I

111TH CONGRESS
1ST SESSION

H. R. 1192

To amend the Internal Revenue Code of 1986 to provide more help to Alzheimer's disease caregivers.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 25, 2009

Ms. EDDIE BERNICE JOHNSON of Texas (for herself and Mr. SALAZAR) introduced the following bill; which was referred to the Committee on Ways and Means

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A BILL

To amend the Internal Revenue Code of 1986 to provide more help to Alzheimer's disease caregivers.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Alzheimer's Family Assistance Act of 2009".

SEC. 2. CREDIT FOR TAXPAYERS WITH LONG-TERM CARE NEEDS.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to nonrefundable personal credits) is

amended by inserting after section 25D the following new section:

"SEC. 25E. CREDIT FOR TAXPAYERS WITH LONG-TERM CARE NEEDS.

"(a) ALLOWANCE OF CREDIT.—

"(1) IN GENERAL.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the applicable credit amount multiplied by the number of applicable individuals with respect to whom the taxpayer is an eligible caregiver for the taxable year.

"(2) APPLICABLE CREDIT AMOUNT.—For purposes of paragraph (1), the applicable credit amount shall be determined in accordance with the following table:

"For taxable years beginning in calendar year—	**The applicable credit amount is—**
2009	$2,000
2010	$2,500
2011	$3,000
2012 or thereafter	$3,500.

"(b) LIMITATION BASED ON ADJUSTED GROSS INCOME.—

"(1) IN GENERAL.—The amount of the credit allowable under subsection (a) shall be reduced (but not below zero) by $100 for each $1,000 (or fraction thereof) by which the taxpayer's modified adjusted gross income exceeds the threshold amount. For

purposes of the preceding sentence, the term 'modified adjusted gross income' means adjusted gross income increased by any amount excluded from gross income under section 911, 931, or 933.

"(2) THRESHOLD AMOUNT.—For purposes of paragraph (1), the term 'threshold amount' means—

"(A) $150,000 in the case of a joint return, and

"(B) $75,000 in any other case.

"(3) INDEXING.—In the case of any taxable year beginning in a calendar year after 2009, each dollar amount contained in paragraph (2) shall be increased by an amount equal to the product of—

"(A) such dollar amount, and

"(B) the medical care cost adjustment determined under section 213(d)(10)(B)(ii) for the calendar year in which the taxable year begins, determined by substituting '2008' for '1996' in subclause (II) thereof.

If any increase determined under the preceding sentence is not a multiple of $50, such increase shall be rounded to the next lowest multiple of $50.

"(c) DEFINITIONS.—For purposes of this section—

"(1) APPLICABLE INDIVIDUAL.—

''(A) IN GENERAL.—The term 'applicable individual' means, with respect to any taxable year, any individual who has been certified, before the due date for filing the return of tax for the taxable year (without extensions), by a physician (as defined in section 1861(r)(1) of the Social Security Act) as being an individual with long-term care needs described in subparagraph (B) for a period—

''(i) which is at least 120 consecutive days, and

''(ii) a portion of which occurs within the taxable year.

Such term shall not include any individual otherwise meeting the requirements of the preceding sentence unless within the 39½ month period ending on such due date (or such other period as the Secretary prescribes) a physician (as so defined) has certified that such individual meets such requirements.

''(B) INDIVIDUALS WITH LONG-TERM CARE NEEDS.—An individual is described in this subparagraph if the individual meets any of the following requirements:

"(i) The individual is at least 18 years of age and—

"(I) is unable to perform (without substantial assistance from another individual) at least 3 activities of daily living (as defined in section 7702B(c)(2)(B)) due to a loss of functional capacity, or

"(II) requires substantial supervision to protect such individual from threats to health and safety due to severe cognitive impairment and is unable to perform at least 1 activity of daily living (as so defined) or to the extent provided in regulations prescribed by the Secretary (in consultation with the Secretary of Health and Human Services), is unable to engage in age appropriate activities.

"(ii) The individual is at least 6 but not 18 years of age and—

"(I) is unable to perform (without substantial assistance from another individual) at least 3 activities of daily living (as defined in section

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

"(II) requires substantial supervision to protect such individual from threats to health and safety due to severe cognitive impairment and is unable to perform at least 1 activity of daily living (as so defined) or to the extent provided in regulations prescribed by the Secretary (in consultation with the Secretary of Health and Human Services), is unable to engage in age appropriate activities,

"(III) has a level of disability similar to the level of disability described in subclause (I) (as determined under regulations promulgated by the Secretary), or

"(IV) has a complex medical condition (as defined by the Secretary) that requires medical management and coordination of care.

