

108TH CONGRESS
1ST SESSION

H. R. 3189

To amend title XVIII of the Social Security Act and the Employee Retirement Income Security Act of 1974 to improve access to health insurance and Medicare benefits for individuals ages 55 to 65 to be fully funded through premiums and anti-fraud provisions, to amend title XIX of the Social Security Act to provide financial assistance for those individuals who are too poor to afford the premiums, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 25, 2003

Mr. PALLONE introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on Energy and Commerce, and Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend title XVIII of the Social Security Act and the Employee Retirement Income Security Act of 1974 to improve access to health insurance and Medicare benefits for individuals ages 55 to 65 to be fully funded through premiums and anti-fraud provisions, to amend title XIX of the Social Security Act to provide financial assistance for those individuals who are too poor to afford the premiums, 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 “Early Medicare Access and Affordability Act of 2003”.

4 (b) **TABLE OF CONTENTS.**—

Sec. 1. Short title; table of contents.

**TITLE I—ACCESS TO MEDICARE BENEFITS FOR INDIVIDUALS 62
TO 65 YEARS OF AGE**

Sec. 101. Access to Medicare benefits for individuals 62 to 65 years of age.

**“PART D—PURCHASE OF MEDICARE BENEFITS BY CERTAIN INDIVIDUALS
AGE 62 TO 65 YEARS OF AGE**

“Sec. 1859. Program benefits; eligibility.

“Sec. 1859A. Enrollment process; coverage.

“Sec. 1859B. Premiums.

“Sec. 1859C. Payment of premiums.

“Sec. 1859D. Medicare Early Access Trust Fund.

“Sec. 1859E. Oversight and accountability.

“Sec. 1859F. Administration and miscellaneous.

**TITLE II—ACCESS TO MEDICARE BENEFITS FOR DISPLACED
WORKERS 55 TO 62 YEARS OF AGE**

Sec. 201. Access to Medicare benefits for displaced workers 55 to 62 years of
age.

TITLE III—COBRA PROTECTION FOR EARLY RETIREES

Subtitle A—Amendments to the Employee Retirement Income Security Act of
1974

Sec. 301. COBRA continuation benefits for certain retired workers who lose re-
tiree health coverage.

Subtitle B—Amendments to the Public Health Service Act

Sec. 311. COBRA continuation benefits for certain retired workers who lose re-
tiree health coverage.

Subtitle C—Amendments to the Internal Revenue Code of 1986

Sec. 321. COBRA continuation benefits for certain retired workers who lose re-
tiree health coverage.

TITLE IV—FINANCING

Sec. 401. Reference to financing provisions.

TITLE V—PROVISION OF PREMIUM ASSISTANCE FOR LOW-INCOME INDIVIDUALS PURCHASING EARLY COVERAGE UNDER THE MEDICARE PROGRAM

Sec. 501. Provision of premium assistance for low-income individuals purchasing early coverage under the Medicare program.

1 **TITLE I—ACCESS TO MEDICARE**
 2 **BENEFITS FOR INDIVIDUALS**
 3 **62 TO 65 YEARS OF AGE**

4 **SEC. 101. ACCESS TO MEDICARE BENEFITS FOR INDIVID-**
 5 **UALS 62 TO 65 YEARS OF AGE.**

6 (a) IN GENERAL.—Title XVIII of the Social Security
 7 Act (42 U.S.C. 1395 et seq.) is amended—

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

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

12 “PART D—PURCHASE OF MEDICARE BENEFITS BY
 13 CERTAIN INDIVIDUALS AGE 62 TO 65 YEARS OF AGE
 14 **“SEC. 1859. PROGRAM BENEFITS; ELIGIBILITY.**

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

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

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

1 “(A) FEDERAL OR STATE COBRA CONTINU-
2 ATION PROVISION.—The term ‘Federal or State
3 COBRA continuation provision’ has the mean-
4 ing given the term ‘COBRA continuation provi-
5 sion’ in section 2791(d)(4) of the Public Health
6 Service Act and includes a comparable State
7 program, as determined by the Secretary.

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

11 “(i) MEDICARE.—Part A or part B of
12 this title (other than by reason of this
13 part).

14 “(ii) MEDICAID.—A State plan under
15 title XIX.

16 “(iii) FEHBP.—The Federal employ-
17 ees health benefit program under chapter
18 89 of title 5, United States Code.

19 “(iv) TRICARE.—The TRICARE
20 program (as defined in section 1072(7) of
21 title 10, United States Code).

22 “(v) ACTIVE DUTY MILITARY.—Health
23 benefits under title 10, United States
24 Code, to an individual as a member of the
25 uniformed services of the United States.

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

5 “(b) ELIGIBILITY OF INDIVIDUALS AGE 62 TO 65
6 YEARS OF AGE.—

7 “(1) IN GENERAL.—Subject to paragraph (2),
8 an individual who meets the following requirements
9 with respect to a month is eligible to enroll under
10 this part with respect to such month:

11 “(A) AGE.—As of the last day of the
12 month, the individual has attained 62 years of
13 age, but has not attained 65 years of age.

14 “(B) MEDICARE ELIGIBILITY (BUT FOR
15 AGE).—The individual would be eligible for ben-
16 efits under part A or part B for the month if
17 the individual were 65 years of age.

18 “(C) NOT ELIGIBLE FOR COVERAGE
19 UNDER GROUP HEALTH PLANS OR FEDERAL
20 HEALTH INSURANCE PROGRAMS.—The indi-
21 vidual is not eligible for benefits or coverage
22 under a Federal health insurance program (as
23 defined in subsection (a)(2)(B)) or under a
24 group health plan (other than such eligibility
25 merely through a Federal or State COBRA con-

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

3 “(2) LIMITATION ON ELIGIBILITY IF TERMI-
4 NATED ENROLLMENT.—If an individual described in
5 paragraph (1) enrolls under this part and coverage
6 of the individual is terminated under section
7 1859A(d) (other than because of age), the individual
8 is not again eligible to enroll under this subsection
9 unless the following requirements are met:

10 “(A) NEW COVERAGE UNDER GROUP
11 HEALTH PLAN OR FEDERAL HEALTH INSUR-
12 ANCE PROGRAM.—After the date of termination
13 of coverage under such section, the individual
14 obtains coverage under a group health plan or
15 under a Federal health insurance program.

16 “(B) SUBSEQUENT LOSS OF NEW COV-
17 ERAGE.—The individual subsequently loses eli-
18 gibility for the coverage described in subpara-
19 graph (A) and exhausts any eligibility the indi-
20 vidual may subsequently have for coverage
21 under a Federal or State COBRA continuation
22 provision.

23 “(3) CHANGE IN HEALTH PLAN ELIGIBILITY
24 DOES NOT AFFECT COVERAGE.—In the case of an
25 individual who is eligible for and enrolls under this

1 part under this subsection, the individual’s continued
2 entitlement to benefits under this part shall not be
3 affected by the individual’s subsequent eligibility for
4 benefits or coverage described in paragraph (1)(C),
5 or entitlement to such benefits or coverage.

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

7 “(a) IN GENERAL.—An individual may enroll in the
8 program established under this part only in such manner
9 and form as may be prescribed by regulations, and only
10 during an enrollment period prescribed by the Secretary
11 consistent with the provisions of this section. Such regula-
12 tions shall provide a process under which—

13 “(1) individuals eligible to enroll as of a month
14 are permitted to pre-enroll during a prior month
15 within an enrollment period described in subsection
16 (b); and

17 “(2) each individual seeking to enroll under sec-
18 tion 1859(b) is notified, before enrolling, of the de-
19 ferred monthly premium amount the individual will
20 be liable for under section 1859C(b) upon attaining
21 65 years of age as determined under section
22 1859B(c)(3).

23 “(b) ENROLLMENT PERIODS.—

1 “(1) INDIVIDUALS 62 TO 65 YEARS OF AGE.—In
2 the case of individuals eligible to enroll under this
3 part under section 1859(b)—

4 “(A) INITIAL ENROLLMENT PERIOD.—If
5 the individual is eligible to enroll under such
6 section for July 2005, the enrollment period
7 shall begin on May 1, 2005, and shall end on
8 August 31, 2005. Any such enrollment before
9 July 1, 2005, is conditioned upon compliance
10 with the conditions of eligibility for July 2005.

11 “(B) SUBSEQUENT PERIODS.—If the indi-
12 vidual is eligible to enroll under such section for
13 a month after July 2005, the enrollment period
14 shall begin on the first day of the second month
15 before the month in which the individual first is
16 eligible to so enroll and shall end four months
17 later. Any such enrollment before the first day
18 of the third month of such enrollment period is
19 conditioned upon compliance with the condi-
20 tions of eligibility for such third month.

