

108TH CONGRESS  
1ST SESSION

# H. R. 2000

To amend title XIX of the Social Security Act to provide fiscal relief and program simplification to States, to improve coverage and services to Medicaid beneficiaries, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 7, 2003

Mr. DINGELL (for himself, Mr. BROWN of Ohio, Mr. WAXMAN, Mr. BOUCHER, Mr. PALLONE, Mr. TOWNS, Ms. McCARTHY of Missouri, Mr. RUSH, Mr. MARKEY, Ms. SCHAKOWSKY, Mr. ALLEN, Mrs. CAPPS, Mr. STRICKLAND, Mr. GORDON, and Mr. ENGEL) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, 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 title XIX of the Social Security Act to provide fiscal relief and program simplification to States, to improve coverage and services to Medicaid beneficiaries, and for other purposes.

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

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

2 (a) SHORT TITLE.—This Act may be cited as the  
 3 “Strengthening Our States Act of 2003” or the “SOS Act  
 4 of 2003”.

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

Sec. 1. Short title; table of contents.

**TITLE I—STRENGTHENING FEDERAL RESPONSIBILITY FOR  
 MEDICARE BENEFICIARIES**

Sec. 101. Assuming Federal responsibility for all medicare cost-sharing.  
 Sec. 102. Expanded protections for low income medicare beneficiaries.

**TITLE II—PROVIDING STATES FISCAL RELIEF**

Sec. 201. Temporary increase of medicaid FMAP.  
 Sec. 202. Temporary grants for State fiscal relief.  
 Sec. 203. Increasing medicaid DSH allotments.  
 Sec. 204. Increased State access to unspent SCHIP funds.  
 Sec. 205. Federal responsibility for emergency care for illegal immigrants.  
 Sec. 206. Increased Federal responsibility for translation services.  
 Sec. 207. Increased Federal matching rates for certain services.

**TITLE III—HELPING STATES WITH COMMITMENT TO ELDERLY  
 AND DISABLED; FAMILY OPPORTUNITY ACT**

**Subtitle A—Elderly and Persons With Disabilities**

Sec. 301. Full accounting of savings in determining cost-effectiveness.  
 Sec. 302. Extension of medicaid coverage under the ticket to work program to  
 cover spouses.  
 Sec. 303. Encouraging transition to home and community care.  
 Sec. 304. Enhanced matching rate for disabled individuals awaiting medicare  
 eligibility.  
 Sec. 305. Providing initial term of 5 years for section 1915 waivers.  
 Sec. 306. Optional coverage of community-based attendant services and sup-  
 ports under the medicaid program.

**Subtitle B—Family Opportunity Act**

Sec. 311. Short title.  
 Sec. 312. Opportunity for families of disabled children to purchase medicaid  
 coverage for such children.  
 Sec. 313. Treatment of inpatient psychiatric hospital services for individuals  
 under age 21 in home or community-based services waivers.  
 Sec. 314. Demonstration of coverage under the medicaid program of children  
 with potentially severe disabilities.  
 Sec. 315. Development and support of family-to-family health information cen-  
 ters.

Sec. 316. Restoration of medicaid eligibility for certain SSI beneficiaries.

## TITLE IV—FACILITATING PROGRAM ADMINISTRATION AND PRESERVING COVERAGE

## Sec. 401. Allowing uniform coverage of all low income Americans.

Sec. 402. Facilitating coverage of families.

Sec. 403. Assistance with coverage of legal immigrants under the medicaid program and SCHIP.

#### Sec. 404. Flexibility in eligibility determinations.

# **1 TITLE I—STRENGTHENING FED- 2 ERAL RESPONSIBILITY FOR 3 MEDICARE BENEFICIARIES**

4 SEC. 101. ASSUMING FEDERAL RESPONSIBILITY FOR ALL  
5 MEDICARE COST-SHARING.

6 (a) IN GENERAL.—Section 1905(b) of the Social Se-  
7 curity Act (42 U.S.C. 1396d(b)) is amended—

8 (1) by striking “and” before “(4)”; and  
9 (2) by inserting before the period the following:

10       “, and (5) the Federal medical assistance percentage  
11       shall be 100 percent with respect to medical assist-  
12       ance provided with costs described in section  
13       1905(p)(3)”.  
14

14 (b) CONFORMING AMENDMENT.—Section 1902 of  
15 such Act (42 U.S.C. 1396a) is amended by striking sub-  
16 section (n).

17 (c) EFFECTIVE DATE.—The amendments made by  
18 this section shall apply to medical assistance for medicare  
19 cost-sharing for months beginning with July 2003.

1 **SEC. 102. EXPANDED PROTECTIONS FOR LOW INCOME**2 **MEDICARE BENEFICIARIES.**

3 (a) IN GENERAL.—Section 1902(a)(10)(E) of the So-  
4 cial Security Act (42 U.S.C. 1396a(a)(10)(E)) is amend-  
5 ed—

6 (1) by adding “and” at the end of clause (ii);  
7 (2) in clause (iii), by striking “110 percent in  
8 1993 and 1994, and 120 percent in 1995 and  
9 years” and inserting “135 percent”; and  
10 (3) by striking clause (iv).

11 (b) CONFORMING AMENDMENT.—Section 1933 of  
12 such Act (42 U.S.C. 1396v) is repealed.

13 (c) EFFECTIVE DATE.—The amendments made by  
14 subsection (a), and the repeal made by subsection (b),  
15 shall apply to months after September 2003.

16 **TITLE II—PROVIDING STATES**  
17 **FISCAL RELIEF**

18 **SEC. 201. TEMPORARY INCREASE OF MEDICAID FMAP.**

19 (a) PERMITTING MAINTENANCE OF FISCAL YEAR  
20 2002 FMAP FOR LAST 2 CALENDAR QUARTERS OF FIS-  
21 CAL YEAR 2003.—Notwithstanding any other provision of  
22 law, but subject to subsection (e), if the FMAP deter-  
23 mined without regard to this section for a State for fiscal  
24 year 2003 is less than the FMAP as so determined for  
25 fiscal year 2002, the FMAP for the State for fiscal year  
26 2002 shall be substituted for the State’s FMAP for the

1 third and fourth calendar quarters of fiscal year 2003, be-  
2 fore the application of this section.

3 (b) PERMITTING MAINTENANCE OF FISCAL YEAR  
4 2003 FMAP FOR FISCAL YEAR 2004.—Notwithstanding  
5 any other provision of law, but subject to subsection (e),  
6 if the FMAP determined without regard to this section  
7 for a State for fiscal year 2004 is less than the FMAP  
8 as so determined for fiscal year 2003, the FMAP for the  
9 State for fiscal year 2003 shall be substituted for the  
10 State's FMAP for each calendar quarter of fiscal year  
11 2004, before the application of this section.

12 (c) GENERAL 3.73 PERCENTAGE POINTS INCREASE  
13 FOR LAST 2 CALENDAR QUARTERS OF FISCAL YEAR 2003  
14 AND FISCAL YEAR 2004.—Notwithstanding any other  
15 provision of law, but subject to subsections (e) and (f),  
16 for each State for the third and fourth calendar quarters  
17 of fiscal year 2003 and each calendar quarter of fiscal year  
18 2004, the FMAP (taking into account the application of  
19 subsections (a) and (b)) shall be increased by 3.73 per-  
20 centage points.

21 (d) INCREASE IN CAP ON MEDICAID PAYMENTS TO  
22 TERRITORIES.—Notwithstanding any other provision of  
23 law, but subject to subsection (f), with respect to the third  
24 and fourth calendar quarters of fiscal year 2003 and each  
25 calendar quarter of fiscal year 2004, the amounts other-

1 wise determined for Puerto Rico, the Virgin Islands,  
2 Guam, the Northern Mariana Islands, and American  
3 Samoa under subsections (f) and (g) of section 1108 of  
4 the Social Security Act (42 U.S.C. 1308) shall each be  
5 increased by an amount equal to 7.46 percent of such  
6 amounts.

7 (e) SCOPE OF APPLICATION.—The increases in the  
8 FMAP for a State under this section shall apply only for  
9 purposes of title XIX of the Social Security Act and shall  
10 not apply with respect to—

11 (1) disproportionate share hospital payments  
12 described in section 1923 of such Act (42 U.S.C.  
13 1396r-4); or  
14 (2) payments under title IV or XXI of such Act  
15 (42 U.S.C. 601 et seq. and 1397aa et seq.).

16 (f) STATE ELIGIBILITY.—

17 (1) IN GENERAL.—Subject to paragraph (2), a  
18 State is eligible for an increase in its FMAP under  
19 subsection (c) or an increase in a cap amount under  
20 subsection (d) only if the eligibility under its State  
21 plan under title XIX of the Social Security Act (in-  
22 cluding any waiver under such title or under section  
23 1115 of such Act (42 U.S.C. 1315)) is no more re-  
24 strictive than the eligibility under such plan (or  
25 waiver) as in effect on September 2, 2003.

(2) STATE REINSTATEMENT OF ELIGIBILITY  
PERMITTED.—A State that has restricted eligibility under its State plan under title XIX of the Social Security Act (including any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)) after September 2, 2003, but prior to the date of enactment of this Act is eligible for an increase in its FMAP under subsection (c) or an increase in a cap amount under subsection (d) in the first calendar quarter (and subsequent calendar quarters) in which the State has reinstated eligibility that is no more restrictive than the eligibility under such plan (or waiver) as in effect on September 2, 2003.

