

107TH CONGRESS  
2D SESSION

# S. 3179

To amend the Public Health Service Act to provide health care coverage  
for qualified caregivers.

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IN THE SENATE OF THE UNITED STATES

NOVEMBER 19, 2002

Mr. DURBIN introduced the following bill; which was read twice and referred  
to the Committee on Health, Education, Labor, and Pensions

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## A BILL

To amend the Public Health Service Act to provide health  
care coverage for qualified caregivers.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Caregivers Access to  
5 Health Insurance Act”.

6 **SEC. 2. PURPOSES.**

7 It is the purpose of this Act to—

8 (1) expand the availability of health insurance  
9 coverage to those individuals involved in the worthy

1 task of providing care for the children, the disabled,  
2 and the elderly of the United States;

3 (2) provide incentives to attract and retain  
4 quality caregivers; and

5 (3) prevent those caring full-time for disabled  
6 or elderly relatives from losing access to health in-  
7 surance coverage.

### 8 **SEC. 3. HEALTH CARE COVERAGE FOR CAREGIVERS**

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

## 11 **“TITLE XXVIII—HEALTH CARE** 12 **COVERAGE FOR CAREGIVERS**

### 13 **“SEC. 2801. PURPOSE; STATE PLANS.**

14 “(a) PURPOSE.—The purpose of this title is to pro-  
15 vide funds to States to enable them to—

16 “(1) expand the availability of health insurance  
17 coverage to those individuals involved in providing  
18 care for children, the disabled, and the elderly; and

19 (2) provide incentives to attract and retain  
20 quality caregivers.

21 “(b) STATE PLAN REQUIRED.—A State is not eligible  
22 for payment under section 2805 unless the State has sub-  
23 mitted to the Secretary under section 2806 a plan that—

24 “(1) sets forth how the State intends to use the  
25 funds provided under this title to provide health in-

1       surance or health care assistance through title XIX  
 2       of the Social Security Act, or other State or local  
 3       health care assistance or insurance programs, or to  
 4       provide assistance through the Federal Employees  
 5       Health Benefits Program if permitted under law, to  
 6       eligible caregivers consistent with the provisions of  
 7       this title, and

8               “(2) has been approved under section 2806.

9       “(c) STATE ENTITLEMENT.—This title constitutes  
 10   budget authority in advance of appropriations Acts and  
 11   represents the obligation of the Federal Government to  
 12   provide for the payment to States of amounts provided  
 13   under section 2804.

14       “(d) EFFECTIVE DATE.—No State is eligible for pay-  
 15   ments under section 2805 for health care assistance for  
 16   coverage provided for periods beginning before October 1,  
 17   2001.

18   **“SEC. 2802. GENERAL CONTENTS OF STATE PLAN; ELIGI-**  
 19               **BILITY; OUTREACH.**

20       “(a) GENERAL BACKGROUND AND DESCRIPTION.—  
 21   A State plan shall include a description, consistent with  
 22   the requirements of this title, of—

23               “(1) the extent to which, and manner in which,  
 24   eligible caregivers in the State, currently have cred-

1       itable health coverage (as defined in section  
2       2810(c)(2));

3           “(2) current State efforts to provide or obtain  
4       creditable health coverage for eligible caregivers, in-  
5       cluding the steps the State is taking to identify and  
6       enroll all such caregivers who are eligible to partici-  
7       pate in public health insurance programs and health  
8       insurance programs that involve public-private part-  
9       nerships;

10          “(3) how the plan is designed to be coordinated  
11       with such efforts to increase coverage of such care-  
12       givers under creditable health coverage;

13          “(4) the health care assistance provided under  
14       the plan for eligible caregivers and the dependent  
15       children of such caregivers, including the proposed  
16       methods of delivery, and utilization control systems;

17          “(5) eligibility standards consistent with sub-  
18       section (b);

19          “(6) outreach activities consistent with sub-  
20       section (c); and

21          “(7) methods (including monitoring) used—

22               “(A) to assure the quality and appropriate-  
23               ness of care provided under the plan, and

24               “(B) to assure access to covered services,  
25               including emergency services.

1       “(b) GENERAL DESCRIPTION OF ELIGIBILITY  
2 STANDARDS AND METHODOLOGY.—

3               “(1) ELIGIBILITY STANDARDS.—

4                       “(A) IN GENERAL.—The plan shall include  
5 a description of the standards used to deter-  
6 mine the eligibility of caregivers for health care  
7 assistance under the plan. Such standards may  
8 include (to the extent consistent with this title)  
9 those relating to the geographic areas to be  
10 served by the plan, age, income and resources  
11 (including any standards relating to  
12 spenddowns and disposition of resources), resi-  
13 dency, disability status (so long as any standard  
14 relating to such status does not restrict eligi-  
15 bility), access to or coverage under other health  
16 coverage, and duration of eligibility. Such  
17 standards may not discriminate on the basis of  
18 diagnosis.