21 “(2) AUTHORITY TO CORRECT FOR GOVERN-
22 MENT ERRORS.—The provisions of section 1837(h)
23 apply with respect to enrollment under this part in
24 the same manner as they apply to enrollment under
25 part B.

1 “(c) DATE COVERAGE BEGINS.—

2 “(1) IN GENERAL.—The period during which
3 an individual is entitled to benefits under this part
4 shall begin as follows, but in no case earlier than
5 July 1, 2005:

6 “(A) In the case of an individual who en-
7 rolls (including pre-enrolls) before the month in
8 which the individual satisfies eligibility for en-
9 rollment under section 1859, the first day of
10 such month of eligibility.

11 “(B) In the case of an individual who en-
12 rolls during or after the month in which the in-
13 dividual first satisfies eligibility for enrollment
14 under such section, the first day of the fol-
15 lowing month.

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

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

1 during a period which, with respect to the individual,
2 is a coverage period under this section.

3 “(d) TERMINATION OF COVERAGE.—

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

8 “(A) GENERAL PROVISIONS.—

9 “(i) NOTICE.—The individual files no-
10 tice (in a form and manner prescribed by
11 the Secretary) that the individual no
12 longer wishes to participate in the insur-
13 ance program under this part.

14 “(ii) NONPAYMENT OF PREMIUMS.—
15 The individual fails to make payment of
16 premiums required for enrollment under
17 this part.

18 “(iii) MEDICARE ELIGIBILITY.—The
19 individual becomes entitled to benefits
20 under part A or enrolled under part B
21 (other than by reason of this part).

22 “(B) TERMINATION BASED ON AGE.—The
23 individual attains 65 years of age.

24 “(2) EFFECTIVE DATE OF TERMINATION.—

1 “(A) NOTICE.—The termination of a cov-
2 erage period under paragraph (1)(A)(i) shall
3 take effect at the close of the month following
4 for which the notice is filed.

5 “(B) NONPAYMENT OF PREMIUM.—The
6 termination of a coverage period under para-
7 graph (1)(A)(ii) shall take effect on a date de-
8 termined under regulations, which may be de-
9 termined so as to provide a grace period in
10 which overdue premiums may be paid and cov-
11 erage continued. The grace period determined
12 under the preceding sentence shall not exceed
13 60 days; except that it may be extended for an
14 additional 30 days in any case where the Sec-
15 retary determines that there was good cause for
16 failure to pay the overdue premiums within
17 such 60-day period.

18 “(C) AGE OR MEDICARE ELIGIBILITY.—
19 The termination of a coverage period under
20 paragraph (1)(A)(iii) or (1)(B) shall take effect
21 as of the first day of the month in which the
22 individual attains 65 years of age or becomes
23 entitled to benefits under part A or enrolled for
24 benefits under part B (other than by reason of
25 this part).

1 **“SEC. 1859B. PREMIUMS.**

2 “(a) AMOUNT OF MONTHLY PREMIUMS.—

3 “(1) BASE MONTHLY PREMIUMS.—The Sec-
4 retary shall, during September of each year (begin-
5 ning with 2004), determine the following premium
6 rates which shall apply with respect to coverage pro-
7 vided under this title for any month in the suc-
8 ceeding year:

9 “(A) BASE MONTHLY PREMIUM FOR INDI-
10 VIDUALS 62 YEARS OF AGE OR OLDER.—A base
11 monthly premium for individuals 62 years of
12 age or older, equal to $\frac{1}{12}$ of the base annual
13 premium rate computed under subsection (b)
14 for each premium area.

15 “(2) DEFERRED MONTHLY PREMIUMS FOR IN-
16 DIVIDUALS 62 YEARS OF AGE OR OLDER.—The Sec-
17 retary shall, during September of each year (begin-
18 ning with 2004), determine under subsection (c) the
19 amount of deferred monthly premiums that shall
20 apply with respect to individuals who first obtain
21 coverage under this part under section 1859(b) in
22 the succeeding year.

23 “(3) ESTABLISHMENT OF PREMIUM AREAS.—
24 For purposes of this part, the term ‘premium area’
25 means such an area as the Secretary shall specify to
26 carry out this part. The Secretary from time to time

1 may change the boundaries of such premium areas.

2 The Secretary shall seek to minimize the number of
3 such areas specified under this paragraph.

4 “(b) BASE ANNUAL PREMIUM FOR INDIVIDUALS 62
5 YEARS OF AGE OR OLDER.—

6 “(1) NATIONAL, PER CAPITA AVERAGE.—The
7 Secretary shall estimate the average, annual per
8 capita amount that would be payable under this title
9 with respect to individuals residing in the United
10 States who meet the requirement of section
11 1859(b)(1)(A) as if all such individuals were eligible
12 for (and enrolled) under this title during the entire
13 year (and assuming that section 1862(b)(2)(A)(i)
14 did not apply).

15 “(2) GEOGRAPHIC ADJUSTMENT.—The Sec-
16 retary shall adjust the amount determined under
17 paragraph (1) for each premium area (specified
18 under subsection (a)(3)) in order to take into ac-
19 count such factors as the Secretary deems appro-
20 priate and shall limit the maximum premium under
21 this paragraph in a premium area to assure partici-
22 pation in all areas throughout the United States.

23 “(3) BASE ANNUAL PREMIUM.—The base an-
24 nual premium under this subsection for months in a
25 year for individuals 62 years of age or older residing

1 in a premium area is equal to the average, annual
2 per capita amount estimated under paragraph (1)
3 for the year, adjusted for such area under paragraph
4 (2).

5 “(c) DEFERRED PREMIUM RATE FOR INDIVIDUALS
6 62 YEARS OF AGE OR OLDER.—The deferred premium
7 rate for individuals with a group of individuals who obtain
8 coverage under section 1859(b) in a year shall be com-
9 puted by the Secretary as follows:

10 “(1) ESTIMATION OF NATIONAL, PER CAPITA
11 ANNUAL AVERAGE EXPENDITURES FOR ENROLL-
12 MENT GROUP.—The Secretary shall estimate the av-
13 erage, per capita annual amount that will be paid
14 under this part for individuals in such group during
15 the period of enrollment under section 1859(b). In
16 making such estimate for coverage beginning in a
17 year before 2004, the Secretary may base such esti-
18 mate on the average, per capita amount that would
19 be payable if the program had been in operation over
20 a previous period of at least 4 years.

21 “(2) DIFFERENCE BETWEEN ESTIMATED EX-
22 PENDITURES AND ESTIMATED PREMIUMS.—Based
23 on the characteristics of individuals in such group,
24 the Secretary shall estimate during the period of

1 coverage of the group under this part under section
2 1859(b) the amount by which—

3 “(A) the amount estimated under para-
4 graph (1); exceeds

5 “(B) the average, annual per capita
6 amount of premiums that will be payable for
7 months during the year under section 1859C(a)
8 for individuals in such group (including pre-
9 miums that would be payable if there were no
10 terminations in enrollment under clause (i) or
11 (ii) of section 1859A(d)(1)(A)).

12 “(3) ACTUARIAL COMPUTATION OF DEFERRED
13 MONTHLY PREMIUM RATES.—The Secretary shall
14 determine deferred monthly premium rates for indi-
15 viduals in such group in a manner so that—

16 “(A) the estimated actuarial value of such
17 premiums payable under section 1859C(b), is
18 equal to

19 “(B) the estimated actuarial present value
20 of the differences described in paragraph (2).

21 Such rate shall be computed for each individual in
22 the group in a manner so that the rate is based on
23 the number of months between the first month of
24 coverage based on enrollment under section 1859(b)

1 and the month in which the individual attains 65
2 years of age.

3 “(4) DETERMINANTS OF ACTUARIAL PRESENT
4 VALUES.—The actuarial present values described in
5 paragraph (3) shall reflect—

6 “(A) the estimated probabilities of survival
7 at ages 62 through 84 for individuals enrolled
8 during the year; and

9 “(B) the estimated effective average inter-
10 est rates that would be earned on investments
11 held in the trust funds under this title during
12 the period in question.