22 (g) DEFINITIONS.—In this section:

23 (1) FMAP.—The term “FMAP” means the  
24 Federal medical assistance percentage, as defined in

1 section 1905(b) of the Social Security Act (42  
2 U.S.C. 1396d(b)).

6 (h) REPEAL.—Effective as of October 1, 2004, this  
7 section is repealed.

## 8 SEC. 202. TEMPORARY GRANTS FOR STATE FISCAL RELIEF.

9 (a) IN GENERAL.—Title XX of the Social Security  
10 Act (42 U.S.C. 1397–1397f) is amended by adding at the  
11 end the following:

12 "SEC. 2008. ADDITIONAL TEMPORARY GRANTS FOR STATE  
13 FISCAL RELIEF.

14       “(a) IN GENERAL.—For the purpose of providing  
15 State fiscal relief allotments to States under this section,  
16 there are hereby appropriated, out of any funds in the  
17 Treasury not otherwise appropriated, \$15,000,000,000.  
18 Such funds shall be available for obligation by the State  
19 through June 30, 2005, and for expenditure by the State  
20 through September 30, 2005. This section constitutes  
21 budget authority in advance of appropriations Acts and  
22 represents the obligation of the Federal Government to  
23 provide for the payment to States of amounts provided  
24 under this section.

1        “(b) ALLOTMENT.—Funds appropriated under sub-  
 2 section (a) shall be allotted by the Secretary among the  
 3 States in accordance with the following table:

“State	Allotment (in dollars)
Alabama	\$170,940,139
Alaska	\$42,076,374
Amer. Samoa	\$414,007
Arizona	\$261,264,449
Arkansas	\$133,398,723
California	\$1,583,851,051
Colorado	\$143,030,332
Connecticut	\$207,204,156
Delaware	\$38,537,434
District of Columbia	\$65,034,813
Florida	\$624,655,953
Georgia	\$368,582,068
Guam	\$669,845
Hawaii	\$46,337,939
Idaho	\$48,659,904
Illinois	\$543,631,283
Indiana	\$271,629,605
Iowa	\$130,309,854
Kansas	\$94,370,028
Kentucky	\$212,122,967
Louisiana	\$239,827,085
Maine	\$92,781,591
Maryland	\$236,000,265
Massachusetts	\$472,765,757
Michigan	\$435,451,207
Minnesota	\$302,429,550
Mississippi	\$176,956,163
Missouri	\$302,534,081
Montana	\$36,437,168
Nebraska	\$79,550,313
Nevada	\$52,331,624
New Hampshire	\$54,101,351
New Jersey	\$411,954,920
New Mexico	\$112,850,197
New York	\$2,383,327,447
North Carolina	\$439,742,488
North Dakota	\$27,253,781
N. Mariana Islands	\$233,880
Ohio	\$616,448,513
Oklahoma	\$146,240,811
Oregon	\$167,002,460
Pennsylvania	\$745,862,667
Puerto Rico	\$18,916,230
Rhode Island	\$80,098,624
South Carolina	\$184,217,430
South Dakota	\$30,302,145
Tennessee	\$350,273,887
Texas	\$814,722,031
Utah	\$63,422,131
Vermont	\$40,549,714
Virgin Islands	\$624,499
Virginia	\$215,155,129
Washington	\$298,697,312
West Virginia	\$95,818,709
Wisconsin	\$270,901,128
Wyoming	\$17,496,788
<b>Total</b>	<b>\$15,000,000,000</b>

4        “(c) USE OF FUNDS.—Funds appropriated under  
 5 this section may be used by a State for services directed

1 at the goals set forth in section 2001, subject to the re-  
2 quirements of this title.

3       “(d) PAYMENT TO STATES.—Not later than 30 days  
4 after amounts are appropriated under subsection (a), in  
5 addition to any payment made under section 2002 or  
6 2007, the Secretary shall make a lump sum payment to  
7 a State of the total amount of the allotment for the State  
8 as specified in subsection (b).

9       “(e) DEFINITION.—For purposes of this section, the  
10 term ‘State’ means the 50 States, the District of Colum-  
11 bia, and the territories contained in the list under sub-  
12 section (b).”.

13       (b) REPEAL.—Effective as of October 1, 2005, sec-  
14 tion 2008 of the Social Security Act, as added by sub-  
15 section (a), is repealed.

16       (c) GAO STUDY AND REPORT.—

17           (1) STUDY.—The Comptroller General of the  
18 United States shall conduct a study to determine an  
19 appropriate index that could be used to temporarily  
20 adjust the Federal medical assistance percentage for  
21 purposes of programs authorized under the Social  
22 Security Act either with respect to all States during  
23 a period of national recession or with respect to a  
24 specific State when the State’s economy takes a sig-  
25 nificant turn for the worse.

## 6 SEC. 203. INCREASING MEDICAID DSH ALLOTMENTS.

7 (a) CONTINUATION OF MEDICAID DSH ALLOTMENT  
8 ADJUSTMENTS UNDER BIPA 2000.—

9 (1) IN GENERAL.—Section 1923(f) of the Social  
10 Security Act (42 U.S.C. 1396r-4(f))—

11 (A) in paragraph (2)—

12 (i) in the heading, by striking  
13 “THROUGH 2002” and inserting “THROUGH  
14 2000”;

15 (ii) by striking “ending with fiscal  
16 year 2002” and inserting “ending with fis-  
17 cal year 2000”; and

18 (iii) in the table in such paragraph, by  
19 striking the columns labeled “FY 01” and  
20 “FY02”;

21 (B) in paragraph (3)(A), by striking  
22 “paragraph (2)” and inserting “paragraph  
23 (4); and

24 (C) in paragraph (4), as added by section  
25 701(a)(1) of the Medicare, Medicaid, and

1 SCHIP Benefits Improvement and Protection  
2 Act of 2000 (as enacted into law by section  
3 1(a)(6) of Public Law 106-554)—

4 (i) by striking “FOR FISCAL YEARS  
5 2001 AND 2002” in the heading;

6 (ii) in subparagraph (A), by striking  
7 “Notwithstanding paragraph (2), the” and  
8 inserting “The”;

9 (iii) in subparagraph (C)—

10 (I) by striking "NO APPLICATION"  
11 TION" and inserting "APPLICATION";  
12 and

13 (II) by striking “without regard  
14 to” and inserting “taking into ac-  
15 count”.

16 (2) INCREASE IN MEDICAID DSH ALLOTMENT  
17 FOR THE DISTRICT OF COLUMBIA.—

18 (A) IN GENERAL.—Effective for DSH al-  
19 lotments beginning with fiscal year 2003, the  
20 item in the table contained in section  
21 1923(f)(2) of the Social Security Act (42  
22 U.S.C. 1396r-4(f)(2)) for the District of Co-  
23 lumbia for the DSH allotment for FY 00 (fiscal  
24 year 2000) is amended by striking “32” and in-  
25 serting “49”.

1 (B) CONSTRUCTION.—Nothing in subparagraph  
2 graph (A) shall be construed as preventing the  
3 application of section 1923(f)(4) of the Social  
4 Security Act (as amended by subsection (a)) to  
5 the District of Columbia for fiscal year 2003  
6 and subsequent fiscal years.

10 (b) INCREASE IN FLOOR FOR TREATMENT AS AN EX-  
11 TREMELY LOW DSH STATE TO 3 PERCENT IN FISCAL  
12 YEAR 2003.—

13 (1) INCREASE IN DSH FLOOR.—Section  
14 1923(f)(5) of the Social Security Act (42 U.S.C.  
15 1396r-4(f)(5)) is amended—

16 (A) by striking “fiscal year 1999” and in-  
17 serting “fiscal year 2001”;

18 (B) by striking “August 31, 2000” and in-  
19 serting “August 31, 2002”;

20 (C) by striking “1 percent” each place it  
21 appears and inserting “3 percent”; and

22 (D) by striking “fiscal year 2001” and in-  
23 serting “fiscal year 2003”.

24 (2) EFFECTIVE DATE.—The amendments made  
25 by paragraph (1) take effect as if enacted on Octo-

1       ber 1, 2002, and apply to DSH allotments under  
2       title XIX of the Social Security Act for fiscal year  
3       2003 and each fiscal year thereafter.

4 **SEC. 204. INCREASED STATE ACCESS TO UNSPENT SCHIP**  
5                   **FUNDS.**

6       (a) RETAINED AND REDISTRIBUTED ALLOTMENTS  
7       FOR FISCAL YEARS 1998 AND 1999.—Paragraphs  
8       (2)(A)(i) and (2)(A)(ii) of section 2104(g) of the Social  
9       Security Act (42 U.S.C. 1397dd(g)) are each amended by  
10      striking “fiscal year 2002” and inserting “fiscal year  
11      2004”.

12      (b) EXTENSION AND REVISION OF RETAINED AND  
13      REDISTRIBUTED ALLOTMENTS FOR FISCAL YEAR  
14      2000.—

15                (1) PERMITTING AND EXTENDING RETENTION  
16                OF PORTION OF FISCAL YEAR 2000 ALLOTMENT.—  
17                Paragraph (2) of such section 2104(g) is amended—  
18                (A) in the heading, by striking “AND 1999”  
19                and inserting “THROUGH 2000”; and  
20                (B) by adding at the end of subparagraph  
21                (A) the following:

22                   “(iii) FISCAL YEAR 2000 ALLOT-  
23                MENT.—Of the amounts allotted to a State  
24                pursuant to this section for fiscal year  
25                2000 that were not expended by the State

1                   by the end of fiscal year 2002, 50 percent  
2                   of that amount shall remain available for  
3                   expenditure by the State through the end  
4                   of fiscal year 2004.”.