19                       “(B) LIMITATIONS ON ELIGIBILITY STAND-  
20 ARDS.—Such eligibility standards—

21                               “(i) shall, within any defined group of  
22 covered eligible caregivers, not cover such  
23 caregivers with a higher family income  
24 without covering caregivers with a lower  
25 family income, and

1                   “(ii) may not deny eligibility based on  
2                   a caregiver having a preexisting medical  
3                   condition.

4                   “(2) METHODOLOGY.—The plan shall include a  
5                   description of methods of establishing and con-  
6                   tinuing eligibility and enrollment.

7                   “(3) ELIGIBILITY SCREENING; COORDINATION  
8                   WITH OTHER HEALTH COVERAGE PROGRAMS.—The  
9                   plan shall include a description of procedures to be  
10                  used to ensure—

11                  “(A) through both intake and followup  
12                  screening, that only eligible caregivers are fur-  
13                  nished health care assistance under the State  
14                  plan;

15                  “(B) that eligible caregivers found through  
16                  the screening to be eligible for medical assist-  
17                  ance under the State medicaid plan under title  
18                  XIX of the Social Security Act are enrolled for  
19                  such assistance under such plan;

20                  “(C) that the insurance provided under the  
21                  State plan does not substitute for coverage  
22                  under group health plans;

23                  “(D) the provision of health care assist-  
24                  ance to eligible caregivers in the State who are  
25                  Indians (as defined in section 4(c) of the Indian

1 Health Care Improvement Act (25 U.S.C.  
2 1603(c)); and

3 “(E) coordination with other public and  
4 private programs providing creditable coverage  
5 for eligible caregivers.

6 “(4) NONENTITLEMENT.—Nothing in this title  
7 shall be construed as providing an individual with an  
8 entitlement to health care assistance under a State  
9 plan.

10 “(c) OUTREACH AND COORDINATION.—A State plan  
11 shall include a description of the procedures to be used  
12 by the State to accomplish the following:

13 “(1) OUTREACH.—Outreach to caregivers likely  
14 to be eligible for health care assistance under the  
15 plan or under other public or private health coverage  
16 programs to inform such care givers of the avail-  
17 ability of, and to assist them in enrolling in, such a  
18 program.

19 “(2) COORDINATION WITH OTHER HEALTH IN-  
20 SURANCE PROGRAMS.—Coordination of the adminis-  
21 tration of the State program under this title with  
22 other public and private health insurance programs.

23 “(d) PAYMENT OR PREMIUMS.—Nothing in this title  
24 shall be construed to prohibit a State from paying the eli-  
25 gible caregiver’s share of premiums required for health

1 care assistance provided to the caregiver under the State  
2 plan.

3 **“SEC. 2803. COVERAGE REQUIREMENTS FOR HEALTH CARE**  
4 **ASSISTANCE.**

5 “The health care assistance provided to an eligible  
6 caregiver under the plan in the form described in para-  
7 graph (1) of section 2801(a) shall consist of any of the  
8 types of coverage, the benchmark benefit packages, the  
9 categories of services, existing programs, the cost sharing  
10 requirements, and the preexisting condition limitations de-  
11 scribed in section 2103 of the Social Security Act, and  
12 shall provide coverage for the dependent children of the  
13 eligible caregiver.

14 **“SEC. 2804. ALLOTMENTS.**

15 “(a) APPROPRIATION.—For purpose of enabling  
16 States to provide assistance under this title, there is ap-  
17 propriated, out of any money in the Treasury not other-  
18 wise appropriated, the following:

19 “(1) For fiscal year 2002, \$\_\_\_\_\_.

20 “(2) For fiscal year 2003, \$\_\_\_\_\_.

21 “(3) For fiscal year 2004, \$\_\_\_\_\_.

22 “(4) For fiscal year 2005, \$\_\_\_\_\_.

23 “(5) For fiscal year 2006, \$\_\_\_\_\_.

24 “(6) For fiscal year 2007, \$\_\_\_\_\_.

25 “(7) For fiscal year 2008, \$\_\_\_\_\_.



1           “(8) For fiscal year 2009, \$\_\_\_\_\_.

