

111TH CONGRESS
1ST SESSION

S. 1185

To amend titles XVIII and XIX of the Social Security Act to ensure that low-income beneficiaries have improved access to health care under the Medicare and Medicaid programs.

IN THE SENATE OF THE UNITED STATES

JUNE 4, 2009

Mr. BINGAMAN introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend titles XVIII and XIX of the Social Security Act to ensure that low-income beneficiaries have improved access to health care under the Medicare and Medicaid programs.

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

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

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Medicare Financial Stability for Beneficiaries Act of
6 2009”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Eligibility for other programs.
- Sec. 3. Cost-sharing protections for low-income subsidy-eligible individuals.
- Sec. 4. Modification of resource standards for determination of eligibility for LIS; no consideration of pension or retirement plan in determination of resources.
- Sec. 5. Increase in income levels for eligibility.
- Sec. 6. Effective date of MSP benefits.
- Sec. 7. Expanding special enrollment process to individuals eligible for an income-related subsidy.
- Sec. 8. Enhanced cost-sharing protections for full-benefit dual eligible individuals and qualified medicare beneficiaries.
- Sec. 9. Two-way deeming between Medicare Savings Program and Low-Income Subsidy Program.
- Sec. 10. Improving linkages between health programs and snap.
- Sec. 11. Expediting low-income subsidies under the Medicare prescription drug program.
- Sec. 12. Enhanced oversight and enforcement relating to reimbursements for retroactive LIS enrollment.
- Sec. 13. Intelligent assignment in enrollment.
- Sec. 14. Medicare enrollment assistance.
- Sec. 15. QMB buy-in of part A and part B premiums.
- Sec. 16. Increasing availability of MSP applications through availability on the internet and designation of preferred language.
- Sec. 17. State Medicaid agency consideration of low-income subsidy application and data transmittal.

1 SEC. 2. ELIGIBILITY FOR OTHER PROGRAMS.

2 (a) LIS.—Section 1860D–14(a)(3) of the Social Se-
 3 curity Act (42 U.S.C. 1395w–114(a)(3)), as amended by
 4 section 116 of the Medicare Improvements for Patients
 5 and Providers Act of 2008 (Public Law 110–275), is
 6 amended—

7 (1) in subparagraph (A), in the matter pre-
 8 ceding clause (i), by striking “subparagraph (F)”
 9 and inserting “subparagraphs (F) and (H)”; and

10 (2) by adding at the end the following new sub-
 11 paragraph:

12 “(H) DISREGARD OF PREMIUM AND COST-
 13 SHARING SUBSIDIES FOR PURPOSES OF FED-

1 ERAL AND STATE PROGRAMS.—Notwithstanding
2 any other provision of law, any premium or
3 cost-sharing subsidy with respect to a subsidy-
4 eligible individual under this section shall not
5 be considered income or resources in deter-
6 mining eligibility for, or the amount of assist-
7 ance or benefits provided under, any other pub-
8 lic benefit provided under Federal law or the
9 law of any State or political subdivision there-
10 of.”.

11 (b) MSP.—Section 1905(p) of the Social Security
12 Act (42 U.S.C. 1396d(p)) is amended—

13 (1) by redesignating paragraph (6) as para-
14 graph (7); and

15 (2) by inserting after paragraph (5) the fol-
16 lowing new paragraph:

17 “(6) Notwithstanding any other provision of law, any
18 medical assistance for some or all medicare cost-sharing
19 under this title shall not be considered income or resources
20 in determining eligibility for, or the amount of assistance
21 or benefits provided under, any other public benefit pro-
22 vided under Federal law or the law of any State or polit-
23 ical subdivision thereof”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to eligibility for benefits on or after
3 January 1, 2010.

4 **SEC. 3. COST-SHARING PROTECTIONS FOR LOW-INCOME**
5 **SUBSIDY-ELIGIBLE INDIVIDUALS.**

6 (a) IN GENERAL.—Section 1860D–14(a) of the So-
7 cial Security Act (42 U.S.C. 1395w–114(a)) is amended—

8 (1) in paragraph (1)(D), by adding at the end
9 the following new clause:

10 “(iv) OVERALL LIMITATION ON COST-
11 SHARING.—In the case of all such individ-
12 uals, a limitation on aggregate cost-sharing
13 under this part for a year not to exceed
14 2.5 percent of income.”; and

15 (2) in paragraph (2), by adding at the end the
16 following new subparagraph:

17 “(F) OVERALL LIMITATION ON COST-SHAR-
18 ING.—A limitation on aggregate cost-sharing
19 under this part for a year not to exceed 2.5 per-
20 cent of income.”.

21 (b) EFFECTIVE DATE.—The amendments made by
22 subsection (a) shall apply as of January 1, 2010.

1 **SEC. 4. MODIFICATION OF RESOURCE STANDARDS FOR DE-**
 2 **TERMINATION OF ELIGIBILITY FOR LIS; NO**
 3 **CONSIDERATION OF PENSION OR RETIRE-**
 4 **MENT PLAN IN DETERMINATION OF RE-**
 5 **SOURCES.**

6 (a) **ELIMINATING THE BIFURCATION OF RESOURCE**
 7 **STANDARDS.—**

8 (1) **IN GENERAL.—**Section 1860D–
 9 14(a)(3)(A)(iii) of the Social Security Act (42
 10 U.S.C. 1395w–114(a)(3)(A)(iii)) is amended by
 11 striking “meets the” and all that follows through the
 12 period at the end and inserting “meets—

13 “(I) in the case of determinations
 14 made before January 1, 2011, the re-
 15 source requirement described in sub-
 16 paragraph (D) or (E); and

17 “(II) in the case of determina-
 18 tions made on or after January 1,
 19 2011, the resource requirement de-
 20 scribed in subparagraph (E).”.

21 (2) **CONFORMING AMENDMENT.—**Section
 22 1860D–14(a)(3)(D)(ii) of the Social Security Act
 23 (42 U.S.C. 1395w–114(a)(3)(D)(ii)) is amended by
 24 inserting “(before 2011)” after “a subsequent year”.

25 (b) **INCREASING THE APPLICABLE RESOURCE**
 26 **STANDARD.—**Section 1860D–14(a)(3)(E) of the Social

1 Security Act (42 U.S.C. 1395w-114(a)(3)(E)(i)) is
2 amended—

3 (1) in the heading, by striking “ALTERNATIVE”
4 and inserting “APPLICABLE”;

5 (2) in clause (i)—

6 (A) in subclause (I), by striking “and” at
7 the end;

8 (B) in subclause (II)—

9 (i) by inserting “(before 2011)” after
10 “a subsequent year”;

11 (ii) by striking the period at the end
12 and inserting a semicolon; and

13 (iii) by inserting before the flush sen-
14 tence at the end the following new sub-
15 clauses:

16 “(III) for 2011, \$27,500 (or
17 \$55,000 in the case of the combined
18 value of the individual’s assets or re-
19 sources and the assets or resources of
20 the individual’s spouse); and

21 “(IV) for a subsequent year the
22 dollar amounts specified in this sub-
23 clause (or subclause (III)) for the pre-
24 vious year increased by the annual
25 percentage increase in the consumer

1 price index (all items; U.S. city aver-
 2 age) as of September of such previous
 3 year.”; and

4 (C) in the flush sentence at the end, by in-
 5 serting “or (IV)” after “subclause (II)”.

6 (c) EXCLUSION OF PENSION AND RETIREMENT BEN-
 7 EFITS FROM RESOURCES.—

8 (1) IN GENERAL.—Section 1860D–14(a)(3) of
 9 the Social Security Act (42 U.S.C. 1395w–
 10 114(a)(3)), as amended by section 2, is amended—

11 (A) in subparagraph (E)(i), in the matter
 12 preceding subclause (I), by inserting “and the
 13 pension or retirement plan exclusion provided
 14 under subparagraph (I)” after “(G)”;

15 (B) by adding at the end the following new
 16 subparagraph:

17 “(I) PENSION AND RETIREMENT BENEFITS
 18 EXCLUSION.—In determining the resources of
 19 an individual (and the eligible spouse of the in-
 20 dividual, if any) under section 1613 for pur-
 21 poses of subparagraph (E) no balance in, or
 22 benefits received under, an employee pension
 23 benefit plan (as defined in section 3 of the Em-
 24 ployee Retirement Income Security Act of
 25 1974) shall be taken into account.”.

1 (2) EFFECTIVE DATE.—The amendments made
2 by this subsection shall apply to determinations
3 made on or after January 1, 2011.

4 (d) APPLICATION OF APPLICABLE RESOURCE
5 STANDARD UNDER MEDICARE SAVINGS PROGRAM AND
6 EXEMPTIONS FROM INCOME AND RESOURCES.—

7 (1) APPLICATION OF APPLICABLE RESOURCE
8 STANDARD AND EXEMPTIONS FROM RESOURCES.—
9 Section 1905(p)(1)(C) of the Social Security Act (42
10 U.S.C. 1396d(p)(1)(C)) is amended—

11 (A) by inserting “without taking into ac-
12 count any part of the value of any life insur-
13 ance policy or any balance in, or benefits re-
14 ceived under, an employee pension benefit plan
15 (as defined in section 3 of the Employee Retire-
16 ment Income Security Act of 1974)” after “(as
17 so determined”; and

18 (B) by striking “subparagraph (D)” and
19 all that follows through “section)” and inserting
20 “section 1860D–14(a)(3)(E)”.