13 **“SEC. 1859C. PAYMENT OF PREMIUMS.**

14 “(a) PAYMENT OF BASE MONTHLY PREMIUM.—

15 “(1) IN GENERAL.—The Secretary shall provide
16 for payment and collection of the base monthly pre-
17 mium, determined under section 1859B(a)(1) for the
18 age (and age cohort, if applicable) of the individual
19 involved and the premium area in which the indi-
20 vidual principally resides, in the same manner as for
21 payment of monthly premiums under section 1840,
22 except that, for purposes of applying this section,
23 any reference in such section to the Federal Supple-
24 mentary Medical Insurance Trust Fund is deemed a

1 reference to the Trust Fund established under sec-
2 tion 1859D.

3 “(2) PERIOD OF PAYMENT.—In the case of an
4 individual who participates in the program estab-
5 lished by this title, the base monthly premium shall
6 be payable for the period commencing with the first
7 month of the individual’s coverage period and ending
8 with the month in which the individual’s coverage
9 under this title terminates.

10 “(b) PAYMENT OF DEFERRED PREMIUM FOR INDI-
11 VIDUALS COVERED AFTER ATTAINING AGE 62.—

12 “(1) RATE OF PAYMENT.—

13 “(A) IN GENERAL.—In the case of an indi-
14 vidual who is covered under this part for a
15 month pursuant to an enrollment under section
16 1859(b), subject to subparagraph (B), the indi-
17 vidual is liable for payment of a deferred pre-
18 mium in each month during the period de-
19 scribed in paragraph (2) in an amount equal to
20 the full deferred monthly premium rate deter-
21 mined for the individual under section
22 1859B(c).

23 “(B) SPECIAL RULES FOR THOSE WHO
24 DISENROLL EARLY.—

1 “(i) IN GENERAL.—If such an individ-
2 ual’s enrollment under such section is ter-
3 minated under clause (i) or (ii) of section
4 1859A(d)(1)(A), subject to clause (ii), the
5 amount of the deferred premium otherwise
6 established under this paragraph shall be
7 pro-rated to reflect the number of months
8 of coverage under this part under such en-
9 rollment compared to the maximum num-
10 ber of months of coverage that the indi-
11 vidual would have had if the enrollment
12 were not so terminated.

13 “(ii) ROUNDING TO 12-MONTH MIN-
14 IMUM COVERAGE PERIODS.—In applying
15 clause (i), the number of months of cov-
16 erage (if not a multiple of 12) shall be
17 rounded to the next highest multiple of 12
18 months, except that in no case shall this
19 clause result in a number of months of
20 coverage exceeding the maximum number
21 of months of coverage that the individual
22 would have had if the enrollment were not
23 so terminated.

24 “(2) PERIOD OF PAYMENT.—The period de-
25 scribed in this paragraph for an individual is the pe-

1 riod beginning with the first month in which the in-
2 dividual has attained 65 years of age and ending
3 with the month before the month in which the indi-
4 vidual attains 85 years of age.

5 “(3) COLLECTION.—In the case of an individual
6 who is liable for a premium under this subsection,
7 the amount of the premium shall be collected in the
8 same manner as the premium for enrollment under
9 such part is collected under section 1840, except
10 that any reference in such section to the Federal
11 Supplementary Medical Insurance Trust Fund is
12 deemed to be a reference to the Medicare Early Ac-
13 cess Trust Fund established under section 1859D.

14 “(c) APPLICATION OF CERTAIN PROVISIONS.—The
15 provisions of section 1840 (other than subsection (h))
16 shall apply to premiums collected under this section in the
17 same manner as they apply to premiums collected under
18 part B, except that any reference in such section to the
19 Federal Supplementary Medical Insurance Trust Fund is
20 deemed a reference to the Trust Fund established under
21 section 1859D.

22 **“SEC. 1859D. MEDICARE EARLY ACCESS TRUST FUND.**

23 “(a) ESTABLISHMENT OF TRUST FUND.—

24 “(1) IN GENERAL.—There is hereby created on
25 the books of the Treasury of the United States a

1 trust fund to be known as the ‘Medicare Early Ac-
2 cess Trust Fund’ (in this section referred to as the
3 ‘Trust Fund’). The Trust Fund shall consist of such
4 gifts and bequests as may be made as provided in
5 section 201(i)(1) and such amounts as may be de-
6 posited in, or appropriated to, such fund as provided
7 in this title.

8 “(2) PREMIUMS.—Premiums collected under
9 section 1859B shall be transferred to the Trust
10 Fund.

11 “(3) TRANSFER OF SAVINGS FROM NEW FRAUD
12 AND ABUSE INITIATIVES.—

13 “(A) IN GENERAL.—There is hereby trans-
14 ferred to the Trust Fund from the Federal
15 Hospital Insurance Trust Fund and from the
16 Federal Supplementary Medical Insurance
17 Trust Fund amounts equivalent to the amounts
18 (specified under subparagraph (B)) of the re-
19 ductions in expenditures under such respective
20 trust fund as may be attributable to the enact-
21 ment of the Medicare Fraud and Overpayment
22 Act of 2003.

23 “(B) USE OF CBO ESTIMATES.—For each
24 fiscal year during the 10-fiscal-year period be-
25 ginning with fiscal year 2005, the amounts

1 under subparagraph (A) shall be the amounts
2 described in such subparagraph as determined
3 by the Congressional Budget Office at the time
4 of, and in connection with, the enactment of the
5 Early Medicare Access and Affordability Act of
6 2003. For subsequent fiscal years, the amounts
7 under subparagraph (A) shall be the amount
8 determined under this subparagraph for the
9 previous fiscal year increased by the same per-
10 centage as the percentage increase in aggregate
11 expenditures under this title from the second
12 previous fiscal year to the previous fiscal year.

13 “(b) INCORPORATION OF PROVISIONS.—

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

20 “(2) MISCELLANEOUS REFERENCES.—In apply-
21 ing provisions of section 1841 under paragraph
22 (1)—

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

1 “(B) any reference in section 1841(h) to
2 section 1840(d) and in section 1841(i) to sec-
3 tions 1840(b)(1) and 1842(g) are deemed ref-
4 erences to comparable authority exercised under
5 this part; and

6 “(C) payments may be made under section
7 1841(g) to the Trust Funds under sections
8 1817 and 1841 as reimbursement to such funds
9 for payments they made for benefits provided
10 under this part.

11 **“SEC. 1859E. OVERSIGHT AND ACCOUNTABILITY.**

12 “(a) THROUGH ANNUAL REPORTS OF TRUSTEES.—
13 The Board of Trustees of the Medicare Early Access
14 Trust Fund under section 1859D(b)(1) shall report on an
15 annual basis to Congress concerning the status of the
16 Trust Fund and the need for adjustments in the program
17 under this part to maintain financial solvency of the pro-
18 gram under this part.

19 “(b) PERIODIC GAO REPORTS.—The Comptroller
20 General of the United States shall periodically submit to
21 Congress reports on the adequacy of the financing of cov-
22 erage provided under this part. The Comptroller General
23 shall include in such report such recommendations for ad-
24 justments in such financing and coverage as the Comp-

1 troller General deems appropriate in order to maintain fi-
2 nancial solvency of the program under this part.

3 **“SEC. 1859F. ADMINISTRATION AND MISCELLANEOUS.**

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

6 “(1) individuals enrolled under this part shall
7 be treated for purposes of this title as though the in-
8 dividual were entitled to benefits under part A and
9 enrolled under part B; and

10 “(2) benefits described in section 1859 shall be
11 payable under this title to such individuals in the
12 same manner as if such individuals were so entitled
13 and enrolled.

14 “(b) NOT TREATED AS MEDICARE PROGRAM FOR
15 PURPOSES OF MEDICAID PROGRAM.—For purposes of ap-
16 plying title XIX (including the provision of Medicare cost-
17 sharing assistance under such title), an individual who is
18 enrolled under this part shall not be treated as being enti-
19 tled to benefits under this title.

20 “(c) NOT TREATED AS MEDICARE PROGRAM FOR
21 PURPOSES OF COBRA CONTINUATION PROVISIONS.—In
22 applying a COBRA continuation provision (as defined in
23 section 2791(d)(4) of the Public Health Service Act), any
24 reference to an entitlement to benefits under this title

1 shall not be construed to include entitlement to benefits
2 under this title pursuant to the operation of this part.”.

3 (b) CONFORMING AMENDMENTS TO SOCIAL SECUR-
4 RITY ACT PROVISIONS.—

5 (1) Section 201(i)(1) of the Social Security Act
6 (42 U.S.C. 401(i)(1)) is amended by striking “or the
7 Federal Supplementary Medical Insurance Trust
8 Fund” and inserting “the Federal Supplementary
9 Medical Insurance Trust Fund, and the Medicare
10 Early Access Trust Fund”.