2           “(b) ALLOTMENTS TO 50 STATES AND DISTRICT OF  
3 COLUMBIA.—

4           “(1) IN GENERAL.—Of the amount available for  
5 allotment under subsection (a) for a fiscal year, re-  
6 duced by the amount of allotments made under sub-  
7 section (c) for such fiscal year, the Secretary shall  
8 allot to each State an amount the bears that same  
9 ratio to such available amount as the population of  
10 the State in such fiscal year bears to the total popu-  
11 lations of all States in such fiscal year.

12           “(5) ADJUSTMENT FOR GEOGRAPHIC VARI-  
13 ATIONS IN HEALTH COSTS.—In making allotments  
14 under this subsection, the Secretary shall adjust a  
15 State’s allotment based on section 2104(b)(3) of the  
16 Social Security Act to reflect the geographic vari-  
17 ations in health costs.

18           “(c) ALLOTMENTS TO TERRITORIES.—

19           “(1) IN GENERAL.—Of the amount available for  
20 allotment under subsection (a) for a fiscal year, the  
21 Secretary shall allot 0.25 percent among each of the  
22 commonwealths and territories described in para-  
23 graph (3) in the same proportion as the percentage  
24 specified in paragraph (2) for such commonwealth or

1       territory bears to the sum of such percentages for all  
2       such commonwealths or territories so described.

3               “(2) PERCENTAGE.—The percentage specified  
4       in this paragraph for—

5               “(A) Puerto Rico is 91.6 percent,

6               “(B) Guam is 3.5 percent,

7               “(C) the Virgin Islands is 2.6 percent,

8               “(D) American Samoa is 1.2 percent, and

9               “(E) the Northern Mariana Islands is 1.1  
10       percent.

11              “(3) COMMONWEALTHS AND TERRITORIES.—A  
12       commonwealth or territory described in this para-  
13       graph is any of the following if it has a State plan  
14       approved under this title:

15              “(A) Puerto Rico.

16              “(B) Guam.

17              “(C) The Virgin Islands.

18              “(D) American Samoa.

19              “(E) The Northern Mariana Islands.

20              “(d) 3-YEAR AVAILABILITY OF AMOUNTS ALLOT-  
21       TED.—Amounts allotted to a State pursuant to this sec-  
22       tion for a fiscal year shall remain available for expenditure  
23       by the State through the end of the second succeeding fis-  
24       cal year; except that amounts reallocated to a State under  
25       subsection (e) shall be available for expenditure by the

1 State through the end of the fiscal year in which they are  
2 reallocated.

3 “(e) PROCEDURE FOR REDISTRIBUTION OF UNUSED  
4 ALLOTMENTS.—The Secretary shall determine an appro-  
5 priate procedure for redistribution of allotments from  
6 States that were provided allotments under this section  
7 for a fiscal year but that do not expend all of the amount  
8 of such allotments during the period in which such allot-  
9 ments are available for expenditure under subsection (d),  
10 to States that have fully expended the amount of their  
11 allotments under this section.

12 **“SEC. 2805. PAYMENTS TO STATES.**

13 “(a) IN GENERAL.—Subject to the succeeding provi-  
14 sions of this section, the Secretary shall pay to each State  
15 with a plan approved under this title, from its allotment  
16 for a fiscal year under section 2804, an amount for each  
17 quarter equal to the enhanced FMAP of expenditures in  
18 the quarter—

19 “(1) for health care assistance under the plan  
20 for eligible caregivers in the form of providing health  
21 benefits coverage that meets the requirements of sec-  
22 tion 2803; and

23 “(2) only to the extent permitted consistent  
24 with subsection (c)—

1           “(A) for payment for other health care as-  
2           sistance for such caregivers;

3           “(B) for expenditures for health services  
4           initiatives under the plan for improving the  
5           health of such caregivers;

6           “(C) for expenditures for outreach activi-  
7           ties as provided in section 2802(c)(1) under the  
8           plan; and

9           “(D) for other reasonable costs incurred by  
10          the State to administer the plan.

11       “(b) ENHANCED FMAP.—For purposes of sub-  
12       section (a), the ‘enhanced FMAP’, for a State for a fiscal  
13       year, is equal to the Federal medical assistance percentage  
14       (as defined in the first sentence of section 1905(b) of the  
15       Social Security Act) for the State increased by a number  
16       of percentage points equal to 30 percent of the number  
17       of percentage points by which (1) such Federal medical  
18       assistance percentage for the State, is less than (2) 100  
19       percent; but in no case shall the enhanced FMAP for a  
20       State exceed 85 percent.