5                   (2) REDISTRIBUTED ALLOTMENTS.—Paragraph

6                   (1) of such section 2104(g) is amended—

7                       (A) in subparagraph (A), by inserting “or  
8                       for fiscal year 2000 by the end of fiscal year  
9                       2002,” after “fiscal year 2001,”;

10                      (B) in subparagraph (A), by striking  
11                       “1998 or 1999” and inserting “1998, 1999, or  
12                       2000”;

13                      (C) in subparagraph (A)(i)—

14                            (i) by striking “or” at the end of sub-  
15                       clause (I),

16                            (ii) by striking the period at the end  
17                       of subclause (II) and inserting “; or”; and

18                            (iii) by adding at the end the fol-  
19                       lowing new subclause:

20                                “(III) the fiscal year 2000 allot-  
21                       ment, the amount specified in sub-  
22                       paragraph (C)(i) (less the total of the  
23                       amounts under clause (ii) for such fis-  
24                       cal year), multiplied by the ratio of  
25                       the amount specified in subparagraph

1 (C)(ii) for the State to the amount  
2 specified in subparagraph (C)(iii).”;

3 (D) in subparagraph (A)(ii), by striking  
4 “or 1999” and inserting “, 1999, or 2000”;

5 (E) in subparagraph (B), by striking “with  
6 respect to fiscal year 1998 or 1999”;

7 (F) in subparagraph (B)(ii)—

11 (ii) by striking “2002” and inserting  
12 “2004”; and

13 (G) by adding at the end the following new  
14 subparagraph:

15                    "(C) AMOUNTS USED IN COMPUTING RE-

DISTRIBUTIONS FOR FISCAL YEAR 2000.—For purposes of subparagraph (A)(i)(III)—

11 (A) in its heading, by striking "AND 1999"  
12 and inserting ", 1999, AND 2000"; and

13 (B) in paragraph (3)—

14 (i) by striking “or fiscal year 1999”  
15 and inserting “, fiscal year 1999, or fiscal  
16 year 2000”; and

17 (ii) by striking “or November 30,  
18 2001” and inserting “November 30, 2001,  
19 or November 30, 2002”, respectively.

20 (c) EXTENSION AND REVISION OF RETAINED AND  
21 REDISTRIBUTED ALLOTMENTS FOR FISCAL YEAR  
22 2001.—

1       Paragraph (2) of such section 2104(g), as amended  
2       in subsection (b)(1)(B), is further amended—

3               (A) in the heading, by striking “2000” and  
4               inserting “2001”; and

5               (B) by adding at the end of subparagraph  
6               (A) the following:

7                       “(iv) FISCAL YEAR 2001 ALLOT-  
8                       MENT.—Of the amounts allotted to a State  
9                       pursuant to this section for fiscal year  
10                       2001 that were not expended by the State  
11                       by the end of fiscal year 2003, 50 percent  
12                       of that amount shall remain available for  
13                       expenditure by the State through the end  
14                       of fiscal year 2005.”.

15               (2) REDISTRIBUTED ALLOTMENTS.—Paragraph  
16               (1) of such section 2104(g), as amended in sub-  
17               section (b)(2), is further amended—

18               (A) in subparagraph (A), by inserting “or  
19                       for fiscal year 2001 by the end of fiscal year  
20                       2003,” after “fiscal year 2002,”;

21               (B) in subparagraph (A), by striking  
22                       “1999, or 2000” and inserting “1999, 2000, or  
23                       2001”;

24               (C) in subparagraph (A)(i)—

1 (i) by striking “or” at the end of sub-  
2 clause (II),

3 (ii) by striking the period at the end  
4 of subclause (III) and inserting “; or”; and

5 (iii) by adding at the end the fol-  
6 lowing new subclause:

15 (D) in subparagraph (A)(ii), by striking  
16 “or 2000” and inserting “2000, or 2001”;

17 (E) in subparagraph (B) =

18 (i) by striking “and” at the end of  
19 clause (ii);

20 (ii) by redesignating clause (iii) as  
21 clause (iv); and

22 (iii) by inserting after clause (ii) the  
23 following new clause:

1 main available for expenditure by the State  
2 through the end of fiscal year 2005; and";  
3 and

4 (F) by adding at the end the following new  
5 subparagraph:

6 " (D) AMOUNTS USED IN COMPUTING RE-  
7 DISTRIBUTIONS FOR FISCAL YEAR 2001.—For  
8 purposes of subparagraph (A)(i)(IV)—

9 " (i) the amount specified in this  
10 clause is the amount specified in para-  
11 graph (2)(B)(i)(I) for fiscal year 2001, less  
12 the total amount remaining available pur-  
13 suant to paragraph (2)(A)(iv);

14 " (ii) the amount specified in this  
15 clause for a State is the amount by which  
16 the State's expenditures under this title in  
17 fiscal years 2001, 2002, and 2003 exceed  
18 the State's allotment for fiscal year 2001  
19 under subsection (b); and

20 " (iii) the amount specified in this  
21 clause is the sum, for all States entitled to  
22 a redistribution under subparagraph (A)  
23 from the allotments for fiscal year 2001, of  
24 the amounts specified in clause (ii).".

3 (A) in its heading, by striking "AND 2000"  
4 and inserting "2000, AND 2001"; and

5 (B) in paragraph (3)—

6 (i) by striking “or fiscal year 2000”  
7 and inserting “fiscal year 2000, or fiscal  
8 year 2001”; and

9 (ii) by striking “or November 30,  
10 2002,” and inserting “November 30, 2002,  
11 or November 30, 2003,” respectively.

12 (d) AUTHORITY FOR QUALIFYING STATES TO USE  
13 PORTION OF SCHIP FUNDS FOR MEDICAID EXPENDI-  
14 TURES.—Section 2105 of the Social Security Act (42  
15 U.S.C. 1397ee) is amended by adding at the end the fol-  
16 lowing:

17        "(g) AUTHORITY FOR QUALIFYING STATES TO USE  
18 CERTAIN FUNDS FOR MEDICAID EXPENDITURES.—

19                   “(1) STATE OPTION.—

20                         “(A) IN GENERAL.—Notwithstanding any  
21                         other provision of law, with respect to allot-  
22                         ments for fiscal years 1998, 1999, 2000, 2001,  
23                         for fiscal years in which such allotments are  
24                         available under subsections (e) and (g) of sec-  
25                         tion 2104, a qualifying State (as defined in

1                   paragraph (2)) may elect to use not more than  
2                   20 percent of such allotments (instead of for  
3                   expenditures under this title) for payments for  
4                   such fiscal year under title XIX in accordance  
5                   with subparagraph (B).

6                   **“(B) PAYMENTS TO STATES.—**

7                   **“(i) IN GENERAL.—**In the case of a  
8                   qualifying State that has elected the option  
9                   described in subparagraph (A), subject to  
10                   the total amount of funds described with  
11                   respect to the State in subparagraph (A),  
12                   the Secretary shall pay the State an  
13                   amount each quarter equal to the addi-  
14                   tional amount that would have been paid  
15                   to the State under title XIX for expendi-  
16                   tures of the State for the fiscal year de-  
17                   scribed in clause (ii) if the enhanced  
18                   FMAP (as determined under subsection  
19                   (b)) had been substituted for the Federal  
20                   medical assistance percentage (as defined  
21                   in section 1905(b)) of such expenditures.

22                   **“(ii) EXPENDITURES DESCRIBED.—**  
23                   For purposes of clause (i), the expendi-  
24                   tures described in this clause are expendi-  
25                   tures for such fiscal years for providing

1                   medical assistance under title XIX to individuals who have not attained age 19 and  
2                   whose family income exceeds 150 percent  
3                   of the poverty line.

5                   “(iii) NO IMPACT ON DETERMINATION  
6                   OF BUDGET NEUTRALITY FOR WAIVERS.—  
7                   In the case of a qualifying State that uses  
8                   amounts paid under this subsection for ex-  
9                   penditures described in clause (ii) that are  
10                  incurred under a waiver approved for the  
11                  State, any budget neutrality determina-  
12                  tions with respect to such waiver shall be  
13                  determined without regard to such  
14                  amounts paid.

15                  “(2) QUALIFYING STATE.—In this subsection,  
16                  the term ‘qualifying State’ means a State that—

17                  “(A) as of April 15, 1997, has an income  
18                  eligibility standard with respect to any 1 or  
19                  more categories of children (other than infants)  
20                  who are eligible for medical assistance under  
21                  section 1902(a)(10)(A) or under a waiver under  
22                  section 1115 implemented on January 1, 1994,  
23                  that is up to 185 percent of the poverty line or  
24                  above; and

1                   “(B) satisfies the requirements described  
2                   in paragraph (3).

3                   “(3) REQUIREMENTS.—The requirements de-  
4                   scribed in this paragraph are the following:

5                   “(A) SCHIP INCOME ELIGIBILITY.—The  
6                   State has a State child health plan that (whether  
7                   implemented under title XIX or this title)—

8                   “(i) as of January 1, 2001, has an in-  
9                   come eligibility standard that is at least  
10                   200 percent of the poverty line or has an  
11                   income eligibility standard that exceeds  
12                   200 percent of the poverty line under a  
13                   waiver under section 1115 that is based on  
14                   a child’s lack of health insurance;

15                   “(ii) subject to subparagraph (B),  
16                   does not limit the acceptance of applica-  
17                   tions for children; and

18                   “(iii) provides benefits to all children  
19                   in the State who apply for and meet eligi-  
20                   bility standards on a statewide basis.

