

Union Calendar No. 305

116TH CONGRESS
2^D SESSION

H. R. 4671

[Report No. 116–381, Part I]

To amend titles XVIII and XIX of the Social Security Act to reduce cost-sharing, align income and resource eligibility tests, simplify enrollment, and provide for other program improvements for low-income Medicare beneficiaries.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 15, 2019

Mr. KIM (for himself, Ms. BLUNT ROCHESTER, and Mr. EVANS) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

JANUARY 24, 2020

Additional sponsors: Mr. CUELLAR, Ms. MATSUI, Mr. PASCRELL, Mr. MALINOWSKI, and Mr. NORCROSS

JANUARY 24, 2020

Reported from the Committee on Energy and Commerce

JANUARY 24, 2020

Committee on Ways and Means discharged, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

A BILL

To amend titles XVIII and XIX of the Social Security Act to reduce cost-sharing, align income and resource eligibility tests, simplify enrollment, and provide for other program improvements for low-income Medicare beneficiaries.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Helping Seniors Afford
 5 Health Care Act”.

6 **SEC. 2. REDUCING COST-SHARING, ALIGNING INCOME AND**
 7 **RESOURCE ELIGIBILITY TESTS, SIMPLIFYING**
 8 **ENROLLMENT, AND OTHER PROGRAM IM-**
 9 **PROVEMENTS FOR LOW-INCOME BENE-**
 10 **FICIARIES.**

11 (a) INCREASE IN INCOME ELIGIBILITY TO 135 PER-
 12 CENT OF FPL FOR QUALIFIED MEDICARE BENE-
 13 FICIARIES.—

14 (1) IN GENERAL.—Section 1905(p)(2)(A) of the
 15 Social Security Act (42 U.S.C. 1396d(p)(2)(A)) is
 16 amended by striking “shall be at least the percent
 17 provided under subparagraph (B) (but not more
 18 than 100 percent) of the official poverty line” and
 19 all that follows through the period at the end and
 20 inserting the following: “shall be—

21 “(i) before January 1, 2021, at least
 22 the percent provided under subparagraph
 23 (B) (but not more than 100 percent) of
 24 the official poverty line (as defined by the
 25 Office of Management and Budget, and re-

vised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved; and

“(ii) on or after January 1, 2021, equal to 135 percent of the official poverty line (as so defined and revised) applicable to a family of the size involved.”.

(2) NOT COUNTING IN-KIND SUPPORT AND MAINTENANCE AS INCOME.—Section 1905(p)(2)(D) of the Social Security Act (42 U.S.C. 1396d(p)(2)(D)) is amended by adding at the end the following new clause:

“(iii) In determining income under this subsection, support and maintenance furnished in kind shall not be counted as income.”.

(b) INCREASE IN INCOME ELIGIBILITY TO 200 PERCENT OF FPL FOR SPECIFIED LOW-INCOME MEDICARE BENEFICIARIES.—

(1) ELIGIBILITY OF INDIVIDUALS WITH INCOMES BELOW 150 PERCENT OF FPL.—Section 1902(a)(10)(E) of the Social Security Act (42 U.S.C. 1396a(a)(10)(E)) is amended—

1 (A) by adding “and” at the end of clause

2 (ii);

3 (B) in clause (iii)—

4 (i) by striking “and 120 percent in
5 1995 and years thereafter” and inserting
6 “120 percent in 1995 and years thereafter
7 before 2021, and 200 percent in 2021 and
8 years thereafter”; and

9 (ii) by striking “and” at the end; and

10 (C) by striking clause (iv).

11 (2) REFERENCES.—Section 1905(p)(1) of the
12 Social Security Act (42 U.S.C. 1396d(p)(1)) is
13 amended by adding at and below subparagraph (C)
14 the following flush sentence:

15 “The term ‘specified low-income medicare beneficiary’
16 means an individual described in section
17 1902(a)(10)(E)(iii).”.

18 (3) CONFORMING AMENDMENTS.—

19 (A) The first sentence of section 1905(b)
20 of such Act (42 U.S.C. 1396d(b)) is amended
21 by striking “and section 1933(d)”.

22 (B) Section 1933 of such Act (42 U.S.C.
23 1396u–3) is repealed.