21       “(c) LIMITATION ON CERTAIN PAYMENTS FOR CER-  
22       TAIN EXPENDITURES.—

23       “(1) GENERAL LIMITATIONS.—Funds provided  
24       to a State under this title shall only be used to carry

1 out the purposes of this title (as described in section  
2 2801).

3 “(2) USE OF NON-FEDERAL FUNDS FOR STATE  
4 MATCHING REQUIREMENT.—Amounts provided by  
5 the Federal Government, or services assisted or sub-  
6 sidized to any significant extent by the Federal Gov-  
7 ernment, may not be included in determining the  
8 amount of non-Federal contributions required under  
9 subsection (a).

10 “(3) OFFSET OF RECEIPTS ATTRIBUTABLE TO  
11 PREMIUMS AND OTHER COST-SHARING.—For pur-  
12 poses of subsection (a), the amount of the expendi-  
13 tures under the plan shall be reduced by the amount  
14 of any premiums and other cost-sharing received by  
15 the State.

16 “(4) PREVENTION OF DUPLICATIVE PAY-  
17 MENTS.—

18 “(A) OTHER HEALTH PLANS.—No pay-  
19 ment shall be made to a State under this sec-  
20 tion for expenditures for health care assistance  
21 provided for an eligible caregiver under its plan  
22 to the extent that a private insurer (as defined  
23 by the Secretary by regulation and including a  
24 group health plan (as defined in section 607(1)  
25 of the Employee Retirement Income Security

1 Act of 1974), a service benefit plan, and a  
2 health maintenance organization) would have  
3 been obligated to provide such assistance but  
4 for a provision of its insurance contract which  
5 has the effect of limiting or excluding such obli-  
6 gation because the individual is eligible for or is  
7 provided health care assistance under the plan.

8 “(B) OTHER FEDERAL GOVERNMENTAL  
9 PROGRAMS.—Except as otherwise provided by  
10 law, no payment shall be made to a State under  
11 this section for expenditures for health care as-  
12 sistance provided for an eligible caregiver under  
13 its plan to the extent that payment has been  
14 made or can reasonably be expected to be made  
15 promptly (as determined in accordance with  
16 regulations) under any other federally operated  
17 or financed health care insurance program,  
18 other than an insurance program operated or fi-  
19 nanced by the Indian Health Service, as identi-  
20 fied by the Secretary. For purposes of this  
21 paragraph, rules similar to the rules for over-  
22 payments under section 1903(d)(2) of the So-  
23 cial Security Act shall apply.

24 “(d) MAINTENANCE OF EFFORT.—

1           “(1) IN MEDICAID ELIGIBILITY STANDARDS.—  
 2           No payment may be made under subsection (a) with  
 3           respect to health care assistance provided under a  
 4           State plan if the State adopts income and resource  
 5           standards and methodologies for purposes of deter-  
 6           mining a caregiver’s eligibility for medical assistance  
 7           under the State plan under title XIX of the Social  
 8           Security Act that are more restrictive than those ap-  
 9           plied as of June 1, 1997.

10           “(2) IN AMOUNTS OF PAYMENT EXPENDED FOR  
 11           CERTAIN STATE-FUNDED HEALTH INSURANCE PRO-  
 12           GRAMS.—

13           “(A) IN GENERAL.—The amount of the al-  
 14           lotment for a State in a fiscal year (beginning  
 15           with fiscal year 2002) shall be reduced by the  
 16           amount by which—

17                   “(i) the total of the State health in-  
 18                   surance expenditures for caregivers in the  
 19                   preceding fiscal year, is less than

20                   “(ii) the total of such expenditures in  
 21                   fiscal year 2000.

22           “(B) STATE HEALTH INSURANCE EXPEND-  
 23           ITURES FOR CAREGIVERS.—The term ‘State  
 24           health insurance expenditures for caregivers’  
 25           means the following:

1 “(i) The State share of expenditures  
2 under this title.

3 “(ii) The State share of expenditures  
4 under title XIX of the Social Security Act  
5 that are attributable to an enhanced  
6 FMAP under section 1905(u) of such Act.

7 “(iii) State expenditures under health  
8 benefits coverage under an existing com-  
9 prehensive State-based program.

10 “(e) ADVANCE PAYMENT; RETROSPECTIVE ADJUST-  
11 MENT.—The Secretary may make payments under this  
12 section for each quarter on the basis of advance estimates  
13 of expenditures submitted by the State and such other in-  
14 vestigation as the Secretary may find necessary, and may  
15 reduce or increase the payments as necessary to adjust  
16 for any overpayment or underpayment for prior quarters.