21                   “(B) NO WAITING LIST IMPOSED.—With  
22                   respect to children whose family income is at or  
23                   below 200 percent of the poverty line, the State  
24                   does not impose any numerical limitation, wait-  
25                   ing list, or similar limitation on the eligibility of

1           such children for child health assistance under  
2           such State plan.

3           “(C) ADDITIONAL REQUIREMENTS.—The  
4           State has implemented at least 3 of the fol-  
5           lowing policies and procedures (relating to cov-  
6           erage of children under title XIX and this title):

7           “(i) UNIFORM, SIMPLIFIED APPLICA-  
8           TION FORM.—With respect to children who  
9           are eligible for medical assistance under  
10           section 1902(a)(10)(A), the State uses the  
11           same uniform, simplified application form  
12           (including, if applicable, permitting appli-  
13           cation other than in person) for purposes  
14           of establishing eligibility for benefits under  
15           title XIX and this title.

16           “(ii) ELIMINATION OF ASSET TEST.—  
17           The State does not apply any asset test for  
18           eligibility under section 1902(l) or this title  
19           with respect to children.

20           “(iii) ADOPTION OF 12-MONTH CON-  
21           TINUOUS ENROLLMENT.—The State pro-  
22           vides that eligibility shall not be regularly  
23           redetermined more often than once every  
24           year under this title or for children de-  
25           scribed in section 1902(a)(10)(A).

1                             “(iv) SAME VERIFICATION AND REDE-  
2                             TERMINATION POLICIES; AUTOMATIC REAS-  
3                             SESSMENT OF ELIGIBILITY.—With respect  
4                             to children who are eligible for medical as-  
5                             sistance under section 1902(a)(10)(A), the  
6                             State provides for initial eligibility deter-  
7                             minations and redeterminations of eligi-  
8                             bility using the same verification policies  
9                             (including with respect to face-to-face  
10                            interviews), forms, and frequency as the  
11                            State uses for such purposes under this  
12                            title, and, as part of such redetermina-  
13                            tions, provides for the automatic reassess-  
14                            ment of the eligibility of such children for  
15                            assistance under title XIX and this title.

16                             “(v) OUTSTATIONING ENROLLMENT  
17                             STAFF.—The State provides for the receipt  
18                             and initial processing of applications for  
19                             benefits under this title and for children  
20                             under title XIX at facilities defined as dis-  
21                             proportionate share hospitals under section  
22                             1923(a)(1)(A) and Federally-qualified  
23                             health centers described in section  
24                             1905(l)(2)(B) consistent with section  
25                             1902(a)(55).”.

1       (e) EFFECTIVE DATE.—Subsections (a) through (c),  
2 and the amendments made by such subsections, shall be  
3 effective as if this section had been enacted on September  
4 30, 2002, and amounts under title XXI of the Social Secu-  
5 rity Act (42 U.S.C. 1397aa et seq.) from allotments for  
6 fiscal years 1998 through 2000 are available for expendi-  
7 ture on and after October 1, 2002, under the amendments  
8 made by such subsections as if this section had been en-  
9 acted on September 30, 2002.

10 **SEC. 205. FEDERAL RESPONSIBILITY FOR EMERGENCY**

11                   **CARE FOR ILLEGAL IMMIGRANTS.**

12       (a) IN GENERAL.—Section 1903(a)(3) of the Social  
13 Security Act (42 U.S.C. 1396b(a)(3)) is amended—

14                   (1) in subparagraph (D), by striking “plus” at  
15 the end and inserting “and”; and

16                   (2) by adding at the end the following:

17                   “(E) 100 percent of the sums expended  
18 with respect to costs incurred during such quar-  
19 ter as are attributable to the provision of care  
20 and services that are furnished to an alien de-  
21 scribed in subsection (v)(1) that are necessary  
22 for the treatment of an emergency medical con-  
23 dition, as defined in subsection (v)(3); and”.

24       (b) EFFECTIVE DATE.—The amendment made by  
25 subsection (a) shall take effect on July 1, 2003.

1 **SEC. 206. INCREASED FEDERAL RESPONSIBILITY FOR**  
2 **TRANSLATION SERVICES.**

3 (a) IN GENERAL.—Section 1903(a)(3) of the Social  
4 Security Act (42 U.S.C. 1396b(a)(3)), as amended by sec-  
5 tion 205(a), is amended by adding at the end the fol-  
6 lowing:

7 “(F) 90 percent of the sums expended with  
8 respect to costs incurred during such quarter as  
9 are attributable to the provision of language  
10 services, including oral interpretation, trans-  
11 lations of written materials, and other language  
12 services, for individuals with limited English  
13 proficiency who apply for, or receive, medical  
14 assistance under the State plan; and”.

15 (b) SCHIP.—Section 2105(A)(1) of the Social Secu-  
16 rity Act (42 U.S.C.1397ee(a)(1)) is amended—

17 (1) in the matter preceding subparagraph (A),  
18 by striking “section 1905(b)” and inserting “sec-  
19 tion 1905(b)) or, in the case of expenditures de-  
20 scribed in subparagraph (D)(iv), 90 percent”; and

21 (2) in subparagraph (D)—

22 (A) in clause (iii), by striking “and” at the  
23 end;

24 (B) by redesignating clause (iv) as clause  
25 (v); and

(C) by inserting after clause (iii) the following:

3                             “(D) for expenditures attributable to the  
4 provision of language services, including oral in-  
5 terpretation, translations of written materials,  
6 and other language services, for individuals  
7 with limited English proficiency who apply for,  
8 or receive, child health assistance under the  
9 plan; and”.

10 (c) EFFECTIVE DATE.—The amendments made by  
11 this section shall take effect on July 1, 2003.

12 SEC. 207. INCREASED FEDERAL MATCHING RATES FOR  
13 CERTAIN SERVICES.

14 (a) OUTSTATIONED WORKERS.—Section 1903(a)(3)  
15 of the Social Security Act (42 U.S.C. 1396b(a)(3)), as  
16 amended by sections 205(a) and 206(a), is amended by  
17 adding at the end the following:

18                     “(G) 90 percent of the sums expended with  
19 respect to costs incurred during such quarter as  
20 are attributable to providing for the receipt and  
21 initial processing of applications of children and  
22 pregnant women for medical assistance con-  
23 sistent with the requirements of section  
24 1902(a)(55); plus”.

1       (b) 100 PERCENT MATCHING RATE FOR URBAN IN-  
2 DIAN HEALTH SERVICES.—The third sentence of section  
3 1905(b) of the Social Security Act (42 U.S.C. 1396d(b))  
4 is amended—

5           (1) by inserting “or program” after “facility”;  
6           (2) by striking “or by” and inserting “, by”;

7       and

8           (3) by inserting “, or by an urban Indian orga-  
9 nization pursuant to a grant or contract with the In-  
10 dian Health Service under title V of the Indian  
11 Health Care Improvement Act” before the period.

12       (c) EFFECTIVE DATE.—The amendments made by  
13 this section shall take effect on July 1, 2003.

14 **TITLE           III—STRENGTHENING**  
15 **STATE AND FEDERAL COM-**  
16 **MITMENT TO THE ELDERLY**  
17 **AND PERSONS WITH DISABIL-**  
18 **ITIES; FAMILY OPPORTUNITY**  
19 **ACT**

20 **Subtitle A—Elderly and Persons**  
21 **With Disabilities**

22 **SEC. 301. FULL ACCOUNTING OF SAVINGS IN DETERMINING**  
23 **COST-EFFECTIVENESS.**

24       (a) IN GENERAL.—Section 1915(c)(2)(D) of the So-  
25 cial Security Act (42 U.S.C. 1396n(c)(2)(D)) is amended

1 by inserting “(reduced by average per capita reductions  
2 in spending under other Federal mandatory spending pro-  
3 grams resulting from operation of the waiver)” after “with  
4 respect to such individuals”.

5 (b) EFFECTIVE DATE.—The amendment made by  
6 subsection shall take effect on the date of the enactment  
7 of this Act.

8 **SEC. 302. EXTENSION OF MEDICAID COVERAGE UNDER THE**  
9 **TICKET TO WORK PROGRAM TO COVER**  
10 **SPOUSES.**

11 (a) IN GENERAL.—Section 1902(a)(10)(A)(ii) of the  
12 Social Security Act (42 U.S.C. 1396a(a)(10)(A)(ii)) is  
13 amended—

14 (1) in clause (i)(II), by inserting before the  
15 comma at the end the following: “, and at the option  
16 of a State, any individual who is the spouse of such  
17 an individual”;

18 (2) in clause (ii)(XIII), by inserting before the  
19 semicolon at the end the following: “, and at the op-  
20 tion of a State, any individual who is the spouse of  
21 such an individual”;

22 (3) in subclause (XV), by inserting before the  
23 semicolon at the end the following: “, and at the op-  
24 tion of a State, any individual who is the spouse of  
25 such an individual”; and

5 (b) CONFORMING AMENDMENT.—Section  
6 1905(a)(xii) of such Act (42 U.S.C. 1396d(a)(xii)) is  
7 amended by inserting “and spouses described in clauses  
8 (i)(II), (ii)(XIII), (ii)(XV), and (ii)(XVI) of section  
9 1902(a)(10)(A)” after “subsection (v)).”.

