the Internal Revenue Code of 1986)—

14 “(A) determined without regard to sections
 15 135, 162(l), 911, 931, and 933 of such Code,
 16 and

17 “(B) increased by—

18 “(i) the amount of interest received or
 19 accrued by the individual during the tax-
 20 able year which is exempt from tax, and

21 “(ii) the amount of the social security
 22 benefits (as defined in section 86(d) of
 23 such Code) received during the taxable
 24 year to the extent not included in gross in-
 25 come under section 86 of such Code.

1 The determination under the preceding sentence
 2 shall be made without regard to any carryover or
 3 carryback.

4 “(c) OTHER DEFINITIONS.—The term—

5 “(1) ‘group health plan’ has the meaning given
 6 the term in section 2791(a);

7 “(2) ‘health insurance coverage’ has the mean-
 8 ing given the term in section 2791(b)(1);

9 “(3) ‘health insurance issuer’ has the meaning
 10 given the term in section 2791(b)(2);

11 “(4) ‘health maintenance organization’ has the
 12 meaning given the term in section 2791(b)(3); and

13 “(5) ‘network plan’ has the meaning given the
 14 term in section 2791(B)(10).

15 “(d) REFERENCES TO INDIVIDUAL.—For purposes of
 16 this title, any reference to an individual shall include a
 17 reference to the parent or guardian of such individual.

18 “Subpart 2—Miscellaneous Provisions

19 **“SEC. 2851. OTHER CONTRIBUTIONS TO PREMIUMS.**

20 “(a) GENERAL RULE.—Any employer which elects to
 21 make employer contributions on behalf of an individual
 22 who is an employee of such employer, or who is a depend-
 23 ent of such employee, for health insurance coverage shall
 24 not condition, or vary, such contributions with respect to

1 any such individual by reason of such individual's status
 2 as an individual eligible for assistance under part B.

3 “(b) ELIMINATION OF CONTRIBUTIONS.—An em-
 4 ployer shall not be treated as failing to meet the require-
 5 ments of subsection (a) if the employer ceases to make
 6 employer contributions for health insurance coverage for
 7 all its employees.

8 “(c) ENFORCEMENT.—The enforcement provisions
 9 applicable to group health insurance coverage under the
 10 amendments made by section 101(e)(2) of the Health In-
 11 surance Portability and Accountability Act of 1996 shall
 12 apply with respect to an employer that violates the provi-
 13 sions of this section in the same manner as such provisions
 14 apply to employers under such amendments.

15 **“SEC. 2852. MAINTENANCE OF EFFORT.**

16 “(a) MEDICAID.—A State that elects to participate
 17 under this title may not modify the eligibility requirements
 18 for children under the State program under title XIX of
 19 the Social Security Act, as in effect on January 1, 1997
 20 (except that such requirements may be modified pursuant
 21 to an application for a waiver under section 1115 of the
 22 Social Security Act (42 U.S.C. 1315) submitted prior to
 23 January 1, 1997), in any manner that would have the ef-
 24 fect of reducing the eligibility of children for coverage
 25 under such program.

1 “(b) MAINTENANCE OF EFFORT.—Funds appro-
 2 priated pursuant to the authority of this Act shall be used
 3 to supplement and not supplant other Federal and State
 4 funds expended to provide services for disabled individ-
 5 uals.

6 **“SEC. 2853. APPLICATION OF OTHER REQUIREMENTS AND**
 7 **STATE FLEXIBILITY.—**

8 “(a) APPLICATION OF INSURANCE REQUIREMENTS
 9 UNDER TITLE XXVII.—For purposes of applying sections
 10 2701 (a) through (e) and (g) (relating to limitations on
 11 preexisting conditions and increased portability) except
 12 those provisions relating to late enrollees, waiting periods,
 13 and election of alternative methods under section
 14 2701(c)(3)(B), 2702(a)(1) and (b) (relating to eligibility
 15 to enroll), 2711(a)(1)(A) (relating to guaranteed availabil-
 16 ity for eligible individuals), and 2711(c) and (d)(1) (relat-
 17 ing to special rules for network plans and financial capac-
 18 ity) to health insurance issuers offering a qualifying chil-
 19 dren’s policy and health insurance issuers offering wrap-
 20 around insurance under this title, a qualifying children’s
 21 policy shall be deemed to be health insurance coverage of-
 22 fered by a health insurance issuer in the small group mar-
 23 ket, in connection with a group health plan, and an eligible
 24 individual shall be considered a small employer for the
 25 purposes of section 2711(a)(1)(A), (c) and (d)(1), except

1 that section 2701(b) shall apply to a qualifying children’s
 2 policy offered to a subsidy eligible child.

3 “(b) STATE FLEXIBILITY.—Nothing in this section
 4 shall be construed to prevent a State from establishing
 5 or implementing standards or requirements—

6 “(1) not prescribed in this title; or

7 “(2) related to the issuance, renewal or port-
 8 ability of health insurance under a qualifying chil-
 9 dren’s policy or a qualifying children’s direct service
 10 benefit option that provide greater protection or ben-
 11 efit to an eligible child.

12 **“SEC. 2854. REGULATIONS.**

13 The Secretary may issue regulations to implement
 14 the program established under this title.”.

15 **SEC. 4. CONFORMING AMENDMENTS.**

16 (a) ERISA.—Section 701(c)(1) of the Employee Re-
 17 tirement Income Security Act of 1974 (as added by section
 18 101(a) of the Health Insurance Portability and Account-
 19 ability Act of 1996) is amended by adding at the end the
 20 following:

21 “(K) A qualifying children’s policy under
 22 the Child Health Insurance and Lower Deficit
 23 Act.”.

24 (b) PUBLIC HEALTH SERVICE ACT.—

1 (1) Section 2701(c)(1) of the Public Health
 2 Service Act (as added by section 102(a) of the
 3 Health Insurance Portability and Accountability Act
 4 of 1996) is amended by adding at the end the fol-
 5 lowing:

6 “(K) A qualifying children’s policy under
 7 the Child Health Insurance and Lower Deficit
 8 Act.”.

9 (2) Section 2761(b)(1)(A) of the Public Health
 10 Service Act (as added by section 102(a) of the
 11 Health Insurance Portability and Accountability Act
 12 of 1996) is amended—

13 (A) by striking “or church plan” and in-
 14 serting “church plan”; and

15 (B) by inserting before the semicolon the
 16 following: “, qualifying children’s policy, or
 17 qualifying children’s direct service benefit op-
 18 tion”.

19 **SEC. 5. EFFECTIVE DATE.**

20 This Act shall become effective on the date of enact-
 21 ment of this Act, except that funds to carry out programs
 22 under the amendments made by this Act shall not be avail-
 23 able prior to January 1, 1998.