17 “(f) FLEXIBILITY IN SUBMITTAL OF CLAIMS.—Noth-  
18 ing in this section or subsections (d) and (e) of section  
19 2804 shall be construed as preventing a State from claim-  
20 ing as expenditures in the quarter expenditures that were  
21 incurred in a previous quarter.

22 **“SEC. 2806. PROCESS FOR SUBMISSION, APPROVAL, AND**  
23 **AMENDMENT OF STATE PLANS.**

24 “(a) INITIAL PLAN.—



1           “(1) IN GENERAL.—As a condition of receiving  
2           payment under section 2805, a State shall submit to  
3           the Secretary a State plan that meets the applicable  
4           requirements of this title.

5           “(2) APPROVAL.—Except as the Secretary may  
6           provide under subsection (e), a State plan submitted  
7           under paragraph (1)—

8                   “(A) shall be approved for purposes of this  
9                   title, and

10                   “(B) shall be effective beginning with a  
11                   calendar quarter that is specified in the plan,  
12                   but in no case earlier than October 1, 2001.

13           “(b) PLAN AMENDMENTS.—The provisions of section  
14   2106(b) of the Social Security Act shall apply with respect  
15   to the amendment of a State plan under this title.

16           “(c) DISAPPROVAL OF PLANS AND PLAN AMEND-  
17   MENTS.—

18           “(1) PROMPT REVIEW OF PLAN SUBMITTALS.—  
19           The Secretary shall promptly review State plans and  
20           plan amendments submitted under this section to  
21           determine if they substantially comply with the re-  
22           quirements of this title.

23           “(2) 90-DAY APPROVAL DEADLINES.—A State  
24           plan or plan amendment is considered approved un-  
25           less the Secretary notifies the State in writing, with-

1 in 90 days after receipt of the plan or amendment,  
2 that the plan or amendment is disapproved (and the  
3 reasons for disapproval) or that specified additional  
4 information is needed.

5 “(3) CORRECTION.—In the case of a dis-  
6 approval of a plan or plan amendment, the Secretary  
7 shall provide a State with a reasonable opportunity  
8 for correction before taking financial sanctions  
9 against the State on the basis of such disapproval.

10 “(d) PROGRAM OPERATION.—

11 “(1) IN GENERAL.—The State shall conduct the  
12 program in accordance with the plan (and any  
13 amendments) approved under subsection (c) and  
14 with the requirements of this title.

15 “(2) VIOLATIONS.—The Secretary shall estab-  
16 lish a process for enforcing requirements under this  
17 title. Such process shall provide for the withholding  
18 of funds in the case of substantial noncompliance  
19 with such requirements. In the case of an enforce-  
20 ment action against a State under this paragraph,  
21 the Secretary shall provide a State with a reasonable  
22 opportunity for correction before taking financial  
23 sanctions against the State on the basis of such an  
24 action.

1       “(e) CONTINUED APPROVAL.—An approved State  
 2 caregivers health plan shall continue in effect unless and  
 3 until the State amends the plan under subsection (b) or  
 4 the Secretary finds, under subsection (d), substantial non-  
 5 compliance of the plan with the requirements of this title.

6       **“SEC. 2807. STRATEGIC OBJECTIVES AND PERFORMANCE**  
 7                       **GOALS; PLAN ADMINISTRATION.**

8       “(a) STRATEGIC OBJECTIVES AND PERFORMANCE  
 9 GOALS.—

10           “(1) DESCRIPTION.—A State plan shall include  
 11 a description of—

12                       “(A) the strategic objectives,

13                       “(B) the performance goals, and

14                       “(C) the performance measures,

15 the State has established for providing health care  
 16 assistance to eligible caregivers under the plan and  
 17 otherwise for maximizing health benefits coverage  
 18 for other caregivers generally in the State.

19           “(2) STRATEGIC OBJECTIVES.—Such plan shall  
 20 identify specific strategic objectives relating to in-  
 21 creasing the extent of creditable health coverage  
 22 among eligible caregivers.

23           “(3) PERFORMANCE GOALS.—Such plan shall  
 24 specify 1 or more performance goals for each such  
 25 strategic objective so identified.

1           “(4) PERFORMANCE MEASURES.—Such plan  
2       shall describe how performance under the plan will  
3       be—

4                   “(A) measured through objective, inde-  
5       pendently verifiable means, and

6                   “(B) compared against performance goals,  
7       in order to determine the State’s performance  
8       under this title.