21 (2) EXEMPTION OF IN-KIND SUPPORT AND
22 MAINTENANCE.—

23 (A) IN GENERAL.—Section 1905(p)(1)(B)
24 of the Social Security Act (42 U.S.C.
25 1396d(p)(1)(B)) is amended by inserting “and

1 except that support and maintenance furnished
2 in kind shall not be counted as income” after
3 “(2)(D)”.

4 (B) CONFORMING AMENDMENT.—Section
5 1860D–14(a)(3)(C)(i) of the Social Security
6 Act (42 U.S.C. 1395w–114(a)(3)(C)(i)) is
7 amended by striking “and except that support
8 and maintenance furnished in kind shall not be
9 counted as income”.

10 (3) EFFECTIVE DATE.—The amendments made
11 by this subsection shall apply to determinations
12 made on or after January 1, 2011.

13 (e) CLARIFICATION RELATING TO INCLUDING RE-
14 TIREMENT BENEFITS AS INCOME.—Nothing in subpara-
15 graph (I) of section 1860D–14(a)(3) of the Social Security
16 Act (42 U.S.C. 1395w–114(a)(3)), as added by subsection
17 (c)(1), or section 1905(p)(1)(C) of such Act (42 U.S.C.
18 1396d(p)(1)(C)), as amended by subsection (d)(1), shall
19 be construed as affecting the inclusion of retirement bene-
20 fits as income under section 1612(a)(2)(B) of such Act
21 (42 U.S.C. 1382a(a)(2)(B)).

22 **SEC. 5. INCREASE IN INCOME LEVELS FOR ELIGIBILITY.**

23 (a) LIS.—

1 (1) IN GENERAL.—Section 1860D–14(a) of the
2 Social Security Act (42 U.S.C. 1395w–114(a)) is
3 amended—

4 (A) in the subsection heading, by striking
5 “150” and inserting “200”;

6 (B) in paragraph (1)—

7 (i) in the heading, by striking “135”
8 and inserting “150”; and

9 (ii) in the matter preceding subpara-
10 graph (A), by striking “135” and inserting
11 “150”;

12 (C) in paragraph (2)—

13 (i) in the heading, by striking “150”
14 and inserting “200”; and

15 (ii) in subparagraph (A)—

16 (I) by striking “135” and insert-
17 ing “150”; and

18 (II) by striking “150” and in-
19 serting “200”; and

20 (D) in paragraph (3)(A)(ii), by striking
21 “150” and inserting “200”.

22 (2) EFFECTIVE DATE.—The amendments made
23 by this subsection shall apply to determinations
24 made on or after January 1, 2011.

25 (b) MSP.—

1 (1) INCREASE TO 150 PERCENT OF FPL FOR
2 QUALIFIED MEDICARE BENEFICIARIES.—

3 (A) IN GENERAL.—Section 1905(p)(2) of
4 the Social Security Act (42 U.S.C.
5 1396d(p)(2)) is amended—

6 (i) in subparagraph (A), by striking
7 “100 percent” and inserting “150 per-
8 cent”;

9 (ii) in subparagraph (B)—

10 (I) by striking “and” at the end
11 of clause (ii);

12 (II) by striking the period at the
13 end of clause (iii) and inserting “,
14 and”;

15 (III) by adding at the end the
16 following:

17 “(iv) January 1, 2011, is 150 percent.”; and

18 (iii) in subparagraph (C)—

19 (I) by striking “and” at the end
20 of clause (iii);

21 (II) by striking the period at the
22 end of clause (iv) and inserting “,
23 and”;

24 (III) by adding at the end the
25 following:

1 “(v) January 1, 2011, is 150 percent.”.

2 (B) APPLICATION OF INCOME TEST BASED
 3 ON FAMILY SIZE.—Section 1905(p)(2)(A) of
 4 such Act (42 U.S.C. 1396d(p)(2)(A)) is amend-
 5 ed by adding at the end the following: “For
 6 purposes of this subparagraph, family size
 7 means the applicant, the spouse (if any) of the
 8 applicant if living in the same household as the
 9 applicant, and the number of individuals who
 10 are related to the applicant (or applicants), who
 11 are living in the same household as the appli-
 12 cant (or applicants), and who are dependent on
 13 the applicant (or the applicant’s spouse) for at
 14 least one-half of their financial support.”.

15 (2) EXPANSION OF SPECIFIED LOW-INCOME
 16 MEDICARE BENEFICIARY (SLMB) PROGRAM.—

17 (A) ELIGIBILITY OF INDIVIDUALS WITH
 18 INCOMES BELOW 200 PERCENT OF FPL.—Sec-
 19 tion 1902(a)(10)(E) of the Social Security Act
 20 (42 U.S.C. 1396b(a)(10)(E)) is amended—

21 (i) by adding “and” at the end of
 22 clause (ii);

23 (ii) in clause (iii)—

24 (I) by striking “and 120 percent
 25 in 1995 and years thereafter” and in-

1 serting “, or 120 percent in 1995 and
2 any succeeding year before 2011, or
3 200 percent beginning in 2011”; and
4 (II) by striking “and” at the end;
5 and
6 (iii) by striking clause (iv).

7 (B) REVISION TO DESCRIPTION.—Section
8 1902(a)(10)(E)(iii) of the Social Security Act
9 (42 U.S.C. 1396b(a)(10)(E)(iii)) is amended by
10 striking “who would be qualified medicare” and
11 all that follows through “but is less than” and
12 inserting “whose income (as determined in ac-
13 cordance with subparagraphs (B) and (C) of
14 section 1905(p)(1)) is less than”.

15 (C) REFERENCES.—Section 1905(p)(1) of
16 such Act (42 U.S.C. 1396d(p)(1)) is amended
17 by adding at and below subparagraph (C) the
18 following: “The term ‘specified low-income
19 medicare beneficiary’ means an individual de-
20 scribed in section 1902(a)(10)(E)(iii).”.

21 (3) PROVIDING 100 PERCENT FEDERAL FINANC-
22 ING.—The third sentence of section 1905(b) of such
23 Act (42 U.S.C. 1396d(b)) is amended by inserting
24 before the period at the end the following: “, with
25 respect to medical assistance for medicare cost-shar-

1 ing provided under clause (i) of section
2 1902(a)(10)(E) for individuals with incomes greater
3 than 100 percent of the official poverty line de-
4 scribed in subsection (p)(2)(A) and less than or
5 equal to 150 percent of such official poverty line,
6 and with respect to medical assistance for medicare
7 cost-sharing provided under clause (iii) of such sec-
8 tion”.

9 (4) EFFECTIVE DATE.—

10 (A) Except as provided in subparagraph
11 (B), the amendments made by this subsection
12 shall take effect on January 1, 2011, and, with
13 respect to title XIX of the Social Security Act,
14 shall apply to calendar quarters beginning on or
15 after January 1, 2011.

16 (B) In the case of a State plan for medical
17 assistance under title XIX of the Social Secu-
18 rity Act which the Secretary of Health and
19 Human Services determines requires State leg-
20 islation (other than legislation appropriating
21 funds) in order for the plan to meet the addi-
22 tional requirements imposed by the amend-
23 ments made by this subsection, the State plan
24 shall not be regarded as failing to comply with
25 the requirements of such title solely on the

1 basis of its failure to meet these additional re-
2 quirements before the first day of the first cal-
3 endar quarter beginning after the close of the
4 first regular session of the State legislature that
5 begins after the date of the enactment of this
6 Act. For purposes of the previous sentence, in
7 the case of a State that has a 2-year legislative
8 session, each year of such session shall be
9 deemed to be a separate regular session of the
10 State legislature.

11 **SEC. 6. EFFECTIVE DATE OF MSP BENEFITS.**

12 (a) IN GENERAL.—

13 (1) EFFECTIVE DATE OF MSP BENEFITS.—Sec-
14 tion 1905(a) of the Social Security Act (42 U.S.C.
15 1396d(a)) is amended, in the matter preceding para-
16 graph (1), by striking “assistance or, in the case of
17 medicare cost-sharing” and all that follows through
18 “beneficiary)” and inserting “assistance)”.

19 (2) CONFORMING AMENDMENTS.—(A) Section
20 1902(e)(8) of the Social Security Act (42 U.S.C.
21 1396a(e)(8)) is amended by striking the first sen-
22 tence.

23 (B) Section 1848(g)(3) of such Act (42 U.S.C.
24 1395w-4(g)(3)) is amended by adding at the end
25 the following new subparagraph:

1 serting “a subsidy-eligible individual (as defined in
2 section 1860D–14(a)(3))”; and

3 (2) by striking “1860D–14(a)(1)(A)” and in-
4 serting “subsection (a)(1)(A) or (b)(1)(A) of section
5 1860D–14, as applicable”

6 (b) EFFECTIVE DATE.—The amendments made by
7 this section shall apply to enrollments on or after January
8 1, 2010.