11 (2) Section 201(g)(1)(A) of such Act (42
12 U.S.C. 401(g)(1)(A)) is amended by striking “and
13 the Federal Supplementary Medical Insurance Trust
14 Fund established by title XVIII” and inserting “,
15 the Federal Supplementary Medical Insurance Trust
16 Fund, and the Medicare Early Access Trust Fund
17 established by title XVIII”.

18 (3) Section 1820(i) of such Act (42 U.S.C.
19 1395i-4(i)) is amended by striking “part D” and in-
20 serting “part E”.

21 (4) Part C of title XVIII of such Act is amend-
22 ed—

23 (A) in section 1851(a)(2)(B) (42 U.S.C.
24 1395w-21(a)(2)(B)), by striking “1859(b)(3)”
25 and inserting “1858(b)(3);

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

4 (C) in section 1852(a)(1) (42 U.S.C.
5 1395w-22(a)(1)), by striking “1859(b)(3)” and
6 inserting “1858(b)(3);

7 (D) in section 1852(a)(3)(B)(ii) (42
8 U.S.C. 1395w-22(a)(3)(B)(ii)), by striking
9 “1859(b)(2)(B)” and inserting
10 “1858(b)(2)(B)”;

11 (E) in section 1853(a)(1)(A) (42 U.S.C.
12 1395w-23(a)(1)(A)), by striking “1859(e)(4)”
13 and inserting “1858(e)(4)”;

14 (F) in section 1853(a)(3)(D) (42 U.S.C.
15 1395w-23(a)(3)(D)), by striking “1859(e)(4)”
16 and inserting “1858(e)(4)”.

17 (5) Section 1853(c) of such Act (42 U.S.C.
18 1395w-23(c)) is amended—

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

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

22 “(8) ADJUSTMENT FOR EARLY ACCESS.—In ap-
23 plying this subsection with respect to individuals en-
24 titled to benefits under part D, the Secretary shall
25 provide for an appropriate adjustment in the

1 Medicare+Choice capitation rate as may be appro-
2 priate to reflect differences between the population
3 served under such part and the population under
4 parts A and B.”.

5 (c) OTHER CONFORMING AMENDMENTS.—

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

9 (2)(A) Section 602(2)(D)(ii) of the Employee
10 Retirement Income Security Act of 1974 (29 U.S.C.
11 1162(2)) is amended by inserting “(not including an
12 individual who is so entitled pursuant to enrollment
13 under section 1859A)” after “Social Security Act”.

14 (B) Section 2202(2)(D)(ii) of the Public Health
15 Service Act (42 U.S.C. 300bb–2(2)(D)(ii)) is amend-
16 ed by inserting “(not including an individual who is
17 so entitled pursuant to enrollment under section
18 1859A of such Act)” after “Social Security Act”.

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

1 **TITLE II—ACCESS TO MEDICARE**
 2 **BENEFITS FOR DISPLACED**
 3 **WORKERS 55 TO 62 YEARS OF**
 4 **AGE**

5 **SEC. 201. ACCESS TO MEDICARE BENEFITS FOR DISPLACED**
 6 **WORKERS 55 TO 62 YEARS OF AGE.**

7 (a) **ELIGIBILITY.**—Section 1859 of the Social Secu-
 8 rity Act, as inserted by section 101(a)(2), is amended by
 9 adding at the end the following new subsection:

10 “(c) **DISPLACED WORKERS AND SPOUSES.**—

11 “(1) **DISPLACED WORKERS.**—Subject to para-
 12 graph (3), an individual who meets the following re-
 13 quirements with respect to a month is eligible to en-
 14 roll under this part with respect to such month:

15 “(A) **AGE.**—As of the last day of the
 16 month, the individual has attained 55 years of
 17 age, but has not attained 62 years of age.

18 “(B) **MEDICARE ELIGIBILITY (BUT FOR**
 19 **AGE).**—The individual would be eligible for ben-
 20 efits under part A or part B for the month if
 21 the individual were 65 years of age.

22 “(C) **LOSS OF EMPLOYMENT-BASED COV-**
 23 **ERAGE.**—

24 “(i) **ELIGIBLE FOR UNEMPLOYMENT**
 25 **COMPENSATION.**—The individual meets the

1 requirements relating to period of covered
2 employment and conditions of separation
3 from employment to be eligible for unem-
4 ployment compensation (as defined in sec-
5 tion 85(b) of the Internal Revenue Code of
6 1986), based on a separation from employ-
7 ment occurring on or after January 1,
8 2004. The previous sentence shall not be
9 construed as requiring the individual to be
10 receiving such unemployment compensa-
11 tion.

12 “(ii) LOSS OF EMPLOYMENT-BASED
13 COVERAGE.—Immediately before the time
14 of such separation of employment, the indi-
15 vidual was covered under a group health
16 plan on the basis of such employment, and,
17 because of such loss, is no longer eligible
18 for coverage under such plan (including
19 such eligibility based on the application of
20 a Federal or State COBRA continuation
21 provision) as of the last day of the month
22 involved.

23 “(iii) PREVIOUS CREDITABLE COV-
24 ERAGE FOR AT LEAST 1 YEAR.—As of the
25 date on which the individual loses coverage

1 described in clause (ii), the aggregate of
2 the periods of creditable coverage (as de-
3 termined under section 2701(c) of the
4 Public Health Service Act) is 12 months or
5 longer.

6 “(D) EXHAUSTION OF AVAILABLE COBRA
7 CONTINUATION BENEFITS.—

8 “(i) IN GENERAL.—In the case of an
9 individual described in clause (ii) for a
10 month described in clause (iii)—

11 “(I) the individual (or spouse)
12 elected coverage described in clause
13 (ii); and

14 “(II) the individual (or spouse)
15 has continued such coverage for all
16 months described in clause (iii) in
17 which the individual (or spouse) is eli-
18 gible for such coverage.

19 “(ii) INDIVIDUALS TO WHOM COBRA
20 CONTINUATION COVERAGE MADE AVAIL-
21 ABLE.—An individual described in this
22 clause is an individual—

23 “(I) who was offered coverage
24 under a Federal or State COBRA
25 continuation provision at the time of

1 loss of coverage eligibility described in
2 subparagraph (C)(ii); or

3 “(II) whose spouse was offered
4 such coverage in a manner that per-
5 mitted coverage of the individual at
6 such time.

7 “(iii) MONTHS OF POSSIBLE COBRA
8 CONTINUATION COVERAGE.—A month de-
9 scribed in this clause is a month for which
10 an individual described in clause (ii) could
11 have had coverage described in such clause
12 as of the last day of the month if the indi-
13 vidual (or the spouse of the individual, as
14 the case may be) had elected such coverage
15 on a timely basis.

16 “(E) NOT ELIGIBLE FOR COVERAGE
17 UNDER FEDERAL HEALTH INSURANCE PRO-
18 GRAM OR GROUP HEALTH PLANS.—The indi-
19 vidual is not eligible for benefits or coverage
20 under a Federal health insurance program or
21 under a group health plan (whether on the
22 basis of the individual’s employment or employ-
23 ment of the individual’s spouse) as of the last
24 day of the month involved.

1 “(2) SPOUSE OF DISPLACED WORKER.—Subject
2 to paragraph (3), an individual who meets the fol-
3 lowing requirements with respect to a month is eligi-
4 ble to enroll under this part with respect to such
5 month:

6 “(A) AGE.—As of the last day of the
7 month, the individual has not attained 62 years
8 of age.

9 “(B) MARRIED TO DISPLACED WORKER.—
10 The individual is the spouse of an individual at
11 the time the individual enrolls under this part
12 under paragraph (1) and loses coverage de-
13 scribed in paragraph (1)(C)(ii) because the in-
14 dividual’s spouse lost such coverage.

15 “(C) MEDICARE ELIGIBILITY (BUT FOR
16 AGE); EXHAUSTION OF ANY COBRA CONTINU-
17 ATION COVERAGE; AND NOT ELIGIBLE FOR COV-
18 ERAGE UNDER FEDERAL HEALTH INSURANCE
19 PROGRAM OR GROUP HEALTH PLAN.—The indi-
20 vidual meets the requirements of subparagraphs
21 (B), (D), and (E) of paragraph (1).

22 “(3) CHANGE IN HEALTH PLAN ELIGIBILITY
23 AFFECTS CONTINUED ELIGIBILITY.—For provision
24 that terminates enrollment under this section in the
25 case of an individual who becomes eligible for cov-

1 erage under a group health plan or under a Federal
2 health insurance program, see section
3 1859A(d)(1)(C).