1 (c) 100 PERCENT FMAP.—Section 1905 of the So-
2 cial Security Act (42 U.S.C. 1396d) is amended by adding
3 at the end the following new subsection:

4 “(gg) INCREASED FMAP FOR EXPANDED MEDICARE
5 COST-SHARING POPULATIONS.—

6 “(1) IN GENERAL.—Notwithstanding subsection
7 (b), with respect to expenditures described in para-
8 graph (2) the Federal medical assistance percentage
9 shall be equal to 100 percent.

10 “(2) EXPENDITURES DESCRIBED.—The expend-
11 itures described in this paragraph are expenditures
12 made on or after January 1, 2021, for medical as-
13 sistance for medicare cost-sharing provided to any
14 individual under clause (i), (ii), or (iii) of section
15 1902(a)(10)(E) who would not have been eligible for
16 medicare cost-sharing under any such clause under
17 the income or resource eligibility standards in effect
18 on October 1, 2018.”.

19 (d) CONSOLIDATION OF LOW-INCOME SUBSIDY RE-
20 SOURCE ELIGIBILITY TESTS.—

21 (1) IN GENERAL.—Section 1860D–14(a)(3) of
22 the Social Security Act (42 U.S.C. 1395w–
23 114(a)(3)) is amended—

24 (A) by striking subparagraph (D);

(B) by redesignating subparagraphs (E) through (G) as subparagraphs (D) through (F), respectively; and

(C) in the heading of subparagraph (D), as so redesignated, by striking “ALTERNATIVE”.

(2) CLARIFICATION OF CERTAIN RULES RELATING TO INCOME AND RESOURCE DETERMINATIONS.—Section 1860D–14(a)(3) of the Social Security Act (42 U.S.C. 1395w–114(a)(3)), as amended by paragraph (1), is amended by striking subparagraph (F) and inserting the following new subparagraphs:

“(F) RESOURCE EXCLUSIONS.—In determining the resources of an individual (and the eligible spouse of the individual, if any) under section 1613 for purposes of subparagraph (D)—

“(i) no part of the value of any life insurance policy shall be taken into account;

“(ii) no part of the value of any vehicle shall be taken into account;

“(iii) there shall be excluded an amount equal to \$1,500 each with respect to any individual or eligible spouse of an individual who attests that some of the re-

1 sources of such individual or spouse will be
2 used to meet the burial and related ex-
3 penses of such individual or spouse; and

4 “(iv) no balance in, or benefits re-
5 ceived under, an employee pension benefit
6 plan (as defined in section 3 of the Em-
7 ployee Retirement Income Security Act of
8 1974) shall be taken into account.

9 “(G) FAMILY SIZE.—In determining the
10 size of the family of an individual for purposes
11 of determining the income eligibility of such in-
12 dividual under this section, an individual’s fam-
13 ily shall consist of—

14 “(i) the individual;

15 “(ii) the individual’s spouse who lives
16 in the same household as the individual (if
17 any); and

18 “(iii) any other individuals who—

19 “(I) are related to the individual
20 whose income eligibility is in question
21 or such individual’s spouse who lives
22 in the same household;

23 “(II) are living in the same
24 household as such individual; and

1 “(III) are dependent on such in-
2 dividual or such individual’s spouse
3 who is living in the same household
4 for at least one-half of their financial
5 support.”.

6 (3) CONFORMING AMENDMENTS.—Section
7 1860D–14(a) of the Social Security Act (42 U.S.C.
8 1395w–114(a)) is amended—

9 (A) in paragraph (1), in the matter pre-
10 ceeding subparagraph (A), by inserting “(as de-
11 termined under paragraph (3)(G))” after “fam-
12 ily of the size involved”; and

13 (B) in paragraph (3), as amended by para-
14 graphs (1) and (2)—

15 (i) in subparagraph (A), in the matter
16 preceding clause (i), by striking “subpara-
17 graph (F)” and inserting “subparagraph
18 (E)”;

19 (ii) in subparagraph (A)(ii), by insert-
20 ing “(as determined under subparagraph
21 (G))” after “family of the size involved”;

22 (iii) in subparagraph (A)(iii), by strik-
23 ing “or (E)”;

24 (iv) in subparagraph (B)(v), in the
25 matter preceding subclause (I), by striking

1 “subparagraph (F)” and inserting “sub-
2 paragraph (E)”; and

3 (v) in subparagraph (D)(i), in the
4 matter preceding subclause (I), by striking
5 “subject to the life insurance policy exclu-
6 sion provided under subparagraph (G)”
7 and inserting “subject to the resource ex-
8 clusions provided under subparagraph
9 (F)”.