9 **SEC. 8. ENHANCED COST-SHARING PROTECTIONS FOR**
10 **FULL-BENEFIT DUAL ELIGIBLE INDIVIDUALS**
11 **AND QUALIFIED MEDICARE BENEFICIARIES.**

12 (a) ELIMINATION OF PART D COST-SHARING FOR
13 CERTAIN NON-INSTITUTIONALIZED FULL-BENEFIT DUAL
14 ELIGIBLE INDIVIDUALS.—Section 1860D–14(a)(1)(D)(i)
15 of the Social Security Act (42 U.S.C. 1395w–
16 114(a)(1)(D)(i)) is amended—

17 (1) in the heading, by striking “INSTITU-
18 TIONALIZED INDIVIDUALS.—In” and inserting
19 “ELIMINATION OF COST-SHARING FOR CERTAIN
20 FULL-BENEFIT DUAL ELIGIBLE INDIVIDUALS.—

21 “(I) INSTITUTIONALIZED INDI-
22 VIDUALS.—In”; and

23 (2) by adding at the end the following new sub-
24 clause:

1 “(II) CERTAIN OTHER INDIVID-
2 UALS.—In the case of an individual
3 who is a full-benefit dual eligible indi-
4 vidual who is receiving home and com-
5 munity based care (whether under
6 section 1915 or under a waiver under
7 section 1115), the elimination of any
8 beneficiary coinsurance described in
9 section 1860D–2(b)(2) (for all
10 amounts through the total amount of
11 expenditures at which benefits are
12 available under section 1860D–
13 2(b)(4)).”.

14 (b) REPEAL OF AUTHORITY FOR STATES TO PAY
15 MEDICARE COST-SHARING AT MEDICAID RATES AND
16 PROVISION OF MEDICAL ASSISTANCE TO DUAL ELIGI-
17 BLES IN MA PLANS.—

18 (1) REPEAL OF AUTHORITY FOR STATES TO
19 PAY MEDICARE COST-SHARING AT MEDICAID
20 RATES.—Section 1902(n) of the Social Security Act
21 (42 U.S.C. 1396a(n)) is amended—

22 (A) by striking paragraph (2);

23 (B) by redesignating paragraph (3) as
24 paragraph (2);

1 (C) in paragraph (2), as redesignated by
2 subparagraph (B)—

3 (i) in the matter preceding subpara-
4 graph (A)—

5 (I) by striking “In the case in
6 which a State’s payment for” and in-
7 serting “With respect to”; and

8 (II) by striking “with respect to
9 an item or service is reduced or elimi-
10 nated through the application of para-
11 graph (2)” and inserting “for an item
12 or service”; and

13 (ii) in subparagraph (A), by striking
14 “(if any)”; and

15 (D) by adding at the end the following new
16 paragraph:

17 “(3) Each State shall establish procedures for
18 receiving and processing claims for payment for
19 medicare cost-sharing with respect to items or serv-
20 ices furnished to qualified medicare beneficiaries by
21 providers of services and suppliers under title XVIII
22 who are not participating providers under the State
23 plan.”.

24 (2) PROVISION OF MEDICAL ASSISTANCE TO
25 DUAL ELIGIBLES IN MA PLANS.—Section 1902(n) of

1 the Social Security Act (42 U.S.C. 1396a(n)), as
2 amended by paragraph (1), is amended by adding at
3 the end the following new paragraph:

4 “(4)(A) Each State shall—

5 “(i) identify those individuals who are eli-
6 gible for medical assistance for medicare cost-
7 sharing and who are enrolled with a Medicare
8 Advantage plan under part C of title XVIII;
9 and

10 “(ii) for the individuals so identified, pro-
11 vide for payment of medical assistance for the
12 medicare cost-sharing (including cost-sharing
13 under a Medicare Advantage plan) to which
14 they are entitled.

15 “(B)(i) The Inspector General of the Depart-
16 ment of Health and Human Services shall examine,
17 not later than one year after the date of the enact-
18 ment of this paragraph and every 3 years thereafter,
19 whether States are providing for medical assistance
20 for medicare cost-sharing for individuals enrolled in
21 Medicare Advantage plans in accordance with this
22 title. The Inspector General shall submit to the Sec-
23 retary a report on such examination and a finding
24 as to whether States are failing to provide such med-
25 ical assistance.

1 “(ii) If a report under clause (i) includes a find-
2 ing that States are failing to provide such medical
3 assistance, not later than 60 days after the date of
4 receiving such report the Secretary shall submit to
5 Congress a report that includes a plan of action on
6 how to enforce such requirement.”.

7 (3) CONFORMING AMENDMENTS.—

8 (A) PROVIDER AGREEMENTS.—Section
9 1866(a)(1)(A)(ii) of the Social Security Act (42
10 U.S.C. 1395cc(a)(1)(A)(ii)) is amended by
11 striking “1902(n)(3)” and inserting
12 “1902(n)(2)”.

13 (B) NONPARTICIPATING PROVIDERS.—Sec-
14 tion 1848(g)(3)(A) of the Social Security Act
15 (42 U.S.C. 1395w-4(g)(3)(A)) is amended by
16 striking “1902(n)(3)(A)” and inserting
17 “1902(n)(2)(A)”.

18 (4) EFFECTIVE DATE.—

19 (A) IN GENERAL.—Except as provided in
20 subparagraph (B), the amendments made by
21 this subsection shall take effect on the date of
22 enactment of this Act.

23 (B) EXCEPTION.—The amendment made
24 by paragraph (2) shall be effective and apply as
25 if included in the enactment of the Medicare

1 Prescription Drug, Improvement, and Mod-
2 ernization Act of 2003 (Public Law 108–173).

3 **SEC. 9. TWO-WAY DEEMING BETWEEN MEDICARE SAVINGS**
4 **PROGRAM AND LOW-INCOME SUBSIDY PRO-**
5 **GRAM.**

6 (a) LOW-INCOME SUBSIDY PROGRAM.—Section
7 1860D–14(a)(3) of the Social Security Act (42 U.S.C.
8 1395w–104(a)(3)), as amended by section 4, is amended
9 by adding at the end the following new subparagraph:

10 “(J) DEEMED TREATMENT FOR QUALIFIED
11 MEDICARE BENEFICIARIES AND SPECIFIED
12 LOW-INCOME MEDICARE BENEFICIARIES.—

13 “(i) QMBS ELIGIBLE FOR FULL SUB-
14 SIDY.—A part D eligible individual who
15 has been determined for purposes of title
16 XIX to be a qualified medicare beneficiary
17 is deemed, for purposes of this part and
18 without the need to file any additional ap-
19 plication, to be a subsidy eligible individual
20 described in paragraph (1).

21 “(ii) SLMBS ELIGIBLE FOR PARTIAL
22 SUBSIDY.—A part D eligible individual
23 who has been determined to be a specified
24 low-income medicare beneficiary (as de-
25 fined in section 1905(p)(1)) and who is not

1 described in paragraph (1) is deemed, for
2 purposes of this part and without the need
3 to file any additional application, to be a
4 subsidy eligible individual who is not de-
5 scribed in paragraph (1).”.

6 (b) MEDICARE SAVINGS PROGRAM.—Section 1905(p)
7 of the Social Security Act (42 U.S.C. 1396d(p)), as
8 amended by section 4, is amended—

9 (1) by redesignating paragraph (8) as para-
10 graph (9); and

11 (2) by inserting after paragraph (7) the fol-
12 lowing new paragraph:

13 “(8) An individual who has been determined eligible
14 for premium and cost-sharing subsidies under—

15 “(A) section 1860D–14(a)(1) is deemed, for
16 purposes of this title and without the need to file
17 any additional application, to be a qualified medicare
18 beneficiary for purposes of this title; or

19 “(B) section 1860D–14(a)(2) is deemed, for
20 purposes of this title and without the need to file
21 any additional application, to qualify for medical as-
22 sistance as a specified low-income medicare bene-
23 ficiary (described in section 1902(a)(10)(E)(iii)).”.

1 (c) EFFECTIVE DATE.—The amendments made by
 2 this section shall apply to eligibility for months beginning
 3 on or after January 2010.

4 **SEC. 10. IMPROVING LINKAGES BETWEEN HEALTH PRO-**
 5 **GRAMS AND SNAP.**

6 (a) LOW-INCOME PART D SUBSIDY PROGRAM.—Sec-
 7 tion 1144(c) of the Social Security Act (42 U.S.C. 1320b-
 8 14(c)) is amended—

9 (1) in paragraph (1)(C) by striking “an appli-
 10 cation for benefits under the Medicare Savings Pro-
 11 gram.” and inserting “applications for benefits
 12 under the Medicare Savings Program and the sup-
 13 plemental nutrition assistance program.”;

14 (2) by striking paragraph (3) and inserting the
 15 following:

16 “(3) TRANSMITTAL OF DATA TO STATES.—

17 “(A) IN GENERAL.—Beginning on January
 18 1, 2010, with the consent of an individual com-
 19 pleting an application for benefits described in
 20 paragraph (1)(B), the Commissioner shall elec-
 21 tronically transmit data from such applica-
 22 tion—

23 “(i) to the appropriate State Medicaid
 24 agency, as determined by the Commis-
 25 sioner, which transmittal shall initiate an

1 application of the individual for benefits
2 under the Medicare Savings Program with
3 the State Medicaid agency; and

4 “(ii) to the appropriate State agency
5 which administers benefits under the sup-
6 plemental nutrition assistance program, as
7 determined by the Commissioner, which
8 transmittal shall initiate an application of
9 the individual for benefits under the sup-
10 plemental nutrition assistance program
11 with the State agency that administers
12 that program.