4 “(4) REENROLLMENT PERMITTED.—Nothing in
5 this subsection shall be construed as preventing an
6 individual who, after enrolling under this subsection,
7 terminates such enrollment from subsequently re-
8 enrolling under this subsection if the individual is el-
9 ible to enroll under this subsection at that time.”.

10 (b) ENROLLMENT.—Section 1859A of such Act, as
11 so inserted, is amended—

12 (1) in subsection (a)—

13 (A) by striking “and” at the end of para-
14 graph (1),

15 (B) by striking the period at the end of
16 paragraph (2) and inserting “; and”, and

17 (C) by adding at the end the following new
18 paragraph:

19 “(3) individuals whose coverage under this part
20 would terminate because of subsection (d)(1)(B)(ii)
21 are provided notice and an opportunity to continue
22 enrollment in accordance with section
23 1859E(c)(1).”;

1 (2) in subsection (b), by inserting after “Not-
2 withstanding any other provision of law, (1)” the fol-
3 lowing:

4 “(2) DISPLACED WORKERS AND SPOUSES.—In
5 the case of individuals eligible to enroll under this
6 part under section 1859(c), the following rules
7 apply:

8 “(A) INITIAL ENROLLMENT PERIOD.—If
9 the individual is first eligible to enroll under
10 such section for July 2005, the enrollment pe-
11 riod shall begin on May 1, 2005, and shall end
12 on August 31, 2005. Any such enrollment be-
13 fore July 1, 2005, is conditioned upon compli-
14 ance with the conditions of eligibility for July
15 2005.

16 “(B) SUBSEQUENT PERIODS.—If the indi-
17 vidual is eligible to enroll under such section for
18 a month after July 2005, the enrollment period
19 based on such eligibility shall begin on the first
20 day of the second month before the month in
21 which the individual first is eligible to so enroll
22 (or reenroll) and shall end four months later.”;

23 (3) in subsection (d)(1), by amending subpara-
24 graph (B) to read as follows:

25 “(B) TERMINATION BASED ON AGE.—

1 “(i) AT AGE 65.—Subject to clause
2 (ii), the individual attains 65 years of age.

3 “(ii) AT AGE 62 FOR DISPLACED
4 WORKERS AND SPOUSES.—In the case of
5 an individual enrolled under this part pur-
6 suant to section 1859(c), subject to sub-
7 section (a)(1), the individual attains 62
8 years of age.”;

9 (4) in subsection (d)(1), by adding at the end
10 the following new subparagraph:

11 “(C) OBTAINING ACCESS TO EMPLOYMENT-
12 BASED COVERAGE OR FEDERAL HEALTH INSUR-
13 ANCE PROGRAM FOR INDIVIDUALS UNDER 62
14 YEARS OF AGE.—In the case of an individual
15 who has not attained 62 years of age, the indi-
16 vidual is covered (or eligible for coverage) as a
17 participant or beneficiary under a group health
18 plan or under a Federal health insurance pro-
19 gram.”;

20 (5) in subsection (d)(2), by amending subpara-
21 graph (C) to read as follows:

22 “(C) AGE OR MEDICARE ELIGIBILITY.—

23 “(i) IN GENERAL.—The termination
24 of a coverage period under paragraph
25 (1)(A)(iii) or (1)(B)(i) shall take effect as

1 of the first day of the month in which the
2 individual attains 65 years of age or be-
3 comes entitled to benefits under part A or
4 enrolled for benefits under part B.

5 “(ii) DISPLACED WORKERS.—The ter-
6 mination of a coverage period under para-
7 graph (1)(B)(ii) shall take effect as of the
8 first day of the month in which the indi-
9 vidual attains 62 years of age, unless the
10 individual has enrolled under this part pur-
11 suant to section 1859(b) and section
12 1859E(c)(1).”; and

13 (6) in subsection (d)(2), by adding at the end
14 the following new subparagraph:

15 “(D) ACCESS TO COVERAGE.—The termi-
16 nation of a coverage period under paragraph
17 (1)(C) shall take effect on the date on which
18 the individual is eligible to begin a period of
19 creditable coverage (as defined in section
20 2701(c) of the Public Health Service Act)
21 under a group health plan or under a Federal
22 health insurance program.”.

23 (c) PREMIUMS.—Section 1859B of such Act, as so
24 inserted, is amended—

1 (1) in subsection (a)(1), by adding at the end
2 the following:

3 “(B) BASE MONTHLY PREMIUM FOR INDI-
4 VIDUALS UNDER 62 YEARS OF AGE.—A base
5 monthly premium for individuals under 62
6 years of age, equal to $\frac{1}{12}$ of the base annual
7 premium rate computed under subsection (d)(3)
8 for each premium area and age cohort.”; and

9 (2) by adding at the end the following new sub-
10 section:

11 “(d) BASE MONTHLY PREMIUM FOR INDIVIDUALS
12 UNDER 62 YEARS OF AGE.—

13 “(1) NATIONAL, PER CAPITA AVERAGE FOR AGE
14 GROUPS.—

15 “(A) ESTIMATE OF AMOUNT.—The Sec-
16 retary shall estimate the average, annual per
17 capita amount that would be payable under this
18 title with respect to individuals residing in the
19 United States who meet the requirement of sec-
20 tion 1859(c)(1)(A) within each of the age co-
21 horts established under subparagraph (B) as if
22 all such individuals within such cohort were eli-
23 gible for (and enrolled) under this title during
24 the entire year (and assuming that section
25 1862(b)(2)(A)(i) did not apply).

1 “(B) AGE COHORTS.—For purposes of
2 subparagraph (A), the Secretary shall establish
3 separate age cohorts in 5 year age increments
4 for individuals who have not attained 60 years
5 of age and a separate cohort for individuals who
6 have attained 60 years of age.

7 “(2) GEOGRAPHIC ADJUSTMENT.—The Sec-
8 retary shall adjust the amount determined under
9 paragraph (1)(A) for each premium area (specified
10 under subsection (a)(3)) in the same manner and to
11 the same extent as the Secretary provides for adjust-
12 ments under subsection (b)(2).

13 “(3) BASE ANNUAL PREMIUM.—The base an-
14 nual premium under this subsection for months in a
15 year for individuals in an age cohort under para-
16 graph (1)(B) in a premium area is equal to 165 per-
17 cent of the average, annual per capita amount esti-
18 mated under paragraph (1) for the age cohort and
19 year, adjusted for such area under paragraph (2).

20 “(4) PRO-RATION OF PREMIUMS TO REFLECT
21 COVERAGE DURING A PART OF A MONTH.—If the
22 Secretary provides for coverage of portions of a
23 month under section 1859A(c)(2), the Secretary
24 shall pro-rate the premiums attributable to such cov-

1 erage under this section to reflect the portion of the
2 month so covered.”.

3 (d) ADMINISTRATIVE PROVISIONS.—Section 1859F
4 of such Act, as so inserted, is amended by adding at the
5 end the following:

6 “(d) ADDITIONAL ADMINISTRATIVE PROVISIONS.—

7 “(1) PROCESS FOR CONTINUED ENROLLMENT
8 OF DISPLACED WORKERS WHO ATTAIN 62 YEARS OF
9 AGE.—The Secretary shall provide a process for the
10 continuation of enrollment of individuals whose en-
11 rollment under section 1859(c) would be terminated
12 upon attaining 62 years of age. Under such process
13 such individuals shall be provided appropriate and
14 timely notice before the date of such termination
15 and of the requirement to enroll under this part pur-
16 suant to section 1859(b) in order to continue entitle-
17 ment to benefits under this title after attaining 62
18 years of age.

19 “(2) ARRANGEMENTS WITH STATES FOR DE-
20 TERMINATIONS RELATING TO UNEMPLOYMENT COM-
21 PENSATION ELIGIBILITY.—The Secretary may pro-
22 vide for appropriate arrangements with States for
23 the determination of whether individuals in the State
24 meet or would meet the requirements of section
25 1859(e)(1)(C)(i).”.

1 (e) CONFORMING AMENDMENT TO HEADING TO
 2 PART.—The heading of part D of title XVIII of the Social
 3 Security Act, as so inserted, is amended by striking “62”
 4 and inserting “55”.