10 (c) EFFECTIVE DATE.—The amendments made by  
11 this section take effect on October 1, 2003, whether or  
12 not regulations implementing such amendments have been  
13 issued.

14 SEC. 303. ENCOURAGING TRANSITION TO HOME AND COM-  
15 MUNITY CARE.

16 (a) IN GENERAL.—Section 1905(b) of the Social Se-  
17 curity Act (42 U.S.C. 1396d(b)), as amended by section  
18 101(a), is amended—

19 (1) by striking “and” before “(5)”; and

20 (2) by inserting before the period the following:

21 “, and (6) the Federal medical assistance percentage  
22 shall be equal to the enhanced FMAP described in  
23 section 2105(b) with respect to medical assistance  
24 provided under a waiver under section 1915(c)”.  
25

1       (b) CONFORMING AMENDMENT.—Section 1915(c) of  
2 such Act (42 U.S.C. 1396n(c)) is amended by adding at  
3 the end the following new paragraph:

4       “(11) For purposes of determining the amount of ex-  
5 penditures under this section or a State plan for purposes  
6 of applying any test of cost-effectiveness or similar test  
7 in carrying out this subsection, the provisions of section  
8 1905(b)(6) shall not be taken into account.”.

9       (c) EFFECTIVE DATE.—The amendments made by  
10 this section shall apply to medical assistance for items and  
11 services furnished on or after July 1, 2003, regardless of  
12 whether the waiver under which such assistance is pro-  
13 vided was approved before, on, or after the date of the  
14 enactment of this Act.

15 **SEC. 304. ENHANCED MATCHING RATE FOR DISABLED INDIVI-**

16 **VIDUALS AWAITING MEDICARE ELIGIBILITY.**

17       (a) IN GENERAL.—Section 1905(b) of the Social Se-  
18 curity Act (42 U.S.C. 1396d(b)), as amended by sections  
19 101(a) and 303(a), is amended—

20               (1) by striking “and” before “(6)”; and

21               (2) by inserting before the period the following:

22               “, and (7) the Federal medical assistance percentage  
23 shall be equal to 100 percent with respect to medical  
24 assistance provided to individuals who are not enti-  
25 tled to benefits under part A of title XVIII pursuant

1 to section 226(b) but who would be entitled to such  
2 benefits pursuant to such section but for the appli-  
3 cation of a 24-month waiting period under such sec-  
4 tion”.

5 (b) EFFECTIVE DATE.—The amendments made by  
6 this section shall apply to medical assistance for items and  
7 services furnished on or after October 1, 2003.

8 **SEC. 305. PROVIDING INITIAL TERM OF 5 YEARS FOR SEC-  
9 TION 1915 WAIVERS.**

10 (a) IN GENERAL.—Subsections (d)(3) and (e)(3) of  
11 section 1915 of the Social Security Act (42 U.S.C. 1396n)  
12 are each amended by striking “3 years” and inserting “5  
13 years”.

14 (b) EFFECTIVE DATE.—The amendments made by  
15 subsection (a) shall apply to waivers granted on or after  
16 the date of the enactment of this Act.

17 **SEC. 306. OPTIONAL COVERAGE OF COMMUNITY-BASED AT-  
18 TENDANT SERVICES AND SUPPORTS UNDER  
19 THE MEDICAID PROGRAM.**

20 (a) OPTIONAL COVERAGE.—Section 1902(a)(10)(D)  
21 of the Social Security Act (42 U.S.C. 1396a(a)(10)(D))  
22 is amended—

23 (1) by inserting “(i)” after “(D)”;  
24 (2) by adding “and” after the semicolon; and

1 (3) by adding at the end the following new  
2 clause:

3                   “(ii) at the option of the State and subject  
4                   to section 1935, for the inclusion of community-  
5                   based attendant services and supports for any  
6                   individual who—

19 insofar as such services are appropriate for the  
20 individual's condition according to the individ-  
21 ual's plan of care;”.

22 (b) COMMUNITY-BASED ATTENDANT SERVICES AND  
23 SUPPORTS OPTION.—

24 (1) IN GENERAL.—Title XIX of the Social Se-  
25 curity Act (42 U.S.C. 1396 et seq.) is amended—

1 (A) by redesignating section 1935 as sec-  
2 tion 1936; and

3 (B) by inserting after section 1934 the fol-  
4 lowing:

## 5 "COMMUNITY-BASED ATTENDANT SERVICES AND 6 SUPPORTS

7        "SEC. 1935. (a) COVERAGE.—

8                 “(1) IN GENERAL.—A State may provide  
9                 through a plan amendment for the inclusion of com-  
10                 munity-based attendant services and supports (as  
11                 defined in subsection (g)(1)) for individuals de-  
12                 scribed in section 1902(a)(10)(D)(ii) in accordance  
13                 with this section.

14                         “(2) ENHANCED FMAP FOR COVERAGE.—Not-  
15                         withstanding section 1905(b), in the case of a State  
16                         with an approved plan amendment under this section  
17                         during that period that also satisfies the require-  
18                         ments of subsection (c) the Federal medical assist-  
19                         ance percentage shall be equal to the enhanced  
20                         FMAP described in section 2105(b) with respect to  
21                         medical assistance in the form of community-based  
22                         attendant services and supports provided to individ-  
23                         uals described in section 1902(a)(10)(D)(ii) in ac-  
24                         cordance with this section.

25           “(b) DEVELOPMENT AND IMPLEMENTATION OF BEN-  
26   EFIT.—In order for a State plan amendment to be ap-

1 proved under this section, a State shall develop and imple-  
2 ment the proposal through a public process which includes  
3 individuals with disabilities, elderly individuals, their rep-  
4 resentatives, and providers, and include in that proposed  
5 plan amendment—

6           “(1) a State process to notify and inform indi-  
7 viduals (including individuals who live in nursing fa-  
8 cilities, individuals who live in intermediate care fa-  
9 cilities for the mentally retarded, and individuals  
10 who live in the community and who have an unmet  
11 need for such services) of the availability of such  
12 services and supports under the this title, and of  
13 other items and services that may be provided to the  
14 individual under this title or title XVIII; and

15           “(2) a quality assurance program that will  
16 maximize consumer independence and consumer con-  
17 trol and will—

18           “(A) train consumers to appropriately  
19 manage their own attendant;

20           “(B) provide a quality review process; and

21           “(C) provide for investigation and resolu-  
22 tion of allegations of neglect, abuse, or exploi-  
23 tation in connection with the provision of such  
24 services and supports.

1       “(c) NO EFFECT ON ABILITY TO PROVIDE COV-  
2 ERAGE UNDER A WAIVER.—

3           “(1) IN GENERAL.—Nothing in this section  
4 shall be construed as affecting the ability of a State  
5 to provide coverage under the State plan for commu-  
6 nity-based attendant services and supports (or simi-  
7 lar coverage) under a waiver approved under section  
8 1915, section 1115, or otherwise.

9           “(2) ELIGIBILITY FOR ENHANCED MATCH.—In  
10 the case of a State that provides coverage for such  
11 services and supports under a waiver, the State shall  
12 not be eligible under section 1935 for the enhanced  
13 FMAP for the provision of such coverage under this  
14 unless the State submits a plan amendment to the  
15 Secretary that meets the requirements of this sec-  
16 tion.

17       “(d) DEFINITIONS.—In this title:

18           “(1) COMMUNITY-BASED ATTENDANT SERVICES  
19 AND SUPPORTS.—

20           “(A) IN GENERAL.—The term ‘community-  
21 based attendant services and supports’ may in-  
22 clude one or more of the following: attendant  
23 services and supports furnished to an indi-  
24 vidual, as needed, to assist in accomplishing ac-  
25 tivities of daily living, instrumental activities of

1        daily living, and health-related functions  
2        through hands-on assistance, supervision, or  
3        cueing—

4                “(i) under a plan of services and sup-  
5        ports that is based on an assessment of  
6        functional need and that is agreed to by  
7        the individual or, as appropriate, the indi-  
8        vidual’s representative;

9                “(ii) in a home or community setting,  
10      which may include a school, workplace, or  
11      recreation or religious facility, but does not  
12      include a nursing facility or an inter-  
13      mediate care facility for the mentally re-  
14      tarded;

15                “(iii) under an agency-provider model  
16      or other model (as defined in paragraph  
17      (2)(C)); and

18                “(iv) the furnishing of which is se-  
19      lected, managed, and dismissed by the in-  
20      dividual, or, as appropriate, with assistance  
21      from the individual’s representative.

22                “(B) INCLUDED SERVICES AND SUP-  
23      PORTS.—Such term may include one or more of  
24      the following:

1                     “(i) Tasks necessary to assist an individual in accomplishing activities of daily living, instrumental activities of daily living, and health-related functions.

5                     “(ii) The acquisition, maintenance, and enhancement of skills necessary for the individual to accomplish activities of daily living, instrumental activities of daily living, and health-related functions.

10                   “(iii) Backup systems or mechanisms (such as the use of beepers), as defined by the State according to the client’s needs, to ensure continuity of services and supports.

14                   “(iv) Voluntary training on how to select, manage, and dismiss attendants.