9       “(b) RECORDS, REPORTS, AUDITS, AND EVALUA-  
10   TION.—

11           “(1) DATA COLLECTION, RECORDS, AND RE-  
12       PORTS.—A State plan shall include an assurance  
13       that the State will collect the data, maintain the  
14       records, and furnish the reports to the Secretary, at  
15       the times and in the standardized format the Sec-  
16       retary may require in order to enable the Secretary  
17       to monitor State program administration and com-  
18       pliance and to evaluate and compare the effective-  
19       ness of State plans under this title.

20           “(2) STATE ASSESSMENT AND STUDY.—A State  
21       plan shall include a description of the State’s plan  
22       for the annual assessments and reports under sec-  
23       tion 2808(a) and the evaluation required by section  
24       2808(b).

1           “(3) AUDITS.—A State plan shall include an  
 2           assurance that the State will afford the Secretary  
 3           access to any records or information relating to the  
 4           plan for the purposes of review or audit.

5           “(c) PROGRAM DEVELOPMENT PROCESS.—A State  
 6           plan shall include a description of the process used to in-  
 7           volve the public in the design and implementation of the  
 8           plan and the method for ensuring ongoing public involve-  
 9           ment.

10          “(d) PROGRAM BUDGET.—A State plan shall include  
 11          a description of the budget for the plan. The description  
 12          shall be updated periodically as necessary and shall in-  
 13          clude details on the planned use of funds and the sources  
 14          of the non-Federal share of plan expenditures, including  
 15          any requirements for cost-sharing by beneficiaries.

16          “(e) APPLICATION OF CERTAIN GENERAL PROVI-  
 17          SIONS.—The following sections of the Social Security Act  
 18          shall apply to States under this title in the same manner  
 19          as they apply to a State under title XIX or title XI of  
 20          such Act, as appropriate:

21                 “(1) TITLE XIX PROVISIONS.—

22                         “(A) Section 1902(a)(4)(C) (relating to  
 23                         conflict of interest standards).

1 “(B) Paragraphs (2), (16), and (17) of  
 2 section 1903(i) (relating to limitations on pay-  
 3 ment).

4 “(C) Section 1903(w) (relating to limita-  
 5 tions on provider taxes and donations).

6 “(2) TITLE XI PROVISIONS.—

7 “(A) Section 1115 (relating to waiver au-  
 8 thority).

9 “(B) Section 1116 (relating to administra-  
 10 tive and judicial review), but only insofar as  
 11 consistent with this title.

12 “(C) Section 1124 (relating to disclosure  
 13 of ownership and related information).

14 “(D) Section 1126 (relating to disclosure  
 15 of information about certain convicted individ-  
 16 uals).

17 “(E) Section 1128A (relating to civil mon-  
 18 etary penalties).

19 “(F) Section 1128B(d) (relating to crimi-  
 20 nal penalties for certain additional charges).

21 “(G) Section 1132 (relating to periods  
 22 within which claims must be filed).

23 **“SEC. 2808. ANNUAL REPORTS; EVALUATIONS.**

24 “(a) ANNUAL REPORT.—The State shall—

1           “(1) assess the operation of the State plan  
 2           under this title in each fiscal year, including the  
 3           progress made in reducing the number of uncovered  
 4           eligible caregivers; and

5           “(2) report to the Secretary, by January 1 fol-  
 6           lowing the end of the fiscal year, on the result of the  
 7           assessment.

8           “(b) STATE EVALUATIONS.—

9           “(1) IN GENERAL.—By March 31, 2003, each  
 10          State that has a State plan shall submit to the Sec-  
 11          retary an evaluation that includes each of the fol-  
 12          lowing:

13               “(A) An assessment of the effectiveness of  
 14               the State plan in increasing the number of care-  
 15               givers with creditable health coverage.

16               “(B) A description and analysis of the ef-  
 17               fectiveness of elements of the State plan, in-  
 18               cluding—

19                       “(i) the characteristics of the care-  
 20                       givers assisted under the State plan includ-  
 21                       ing family income, and the assisted care-  
 22                       giver’s access to or coverage by other  
 23                       health insurance prior to the State plan  
 24                       and after eligibility for the State plan  
 25                       ends,

1           “(ii) the quality of health coverage  
2           provided including the types of benefits  
3           provided,

4           “(iii) the amount and level (including  
5           payment of part or all of any premium) of  
6           assistance provided by the State,

7           “(iv) the service area of the State  
8           plan,

9           “(v) the time limits for coverage of a  
10          caregiver under the State plan,

11          “(vi) the State’s choice of health bene-  
12          fits coverage and other methods used for  
13          providing health care assistance, and

14          “(vii) the sources of non-Federal  
15          funding used in the State plan.