10 (e) ALIGNMENT OF LOW-INCOME SUBSIDY AND
11 MEDICARE SAVINGS PROGRAM INCOME AND RESOURCE
12 ELIGIBILITY TESTS.—

13 (1) APPLICATION OF MEDICAID SPOUSAL IM-
14 POVERISHMENT RESOURCE ALLOWANCE TO MSP AND
15 LIS RESOURCE ELIGIBILITY.—Section 1905(p)(1)(C)
16 of the Social Security Act (42 U.S.C.
17 1396d(p)(1)(C)) is amended to read as follows:

18 “(C) whose resources (as determined under sec-
19 tion 1613 for purposes of the supplemental security
20 income program subject to the resource exclusions
21 under subparagraph (G) of section 1860D–14(a)(3))
22 do not exceed—

23 “(i) in the case of an individual with a
24 spouse, an amount equal to the sum of the first
25 amount specified in subsection (f)(2)(A)(i) of

1 section 1924 (as adjusted under subsection (g)
2 of such section) and the amount specified in
3 subsection (f)(2)(A)(ii)(II) of such section (as
4 so adjusted); or

5 “(ii) in the case of an individual who does
6 not have a spouse, an amount equal to $\frac{1}{2}$ of
7 the amount described in clause (i).”.

8 (2) APPLICATION TO QDWIS.—Section
9 1905(s)(3) of the Social Security Act (42 U.S.C.
10 1396d(s)(3)) is amended to read as follows:

11 “(3) whose resources (as determined under sec-
12 tion 1613 for purposes of the supplemental security
13 income program subject to the resource exclusions
14 under subparagraph (G) of section 1860D–14(a)(3))
15 do not exceed—

16 “(A) in the case of an individual with a
17 spouse, the amount in effect for the year under
18 clause (i) of subsection (p)(1)(C); and

19 “(B) in the case of an individual who does
20 not have a spouse, the amount in effect for the
21 year under clause (ii) of subsection (p)(1)(C);
22 and”.

23 (3) APPLICATION TO LIS.—Clause (i) of section
24 1860D–14(a)(3)(D) of the Social Security Act (42
25 U.S.C. 1395w–114(a)(3)(D)), as redesignated and

1 amended by subsection (d)(1), is amended to read as
2 follows:

3 “(i) IN GENERAL.—The resources re-
4 quirement of this subparagraph is that an
5 individual’s resources (as determined under
6 section 1613 for purposes of the supple-
7 mental security income program subject to
8 the resource exclusions provided under
9 subparagraph (G)) do not exceed the
10 amount in effect for the year under section
11 1905(p)(1)(C)(ii).”.

12 (f) ENROLLMENT SIMPLIFICATIONS.—

13 (1) APPLICATION OF 3-MONTH RETROACTIVE
14 ELIGIBILITY TO QMBS.—

15 (A) IN GENERAL.—Section 1902(e)(8) of
16 the Social Security Act (42 U.S.C. 1396a(e)(8))
17 is amended by striking “after the end of the
18 month in which the determination first occurs”
19 and inserting “in or after the third month be-
20 fore the month in which the individual makes
21 application for assistance”.

22 (B) PROCESS FOR SUBMITTING CLAIMS
23 DURING RETROACTIVE ELIGIBILITY PERIOD.—
24 Section 1902(e)(8) of the Social Security Act
25 (42 U.S.C. 1396a(e)(8)) is further amended by

1 adding at the end the following: “The Secretary
2 shall provide for a process under which claims
3 for medical assistance under the State plan may
4 be submitted for services furnished to such an
5 individual during such 3-month period before
6 the month in which the individual made appli-
7 cation for assistance.”.

8 (C) CONFORMING AMENDMENT.—Section
9 1905(a) of the Social Security Act (42 U.S.C.
10 1396d(a)) is amended, in the matter preceding
11 paragraph (1), by striking “or, in the case of
12 medicare cost-sharing with respect to a quali-
13 fied medicare beneficiary described in sub-
14 section (p)(1), if provided after the month in
15 which the individual becomes such a bene-
16 ficiary”.