16                   “(C) EXCLUDED SERVICES AND SUPPORTS.—Subject to subparagraph (D), such term does not include—

19                   “(i) the provision of room and board for the individual;

21                   “(ii) special education and related services provided under the Individuals with Disabilities Education Act and vocational rehabilitation services provided under the Rehabilitation Act of 1973;

1                         “(iii) assistive technology devices and  
2                         assistive technology services;  
3                         “(iv) durable medical equipment; or  
4                         “(v) home modifications.

5                         “(D) FLEXIBILITY IN TRANSITION TO  
6                         COMMUNITY-BASED HOME SETTING.—Such  
7                         term may include expenditures for transitional  
8                         costs required for an individual to make the  
9                         transition from a nursing facility or inter-  
10                         mediate care facility for the mentally retarded  
11                         to a community-based home setting where the  
12                         individual resides.

13                         “(E) CLARIFICATION OF PERMITTING PAY-  
14                         MENT OF RELATIVES FOR PROVIDING SERVICES  
15                         AND SUPPORTS.—Nothing in this section shall  
16                         be construed as preventing community-based at-  
17                         tendant services and supports from being fur-  
18                         nished to an individual by others who are re-  
19                         lated to that individual and for such others  
20                         being paid for so furnishing such services and  
21                         supports.

22                         “(2) ADDITIONAL DEFINITIONS.—

23                         “(A) ACTIVITIES OF DAILY LIVING.—The  
24                         term ‘activities of daily living’ includes eating,

1 toileting, grooming, dressing, bathing, and  
2 transferring.

## 10 “(C) DELIVERY MODELS.—

1                   “(D) HEALTH-RELATED FUNCTIONS.—The  
2                   term ‘health-related functions’ means functions  
3                   that can be delegated or assigned by licensed  
4                   health-care professionals under State law to be  
5                   performed by an attendant.

6                   “(E) INSTRUMENTAL ACTIVITIES OF DAILY  
7                   LIVING.—The term ‘instrumental activities of  
8                   daily living’ includes meal planning and prepara-  
9                   tion, managing finances, shopping for food,  
10                   clothing, and other essential items, performing  
11                   essential household chores, communicating by  
12                   phone and other media, and other activities  
13                   needed to participate in the community, as ap-  
14                   propriate.

15                   “(F) INDIVIDUAL’S REPRESENTATIVE.—  
16                   The term ‘individual’s representative’ means a  
17                   parent, a family member, a guardian, an advo-  
18                   cate, or an authorized representative of an indi-  
19                   vidual.”.

20                   (c) INVESTIGATION BY STATE.—Section  
21                   1903(q)(4)(A)(i) of such Act (42 U.S.C.  
22                   1396b(q)(4)(A)(i)) is amended by inserting “and for in-  
23                   vestigation and resolution of allegations of neglect, abuse,  
24                   or exploitation in connection with the provision of commu-

1 nity-based attendant services and supports under section  
2 1935(b)(2)(C)” before the semicolon.

3 (d) EFFECTIVE DATE.—The amendments made by  
4 this section take effect on October 1, 2003, and apply to  
5 medical assistance provided for community-based attend-  
6 ant services and supports described in section 1935 of the  
7 Social Security Act furnished on or after that date.

## 8 **Subtitle B—Family Opportunity Act**

### 10 **SEC. 311. SHORT TITLE.**

11 This subtitle may be cited as the “Family Oppor-  
12 tunity Act of 2003” or the “Dylan Lee James Act”.

### 13 **SEC. 312. OPPORTUNITY FOR FAMILIES OF DISABLED CHIL- 14 DREN TO PURCHASE MEDICAID COVERAGE 15 FOR SUCH CHILDREN.**

16 (a) STATE OPTION TO ALLOW FAMILIES OF DIS-  
17 ABLED CHILDREN TO PURCHASE MEDICAID COVERAGE  
18 FOR SUCH CHILDREN.—

19 (1) IN GENERAL.—Section 1902 (42 U.S.C.  
20 1396a) is amended—

21 (A) in subsection (a)(10)(A)(ii)—  
22 (i) by striking “or” at the end of sub-  
23 clause (XVII);  
24 (ii) by adding “or” at the end of sub-  
25 clause (XVIII); and

1 (iii) by adding at the end the fol-  
2 lowing new subclause:

5 (B) by adding at the end the following new  
6 subsection:

7       “(cc)(1) Individuals described in this paragraph are  
8 individuals—

9           “(A) who have not attained 18 years of age;

10               “(B) who would be considered disabled under  
11               section 1614(a)(3)(C) (determined without regard to  
12               the reference to age in that section) but for having  
13               earnings or deemed income or resources (as deter-  
14               mined under title XVI for children) that exceed the  
15               requirements for receipt of supplemental security in-  
16               come benefits; and

17               “(C) whose family income does not exceed such  
18               income level as the State establishes and does not  
19               exceed—

1               “(ii) such higher percent of such poverty  
2               line as a State may establish, except that no  
3               Federal financial participation shall be provided  
4               under section 1903(a) for any medical assist-  
5               ance provided to an individual who would not be  
6               described in this subsection but for this  
7               clause.”.

8               (2) INTERACTION WITH EMPLOYER-SPONSORED  
9               FAMILY COVERAGE.—Section 1902(cc) (42 U.S.C.  
10               1396a(cc)), as added by paragraph (1), is amended  
11               by adding at the end the following new paragraph:  
12               “(2)(A) If an employer of a parent of an individual  
13               described in paragraph (1) offers family coverage under  
14               a group health plan (as defined in section 2791(a) of the  
15               Public Health Service Act), the State may—

16               “(i) require such parent to apply for, enroll in,  
17               and pay premiums for, such coverage as a condition  
18               of such parent’s child being or remaining eligible for  
19               medical assistance under subsection  
20               (a)(10)(A)(ii)(XIX) if the parent is determined eligi-  
21               ble for such coverage and the employer contributes  
22               at least 50 percent of the total cost of annual pre-  
23               miums for such coverage; and

24               “(ii) if such coverage is obtained—

1               “(I) subject to paragraph (2) of section  
2               1916(h), reduce the premium imposed by the  
3               State under that section (if any) in an amount  
4               that reasonably reflects the premium contribu-  
5               tion made by the parent for private coverage on  
6               behalf of a child with a disability; and

7               “(II) treat such coverage as a third party  
8               liability under subsection (a)(25).

9               “(B) In the case of a parent to which subparagraph  
10      (A) applies, if the family income of such parent does not  
11      exceed 300 percent of the income official poverty line (re-  
12      ferred to in paragraph (1)(C)(i)), a State may provide for  
13      payment of any portion of the annual premium for such  
14      family coverage that the parent is required to pay. Any  
15      payments made by the State under this subparagraph  
16      shall be considered, for purposes of section 1903(a), to  
17      be payments for medical assistance.”.

18               (b) STATE OPTION TO IMPOSE INCOME-RELATED  
19      PREMIUMS.—Section 1916 (42 U.S.C. 1396o) is amend-  
20      ed—

21               (1) in subsection (a), by striking “subsection  
22      (g)” and inserting “subsections (g) and (h)”; and  
23               (2) by adding at the end the following new sub-  
24      section:

1       “(h)(1) With respect to disabled children provided  
2 medical assistance under section 1902(a)(10)(A)(ii)(XIX),  
3 subject to paragraph (2), a State may (in a uniform man-  
4 ner for such children) require the families of such children  
5 to pay monthly premiums set on a sliding scale based on  
6 family income.

7       “(2) A premium requirement imposed under para-  
8 graph (1) may only apply to the extent that—

9           “(A) the aggregate amount of such premium  
10          and any premium that the parent is required to pay  
11          for family coverage under section 1902(cc)(2)(A)(i)  
12          does not exceed 5 percent of the family’s income;  
13          and

14           “(B) the requirement is imposed consistent with  
15          section 1902(cc)(2)(A)(ii)(I).

16       “(3) A State shall not require prepayment of a pre-  
17 mium imposed pursuant to paragraph (1) and shall not  
18 terminate eligibility of a child under section  
19 1902(a)(10)(A)(ii)(XIX) for medical assistance under this  
20 title on the basis of failure to pay any such premium until  
21 such failure continues for a period of not less than 60 days  
22 from the date on which the premium became past due.  
23 The State may waive payment of any such premium in  
24 any case where the State determines that requiring such  
25 payment would create an undue hardship.”.

1       (c) CONFORMING AMENDMENT.—Section 1903(f)(4)  
2 (42 U.S.C. 1396b(f)(4)) is amended in the matter pre-  
3 ceding subparagraph (A) by inserting  
4 “1902(a)(10)(A)(ii)(XIX),” after  
5 “1902(a)(10)(A)(ii)(XVIII),”.

6       (d) EFFECTIVE DATE.—The amendments made by  
7 this section shall apply to medical assistance for items and  
8 services furnished on or after January 1, 2004.