16          “(C) An assessment of the effectiveness of  
17          other public and private programs in the State  
18          in increasing the availability of affordable qual-  
19          ity individual and family health insurance for  
20          caregivers.

21          “(D) A review and assessment of State ac-  
22          tivities to coordinate the plan under this title  
23          with other public and private programs pro-  
24          viding health care and health care financing, in-



1 cluding medicaid and maternal and child health  
2 services.

3 “(E) An analysis of changes and trends in  
4 the State that affect the provision of accessible,  
5 affordable, quality health insurance and health  
6 care to caregivers.

7 “(F) A description of any plans the State  
8 has for improving the availability of health in-  
9 surance and health care for caregivers.

10 “(G) Recommendations for improving the  
11 program under this title.

12 “(H) Any other matters the State and the  
13 Secretary consider appropriate.

14 “(2) REPORT OF THE SECRETARY.—The Sec-  
15 retary shall submit to Congress and make available  
16 to the public by December 31, 2003, a report based  
17 on the evaluations submitted by States under para-  
18 graph (1), containing any conclusions and rec-  
19 ommendations the Secretary considers appropriate.

20 **“SEC. 2809. MISCELLANEOUS PROVISIONS.**

21 “(a) HIPAA.—Health benefits coverage provided  
22 under section 2801(a)(1) shall be treated as creditable  
23 coverage for purposes of part 7 of subtitle B of title I  
24 of the Employee Retirement Income Security Act of 1974,

1 title XXVII of the Public Health Service Act, and subtitle  
2 K of the Internal Revenue Code of 1986.

3 “(b) ERISA.—Nothing in this title shall be construed  
4 as affecting or modifying section 514 of the Employee Re-  
5 tirement Income Security Act of 1974 with respect to a  
6 group health plan (as defined in section 2791(a)(1) of this  
7 Act.

8 “(c) LIMITATION ON ENTITIES.—Notwithstanding  
9 any other provision of this title, a State may limit the ap-  
10 plication of this title to eligible caregivers who are em-  
11 ployed by entities that provide services to a specific per-  
12 centage of individuals who receive assistance under, or  
13 through, Federal or State assistance programs.

14 **“SEC. 2810. DEFINITIONS.**

15 (a) HEALTH CARE ASSISTANCE.—For purposes of  
16 this title, the term ‘health care assistance’ means payment  
17 for part or all of the cost of health benefits coverage for  
18 eligible caregivers (and the dependent children of such  
19 caregivers) that includes any of the following (and in-  
20 cludes, in the case described in section 2805(a)(2)(A),  
21 payment for part or all of the cost of providing any of  
22 the following), as specified under the State plan:

23 “(1) Inpatient hospital services.

24 “(2) Outpatient hospital services.

25 “(3) Physician services.

1           “(4) Surgical services.

2           “(5) Clinic services (including health center  
3 services) and other ambulatory health care services.

4           “(6) Prescription drugs and biologicals and the  
5 administration of such drugs and biologicals, only if  
6 such drugs and biologicals are not furnished for the  
7 purpose of causing, or assisting in causing, the  
8 death, suicide, euthanasia, or mercy killing of a per-  
9 son.

10          “(7) Over-the-counter medications.

11          “(8) Laboratory and radiological services.

12          “(9) Prenatal care and prepregnancy family  
13 planning services and supplies.

14          “(10) Inpatient mental health services, other  
15 than services described in paragraph (18) but in-  
16 cluding services furnished in a State-operated men-  
17 tal hospital and including residential or other 24-  
18 hour therapeutically planned structured services.

19          “(11) Outpatient mental health services, other  
20 than services described in paragraph (19) but in-  
21 cluding services furnished in a State-operated men-  
22 tal hospital and including community-based services.

23          “(12) Durable medical equipment and other  
24 medically-related or remedial devices (such as pros-

1       thetic devices, implants, eyeglasses, hearing aids,  
2       dental devices, and adaptive devices).

3               “(13) Disposable medical supplies.

4               “(14) Home and community-based health care  
5       services and related supportive services (such as  
6       home health nursing services, home health aide serv-  
7       ices, personal care, assistance with activities of daily  
8       living, chore services, day care services, respite care  
9       services, training for family members, and minor  
10      modifications to the home).