13 “(B) CONSULTATION REGARDING CON-
14 TENT, TIME, FORM, FREQUENCY AND MANNER
15 OF TRANSMISSION.—In order to ensure that
16 such data transmittal provides effective assist-
17 ance for purposes of State adjudication of ap-
18 plications for benefits under the Medicare Sav-
19 ings Program and the supplemental nutrition
20 assistance program, the Commissioner shall
21 consult with the Secretary after the Secretary
22 has consulted with the States, regarding the
23 content, form, frequency, and manner in which
24 data (on a uniform basis for all States) shall be
25 transmitted under this paragraph.”;

1 (3) in paragraph (5), by adding at the end the
2 following new subparagraph:

3 “(D) SUPPLEMENTAL NUTRITION ASSIST-
4 ANCE PROGRAM ADMINISTRATIVE COSTS.—The
5 costs of the Social Security Administration’s
6 work related to the supplemental nutrition as-
7 sistance program under this subsection shall be
8 eligible for reimbursement under section
9 11(j)(2)(C) of the Food and Nutrition Act of
10 2008 (7 U.S.C. 2020(j)(2)(C)). To the extent
11 necessary the Commissioner and the Secretary
12 of Agriculture shall revise any memoranda of
13 understanding in effect under such section.”;
14 and

15 (4) by adding at the end the following new
16 paragraph:

17 “(8) SUPPLEMENTAL NUTRITION ASSISTANCE
18 PROGRAM DEFINED.—For purposes of this sub-
19 section, the term ‘supplemental nutrition assistance
20 program’ means the program of temporary benefits
21 authorized under section 11(v) of the Food and Nu-
22 trition Act of 2008 (7 U.S.C. 2020(v)).”.

23 (b) TEMPORARY SUPPLEMENTAL NUTRITION AS-
24 SISTANCE BENEFITS.—Section 11 of the Food and Nutri-

1 tion Act of 2008 (7 U.S.C. 2020) is amended by adding
 2 at the end the following:

3 “(v) TEMPORARY BENEFITS FOR MEDICARE PART D
 4 LOW INCOME SUBSIDY APPLICANTS.—

5 “(1) DEFINITION OF MEDICARE PART D LOW
 6 INCOME SUBSIDY APPLICANT.—In this subsection,
 7 the term ‘Medicare part D low income subsidy appli-
 8 cant’ means an individual, along with any other fam-
 9 ily members, whose low income subsidy application
 10 information has been electronically transmitted to
 11 the State agency under section 1144(c)(3) of the So-
 12 cial Security Act (42 U.S.C. 1320b–14(c)(3)).

13 “(2) PROVISION OF TEMPORARY BENEFITS.—A
 14 State agency shall provide temporary supplemental
 15 nutrition assistance program benefits to a Medicare
 16 part D low income subsidy applicant whose—

17 “(A) income does not exceed 150 percent
 18 of the poverty line (as determined in accordance
 19 with section 5(c)(1)); and

20 “(B) financial resources do not exceed the
 21 limit in effect in the State for such households
 22 under section 5.

23 “(3) DETERMINATION BASED ON MEDICARE IN-
 24 FORMATION.—For purposes of determining eligibility
 25 under paragraph (2) and the amount of temporary

1 benefits under paragraph (5), information on house-
2 hold members, household income, and household re-
3 sources from the Medicare part D low income sub-
4 sidy application as transmitted to the State agency
5 under section 1144(c)(3) of the Social Security Act
6 (42 U.S.C. 1320b-14(c)(3)) shall satisfy the require-
7 ments of this Act with regard to—

8 “(A) the members of the household under
9 section 3(n); and

10 “(B) the gross income and financial re-
11 sources of the household under section 5.

12 “(4) TEMPORARY BENEFIT PERIOD.—A house-
13 hold shall receive temporary supplemental nutrition
14 assistance benefits under this subsection for a period
15 of not more than 2 months.

16 “(5) TEMPORARY BENEFIT AMOUNT.—

17 “(A) IN GENERAL.—During the temporary
18 benefit period under paragraph (4), except as
19 provided in subparagraph (B), a household shall
20 receive a monthly amount of supplemental nu-
21 trition assistance program benefits calculated
22 under section 8(a).

23 “(B) CALCULATION.—In calculating bene-
24 fits under subparagraph (A)—

1 “(i) the benefits shall be determined
2 based on the gross income of the household
3 rather than net income; and

4 “(ii) the minimum allotment described
5 in the proviso in section 8(a) shall be equal
6 to 40 percent of the cost of the thrifty food
7 plan for a household containing 1 member,
8 as determined by the Secretary under sec-
9 tion 3, rounded to the nearest whole dollar
10 increment.

11 “(6) DETERMINATION OF FUTURE ELIGI-
12 BILITY.—During the temporary benefit period under
13 paragraph (4), the State agency shall provide to the
14 household—

15 “(A) an application to apply for benefits
16 under the other provisions of this Act; and

17 “(B) an opportunity to complete the appli-
18 cation process by the month immediately fol-
19 lowing the temporary benefit period, without a
20 delay or suspension in the benefits of the house-
21 hold.

22 “(7) LIMITATION.—This subsection shall not
23 apply to individuals who—

24 “(A) are members of households that cur-
25 rently receive benefits under this Act; or

1 “(B) have received benefits under this sub-
2 section in the preceding 12-month period.”.

3 (c) MEDICARE SAVINGS PROGRAM APPLICATIONS.—

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

7 (A) in paragraph (72), by striking “and”
8 at the end;

9 (B) in paragraph (73), by striking the pe-
10 riod at the end and inserting “; and”; and

11 (C) by inserting after paragraph (73) the
12 following new paragraph:

13 “(74) provide that the State coordinates with
14 the State agency that administers benefits under the
15 supplemental nutrition assistance program estab-
16 lished under the Food and Nutrition Act of 2008 (7
17 U.S.C. 2011 et seq.) to ensure that individuals ap-
18 plying for medical assistance provided under section
19 1902(a)(10)(E), as described in sections 1905(p)
20 and 1933, have the opportunity to apply for, estab-
21 lish eligibility for, and, if eligible, receive supple-
22 mental nutrition assistance program benefits.”.

23 (2) EFFECTIVE DATE.—

24 (A) IN GENERAL.—Except as provided in
25 subparagraph (B), the amendments made by

1 paragraph (1) take effect on the date that is 1
2 year after the date of enactment of this Act.

3 (B) EXTENSION OF EFFECTIVE DATE FOR
4 STATE LAW AMENDMENT.—In the case of a
5 State plan under title XIX of the Social Secu-
6 rity Act (42 U.S.C. 1396 et seq.) which the
7 Secretary of Health and Human Services deter-
8 mines requires State legislation in order for the
9 plan to meet the additional requirements im-
10 posed by the amendments made by paragraph
11 (1), the State plan shall not be regarded as fail-
12 ing to comply with the requirements of such
13 title solely on the basis of its failure to meet
14 these additional requirements before the first
15 day of the first calendar quarter beginning after
16 the close of the first regular session of the
17 State legislature that begins after the date of
18 enactment of this Act. For purposes of the pre-
19 vious sentence, in the case of a State that has
20 a 2-year legislative session, each year of the ses-
21 sion is considered to be a separate regular ses-
22 sion of the State legislature.

23 (3) REPORT TO CONGRESS.—Not later than 2
24 years after the date of enactment of this Act, the
25 Secretary of Health and Human Services shall sub-

1 mit to Congress a report on the process each State
2 uses to meet the requirements under section
3 1902(a)(74) of the Social Security Act, as added by
4 subsection (c).

5 **SEC. 11. EXPEDITING LOW-INCOME SUBSIDIES UNDER THE**
6 **MEDICARE PRESCRIPTION DRUG PROGRAM.**

7 (a) TARGETED OUTREACH FOR LOW-INCOME SUB-
8 SIDIES.—

9 (1) IN GENERAL.—Section 1860D–14 of the
10 Social Security Act (42 U.S.C. 1395w–114) is
11 amended by adding at the end the following new
12 subsection:

13 “(e) TARGETED OUTREACH FOR LOW-INCOME SUB-
14 SIDIES.—

15 “(1) TARGETED IDENTIFICATION OF SUBSIDY-
16 ELIGIBLE INDIVIDUALS.—

17 “(A) IN GENERAL.—The Commissioner of
18 Social Security shall provide for the identifica-
19 tion of individuals who are potentially eligible
20 for low-income assistance under this section
21 through requests to the Secretary of the Treas-
22 ury in accordance with the criterion established
23 under section 6103(l)(21) of the Internal Rev-
24 enue Code of 1986 for information indicating

1 whether the individual involved is likely eligible
2 for such assistance.

3 “(B) INITIATION OF IDENTIFICATIONS.—

4 Not later than 90 days after the date of the en-
5 actment of this subsection, the Commissioner of
6 Social Security shall begin the identification of
7 individuals through the process described in
8 subparagraph (A) and shall, by such date and
9 through such process, submit to the Secretary
10 of the Treasury requests for part D eligible in-
11 dividuals who the Commissioner has identified
12 as potentially eligible for low-income subsidies
13 under this section before such date of enact-
14 ment.