17 (2) STATE OPTION FOR 12-MONTH CONTINUOUS
18 ELIGIBILITY FOR SLMBS AND QWDIS.—Section
19 1902(e)(12) of the Social Security Act (42 U.S.C.
20 1396a(e)(12)) is amended—

21 (A) by redesignating subparagraphs (A)
22 and (B) as clauses (i) and (ii), respectively;

23 (B) by inserting “(A)” after “(12)”; and

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

1 “(B) At the option of the State, the plan may provide
 2 that an individual who is determined to be eligible for ben-
 3 efits under a State plan approved under this title under
 4 any of the following eligibility categories, or who is rede-
 5 termined to be eligible for such benefits under any of such
 6 categories, shall be considered to meet the eligibility re-
 7 quirements met on the date of application and shall re-
 8 main eligible for those benefits until the end of the 12-
 9 month period following the date of the determination or
 10 redetermination of eligibility, except that a State may pro-
 11 vide for such determinations more frequently, but not
 12 more frequently than once every 6 months for an indi-
 13 vidual:

14 “(i) A specified low-income medicare beneficiary
 15 described in subsection (a)(10)(E)(iii) of this section
 16 who is determined eligible for medicare cost sharing
 17 described in section 1905(p)(3)(A)(ii).

18 “(ii) A qualified disabled and working indi-
 19 vidual described in section 1905(s) who is deter-
 20 mined eligible for medicare cost-sharing described in
 21 section 1905(p)(3)(A)(i).”.

22 (3) STATE OPTION TO USE EXPRESS LANE ELI-
 23 GIBILITY FOR THE MEDICARE SAVINGS PROGRAM.—
 24 Section 1902(e)(13)(A) of the Social Security Act

1 (42 U.S.C. 1396a(e)(13)(A)) is amended by adding
2 at the end the following new clause:

3 “(iii) STATE OPTION TO EXTEND EX-
4 PRESS LANE ELIGIBILITY TO OTHER POPU-
5 LATIONS.—

6 “(I) IN GENERAL.—At the option
7 of the State, the State may apply the
8 provisions of this paragraph with re-
9 spect to determining eligibility under
10 this title for an eligible individual (as
11 defined in subclause (II)). In applying
12 this paragraph in the case of a State
13 making such an option, any reference
14 in this paragraph to a child with re-
15 spect to this title (other than a ref-
16 erence to child health assistance) shall
17 be deemed to be a reference to an eli-
18 gible individual.

19 “(II) ELIGIBLE INDIVIDUAL DE-
20 FINED.—In this clause, the term ‘eli-
21 gible individual’ means any of the fol-
22 lowing:

23 “(aa) A qualified medicare
24 beneficiary described in section
25 1905(p)(1) for purposes of deter-

1 mining eligibility for medicare
 2 cost-sharing (as defined in sec-
 3 tion 1905(p)(3)).

4 “(bb) A specified low-income
 5 medicare beneficiary described in
 6 subsection (a)(10)(E)(iii) of this
 7 section for purposes of deter-
 8 mining eligibility for medicare
 9 cost-sharing described in section
 10 1905(p)(3)(A)(ii).

11 “(cc) A qualified disabled
 12 and working individual described
 13 in section 1905(s) for purposes of
 14 determining eligibility for medi-
 15 care cost-sharing described in
 16 section 1905(p)(3)(A)(i).”.

17 (g) MEDICAID TREATMENT OF CERTAIN MEDICARE
 18 PROVIDERS.—Section 1902(n) of the Social Security Act
 19 (42 U.S.C. 1396a(n)) is amended by adding at the end
 20 the following new paragraph:

21 “(4) A State plan shall not deny a claim from a pro-
 22 vider or supplier with respect to medicare cost-sharing de-
 23 scribed in subparagraph (B), (C), or (D) of section
 24 1905(p)(3) for an item or service which is eligible for pay-
 25 ment under title XVIII on the basis that the provider or

1 supplier does not have a provider agreement in effect
2 under this title or does not otherwise serve all individuals
3 entitled to medical assistance under this title. The State
4 shall create a mechanism through which provider or sup-
5 pliers that do not otherwise have provider agreements with
6 the State can bill the State for medicare cost-sharing for
7 qualified medicare beneficiaries.”.