9 **SEC. 313. TREATMENT OF INPATIENT PSYCHIATRIC HOS-**  
10 **PITAL SERVICES FOR INDIVIDUALS UNDER**  
11 **AGE 21 IN HOME OR COMMUNITY-BASED**  
12 **SERVICES WAIVERS.**

13       (a) IN GENERAL.—Section 1915(c) (42 U.S.C.  
14 1396n(c)) is amended—

15           (1) in paragraph (1)—  
16              (A) in the first sentence, by inserting “, or  
17              inpatient psychiatric hospital services for indi-  
18              viduals under age 21,” after “intermediate care  
19              facility for the mentally retarded”; and

20              (B) in the second sentence, by inserting “,  
21              or inpatient psychiatric hospital services for in-  
22              dividuals under age 21” before the period;

23           (2) in paragraph (2)(B), by striking “or serv-  
24              ices in an intermediate care facility for the mentally  
25              retarded” each place it appears and inserting “,

1 services in an intermediate care facility for the men-  
2 tally retarded, or inpatient psychiatric hospital serv-  
3 ices for individuals under age 21”;

4 (3) by striking paragraph (2)(C) and inserting  
5 the following:

6 “(C) such individuals who are determined to be  
7 likely to require the level of care provided in a hos-  
8 pital, nursing facility, or intermediate care facility  
9 for the mentally retarded, or inpatient psychiatric  
10 hospital services for individuals under age 21, are  
11 informed of the feasible alternatives, if available  
12 under the waiver, at the choice of such individuals,  
13 to the provision of inpatient hospital services, nurs-  
14 ing facility services, services in an intermediate care  
15 facility for the mentally retarded, or inpatient psy-  
16 chiatric hospital services for individuals under age  
17 21;” and

18 (4) in paragraph (7)(A)—

19 (A) by inserting “, or inpatient psychiatric  
20 hospital services for individuals under age 21,”  
21 after “intermediate care facility for the men-  
22 tally retarded”; and

23 (B) by inserting “, or who would require  
24 inpatient psychiatric hospital services for indi-  
25 viduals under age 21” before the period.

1 (b) EFFECTIVE DATE.—The amendments made by  
2 subsection (a) apply with respect to medical assistance  
3 provided on or after January 1, 2003.

4 SEC. 314. DEMONSTRATION OF COVERAGE UNDER THE  
5 MEDICAID PROGRAM OF CHILDREN WITH PO-  
6 TENTIALLY SEVERE DISABILITIES.

7 (a) STATE APPLICATION.—A State may apply to the  
8 Secretary of Health and Human Services (in this section  
9 referred to as the “Secretary”) for approval of a dem-  
10 onstration project (in this section referred to as a “dem-  
11 onstration project”) under which up to a specified max-  
12 imum number of children with a potentially severe dis-  
13 ability (as defined in subsection (b)) are provided medical  
14 assistance under the State medicaid plan under title XIX  
15 of the Social Security Act (42 U.S.C. 1396 et seq.).

16 (b) CHILD WITH A POTENTIALLY SEVERE DIS-  
17 ABILITY DEFINED.—

22 (A) has not attained 21 years of age;

23 (B) has a physical or mental condition,  
24 disease, disorder (including a congenital birth  
25 defect or a metabolic condition), injury, or de-

1           velopmental disability that was incurred before  
2           the individual attained such age; and

3           (C) is reasonably expected, but for the re-  
4           ceipt of medical assistance under the State  
5           medicaid plan, to reach the level of disability  
6           defined under section 1614(a)(3) of the Social  
7           Security Act (42 U.S.C. 1382c(a)(3)), (deter-  
8           mined without regard to the reference to age in  
9           subparagraph (C) of that section).

10          (2) EXCEPTION.—Such term does not include  
11          an individual who would be considered disabled  
12          under section 1614(a)(3)(C) of the Social Security  
13          Act (42 U.S.C. 1382c(a)(3)(C)) (determined without  
14          regard to the reference to age in that section).

15          (c) APPROVAL OF DEMONSTRATION PROJECTS.—

16          (1) IN GENERAL.—Subject to paragraph (3),  
17          the Secretary shall approve applications under sub-  
18          section (a) that meet the requirements of paragraph  
19          (2) and such additional terms and conditions as the  
20          Secretary may require. The Secretary may waive the  
21          requirement of section 1902(a)(1) of the Social Se-  
22          curity Act (42 U.S.C. 1396a(a)(1)) to allow for sub-  
23          State demonstrations.

24          (2) TERMS AND CONDITIONS OF DEMONSTRA-  
25          TION PROJECTS.—The Secretary may not approve a

1 demonstration project under this section unless the  
2 State provides assurances satisfactory to the Sec-  
3 retary that the following conditions are or will be  
4 met:

5 (A) INDEPENDENT EVALUATION.—The  
6 State provides for an independent evaluation of  
7 the project to be conducted during fiscal year  
8 2006.

9 (B) CONSULTATION FOR DEVELOPMENT  
10 OF CRITERIA.—The State consults with appro-  
11 priate pediatric health professionals in estab-  
12 lishing the criteria for determining whether a  
13 child has a potentially severe disability.

14 (C) ANNUAL REPORT.—The State submits  
15 an annual report to the Secretary (in a uniform  
16 form and manner established by the Secretary)  
17 on the use of funds provided under the grant  
18 that includes the following:

19 (i) Enrollment and financial statistics  
20 on—

21 (I) the total number of children  
22 with a potentially severe disability en-  
23 rolled in the demonstration project,  
24 disaggregated by disability;

(II) the services provided by category or code and the cost of each service so categorized or coded; and

(III) the number of children enrolled in the demonstration project who also receive services through private insurance.

(ii) With respect to the report submitted for fiscal year 2006, the results of the independent evaluation conducted under subparagraph (A).

(iii) Such additional information as the Secretary may require.

### (3) LIMITATIONS ON FEDERAL FUNDING.—

(A) APPROPRIATION.—

(i) IN GENERAL.—Out of any funds in the Treasury not otherwise appropriated, there is appropriated to carry out this section—

(I) \$16,666,000 for each of fiscal years 2002 and 2003; and

(II) \$16,667,000 for each of fiscal years 2004 through 2007.

(ii) BUDGET AUTHORITY.—Clause (i) constitutes budget authority in advance of

1 appropriations Acts and represents the ob-  
2 ligation of the Federal Government to pro-  
3 vide for the payment of the amounts ap-  
4 propriated under clause (i).

5 (B) LIMITATION ON PAYMENTS.—In no  
6 case may—

7 (i) the aggregate amount of payments  
8 made by the Secretary to States under this  
9 section exceed \$100,000,000;

10 (ii) the aggregate amount of payments  
11 made by the Secretary to States for ad-  
12 ministrative expenses relating to the eval-  
13 uations and annual reports required under  
14 subparagraphs (A) and (C) of paragraph  
15 (2) exceed \$2,000,000 of such  
16 \$100,000,000; or

17 (iii) payments be provided by the Sec-  
18 retary for a fiscal year after fiscal year  
19 2010.

20 (C) FUNDS ALLOCATED TO STATES.—

21 (i) IN GENERAL.—The Secretary shall  
22 allocate funds to States based on their ap-  
23 plications and the availability of funds. In  
24 making such allocations, the Secretary  
25 shall ensure an equitable distribution of

1 funds among States with large populations  
2 and States with small populations.

7 (D) FUNDS NOT ALLOCATED TO STATES.—

13 (E) PAYMENTS TO STATES.—The Sec-  
14 retary shall pay to each State with a dem-  
15 onstration project approved under this section,  
16 from its allocation under subparagraph (C), an  
17 amount for each quarter equal to the Federal  
18 medical assistance percentage (as defined in  
19 section 1905(b) of the Social Security Act (42  
20 U.S.C. 1395d(b))) of expenditures in the quar-  
21 ter for medical assistance provided to children  
22 with a potentially severe disability.

23 (d) RECOMMENDATION.—Not later than October 1,  
24 2005, the Secretary shall submit a recommendation to the  
25 Committee on Commerce of the House of Representatives

1 and the Committee on Finance of the Senate regarding  
2 whether the demonstration project established under this  
3 section should be continued after fiscal year 2007.

4 (e) STATE DEFINED.—In this section, the term  
5 “State” has the meaning given such term for purposes of  
6 title XIX of the Social Security Act (42 U.S.C. 1396 et  
7 seq.).

8 **SEC. 315. DEVELOPMENT AND SUPPORT OF FAMILY-TO-  
9 FAMILY HEALTH INFORMATION CENTERS.**

10 Section 501 (42 U.S.C. 701) is amended by adding  
11 at the end the following new subsection:

12 “(c)(1) In addition to amounts appropriated under  
13 subsection (a) and retained under section 502(a)(1) for  
14 the purpose of carrying out activities described in sub-  
15 section (a)(2), there is appropriated to the Secretary, out  
16 of any money in the Treasury not otherwise appropriated,  
17 for the purpose of enabling the Secretary (through grants,  
18 contracts, or otherwise) to provide for special projects of  
19 regional and national significance for the development and  
20 support of family-to-family health information centers de-  
21 scribed in paragraph (2), \$10,000,000 for each of fiscal  
22 years 2002 through 2007. Funds appropriated under this  
23 paragraph shall remain available until expended.

24 “(2) The family-to-family health information centers  
25 described in this paragraph are centers that—

- 1               “(A) assist families of children with disabilities
- 2               or special health care needs to make informed
- 3               choices about health care in order to promote good
- 4               treatment decisions, cost-effectiveness, and improved
- 5               health outcomes for such children;
- 6               “(B) provide information regarding the health
- 7               care needs of, and resources available for, children
- 8               with disabilities or special health care needs;
- 9               “(C) identify successful health delivery models
- 10               for such children;
- 11               “(D) develop with representatives of health care
- 12               providers, managed care organizations, health care
- 13               purchasers, and appropriate State agencies a model
- 14               for collaboration between families of such children
- 15               and health professionals;
- 16               “(E) provide training and guidance regarding
- 17               caring for such children;
- 18               “(F) conduct outreach activities to the families
- 19               of such children, health professionals, schools, and
- 20               other appropriate entities and individuals; and
- 21               “(G) are staffed by families of children with
- 22               disabilities or special health care needs who have ex-
- 23               pertise in Federal and State public and private
- 24               health care systems and health professionals.