15 “(2) NOTIFICATION OF POTENTIALLY ELIGIBLE
16 INDIVIDUALS.—In the case of each individual identi-
17 fied under paragraph (1) who has not otherwise ap-
18 plied for, or been determined eligible for, benefits
19 under this section (or who has applied for and been
20 determined ineligible for such benefits based on ex-
21 cess income, resources, or both), the Commissioner
22 shall transmit by mail to the individual a letter in-
23 cluding the information and application required to
24 be provided under subparagraphs (A), (B), and (D)
25 of section 1144(c)(1).

1 “(3) FOLLOW-UP COMMUNICATIONS.—If an in-
2 dividual to whom a letter is transmitted under para-
3 graph (2) does not affirmatively respond to such let-
4 ter either by making an enrollment, completing an
5 application, or declining either or both, the Commis-
6 sioner shall make additional attempts to contact the
7 individual to obtain such an affirmative response.

8 “(4) USE OF PREFERRED LANGUAGE IN SUBSE-
9 QUENT COMMUNICATIONS.—In the case an applica-
10 tion is completed by an individual pursuant to this
11 subsection in which a language other than English
12 is specified, the Commissioner shall provide that
13 subsequent communications under this part to the
14 individual shall be in such language as needed.

15 “(5) CONSTRUCTION.—Nothing in this sub-
16 section shall be construed as precluding the Commis-
17 sioner from taking additional outreach efforts to en-
18 roll eligible individuals under this part and to pro-
19 vide low-income subsidies to eligible individuals.

20 “(6) MAINTENANCE OF EFFORT WITH RESPECT
21 TO OUTREACH.—In no case shall the level of effort
22 with respect to outreach to and enrollment of indi-
23 viduals who are potentially eligible for low-income
24 assistance under this section after the date of the
25 enactment of this subsection be less than such level

1 of effort before such date of enactment until at least
2 90 percent of such potentially eligible individuals
3 have affirmatively responded.

4 “(7) GAO REPORT TO CONGRESS.—Not later
5 than 2 years after the date of the first submission
6 to the Secretary of the Treasury described in para-
7 graph (1)(B), the Comptroller General of the United
8 States shall submit to Congress a report, with re-
9 spect to the 18-month period following the establish-
10 ment of the process described in paragraph (1)(A),
11 on—

12 “(A) the extent to which the percentage of
13 individuals who are eligible for low-income as-
14 sistance under this section but not enrolled
15 under this part has decreased during such pe-
16 riod;

17 “(B) how the Commissioner of Social Se-
18 curity has used any savings resulting from the
19 implementation of this section and section
20 6103(l)(21) of the Internal Revenue Code of
21 1986 to improve outreach to individual de-
22 scribed in subparagraph (A) to increase enroll-
23 ment of such individuals under this part;

24 “(C) the effectiveness of using information
25 from the Secretary of the Treasury in accord-

1 ance with section 6103(l)(21) of the Internal
 2 Revenue Code of 1986 for purposes of indi-
 3 cating whether individuals are eligible for low-
 4 income assistance under this section; and

5 “(D) the effectiveness of the outreach con-
 6 ducted by the Commissioner of Social Security
 7 based on the data described in subparagraph
 8 (C).”.

9 (2) CONFORMING AMENDMENT.—Section
 10 1144(e)(1) of the Social Security Act (42 U.S.C.
 11 1320b–14(c)(1)) is amended by inserting “(including
 12 through request to the Secretary of the Treasury
 13 pursuant to section 1860D–14(e))” before “, the
 14 Commissioner shall”.

15 (b) IMPROVEMENTS TO THE LOW-INCOME SUBSIDY
 16 APPLICATIONS.—Section 1860D–14(a)(3) of the Social
 17 Security Act (42 U.S.C. 1395w–114(a)(3)) is amended—

18 (1) in subparagraph (E), by striking clauses (ii)
 19 and (iii) and redesignating clause (iv) as clause (ii);

20 (2) by redesignating subparagraphs (F) and
 21 (G) as subparagraphs (G) and (H), respectively; and

22 (3) by inserting after subparagraph (E) the fol-
 23 lowing new subparagraph:

24 “(F) SIMPLIFIED LOW-INCOME SUBSIDY
 25 APPLICATION AND PROCESS.—

1 “(i) IN GENERAL.—The Secretary,
2 jointly with the Commissioner of Social Se-
3 curity, shall—

4 “(I) develop a model, simplified
5 application form and process con-
6 sistent with clause (ii) for the deter-
7 mination and verification of a part D
8 eligible individual’s assets or resources
9 under this paragraph; and

10 “(II) provide such form to
11 States.

12 “(ii) DOCUMENTATION AND SAFE-
13 GUARDS.—Under such process—

14 “(I) the application form shall
15 consist of an attestation under penalty
16 of perjury regarding the level of assets
17 or resources (or combined assets and
18 resources in the case of a married
19 part D eligible individual) and valu-
20 ations of general classes of assets or
21 resources;

22 “(II) such form shall not require
23 the submittal of additional docu-
24 mentation regarding income or assets;

1 “(III) matters attested to in the
2 application shall be subject to appro-
3 priate methods of administrative
4 verification;

5 “(IV) the applicant shall be per-
6 mitted to authorize another individual
7 to act as the applicant’s personal rep-
8 resentative with respect to commu-
9 nications under this part and the en-
10 rollment of the applicant into a pre-
11 scription drug plan (or MA–PD plan)
12 and for low-income subsidies under
13 this section; and

14 “(V) the application form shall
15 allow for the specification of a lan-
16 guage (other than English) that is
17 preferred by the individual for subse-
18 quent communications with respect to
19 the individual under this part.

20 “(iii) NO RECOVERY FOR CERTAIN
21 SUBSIDIES IMPROPERLY PAID.—If an indi-
22 vidual in good faith and in the absence of
23 fraud is provided low-income subsidies
24 under this section, and if the individual is
25 subsequently found not eligible for such

1 subsidies, there shall be no recovery made
2 against the individual because of such sub-
3 sidies improperly paid.”.

4 (c) DISCLOSURES TO FACILITATE IDENTIFICATION
5 OF INDIVIDUALS LIKELY TO BE ELIGIBLE FOR THE LOW-
6 INCOME ASSISTANCE UNDER THE MEDICARE PRESCRIP-
7 TION DRUG PROGRAM.—

8 (1) IN GENERAL.—

9 Subsection (l) of section 6103 of the Inter-
10 nal Revenue Code of 1986 is amended by add-
11 ing at the end the following new paragraph:

12 “(21) DISCLOSURE OF RETURN INFORMATION
13 TO FACILITATE IDENTIFICATION OF INDIVIDUALS
14 LIKELY TO BE ELIGIBLE FOR LOW-INCOME SUB-
15 SIDIES UNDER MEDICARE PRESCRIPTION DRUG PRO-
16 GRAM.—

17 “(A) IN GENERAL.—The Secretary, upon
18 written request from the Commissioner of So-
19 cial Security, shall disclose to officers and em-
20 ployees of the Social Security Administration,
21 with respect to any individual identified by the
22 Commissioner—

23 “(i) whether, based on the criterion
24 determined under subparagraph (B), such
25 individual is likely to be eligible for low-in-

1 come assistance under section 1860D–14
2 of the Social Security Act, or

3 “(ii) that, based on such criterion,
4 there is insufficient information available
5 to the Secretary to make the determination
6 described in clause (i).

7 “(B) CRITERION.—Not later than 90 days
8 after the date of the enactment of this para-
9 graph, the Secretary, in consultation with the
10 Commissioner of Social Security, shall develop
11 the criterion by which the determination under
12 subparagraph (A)(i) shall be made (and the cri-
13 terion for determining that insufficient informa-
14 tion is available to make such determination).
15 Such criterion may include analysis of informa-
16 tion available on such individual’s return, the
17 return of such individual’s spouse, and any in-
18 formation related to such individual or such in-
19 dividual’s spouse which is available on any in-
20 formation return.”.

21 (2) PROCEDURES AND RECORDKEEPING RE-
22 LATED TO DISCLOSURES.—Paragraph (4) of section
23 6103(p) of such Code is amended by striking “or
24 (17)” each place it appears and inserting “(17), or
25 (21)”.

1 (3) EFFECTIVE DATE.—The amendments made
2 by this subsection shall apply to disclosures made
3 after the date of the enactment of this Act.