"(iii) The individual is at least 2 but not 6 years of age and—

"(I) is unable due to a loss of functional capacity to perform (without substantial assistance from another individual) at least 2 of the following activities: eating, transferring, or mobility,

"(II) has a level of disability similar to the level of disability described in subclause (I) (as determined under regulations promulgated by the Secretary), or

"(III) has a complex medical condition (as defined by the Secretary) that requires medical management and coordination of care.

"(iv) The individual is under 2 years of age and—

"(I) requires specific durable medical equipment by reason of a severe health condition or requires a skilled practitioner trained to address the individual's condition to be available if the individual's parents or guardians are absent,

"(II) has a level of disability similar to the level of disability described in subclause (I) (as determined under regulations promulgated by the Secretary), or

"(III) has a complex medical condition (as defined by the Secretary) that requires medical management and coordination of care.

"(v) The individual has 5 or more chronic conditions (as defined in subparagraph (C)) and is unable to perform (without substantial assistance from another individual) at least 1 activity of daily living (as so defined) due to a loss of functional capacity.

"(C) CHRONIC CONDITION.—For purposes of this paragraph, the term 'chronic condition' means a condition that lasts for at least 6 consecutive months and requires ongoing medical care.

"(2) ELIGIBLE CAREGIVER.—

"(A) IN GENERAL.—A taxpayer shall be treated as an eligible caregiver for any taxable

year with respect to each of the following individuals:

"(i) The taxpayer.

"(ii) The taxpayer's spouse.

"(iii) An individual who is a qualifying child (as defined in section 152(c)) or a qualifying relative (as defined in section 152(d)) with respect to whom the taxpayer is allowed a deduction under section 151(c) for the taxable year.

"(iv) An individual who would be a qualifying relative described in clause (iii) for the taxable year if section 152(d)(1)(B) were applied by substituting for the exemption amount an amount equal to the sum of the exemption amount, the standard deduction under section 63(c)(2)(C), and any additional standard deduction under section 63(c)(3) which would be applicable to the individual if clause (iii) applied.

"(v) An individual who would be a qualifying relative described in clause (iii) for the taxable year if—

"(I) the requirements of clause (iv) are met with respect to the individual, and

"(II) the requirements of subparagraph (B) are met with respect to the individual in lieu of the support test of section 152(d)(1)(C).

"(B) RESIDENCY TEST.—The requirements of this subparagraph are met if an individual has as his principal place of abode the home of the taxpayer and—

"(i) in the case of an individual who is an ancestor or descendant of the taxpayer or the taxpayer's spouse, is a member of the taxpayer's household for over half the taxable year, or

"(ii) in the case of any other individual, is a member of the taxpayer's household for the entire taxable year.

"(C) SPECIAL RULES WHERE MORE THAN 1 ELIGIBLE CAREGIVER.—

"(i) IN GENERAL.—If more than 1 individual is an eligible caregiver with respect to the same applicable individual for taxable years ending with or within the

same calendar year, a taxpayer shall be treated as the eligible caregiver if each such individual (other than the taxpayer) files a written declaration (in such form and manner as the Secretary may prescribe) that such individual will not claim such applicable individual for the credit under this section.

''(ii) NO AGREEMENT.—If each individual required under clause (i) to file a written declaration under clause (i) does not do so, the individual with the highest modified adjusted gross income (as defined in section 32(c)(5)) shall be treated as the eligible caregiver.

''(iii) MARRIED INDIVIDUALS FILING SEPARATELY.—In the case of married individuals filing separately, the determination under this subparagraph as to whether the husband or wife is the eligible caregiver shall be made under the rules of clause (ii) (whether or not one of them has filed a written declaration under clause (i)).

''(d) IDENTIFICATION REQUIREMENT.—No credit shall be allowed under this section to a taxpayer with re-

spect to any applicable individual unless the taxpayer includes the name and taxpayer identification number of such individual, and the identification number of the physician certifying such individual, on the return of tax for the taxable year.