5 **TITLE III—COBRA PROTECTION**
 6 **FOR EARLY RETIREES**
 7 **Subtitle A—Amendments to the**
 8 **Employee Retirement Income**
 9 **Security Act of 1974**

10 **SEC. 301. COBRA CONTINUATION BENEFITS FOR CERTAIN**
 11 **RETIRED WORKERS WHO LOSE RETIREE**
 12 **HEALTH COVERAGE.**

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

15 (1) IN GENERAL.—Section 603 of the Employee
 16 Retirement Income Security Act of 1974 (29 U.S.C.
 17 1163) is amended by inserting after paragraph (6)
 18 the following new paragraph:

19 “(7) The termination or substantial reduction
 20 in benefits (as defined in section 607(7)) of group
 21 health plan coverage as a result of plan changes or
 22 termination in the case of a covered employee who
 23 is a qualified retiree.”.

24 (2) QUALIFIED RETIREE; QUALIFIED BENE-
 25 FICIARY; AND SUBSTANTIAL REDUCTION DE-

1 FINED.—Section 607 of such Act (29 U.S.C. 1167)
2 is amended—

3 (A) in paragraph (3)—

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

7 (ii) by adding at the end the following
8 new subparagraph:

9 “(D) SPECIAL RULE FOR QUALIFYING RE-
10 TIREES AND DEPENDENTS.—In the case of a
11 qualifying event described in section 603(7), the
12 term ‘qualified beneficiary’ means a qualified
13 retiree and any other individual who, on the day
14 before such qualifying event, is a beneficiary
15 under the plan on the basis of the individual’s
16 relationship to such qualified retiree.”; and

17 (B) by adding at the end the following new
18 paragraphs:

19 “(6) QUALIFIED RETIREE.—The term ‘qualified
20 retiree’ means, with respect to a qualifying event de-
21 scribed in section 603(7), a covered employee who,
22 at the time of the event—

23 “(A) has attained 55 years of age; and

1 “(B) was receiving group health coverage
2 under the plan by reason of the retirement of
3 the covered employee.

4 “(7) SUBSTANTIAL REDUCTION.—The term
5 ‘substantial reduction’—

6 “(A) means, as determined under regula-
7 tions of the Secretary and with respect to a
8 qualified beneficiary, a reduction in the average
9 actuarial value of benefits under the plan
10 (through reduction or elimination of benefits,
11 an increase in premiums, deductibles, copay-
12 ments, and coinsurance, or any combination
13 thereof), since the date of commencement of
14 coverage of the beneficiary by reason of the re-
15 tirement of the covered employee (or, if later,
16 January 6, 2004), in an amount equal to at
17 least 50 percent of the total average actuarial
18 value of the benefits under the plan as of such
19 date (taking into account an appropriate ad-
20 justment to permit comparison of values over
21 time); and

22 “(B) includes an increase in premiums re-
23 quired to an amount that exceeds the premium
24 level described in the fourth sentence of section
25 602(3).”

1 (b) DURATION OF COVERAGE THROUGH AGE 65.—
2 Section 602(2)(A) of such Act (29 U.S.C. 1162(2)(A)) is
3 amended—

4 (1) in clause (ii), by inserting “or 603(7)” after
5 “603(6)”;

6 (2) in clause (iv), by striking “or 603(6)” and
7 inserting “, 603(6), or 603(7)”;

8 (3) by redesignating clause (iv) as clause (vi);

9 (4) by redesignating clause (v) as clause (iv)
10 and by moving such clause to immediately follow
11 clause (iii); and

12 (5) by inserting after such clause (iv) the fol-
13 lowing new clause:

14 “(v) SPECIAL RULE FOR CERTAIN DE-
15 PENDENTS IN CASE OF TERMINATION OR
16 SUBSTANTIAL REDUCTION OF RETIREE
17 HEALTH COVERAGE.—In the case of a
18 qualifying event described in section
19 603(7), in the case of a qualified bene-
20 ficiary described in section 607(3)(D) who
21 is not the qualified retiree or spouse of
22 such retiree, the later of—

23 “(I) the date that is 36 months
24 after the earlier of the date the quali-
25 fied retiree becomes entitled to bene-

1 fits under title XVIII of the Social Se-
2 curity Act, or the date of the death of
3 the qualified retiree; or

4 “(II) the date that is 36 months
5 after the date of the qualifying
6 event.”.

7 (c) TYPE OF COVERAGE IN CASE OF TERMINATION
8 OR SUBSTANTIAL REDUCTION OF RETIREE HEALTH COV-
9 ERAGE.—Section 602(1) of such Act (29 U.S.C. 1162(1))
10 is amended—

11 (1) by striking “The coverage” and inserting
12 the following:

13 “(A) IN GENERAL.—Except as provided in
14 subparagraph (B), the coverage”; and

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

16 “(B) CERTAIN RETIREES.—In the case of
17 a qualifying event described in section 603(7),
18 in applying the first sentence of subparagraph
19 (A) and the fourth sentence of paragraph (3),
20 the coverage offered that is the most prevalent
21 coverage option (as determined under regula-
22 tions of the Secretary) continued under the
23 group health plan (or, if none, under the most
24 prevalent other plan offered by the same plan
25 sponsor) shall be treated as the coverage de-

1 scribed in such sentence, or (at the option of
2 the plan and qualified beneficiary) such other
3 coverage option as may be offered and elected
4 by the qualified beneficiary involved.”.

5 (d) INCREASED LEVEL OF PREMIUMS PERMITTED.—
6 Section 602(3) of such Act (29 U.S.C. 1162(3)) is amend-
7 ed by adding at the end the following new sentence: “In
8 the case of an individual provided continuation coverage
9 by reason of a qualifying event described in section
10 603(7), any reference in subparagraph (A) of this para-
11 graph to ‘102 percent of the applicable premium’ is
12 deemed a reference to ‘125 percent of the applicable pre-
13 mium for employed individuals (and their dependents, if
14 applicable) for the coverage option referred to in para-
15 graph (1)(B)’.”.

16 (e) NOTICE.—Section 606(a) of such Act (29 U.S.C.
17 1166) is amended—

18 (1) in paragraph (4)(A), by striking “or (6)”
19 and inserting “(6), or (7)”; and

20 (2) by adding at the end the following:
21 “The notice under paragraph (4) in the case of a quali-
22 fying event described in section 603(7) shall be provided
23 at least 90 days before the date of the qualifying event.”.

24 (f) EFFECTIVE DATES.—

1 (1) IN GENERAL.—The amendments made by
2 this section (other than subsection (e)(2)) shall
3 apply to qualifying events occurring on or after Jan-
4 uary 6, 2004. In the case of a qualifying event oc-
5 ccurring on or after such date and before the date of
6 the enactment of this Act, such event shall be
7 deemed (for purposes of such amendments) to have
8 occurred on the date of the enactment of this Act.

9 (2) ADVANCE NOTICE OF TERMINATIONS AND
10 REDUCTIONS.—The amendment made by subsection
11 (e)(2) shall apply to qualifying events occurring
12 after the date of the enactment of this Act, except
13 that in no case shall notice be required under such
14 amendment before such date.

15 **Subtitle B—Amendments to the** 16 **Public Health Service Act**

17 **SEC. 311. COBRA CONTINUATION BENEFITS FOR CERTAIN** 18 **RETIRED WORKERS WHO LOSE RETIREE** 19 **HEALTH COVERAGE.**

20 (a) ESTABLISHMENT OF NEW QUALIFYING
21 EVENT.—

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

1 “(6) The termination or substantial reduction
2 in benefits (as defined in section 2208(6)) of group
3 health plan coverage as a result of plan changes or
4 termination in the case of a covered employee who
5 is a qualified retiree.”.

6 (2) QUALIFIED RETIREE; QUALIFIED BENE-
7 FICIARY; AND SUBSTANTIAL REDUCTION DE-
8 FINED.—Section 2208 of such Act (42 U.S.C.
9 300bb–8) is amended—

10 (A) in paragraph (3)—

11 (i) in subparagraph (A), by inserting
12 “except as otherwise provided in this para-
13 graph,” after “means,”; and

14 (ii) by adding at the end the following
15 new subparagraph:

16 “(C) SPECIAL RULE FOR QUALIFYING RE-
17 TIREES AND DEPENDENTS.—In the case of a
18 qualifying event described in section 2203(6),
19 the term ‘qualified beneficiary’ means a quali-
20 fied retiree and any other individual who, on
21 the day before such qualifying event, is a bene-
22 ficiary under the plan on the basis of the indi-
23 vidual’s relationship to such qualified retiree.”;
24 and

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

3 “(5) QUALIFIED RETIREE.—The term ‘qualified
4 retiree’ means, with respect to a qualifying event de-
5 scribed in section 2203(6), a covered employee who,
6 at the time of the event—

7 “(A) has attained 55 years of age; and

8 “(B) was receiving group health coverage
9 under the plan by reason of the retirement of
10 the covered employee.