4 **SEC. 12. ENHANCED OVERSIGHT AND ENFORCEMENT RE-**
5 **LATING TO REIMBURSEMENTS FOR RETRO-**
6 **ACTIVE LIS ENROLLMENT.**

7 (a) IN GENERAL.—In the case of a retroactive LIS
8 enrollment beneficiary (as defined in subsection (e)(4))
9 who is enrolled under a prescription drug plan under part
10 D of title XVIII of the Social Security Act (or an MA-
11 PD plan under part C of such title)—

12 (1) the beneficiary (or any eligible third party)
13 is entitled to reimbursement by the plan for covered
14 drug costs (as defined in subsection (e)(1)) incurred
15 by the beneficiary during the retroactive coverage
16 period of the beneficiary in accordance with sub-
17 section (b) and in the case of such a beneficiary de-
18 scribed in subsection (e)(4)(A)(i), such reimburse-
19 ment shall be made automatically by the plan upon
20 receipt of appropriate notice the beneficiary is eligi-
21 ble for assistance described in such subsection
22 (e)(4)(A)(i) without further information required to
23 be filed with the plan by the beneficiary;

1 (2) the Secretary of Health and Human Serv-
2 ices (in this section referred to as the “Secretary”)
3 shall not make payment to the plan—

4 (A) in the case that the beneficiary is de-
5 scribed in subsection (e)(4)(A)(i), for premium
6 subsidies and cost sharing subsidies under sec-
7 tion 1860D–14 of the Social Security Act (42
8 U.S.C. 1395w–114) with respect to the provi-
9 sion of prescription drug coverage to the bene-
10 ficiary during such retroactive period; and

11 (B) in the case that the beneficiary is de-
12 scribed in subsection (e)(4)(A)(ii), for direct
13 subsidies under section 1860D–15(a)(1) of such
14 Act and premium subsidies and cost-sharing
15 subsidies under section 1860D–14 of such Act
16 with respect to the provision of prescription
17 drug coverage to the beneficiary during such
18 retroactive period;

19 unless the plan demonstrates to the Secretary that
20 the plan has provided timely and accurate reim-
21 bursement to the beneficiary (or eligible third party)
22 in accordance with paragraph (1);

23 (3) the Secretary shall not make any payment
24 described in paragraph (2) to the plan with respect
25 to such beneficiary for any month of the retroactive

1 enrollment period during which no expenses for cov-
2 ered part D drugs (as defined in section 1860D–2(e)
3 of the Social Security Act (42 U.S.C. 1395w–
4 102(e)) were incurred by such beneficiary (or eligible
5 third party on behalf of such beneficiary); and

6 (4) any payment owed the plan pursuant to this
7 section, taking into account paragraphs (2) and (3),
8 shall be made at the time the Centers for Medicare
9 & Medicaid Services reconciles payments for the en-
10 tire plan year following the end of the plan year, and
11 not before such time.

12 (b) ADMINISTRATIVE REQUIREMENTS RELATING TO
13 REIMBURSEMENTS.—

14 (1) LINE-ITEM DESCRIPTION.—Each reimburse-
15 ment made by a prescription drug plan or MA–PD
16 plan under subsection (a)(1) shall include a line-item
17 description of the items for which the reimbursement
18 is made.

19 (2) TIMING OF REIMBURSEMENTS.—A prescrip-
20 tion drug plan or MA–PD plan must make a reim-
21 bursement under subsection (a)(1) to a retroactive
22 LIS enrollment beneficiary, with respect to a claim,
23 not later than 30 days after—

24 (A) in the case of a beneficiary described
25 in subsection (e)(4)(A)(i), the date on which the

1 plan receives notice from the Secretary that the
2 beneficiary is eligible for assistance described in
3 such subsection; or

4 (B) in the case of a beneficiary described
5 in subsection (e)(4)(A)(ii), the date on which
6 the beneficiary files the claim with the plan.

7 (c) NOTICE REQUIREMENTS.—

8 (1) BY SECRETARY OF HHS AND COMMISSION
9 OF THE SOCIAL SECURITY ADMINISTRATION.—The
10 Secretary, jointly with the Commissioner of the So-
11 cial Security Administration, shall ensure that each
12 retroactive LIS enrollment beneficiary receives, with
13 any letter or notification of eligibility for a low-in-
14 come subsidy under section 1860D–14 of the Social
15 Security Act, a notice of their right to reimburse-
16 ment described in subsection (a)(1) for covered drug
17 costs incurred during the retroactive coverage period
18 of the beneficiary. Such notice shall—

19 (A) with respect to a beneficiary described
20 in subsection (e)(4)(A)(i), inform the bene-
21 ficiary of the beneficiary’s right to automatic
22 reimbursement as described in subsection
23 (a)(1); and

24 (B) with respect to a beneficiary described
25 in subsection (e)(4)(A)(ii), include a description

1 of a clear process that the beneficiary should
2 follow to seek such reimbursement.

3 (2) BY PRESCRIPTION DRUG PLANS.—

4 (A) IN GENERAL.—Each prescription drug
5 plan under part D of title XVIII of the Social
6 Security Act (and MA–PD plan under part C of
7 such title) shall include in a notice from the
8 plan to a retroactive LIS enrollment beneficiary
9 described in subsection (e)(4)(A)(ii) a model no-
10 tice developed under subparagraph (B) describ-
11 ing the process the beneficiary must follow to
12 seek retroactive reimbursement. Such notice
13 shall include any form required by the plan to
14 complete such reimbursement and shall indicate
15 the period of retroactive coverage for which the
16 beneficiary is eligible for such reimbursement.

17 (B) MODEL NOTICE.—The Secretary,
18 jointly with the Commissioner of Social Secu-
19 rity, shall develop a model notice for purposes
20 of subparagraph (A) and shall make such model
21 notice available to all prescription drug plans
22 under part D of title XVIII of the Social Secu-
23 rity Act (and MA–PD plans under part C of
24 such title).

25 (d) PUBLIC POSTING TO TRACK PAYMENTS.—

1 (1) IN GENERAL.—Not later than one year
2 after the date of the enactment of this Act, the Sec-
3 retary shall post (and annually update) on the public
4 Internet website of the Department of Health and
5 Human Services information on the total amount of
6 payments made by the Secretary under subsection
7 (a)(2) to prescription drug plans during the most re-
8 cent plan year for which plan data is available.

9 (2) SPECIFIC INFORMATION.—Such information
10 posted—

11 (A) in 2010 or in a subsequent year before
12 2016, shall include information on payments
13 made for years beginning with 2006 and ending
14 with the year for which the most current infor-
15 mation is available; and

16 (B) in 2016 or a subsequent year, shall in-
17 clude information on payments made for at
18 least the 10 previous years.

19 (e) DEFINITIONS.—In this section:

20 (1) COVERED DRUG COSTS.—The term “cov-
21 ered drug costs” means, with respect to a retroactive
22 LIS enrollment beneficiary enrolled under a pre-
23 scription drug plan under part D of title XVIII of
24 the Social Security Act (or an MA–PD plan under
25 part C of such title), the amount by which—

1 (A) the costs incurred by such beneficiary
2 during the retroactive coverage period of the
3 beneficiary for covered part D drugs, premiums,
4 and cost-sharing under such title; exceeds

5 (B) such costs that would have been in-
6 curred by such beneficiary during such period if
7 the beneficiary had been both enrolled in the
8 plan and recognized by such plan as qualified
9 during such period for the low income subsidy
10 under section 1860D–14 of the Social Security
11 Act to which the individual is entitled.

12 (2) ELIGIBLE THIRD PARTY.—The term “eligi-
13 ble third party” means, with respect to a retroactive
14 LIS enrollment beneficiary, an organization or other
15 third party that paid on behalf of such beneficiary
16 for covered drug costs incurred by such beneficiary
17 during the retroactive coverage period of such bene-
18 ficiary.

19 (3) RETROACTIVE COVERAGE PERIOD.—The
20 term “retroactive coverage period” means—

21 (A) with respect to a retroactive LIS en-
22 rollment beneficiary described in paragraph
23 (4)(A)(i), the period—

1 (i) beginning on the effective date of
 2 the assistance described in such paragraph
 3 for which the individual is eligible; and

4 (ii) ending on the date the plan effec-
 5 tuates the status of such individual as so
 6 eligible; and

7 (B) with respect to a retroactive LIS en-
 8 rollment beneficiary described in paragraph
 9 (4)(A)(ii), the period—

10 (i) beginning on the date the indi-
 11 vidual is both entitled to benefits under
 12 part A, or enrolled under part B, of title
 13 XVIII of the Social Security Act and eligi-
 14 ble for medical assistance under a State
 15 plan under title XIX of such Act; and

16 (ii) ending on the date the plan effec-
 17 tuates the status of such individual as a
 18 full-benefit dual eligible individual (as de-
 19 fined in section 1935(c)(6) of such Act).

20 (4) RETROACTIVE LIS ENROLLMENT BENE-
 21 FICIARY.—

22 (A) IN GENERAL.—The term “retroactive
 23 LIS enrollment beneficiary” means an indi-
 24 vidual who—

1 (i) is enrolled in a prescription drug
2 plan under part D of title XVIII of the So-
3 cial Security Act (or an MA-PD plan
4 under part C of such title) and subse-
5 quently becomes eligible as a full-benefit
6 dual eligible individual (as defined in sec-
7 tion 1935(c)(6) of such Act), an individual
8 receiving a low-income subsidy under sec-
9 tion 1860D-14 of such Act, an individual
10 receiving assistance under the Medicare
11 Savings Program implemented under
12 clauses (i), (ii), (iii), and (iv) of section
13 1902(a)(10)(E) of such Act, or an indi-
14 vidual receiving assistance under the sup-
15 plemental security income program under
16 section 1611 of such Act; or

17 (ii) subject to subparagraph (B)(i), is
18 a full-benefit dual eligible individual (as
19 defined in section 1935(c)(6) of such Act)
20 who is automatically enrolled in such a
21 plan under section 1860D-1(b)(1)(C) of
22 such Act.

23 (B) EXCEPTION FOR BENEFICIARIES EN-
24 ROLLED IN RFP PLAN.—

1 (i) IN GENERAL.—In no case shall an
2 individual described in subparagraph
3 (A)(ii) include an individual who is en-
4 rolled, pursuant to a RFP contract de-
5 scribed in clause (ii), in a prescription
6 drug plan offered by the sponsor of such
7 plan awarded such contract.