''(e) TAXABLE YEAR MUST BE FULL TAXABLE YEAR.—Except in the case of a taxable year closed by reason of the death of the taxpayer, no credit shall be allowable under this section in the case of a taxable year covering a period of less than 12 months.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 6213(g)(2) of the Internal Revenue Code of 1986 is amended by striking ''and'' at the end of subparagraph (L)(ii), by striking the period at the end of subparagraph (M) and inserting '', and'', and by inserting after subparagraph (M) the following new subparagraph:

''(N) an omission of a correct TIN or physician identification required under section 25E(d) (relating to credit for taxpayers with long-term care needs) to be included on a return.''.

(2) The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is

amended by inserting after the item relating to section 25D the following new item:

''Sec. 25E. Credit for taxpayers with long-term care needs.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2009.

SEC. 3. TREATMENT OF PREMIUMS ON QUALIFIED LONG-TERM CARE INSURANCE CONTRACTS.

(a) IN GENERAL.—Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to additional itemized deductions) is amended by redesignating section 224 as section 225 and by inserting after section 223 the following new section:

''SEC. 224. PREMIUMS ON QUALIFIED LONG-TERM CARE INSURANCE CONTRACTS.

''(a) IN GENERAL.—In the case of an individual, there shall be allowed as a deduction an amount equal to the applicable percentage of the amount of eligible long-term care premiums (as defined in section 213(d)(10)) paid during the taxable year for coverage for the taxpayer and the taxpayer's spouse and dependents under a qualified long-term care insurance contract (as defined in section 7702B(b)).

''(b) APPLICABLE PERCENTAGE.—For purposes of subsection (a)—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the applicable percentage shall be determined in accordance with the following table based on the number of years of continuous coverage (as of the close of the taxable year) of the individual under any qualified long-term care insurance contracts (as defined in section 7702B(b)):

"If the number of years of continuous coverage is—	**The applicable percentage is—**
Less than 1	60
At least 1 but less than 2	70
At least 2 but less than 3	80
At least 3 but less than 4	90
At least 4	100.

"(2) SPECIAL RULES FOR INDIVIDUALS WHO HAVE ATTAINED AGE 55.—In the case of an individual who has attained age 55 as of the close of the taxable year, the following table shall be substituted for the table in paragraph (1):

"If the number of years of continuous coverage is—	**The applicable percentage is—**
Less than 1	70
At least 1 but less than 2	85
At least 2	100.

"(3) ONLY COVERAGE AFTER 2009 TAKEN INTO ACCOUNT.—Only coverage for periods after December 31, 2009, shall be taken into account under this subsection.

"(4) CONTINUOUS COVERAGE.—An individual shall not fail to be treated as having continuous cov-

erage if the aggregate breaks in coverage during any 1-year period are less than 60 days.

''(c) COORDINATION WITH OTHER DEDUCTIONS.—Any amount paid by a taxpayer for any qualified long-term care insurance contract to which subsection (a) applies shall not be taken into account in computing the amount allowable to the taxpayer as a deduction under section 162(l) or 213(a).''.

(b) CONFORMING AMENDMENTS.—

(1) Section 62(a) of the Internal Revenue Code of 1986 is amended by inserting after paragraph (21) the following new paragraph:

''(22) PREMIUMS ON QUALIFIED LONG-TERM CARE INSURANCE CONTRACTS.—The deduction allowed by section 224.''.

(2) The table of sections for part VII of subchapter B of chapter 1 of such Code is amended by striking the last item and inserting the following new items:

''Sec. 224. Premiums on qualified long-term care insurance contracts.
''Sec. 225. Cross reference.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2009.

SEC. 4. ADDITIONAL CONSUMER PROTECTIONS FOR LONG-TERM CARE INSURANCE.

(a) ADDITIONAL PROTECTIONS APPLICABLE TO LONG-TERM CARE INSURANCE.—Subparagraphs (A) and (B) of section 7702B(g)(2) of the Internal Revenue Code of 1986 (relating to requirements of model regulation and Act) are amended to read as follows:

''(A) IN GENERAL.—The requirements of this paragraph are met with respect to any contract if such contract meets—

''(i) MODEL REGULATION.—The following requirements of the model regulation:

''(I) Section 6A (relating to guaranteed renewal or noncancellability), and the requirements of section 6B of the model Act relating to such section 6A.