11 “(6) SUBSTANTIAL REDUCTION.—The term
12 ‘substantial reduction’—

13 “(A) means, as determined under regula-
14 tions of the Secretary of Labor and with respect
15 to a qualified beneficiary, a reduction in the av-
16 erage actuarial value of benefits under the plan
17 (through reduction or elimination of benefits,
18 an increase in premiums, deductibles, copay-
19 ments, and coinsurance, or any combination
20 thereof), since the date of commencement of
21 coverage of the beneficiary by reason of the re-
22 tirement of the covered employee (or, if later,
23 January 6, 2004), in an amount equal to at
24 least 50 percent of the total average actuarial
25 value of the benefits under the plan as of such

1 date (taking into account an appropriate ad-
2 justment to permit comparison of values over
3 time); and

4 “(B) includes an increase in premiums re-
5 quired to an amount that exceeds the premium
6 level described in the fourth sentence of section
7 2202(3).”.

8 (b) DURATION OF COVERAGE THROUGH AGE 65.—
9 Section 2202(2)(A) of such Act (42 U.S.C. 300bb-
10 2(2)(A)) is amended—

11 (1) by redesignating clause (iii) as clause (iv);
12 and

13 (2) by inserting after clause (ii) the following
14 new clause:

15 “(iii) SPECIAL RULE FOR CERTAIN
16 DEPENDENTS IN CASE OF TERMINATION
17 OR SUBSTANTIAL REDUCTION OF RETIREE
18 HEALTH COVERAGE.—In the case of a
19 qualifying event described in section
20 2203(6), in the case of a qualified bene-
21 ficiary described in section 2208(3)(C) who
22 is not the qualified retiree or spouse of
23 such retiree, the later of—

24 “(I) the date that is 36 months
25 after the earlier of the date the quali-

1 fied retiree becomes entitled to bene-
2 fits under title XVIII of the Social Se-
3 curity Act, or the date of the death of
4 the qualified retiree; or

5 “(II) the date that is 36 months
6 after the date of the qualifying
7 event.”.

8 (c) TYPE OF COVERAGE IN CASE OF TERMINATION
9 OR SUBSTANTIAL REDUCTION OF RETIREE HEALTH COV-
10 ERAGE.—Section 2202(1) of such Act (42 U.S.C. 300bb-
11 2(1)) is amended—

12 (1) by striking “The coverage” and inserting
13 the following:

14 “(A) IN GENERAL.—Except as provided in
15 subparagraph (B), the coverage”; and

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

17 “(B) CERTAIN RETIREES.—In the case of
18 a qualifying event described in section 2203(6),
19 in applying the first sentence of subparagraph
20 (A) and the fourth sentence of paragraph (3),
21 the coverage offered that is the most prevalent
22 coverage option (as determined under regula-
23 tions of the Secretary of Labor) continued
24 under the group health plan (or, if none, under
25 the most prevalent other plan offered by the

1 same plan sponsor) shall be treated as the cov-
2 erage described in such sentence, or (at the op-
3 tion of the plan and qualified beneficiary) such
4 other coverage option as may be offered and
5 elected by the qualified beneficiary involved.”.

6 (d) INCREASED LEVEL OF PREMIUMS PERMITTED.—
7 Section 2202(3) of such Act (42 U.S.C. 300bb–2(3)) is
8 amended by adding at the end the following new sentence:
9 “In the case of an individual provided continuation cov-
10 erage by reason of a qualifying event described in section
11 2203(6), any reference in subparagraph (A) of this para-
12 graph to ‘102 percent of the applicable premium’ is
13 deemed a reference to ‘125 percent of the applicable pre-
14 mium for employed individuals (and their dependents, if
15 applicable) for the coverage option referred to in para-
16 graph (1)(B)’.”.

17 (e) NOTICE.—Section 2206(a) of such Act (42 U.S.C.
18 300bb–6(a)) is amended—

19 (1) in paragraph (4)(A), by striking “or (4)”
20 and inserting “(4), or (6)”; and

21 (2) by adding at the end the following:
22 “The notice under paragraph (4) in the case of a quali-
23 fying event described in section 2203(6) shall be provided
24 at least 90 days before the date of the qualifying event.”.

25 (f) EFFECTIVE DATES.—

1 (1) IN GENERAL.—The amendments made by
2 this section (other than subsection (e)(2)) shall
3 apply to qualifying events occurring on or after Jan-
4 uary 6, 2004. In the case of a qualifying event oc-
5 ccurring on or after such date and before the date of
6 the enactment of this Act, such event shall be
7 deemed (for purposes of such amendments) to have
8 occurred on the date of the enactment of this Act.

9 (2) ADVANCE NOTICE OF TERMINATIONS AND
10 REDUCTIONS.—The amendment made by subsection
11 (e)(2) shall apply to qualifying events occurring
12 after the date of the enactment of this Act, except
13 that in no case shall notice be required under such
14 amendment before such date.

15 **Subtitle C—Amendments to the** 16 **Internal Revenue Code of 1986**

17 **SEC. 321. COBRA CONTINUATION BENEFITS FOR CERTAIN** 18 **RETIRED WORKERS WHO LOSE RETIREE** 19 **HEALTH COVERAGE.**

20 (a) ESTABLISHMENT OF NEW QUALIFYING
21 EVENT.—

22 (1) IN GENERAL.—Section 4980B(f)(3) of the
23 Internal Revenue Code of 1986 is amended by in-
24 serting after subparagraph (F) the following new
25 subparagraph:

1 “(G) The termination or substantial reduc-
2 tion in benefits (as defined in subsection (g)(6))
3 of group health plan coverage as a result of
4 plan changes or termination in the case of a
5 covered employee who is a qualified retiree.”.

6 (2) QUALIFIED RETIREE; QUALIFIED BENE-
7 FICIARY; AND SUBSTANTIAL REDUCTION DE-
8 FINED.—Section 4980B(g) of such Code is amend-
9 ed—

10 (A) in paragraph (1)—

11 (i) in subparagraph (A), by inserting
12 “except as otherwise provided in this para-
13 graph,” after “means,”; and

14 (ii) by adding at the end the following
15 new subparagraph:

16 “(E) SPECIAL RULE FOR QUALIFYING RE-
17 TIREES AND DEPENDENTS.—In the case of a
18 qualifying event described in subsection
19 (f)(3)(G), the term ‘qualified beneficiary’ means
20 a qualified retiree and any other individual who,
21 on the day before such qualifying event, is a
22 beneficiary under the plan on the basis of the
23 individual’s relationship to such qualified re-
24 tiree.”; and

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

3 “(5) QUALIFIED RETIREE.—The term ‘qualified
4 retiree’ means, with respect to a qualifying event de-
5 scribed in subsection (f)(3)(G), a covered employee
6 who, at the time of the event—

7 “(A) has attained 55 years of age; and

8 “(B) was receiving group health coverage
9 under the plan by reason of the retirement of
10 the covered employee.

11 “(6) SUBSTANTIAL REDUCTION.—The term
12 ‘substantial reduction’—

13 “(A) means, as determined under regula-
14 tions of the Secretary of Labor and with respect
15 to a qualified beneficiary, a reduction in the av-
16 erage actuarial value of benefits under the plan
17 (through reduction or elimination of benefits,
18 an increase in premiums, deductibles, copay-
19 ments, and coinsurance, or any combination
20 thereof), since the date of commencement of
21 coverage of the beneficiary by reason of the re-
22 tirement of the covered employee (or, if later,
23 January 6, 2004), in an amount equal to at
24 least 50 percent of the total average actuarial
25 value of the benefits under the plan as of such

1 date (taking into account an appropriate ad-
2 justment to permit comparison of values over
3 time); and

4 “(B) includes an increase in premiums re-
5 quired to an amount that exceeds the premium
6 level described in the fourth sentence of sub-
7 section (f)(2)(C).”.