8 (ii) RFP CONTRACT DESCRIBED.—
9 The RFP contract described in this section
10 is a contract entered into between the Sec-
11 retary and a sponsor of a prescription drug
12 plan pursuant to the Centers for Medicare
13 & Medicaid Services' request for proposals
14 issued on February 17, 2009, relating to
15 Medicare part D retroactive coverage for
16 certain low income beneficiaries, or a simi-
17 lar subsequent request for proposals.

18 (f) GAO REPORT.—Not later than 24 months after
19 the date of the enactment of this Act, the Comptroller
20 General of the United States shall submit to Congress a
21 report on the extent to which the provisions of this section
22 improve reimbursement for covered drug costs to retro-
23 active LIS enrollment beneficiaries and lower the amounts
24 of payments made by the Secretary, with respect to such
25 beneficiaries, to prescription drug plans under part D of

1 title XVIII of the Social Security Act (and MA–PD plans
2 under part C of such title).

3 (g) REPORT TO CONGRESS.—In the case that an
4 RFP contract described in subsection (e)(4)(B)(ii) is
5 awarded, not later than two years after the effective date
6 of such contract, the Secretary of Health and Human
7 Services shall submit to Congress a report evaluating the
8 program carried out through such contract.

9 (h) EFFECTIVE DATE.—Paragraphs (2) and (3) of
10 subsection (a) and subsections (b) and (c) shall apply to
11 subsidy determinations made on or after the date that is
12 3 months after the date of the enactment of this Act.

13 **SEC. 13. INTELLIGENT ASSIGNMENT IN ENROLLMENT.**

14 (a) IN GENERAL.—Section 1860D–1(b)(1) of the So-
15 cial Security Act (42 U.S.C. 1395w–101(b)(1), as amend-
16 ed by section 7(b), is amended—

17 (1) in the second sentence of subparagraph (C),
18 by striking “on a random basis among all such
19 plans” and inserting “, subject to subparagraph (E),
20 in the most appropriate plan for such individual”;
21 and

22 (2) by adding at the end the following new sub-
23 paragraph:

24 “(E) INTELLIGENT ASSIGNMENT.—In the
25 case of any auto-enrollment under subpara-

1 graph (C), no part D eligible individual de-
2 scribed in such subparagraph shall be enrolled
3 in a prescription drug plan which does not meet
4 requirements established by the Secretary.”.

5 (b) EFFECTIVE DATE.—The amendment made by
6 subsection (a) shall apply to enrollments effected on or
7 after November 15, 2010.

8 **SEC. 14. MEDICARE ENROLLMENT ASSISTANCE.**

9 (a) ADDITIONAL FUNDING FOR STATE HEALTH IN-
10 SURANCE ASSISTANCE PROGRAMS.—

11 (1) GRANTS.—

12 (A) IN GENERAL.—The Secretary of
13 Health and Human Services (in this section re-
14 ferred to as the “Secretary”) shall use amounts
15 made available under subparagraph (B) to
16 make grants to States for State health insur-
17 ance assistance programs receiving assistance
18 under section 4360 of the Omnibus Budget
19 Reconciliation Act of 1990.

20 (B) FUNDING.—For purposes of making
21 grants under this subsection, the Secretary
22 shall provide for the transfer, from the Federal
23 Hospital Insurance Trust Fund under section
24 1817 of the Social Security Act (42 U.S.C.
25 1395i) and the Federal Supplementary Medical

1 Insurance Trust Fund under section 1841 of
2 such Act (42 U.S.C. 1395t), in the same pro-
3 portion as the Secretary determines under sec-
4 tion 1853(f) of such Act (42 U.S.C. 1395w-
5 23(f)), of \$14,000,000 to the Centers for Medi-
6 care & Medicaid Services Program Management
7 Account for fiscal year 2011, to remain avail-
8 able until expended.

9 (2) AMOUNT OF GRANTS.—The amount of a
10 grant to a State under this subsection from the total
11 amount made available under paragraph (1) shall be
12 equal to the sum of the amount allocated to the
13 State under paragraph (3)(A) and the amount allo-
14 cated to the State under subparagraph (3)(B).

15 (3) ALLOCATION TO STATES.—

16 (A) ALLOCATION BASED ON PERCENTAGE
17 OF LOW-INCOME BENEFICIARIES.—The amount
18 allocated to a State under this subparagraph
19 from $\frac{2}{3}$ of the total amount made available
20 under paragraph (1) shall be based on the num-
21 ber of individuals who meet the requirement
22 under subsection (a)(3)(A)(ii) of section
23 1860D–14 of the Social Security Act (42
24 U.S.C. 1395w–114) but who have not enrolled
25 to receive a subsidy under such section 1860D–

1 14 relative to the total number of individuals
2 who meet the requirement under such sub-
3 section (a)(3)(A)(ii) in each State, as estimated
4 by the Secretary.

5 (B) ALLOCATION BASED ON PERCENTAGE
6 OF RURAL BENEFICIARIES.—The amount allo-
7 cated to a State under this subparagraph from
8 $\frac{1}{3}$ of the total amount made available under
9 paragraph (1) shall be based on the number of
10 part D eligible individuals (as defined in section
11 1860D–1(a)(3)(A) of such Act (42 U.S.C.
12 1395w–101(a)(3)(A))) residing in a rural area
13 relative to the total number of such individuals
14 in each State, as estimated by the Secretary.

15 (4) PORTION OF GRANT BASED ON PERCENT-
16 AGE OF LOW-INCOME BENEFICIARIES TO BE USED
17 TO PROVIDE OUTREACH TO INDIVIDUALS WHO MAY
18 BE SUBSIDY ELIGIBLE INDIVIDUALS OR ELIGIBLE
19 FOR THE MEDICARE SAVINGS PROGRAM.—Each
20 grant awarded under this subsection with respect to
21 amounts allocated under paragraph (3)(A) shall be
22 used to provide outreach to individuals who may be
23 subsidy eligible individuals (as defined in section
24 1860D–14(a)(3)(A) of the Social Security Act (42
25 U.S.C. 1395w–114(a)(3)(A)) or eligible for the

1 Medicare Savings Program (as defined in subsection
2 (f)).

3 (b) ADDITIONAL FUNDING FOR AREA AGENCIES ON
4 AGING.—

5 (1) GRANTS.—

6 (A) IN GENERAL.—The Secretary, acting
7 through the Assistant Secretary for Aging, shall
8 make grants to States for area agencies on
9 aging (as defined in section 102 of the Older
10 Americans Act of 1965 (42 U.S.C. 3002)) and
11 Native American programs carried out under
12 the Older Americans Act of 1965 (42 U.S.C.
13 3001 et seq.).

14 (B) FUNDING.—For purposes of making
15 grants under this subsection, the Secretary
16 shall provide for the transfer, from the Federal
17 Hospital Insurance Trust Fund under section
18 1817 of the Social Security Act (42 U.S.C.
19 1395i) and the Federal Supplementary Medical
20 Insurance Trust Fund under section 1841 of
21 such Act (42 U.S.C. 1395t), in the same pro-
22 portion as the Secretary determines under sec-
23 tion 1853(f) of such Act (42 U.S.C. 1395w-
24 23(f)), of \$10,000,000 to the Administration on

1 Aging for fiscal year 2011, to remain available
2 until expended.

3 (2) AMOUNT OF GRANT AND ALLOCATION TO
4 STATES BASED ON PERCENTAGE OF LOW-INCOME
5 AND RURAL BENEFICIARIES.—The amount of a
6 grant to a State under this subsection from the total
7 amount made available under paragraph (1) shall be
8 determined in the same manner as the amount of a
9 grant to a State under subsection (a), from the total
10 amount made available under paragraph (1) of such
11 subsection, is determined under paragraph (2) and
12 subparagraphs (A) and (B) of paragraph (3) of such
13 subsection.

14 (3) REQUIRED USE OF FUNDS.—

15 (A) ALL FUNDS.—Subject to subparagraph
16 (B), each grant awarded under this subsection
17 shall be used to provide outreach to eligible
18 Medicare beneficiaries regarding the benefits
19 available under title XVIII of the Social Secu-
20 rity Act.

21 (B) OUTREACH TO INDIVIDUALS WHO MAY
22 BE SUBSIDY ELIGIBLE INDIVIDUALS OR ELIGI-
23 BLE FOR THE MEDICARE SAVINGS PROGRAM.—
24 Subsection (a)(4) shall apply to each grant
25 awarded under this subsection in the same

1 manner as it applies to a grant under sub-
2 section (a).

3 (c) ADDITIONAL FUNDING FOR AGING AND DIS-
4 ABILITY RESOURCE CENTERS.—

5 (1) GRANTS.—

6 (A) IN GENERAL.—The Secretary shall
7 make grants to Aging and Disability Resource
8 Centers under the Aging and Disability Re-
9 source Center grant program that are estab-
10 lished centers under such program on the date
11 of the enactment of this Act.

12 (B) FUNDING.—For purposes of making
13 grants under this subsection, the Secretary
14 shall provide for the transfer, from the Federal
15 Hospital Insurance Trust Fund under section
16 1817 of the Social Security Act (42 U.S.C.
17 1395i) and the Federal Supplementary Medical
18 Insurance Trust Fund under section 1841 of
19 such Act (42 U.S.C. 1395t), in the same pro-
20 portion as the Secretary determines under sec-
21 tion 1853(f) of such Act (42 U.S.C. 1395w-
22 23(f)), of \$10,000,000 to the Administration on
23 Aging for fiscal year 2011, to remain available
24 until expended.