1       “(3) The provisions of this title that are applicable  
2 to the funds made available to the Secretary under section  
3 502(a)(1) apply in the same manner to funds made avail-  
4 able to the Secretary under paragraph (1).”.

5 **SEC. 316. RESTORATION OF MEDICAID ELIGIBILITY FOR**  
6 **CERTAIN SSI BENEFICIARIES.**

7       (a) IN GENERAL.—Section 1902(a)(10)(A)(i)(II) (42  
8 U.S.C. 1396a(a)(10)(A)(i)(II)) is amended—

9               (1) by inserting “(aa)” after “(II)”;  
10              (2) by striking “or who are” and inserting “,  
11              (bb) who are”; and

12              (3) by inserting before the comma at the end  
13 the following: “, or (cc) who are under 21 years of  
14 age and with respect to whom supplemental security  
15 income benefits would be paid under title XVI if  
16 subparagraphs (A) and (B) of section 1611(c)(7)  
17 were applied without regard to the phrase ‘the first  
18 day of the month following’”.

19       (b) EFFECTIVE DATE.—The amendments made by  
20 subsection (a) shall apply to medical assistance for items  
21 and services furnished on or after the first day of the first  
22 calendar quarter that begins after the date of enactment  
23 of this Act.

1 **TITLE IV—FACILITATING PRO-**  
2 **GRAM ADMINISTRATION AND**  
3 **PRESERVING COVERAGE**

4 **SEC. 401. ALLOWING UNIFORM COVERAGE OF ALL LOW IN-**  
5 **COME AMERICANS.**

6 (a) IN GENERAL.—Section 1902(a)(10)(A)(ii) of the  
7 Social Security Act (42 U.S.C. 1396a(a)(10)(A)(ii)) is  
8 amended—

9 (1) by striking “or” at the end of subclause  
10 (XVII);

11 (2) by adding “or” at the end of subclause  
12 (XVIII); and

13 (3) by adding at the end the following new sub-  
14 clause:

15 “(XIX) any individual age 21  
16 through 64 whose family income does  
17 not exceed 200 percent of the income  
18 official poverty line (as defined by the  
19 Office of Management and Budget,  
20 and revised annually in accordance  
21 with section 673(2) of the Omnibus  
22 Budget Reconciliation Act of 1981)  
23 applicable to a family of the size in-  
24 volved;”.

25 (b) CONFORMING AMENDMENTS.—

4 (A) by striking “or” at the end of clause  
5 (xii);

6 (B) by adding “or” at the end of clause  
7 (xiii); and

8 (C) by inserting after clause (xiii) the fol-  
9 lowing new clause:

10               “(xii) individuals described in section  
11               1902(a)(10)(A)(ii)(XIX),”.

16 (c) EFFECTIVE DATE.—The amendments made by  
17 this section shall take effect on October 1, 2003.

## 18 SEC. 402. FACILITATING COVERAGE OF FAMILIES.

19 (a) IN GENERAL.—Section 1905(b) of the Social Se-  
20 curity Act (42 U.S.C. 1396d(b)), as amended by sections  
21 101(a), 303(a), and 304(a), is amended—

22 (1) by striking “and” before “(7)”; and

23 (2) by inserting before the period the following:  
24 “, and (8) the Federal medical assistance percentage  
25 shall be equal to the enhanced FMAP described in

1 section 2105(b) with respect to medical assistance  
2 provided for individuals who are covered under sec-  
3 tion 1925 or section 1931 by virtue of being a par-  
4 ent or other caretaker relative (as defined for pur-  
5 poses of such section) of a child and whose income  
6 does not exceed the percentage of the income official  
7 poverty line applicable under section 1902(l)(2)(C)  
8 to children who are eligible for medical assistance  
9 under section 1902(l)(1)(D)’’.

10 (b) CONSTRUCTION.—Nothing in section 1905(b)(8)  
11 of the Social Security Act, as added by subsection (a)(2),  
12 shall be construed as preventing a State from providing  
13 medicaid benefits for individuals whose income exceeds  
14 100 percent of the Federal poverty line at the regular  
15 FMAP.

16 (c) EFFECTIVE DATE.—The amendments made by  
17 this section shall apply to medical assistance for items and  
18 services furnished on or after July 1, 2003.

19 SEC. 403. ASSISTANCE WITH COVERAGE OF LEGAL IMMIGRANTS  
20 GRANTS UNDER THE MEDICAID PROGRAM  
21 AND SCHIP.

22 (a) MEDICAID PROGRAM.—Section 1903(v) of the  
23 Social Security Act (42 U.S.C. 1396b(v)) is amended—  
24 (1) in paragraph (1), by striking “paragraph  
25 (2)” and inserting “paragraphs (2) and (4)”; and

1 (2) by adding at the end the following new  
2 paragraph:

3       “(4)(A) A State may elect (in a plan amendment  
4 under this title) to provide medical assistance under this  
5 title, notwithstanding sections 401(a), 402(b), 403, and  
6 421 of the Personal Responsibility and Work Opportunity  
7 Reconciliation Act of 1996, for aliens who are lawfully re-  
8 siding in the United States (including battered aliens de-  
9 scribed in section 431(c) of such Act) and who are other-  
10 wise eligible for such assistance, within either or both of  
11 the following eligibility categories:

12                   “(i) PREGNANT WOMEN.—Women during preg-  
13                   nancy (and during the 60-day period beginning on  
14                   the last day of the pregnancy).

15                   “(ii) CHILDREN.—Children (as defined under  
16                   such plan), including optional targeted low-income  
17                   children described in section 1905(u)(2)(B).

18        "(B) In the case of a State that has elected to provide  
19 medical assistance to a category of aliens under subparagraph  
20 graph (A), no debt shall accrue under an affidavit of sup-  
21 port against any sponsor of such an alien on the basis  
22 of provision of assistance to such category and the cost  
23 of such assistance shall not be considered as an unreim-  
24 bursed cost.".

1       (b) SCHIP.—Section 2107(e)(1) of such Act (42  
2 U.S.C. 1397gg(e)(1)) is amended by redesignating sub-  
3 paragraphs (C) and (D) as subparagraph (D) and (E),  
4 respectively, and by inserting after subparagraph (B) the  
5 following new subparagraph:

6               “(C) Section 1903(v)(4) (relating to op-  
7 tional coverage of categories of permanent resi-  
8 dent alien children), but only if the State has  
9 elected to apply such section to the category of  
10 children under title XIX.”.

11       (c) EFFECTIVE DATE.—The amendments made by  
12 this section take effect on October 1, 2003, and apply to  
13 medical assistance and child health assistance furnished  
14 on or after such date.

**15 SEC. 404. FLEXIBILITY IN ELIGIBILITY DETERMINATIONS.**

16       (a) IN GENERAL.—Section 1902(e) of the Social Se-  
17 curity Act (42 U.S.C. 1396a(e)) is amended by adding at  
18 the end the following:

19               “(13)(A) Subject to the requirements of this para-  
20 graph, at the option of the State, the plan may provide  
21 that financial eligibility requirements for medical assist-  
22 ance are met for an individual under 19 years of age (or  
23 such higher age as determined by the State) by using a  
24 determination (made within a reasonable period, as found  
25 by the State, before its use for this purpose) of the individ-

1 ual's family or household income and resources, notwithstanding  
2 any differences in budget unit, disregards, deem-  
3 ing, or other methodology, by a Federal or State agency  
4 (or a public or private entity making such determination  
5 on behalf of such agency) specified by the plan, provided  
6 that such agency has fiscal liabilities or responsibilities af-  
7 fected or potentially affected by such determinations, pro-  
8 vided that all information furnished by such agency pursu-  
9 ant to this subparagraph is used solely for purposes of  
10 determining eligibility for medical assistance under the  
11 State plan approved under this title or for child health  
12 assistance under a State plan approved under title XXI.

13       “(B) Any State electing the option under subpara-  
14 graph (A) shall—

15           “(i) ensure that if an individual is determined  
16 under such subparagraph to be not eligible for medical  
17 assistance under the State plan approved under  
18 this title or for child health assistance under a State  
19 plan under title XXI, the State must subsequently  
20 determine if such individual is eligible for such as-  
21 sistance using the methodology that would otherwise  
22 be applicable in determining eligibility for such an  
23 individual; and

24           “(ii) ensure that any information furnished by  
25 an agency specified in such subparagraph shall be

1 furnished with reasonable promptness to the agency  
2 determining eligibility for medical assistance under  
3 the State plan approved under this title or for child  
4 health assistance under a State plan approved under  
5 Title XXI.

6 "(C) Nothing in subparagraph (A) shall be construed  
7 to restrict the ability of an individual under 19 years of  
8 age (or such higher age as specified by the State) to apply  
9 for medical assistance under a State plan approved under  
10 this title or for child health assistance under a State plan  
11 approved under title XXI under the methodology that  
12 would otherwise be applicable in determining eligibility for  
13 such an individual.”.

14 (b) EFFECTIVE DATE.—The amendment made by  
15 subsection (a) takes effect on October 1, 2003.

○