8 (b) DURATION OF COVERAGE THROUGH AGE 65.—
9 Section 4980B(f)(2)(B)(i) of such Code is amended—

10 (1) in subclause (II), by inserting “or (3)(G)”
11 after “(3)(F)”;

12 (2) in subclause (IV), by striking “or (3)(F)”
13 and inserting “, (3)(F), or (3)(G)”;

14 (3) by redesignating subclause (IV) as sub-
15 clause (VI);

16 (4) by redesignating subclause (V) as subclause
17 (IV) and by moving such clause to immediately fol-
18 low subclause (III); and

19 (5) by inserting after such subclause (IV) the
20 following new subclause:

21 “(V) SPECIAL RULE FOR CER-
22 TAIN DEPENDENTS IN CASE OF TER-
23 MINATION OR SUBSTANTIAL REDUC-
24 TION OF RETIREE HEALTH COV-
25 ERAGE.—In the case of a qualifying

1 event described in paragraph (3)(G),
2 in the case of a qualified beneficiary
3 described in subsection (g)(1)(E) who
4 is not the qualified retiree or spouse
5 of such retiree, the later of—

6 “(a) the date that is 36
7 months after the earlier of the
8 date the qualified retiree becomes
9 entitled to benefits under title
10 XVIII of the Social Security Act,
11 or the date of the death of the
12 qualified retiree; or

13 “(b) the date that is 36
14 months after the date of the
15 qualifying event.”.

16 (c) TYPE OF COVERAGE IN CASE OF TERMINATION
17 OR SUBSTANTIAL REDUCTION OF RETIREE HEALTH COV-
18 ERAGE.—Section 4980B(f)(2)(A) of such Code is amend-
19 ed—

20 (1) by striking “The coverage” and inserting
21 the following:

22 “(i) IN GENERAL.—Except as pro-
23 vided in clause (ii), the coverage”; and

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

1 “(ii) CERTAIN RETIREES.—In the
2 case of a qualifying event described in
3 paragraph (3)(G), in applying the first
4 sentence of clause (i) and the fourth sen-
5 tence of subparagraph (C), the coverage
6 offered that is the most prevalent coverage
7 option (as determined under regulations of
8 the Secretary of Labor) continued under
9 the group health plan (or, if none, under
10 the most prevalent other plan offered by
11 the same plan sponsor) shall be treated as
12 the coverage described in such sentence, or
13 (at the option of the plan and qualified
14 beneficiary) such other coverage option as
15 may be offered and elected by the qualified
16 beneficiary involved.”.

17 (d) INCREASED LEVEL OF PREMIUMS PERMITTED.—
18 Section 4980B(f)(2)(C) of such Code is amended by add-
19 ing at the end the following new sentence: “In the case
20 of an individual provided continuation coverage by reason
21 of a qualifying event described in paragraph (3)(G), any
22 reference in clause (i) of this subparagraph to ‘102 per-
23 cent of the applicable premium’ is deemed a reference to
24 ‘125 percent of the applicable premium for employed indi-

1 viduals (and their dependents, if applicable) for the cov-
2 erage option referred to in subparagraph (A)(ii)’. ”.

3 (e) NOTICE.—Section 4980B(f)(6) of such Code is
4 amended—

5 (1) in subparagraph (D)(i), by striking “or
6 (F)” and inserting “(F), or (G)”; and

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

8 “The notice under subparagraph (D)(i) in the case of a
9 qualifying event described in paragraph (3)(G) shall be
10 provided at least 90 days before the date of the qualifying
11 event.”.

12 (f) EFFECTIVE DATES.—

13 (1) IN GENERAL.—The amendments made by
14 this section (other than subsection (e)(2)) shall
15 apply to qualifying events occurring on or after Jan-
16 uary 6, 2004. In the case of a qualifying event oc-
17 ccurring on or after such date and before the date of
18 the enactment of this Act, such event shall be
19 deemed (for purposes of such amendments) to have
20 occurred on the date of the enactment of this Act.

21 (2) ADVANCE NOTICE OF TERMINATIONS AND
22 REDUCTIONS.—The amendment made by subsection
23 (e)(2) shall apply to qualifying events occurring
24 after the date of the enactment of this Act, except

1 that in no case shall notice be required under such
2 amendment before such date.

3 **TITLE IV—FINANCING**

4 **SEC. 401. REFERENCE TO FINANCING PROVISIONS.**

5 Any increase in payments under the medicare pro-
6 gram under title XVIII of the Social Security Act that
7 results from the enactment of this Act shall be offset by
8 reductions in payments under such program pursuant to
9 the anti-fraud and anti-abuse provisions enacted as part
10 of the Medicare Fraud and Overpayment Act of 1998.

11 **TITLE V—PROVISION OF PRE-** 12 **MIUM ASSISTANCE FOR LOW-** 13 **INCOME INDIVIDUALS PUR-** 14 **CHASING EARLY COVERAGE** 15 **UNDER THE MEDICARE PRO-** 16 **GRAM**

17 **SEC. 501. PROVISION OF PREMIUM ASSISTANCE FOR LOW-** 18 **INCOME INDIVIDUALS PURCHASING EARLY** 19 **COVERAGE UNDER THE MEDICARE PRO-** 20 **GRAM.**

21 (a) IN GENERAL.—Section 1902(a)(10) of the Social
22 Security Act (42 U.S.C. 1396a(a)(10)) is amended—

23 (1) in subparagraph (E)—

24 (A) by striking “and” at the end of clause

25 (iii), and

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

3 “(v) for making medical assistance avail-
4 able consistent with section 1916(d)(2) for
5 medicare cost-sharing described in section
6 1905(p)(3)(A)(iii) for individuals who have en-
7 rolled for benefits under part D of title XVIII,
8 whose income (as determined in the same man-
9 ner as income is determined under section
10 1905(p) for qualified medicare beneficiaries)
11 does not exceed 200 percent of the official pov-
12 erty line (referred to in such section) applicable
13 to a family of the size involved, and who are not
14 otherwise entitled to medical assistance under
15 the plan;”; and

16 (2) in the matter following subparagraph (G)—

17 (A) by striking “and” before “(XIV)”, and

18 (B) by inserting before the semicolon at
19 the end the following: “, and (XV) the medical
20 assistance made available to an individual de-
21 scribed in subparagraph (E)(v) shall be limited
22 to medical assistance for medicare cost-sharing
23 described in the last sentence of section
24 1905(p)(3)”.

1 (b) SLIDING SCALE FOR BENEFITS.—Section
2 1916(d) of such Act (42 U.S.C. 1396o(d)) is amended—

3 (1) by inserting “(1)” after “(d)”, and

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

5 “(2) With respect to an individual described in sec-
6 tion 1902(a)(10)(E)(v), the State plan of a State shall
7 provide for the charging of a premium (expressed as a per-
8 centage of the medicare cost-sharing described in the last
9 sentence of paragraph (3) of section 1905(p)(3) provided
10 with respect to the individual) according to a sliding scale
11 under which such percentage increases from 10 percent
12 to 100 percent, in reasonable increments (as determined
13 by the Secretary), as the individual’s income increases
14 from 100 percent of the official poverty line (referred to
15 in such section) to 200 percent of such poverty line.”.

16 (c) 100 PERCENT FEDERAL MEDICAL ASSISTANCE
17 PERCENTAGE.—The first sentence of section 1905(b) of
18 such Act (42 U.S.C. 1396d(b)) is amended—

19 (1) by striking “and” before “(4)”, and

20 (2) by inserting before the period at the end the
21 following: “, and (5) the Federal medical assistance
22 percentage shall be 100 percent with respect to med-
23 ical assistance provided under section
24 1902(a)(10)(E)(v)”.

1 (d) MEDICARE COST-SHARING INCLUDING BUY-IN
2 PREMIUM.—Section 1905(p)(3) of such Act (42 U.S.C.
3 1396d(p)(3)) is amended by adding at the end the fol-
4 lowing: “Such term also includes premiums under part D
5 of title XVIII but only with respect to individuals de-
6 scribed in section 1902(a)(10)(E)(v).”.

7 (e) TREATMENT OF TERRITORIES.—Section 1108(g)
8 of such Act (42 U.S.C. 1308(g)) is amended by adding
9 at the end the following new paragraph:

10 “(3) Notwithstanding the preceding provisions of this
11 subsection, with respect to fiscal year 2005 and any fiscal
12 year thereafter, the amount otherwise determined under
13 this subsection (and subsection (f)) for the fiscal year for
14 a Commonwealth or territory shall be increased by the
15 ratio (as estimated by the Secretary) of—

16 “(A) the aggregate amount of payments made
17 to the 50 States and the District of Columbia for
18 the fiscal year under title XIX that are attributable
19 to the amendments made by the Early Medicare Ac-
20 cess and Affordability Act of 2003; to

21 “(B) the aggregate amount of total payments
22 made to such States and District for the fiscal year
23 under such title.”.

1 (f) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to premiums for months beginning
3 with July 2005.

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