1 (2) REQUIRED USE OF FUNDS.—Each grant
2 awarded under this subsection shall be used to pro-
3 vide outreach to individuals regarding the benefits
4 available under the Medicare prescription drug ben-
5 efit under part D of title XVIII of the Social Secu-
6 rity Act and under the Medicare Savings Program.

7 (d) COORDINATION OF EFFORTS TO INFORM OLDER
8 AMERICANS ABOUT BENEFITS AVAILABLE UNDER FED-
9 ERAL AND STATE PROGRAMS.—

10 (1) IN GENERAL.—The Secretary, acting
11 through the Assistant Secretary for Aging, in co-
12 operation with related Federal agency partners, shall
13 make a grant to, or enter into a contract with, a
14 qualified, experienced entity under which the entity
15 shall—

16 (A) maintain and update web-based deci-
17 sion support tools, and integrated, person-cen-
18 tered systems, designed to inform older individ-
19 uals (as defined in section 102 of the Older
20 Americans Act of 1965 (42 U.S.C. 3002))
21 about the full range of benefits for which the
22 individuals may be eligible under Federal and
23 State programs;

24 (B) utilize cost-effective strategies to find
25 older individuals with the greatest economic

1 need (as defined in such section 102) and in-
2 form the individuals of the programs;

3 (C) develop and maintain an information
4 clearinghouse on best practices and the most
5 cost-effective methods for finding older individ-
6 uals with greatest economic need and informing
7 the individuals of the programs; and

8 (D) provide, in collaboration with related
9 Federal agency partners administering the Fed-
10 eral programs, training and technical assistance
11 on the most effective outreach, screening, and
12 follow-up strategies for the Federal and State
13 programs.

14 (2) FUNDING.—For purposes of making a
15 grant or entering into a contract under paragraph
16 (1), the Secretary shall provide for the transfer,
17 from the Federal Hospital Insurance Trust Fund
18 under section 1817 of the Social Security Act (42
19 U.S.C. 1395i) and the Federal Supplementary Med-
20 ical Insurance Trust Fund under section 1841 of
21 such Act (42 U.S.C. 1395t), in the same proportion
22 as the Secretary determines under section 1853(f) of
23 such Act (42 U.S.C. 1395w–23(f)), of \$10,000,000
24 to the Administration on Aging for fiscal year 2011,
25 to remain available until expended.

1 (e) **MEDICARE SAVINGS PROGRAM DEFINED.**—For
 2 purposes of this section, the term “Medicare Savings Pro-
 3 gram” means the program of medical assistance for pay-
 4 ment of the cost of medicare cost-sharing under the Med-
 5 icaid program pursuant to sections 1902(a)(10)(E) and
 6 1933 of the Social Security Act (42 U.S.C.
 7 1396a(a)(10)(E), 1396u–3).

8 **SEC. 15. QMB BUY-IN OF PART A AND PART B PREMIUMS.**

9 (a) **REQUIREMENT.**—Section 1902(a) of the Social
 10 Security Act (42 U.S.C. 1396a(a)), as amended by section
 11 10, is amended—

12 (1) in paragraph (73), by striking “and” at the
 13 end;

14 (2) in paragraph (74), by striking the period at
 15 the end and inserting “; and”; and

16 (3) by inserting after paragraph (74) the fol-
 17 lowing new paragraph:

18 “(75) provide that the State enters into a modi-
 19 fication of an agreement under section 1818(g).”.

20 (b) **EFFECTIVE DATE.**—

21 (1) **IN GENERAL.**—Except as provided in para-
 22 graph (2), the amendments made by this section
 23 take effect on the date that is 6 months after the
 24 date of enactment of this Act.

1 (2) EXTENSION OF EFFECTIVE DATE FOR
2 STATE LAW AMENDMENT.—In the case of a State
3 plan under title XIX of the Social Security Act (42
4 U.S.C. 1396 et seq.) which the Secretary of Health
5 and Human Services determines requires State legis-
6 lation in order for the plan to meet the additional
7 requirements imposed by the amendments made by
8 this section, the State plan shall not be regarded as
9 failing to comply with the requirements of such title
10 solely on the basis of its failure to meet these addi-
11 tional requirements before the first day of the first
12 calendar quarter beginning after the close of the
13 first regular session of the State legislature that be-
14 gins after the date of enactment of this Act. For
15 purposes of the previous sentence, in the case of a
16 State that has a 2-year legislative session, each year
17 of the session is considered to be a separate regular
18 session of the State legislature.

19 **SEC. 16. INCREASING AVAILABILITY OF MSP APPLICATIONS**
20 **THROUGH AVAILABILITY ON THE INTERNET**
21 **AND DESIGNATION OF PREFERRED LAN-**
22 **GUAGE.**

23 (a) REQUIREMENT FOR STATES.—

1 (1) IN GENERAL.—Section 1902(a) of the So-
2 cial Security Act (42 U.S.C. 1396a(a)), as amended
3 by section 15, is amended—

4 (A) in paragraph (74), by striking “and”
5 at the end;

6 (B) in paragraph (75), by striking the pe-
7 riod at the end and inserting “; and”; and

8 (C) by inserting after paragraph (75) the
9 following new paragraph:

10 “(76) provide—

11 “(A) that the application for medical as-
12 sistance for medicare cost-sharing under this
13 title used by the State allows an individual to
14 specify a preferred language for subsequent
15 communication and, in the case in which a lan-
16 guage other than English is specified, provide
17 that subsequent communications under this title
18 to the individual shall be in such language; and

19 “(B) that the State makes such application
20 available through an Internet website and pro-
21 vides for such application to be completed on
22 such website.”.

23 (2) EFFECTIVE DATE.—

24 (A) IN GENERAL.—Except as provided in
25 subparagraph (B), the amendments made by

1 this subsection take effect on the date that is
2 2 years after the date of enactment of this Act.

3 (B) EXTENSION OF EFFECTIVE DATE FOR
4 STATE LAW AMENDMENT.—In the case of a
5 State plan under title XIX of the Social Secu-
6 rity Act (42 U.S.C. 1396 et seq.) which the
7 Secretary of Health and Human Services deter-
8 mines requires State legislation in order for the
9 plan to meet the additional requirements im-
10 posed by the amendments made by this sub-
11 section, the State plan shall not be regarded as
12 failing to comply with the requirements of such
13 title solely on the basis of its failure to meet
14 these additional requirements before the first
15 day of the first calendar quarter beginning after
16 the close of the first regular session of the
17 State legislature that begins after the date of
18 enactment of this Act. For purposes of the pre-
19 vious sentence, in the case of a State that has
20 a 2-year legislative session, each year of the ses-
21 sion is considered to be a separate regular ses-
22 sion of the State legislature.

23 (b) REQUIREMENT FOR THE SECRETARY.—Section
24 1905(p)(5) of the Social Security Act (42 U.S.C.
25 1396d(p)(5)) is amended by adding at the end the fol-

1 lowing new sentence: “Such form shall allow an individual
 2 to specify a preferred language for subsequent commu-
 3 nication.”.

4 **SEC. 17. STATE MEDICAID AGENCY CONSIDERATION OF**
 5 **LOW-INCOME SUBSIDY APPLICATION AND**
 6 **DATA TRANSMITTAL.**

7 (a) TECHNICAL AMENDMENTS.—

8 (1) IN GENERAL.—Section 1144(c)(3)(A)(i) of
 9 the Social Security Act (42 U.S.C. 1320b–
 10 14(c)(3)(A)(i)), as amended by section 10, is amend-
 11 ed—

12 (A) by striking “transmittal”; and

13 (B) by inserting “(as specified in section
 14 1935(a)(4))” before the semicolon at the end.

15 (2) EFFECTIVE DATE.—The amendments made
 16 by this subsection shall take effect as if included in
 17 the enactment of section 113(a) of the Medicare Im-
 18 provements for Patients and Providers Act of 2008
 19 (Public Law 110–275).

20 (b) CLARIFICATION OF STATE MEDICAID AGENCY
 21 CONSIDERATION OF LOW-INCOME SUBSIDY APPLICA-
 22 TION.—Section 1935(a)(4) of the Social Security Act (42
 23 U.S.C. 1396u–5(a)(4)), as added by section 113(b) of the
 24 Medicare Improvements for Patients and Providers Act of
 25 2008 (Public Law 110–275), is amended—

1 (1) by striking “PROGRAM.—The State” and
2 inserting “PROGRAM.—

3 “(A) IN GENERAL.—The State”;

4 (2) in subparagraph (A), as inserting by para-
5 graph (1), by striking the second sentence; and

6 (3) by adding at the end the following new sub-
7 paragraphs:

8 “(B) For purposes of a State’s obligation
9 under section 1902(a)(8) to furnish medical as-
10 sistance with reasonable promptness, the date
11 of the electronic transmission by the Commis-
12 sioner of Social Security to the State Medicaid
13 agency of data under section 1144(c)(3) shall
14 be the date of the filing of such application for
15 benefits under the Medicare Savings Program.

16 “(C) For the purpose of determining when
17 medical assistance shall be made available for
18 medicare cost-sharing under this title, the State
19 shall consider the date of the application for
20 low-income subsidies under section 1860D–14
21 to be the date of the filing of an application for
22 benefits under the Medicare Savings Pro-
23 gram.”.

○