''(II) Section 6B (relating to prohibitions on limitations and exclusions).

''(III) Section 6C (relating to extension of benefits).

''(IV) Section 6D (relating to continuation or conversion of coverage).

''(V) Section 6E (relating to discontinuance and replacement of policies).

''(VI) Section 7 (relating to unintentional lapse).

''(VII) Section 8 (relating to disclosure), other than section 8F thereof.

''(VIII) Section 11 (relating to prohibitions against post-claims underwriting).

''(IX) Section 12 (relating to minimum standards).

''(X) Section 13 (relating to requirement to offer inflation protection), except that any requirement for a signature on a rejection of inflation protection shall permit the signature to be on an application or on a separate form.

''(XI) Section 25 (relating to prohibition against preexisting conditions and probationary periods in replacement policies or certificates).

''(XII) The provisions of section 26 relating to contingent nonforfeiture benefits, if the policyholder declines the offer of a nonforfeiture provision described in paragraph (4).

''(ii) MODEL ACT.—The following requirements of the model Act:

''(I) Section 6C (relating to preexisting conditions).

''(II) Section 6D (relating to prior hospitalization).

''(III) The provisions of section 8 relating to contingent nonforfeiture benefits, if the policyholder declines the offer of a nonforfeiture provision described in paragraph (4).

''(B) DEFINITIONS.—For purposes of this paragraph—

''(i) MODEL PROVISIONS.—The terms 'model regulation' and 'model Act' mean the long-term care insurance model regulation, and the long-term care insurance model Act, respectively, promulgated by the National Association of Insurance

Commissioners (as adopted as of September 2000).

''(ii) COORDINATION.—Any provision of the model regulation or model Act listed under clause (i) or (ii) of subparagraph (A) shall be treated as including any other provision of such regulation or Act necessary to implement the provision.

''(iii) DETERMINATION.—For purposes of this section and section 4980C, the determination of whether any requirement of a model regulation or the model Act has been met shall be made by the Secretary.''.

(b) EXCISE TAX.—Paragraph (1) of section 4980C(c) of the Internal Revenue Code of 1986 (relating to requirements of model provisions) is amended to read as follows:

''(1) REQUIREMENTS OF MODEL PROVISIONS.—

''(A) MODEL REGULATION.—The following requirements of the model regulation must be met:

''(i) Section 9 (relating to required disclosure of rating practices to consumer).

''(ii) Section 14 (relating to application forms and replacement coverage).

''(iii) Section 15 (relating to reporting requirements), except that the issuer shall also report at least annually the number of claims denied during the reporting period for each class of business (expressed as a percentage of claims denied), other than claims denied for failure to meet the waiting period or because of any applicable preexisting condition.

''(iv) Section 22 (relating to filing requirements for marketing).

''(v) Section 23 (relating to standards for marketing), including inaccurate completion of medical histories, other than paragraphs (1), (6), and (9) of section 23C, except that—

''(I) in addition to such requirements, no person shall, in selling or offering to sell a qualified long-term care insurance contract, misrepresent a material fact; and

''(II) no such requirements shall include a requirement to inquire or

identify whether a prospective applicant or enrollee for long-term care insurance has accident and sickness insurance.

''(vi) Section 24 (relating to suitability).

''(vii) Section 29 (relating to standard format outline of coverage).

''(viii) Section 30 (relating to requirement to deliver shopper's guide).

The requirements referred to in clause (vi) shall not include those portions of the personal worksheet described in Appendix B relating to consumer protection requirements not imposed by section 4980C or 7702B.

''(B) MODEL ACT.—The following requirements of the model Act must be met:

''(i) Section 6F (relating to right to return), except that such section shall also apply to denials of applications and any refund shall be made within 30 days of the return or denial.

''(ii) Section 6G (relating to outline of coverage).

"(iii) Section 6H (relating to requirements for certificates under group plans).

"(iv) Section 6I (relating to policy summary).

"(v) Section 6J (relating to monthly reports on accelerated death benefits).

"(vi) Section 7 (relating to incontestability period).

"(C) DEFINITIONS.—For purposes of this paragraph, the terms 'model regulation' and 'model Act' have the meanings given such terms by section 7702B(g)(2)(B).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to policies issued more than 1 year after the date of the enactment of this Act.

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