11              “(15) Nursing care services (such as nurse  
12      practitioner services, nurse midwife services, ad-  
13      vanced practice nurse services, private duty nursing  
14      care, pediatric nurse services, and respiratory care  
15      services) in a home, school, or other setting.

16              “(16) Dental services.

17              “(17) Inpatient substance abuse treatment  
18      services and residential substance abuse treatment  
19      services.

20              “(18) Outpatient substance abuse treatment  
21      services.

22              “(19) Case management services.

23              “(20) Care coordination services.

1           “(21) Physical therapy, occupational therapy,  
2           and services for individuals with speech, hearing,  
3           and language disorders.

4           “(22) Hospice care.

5           “(23) Any other medical, diagnostic, screening,  
6           preventive, restorative, remedial, therapeutic, or re-  
7           habilitative services (whether in a facility, home,  
8           school, or other setting) if recognized by State law  
9           and only if the service is—

10               “(A) prescribed by or furnished by a physi-  
11               cian or other licensed or registered practitioner  
12               within the scope of practice as defined by State  
13               law,

14               “(B) performed under the general super-  
15               vision or at the direction of a physician, or

16               “(C) furnished by a health care facility  
17               that is operated by a State or local government  
18               or is licensed under State law and operating  
19               within the scope of the license.

20           “(24) Premiums for private health care insur-  
21           ance coverage.

22           “(25) Medical transportation.

23           “(26) Enabling services (such as transpor-  
24           tation, translation, and outreach services) only if de-  
25           signed to increase the accessibility of primary and

1 preventive health care services for eligible low-in-  
2 come individuals.

3 “(27) Any other health care services or items  
4 specified by the Secretary and not excluded under  
5 this section.

6 “(b) ELIGIBLE CAREGIVER DEFINED.—For purposes  
7 of this title, the term ‘eligible caregiver’ means an indi-  
8 vidual—

9 “(1) who has been determined eligible by the  
10 State under this title for assistance under the State  
11 plan;

12 “(2) who—

13 “(A) subject to section 2809(c)—

14 “(i) is employed as a child care pro-  
15 vider, an adult day care provider, a per-  
16 sonal attendant for disabled individuals, a  
17 nursing home aide, a home health aide, or  
18 in any other caregiving position determined  
19 appropriate by the State, with an entity  
20 that is licensed or certified under State  
21 law, or is otherwise providing services  
22 under a State license or certification; and

23 “(ii) is certified by, or enrolled in, an  
24 accredited program recognized by the State  
25 as having received training necessary in

1           order to be employed in a position de-  
 2           scribed in subparagraph (A); or

3           “(B)(i) is providing caregiver services on a  
 4           full-time basis for a relative; and

5           “(ii) does not otherwise have access to em-  
 6           ployer-sponsored health insurance coverage;

7           “(3) who is not found to be eligible for medical  
 8           assistance under title XIX of the Social Security Act  
 9           or covered under a group health plan or under  
 10          health insurance coverage (as such terms are defined  
 11          in section 2791 of this Act); and

12          “(4) who meets any other criteria determined  
 13          appropriate by the State.

14          “(c) ADDITIONAL DEFINITIONS.—For purposes of  
 15          this title:

16               “(1) CREDITABLE HEALTH COVERAGE.—The  
 17               term ‘creditable health coverage’ has the meaning  
 18               given the term ‘creditable coverage’ under section  
 19               2701(c) of this Act and includes coverage that meets  
 20               the requirements of section 2803 provided to an eli-  
 21               gible caregiver under this title.

22               “(2) GROUP HEALTH PLAN; HEALTH INSUR-  
 23               ANCE COVERAGE; ETC.—The terms ‘group health  
 24               plan’, ‘group health insurance coverage’, and ‘health

1 insurance coverage’ have the meanings given such  
2 terms in section 2791 of this Act.

3 “(3) POVERTY LINE DEFINED.—The term  
4 ‘poverty line’ has the meaning given such term in  
5 section 673(2) of the Community Services Block  
6 Grant Act (42 U.S.C. 9902(2)), including any revi-  
7 sion required by such section.

8 “(4) PREEXISTING CONDITION EXCLUSION.—  
9 The term ‘preexisting condition exclusion’ has the  
10 meaning given such term in section 2701(b)(1)(A) of  
11 this Act.

12 “(5) STATE PLAN; PLAN.—Unless the context  
13 otherwise requires, the terms ‘State plan’ and ‘plan’  
14 mean a State plan approved under section 2806.”.

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