8 (h) ELIGIBILITY FOR OTHER PROGRAMS.—Section
9 1905(p) of the Social Security Act (42 U.S.C. 1396d(p))
10 is amended by adding at the end the following new para-
11 graph:

12 “(7) Notwithstanding any other provision of
13 law, any medical assistance for some or all medicare
14 cost-sharing under this title shall not be considered
15 income or resources in determining eligibility for, or
16 the amount of assistance or benefits provided under,
17 any other public benefit provided under Federal law
18 or the law of any State or political subdivision there-
19 of.”.

20 (i) TREATMENT OF QUALIFIED MEDICARE BENE-
21 FICIARIES, SPECIFIED LOW-INCOME MEDICARE BENE-
22 FICIARIES, AND OTHER DUAL ELIGIBLES AS MEDICARE
23 BENEFICIARIES.—Section 1862 of the Social Security Act
24 (42 U.S.C. 1395y) is amended by adding at the end the
25 following new subsection:

1 “(p) TREATMENT OF QUALIFIED MEDICARE BENE-
 2 FICIARIES (QMBS), SPECIFIED LOW-INCOME MEDICARE
 3 BENEFICIARIES (SLMBS), AND OTHER DUAL ELIGI-
 4 BLES.—Nothing in this title shall be construed as author-
 5 izing a provider of services or supplier to discriminate
 6 (through a private contractual arrangement or otherwise)
 7 against an individual who is otherwise entitled to services
 8 under this title on the basis that the individual is a quali-
 9 fied medicare beneficiary (as defined in section
 10 1905(p)(1)), a specified low-income medicare beneficiary,
 11 or is otherwise eligible for medical assistance for medicare
 12 cost-sharing or other benefits under title XIX.”.

13 (j) ADDITIONAL FUNDING FOR STATE HEALTH IN-
 14 SURANCE ASSISTANCE PROGRAMS.—

15 (1) GRANTS.—

16 (A) IN GENERAL.—The Secretary of
 17 Health and Human Services (in this subsection
 18 referred to as the “Secretary”) shall use
 19 amounts made available under subparagraph
 20 (B) to make grants to States for State health
 21 insurance assistance programs receiving assist-
 22 ance under section 4360 of the Omnibus Budg-
 23 et Reconciliation Act of 1990.

24 (B) FUNDING.—For purposes of making
 25 grants under this subsection, the Secretary

1 shall provide for the transfer, from the Federal
2 Hospital Insurance Trust Fund under section
3 1817 of the Social Security Act (42 U.S.C.
4 1395i) and the Federal Supplementary Medical
5 Insurance Trust Fund under section 1841 of
6 such Act (42 U.S.C. 1395t), in the same pro-
7 portion as the Secretary determines under sec-
8 tion 1853(f) of such Act (42 U.S.C. 1395w-
9 23(f)), of \$50,000,000 to the Centers for Medi-
10 care & Medicaid Services Program Management
11 Account for each of the fiscal years 2021
12 through 2025, to remain available until ex-
13 pended.

14 (2) AMOUNT OF GRANTS.—The amount of a
15 grant to a State under this subsection from the total
16 amount made available under paragraph (1) shall be
17 equal to the sum of the amount allocated to the
18 State under paragraph (3)(A) and the amount allo-
19 cated to the State under subparagraph (3)(B).

20 (3) ALLOCATION TO STATES.—

21 (A) ALLOCATION BASED ON PERCENTAGE
22 OF LOW-INCOME BENEFICIARIES.—The amount
23 allocated to a State under this subparagraph
24 from $\frac{2}{3}$ of the total amount made available
25 under paragraph (1) shall be based on the num-

ber of individuals who meet the requirement under subsection (a)(3)(A)(ii) of section 1860D–14 of the Social Security Act (42 U.S.C. 1395w–114) but who have not enrolled to receive a subsidy under such section 1860D–14 relative to the total number of individuals who meet the requirement under such subsection (a)(3)(A)(ii) in each State, as estimated by the Secretary.

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

(4) PORTION OF GRANT BASED ON PERCENTAGE OF LOW-INCOME BENEFICIARIES TO BE USED TO PROVIDE OUTREACH TO INDIVIDUALS WHO MAY BE SUBSIDY ELIGIBLE INDIVIDUALS OR ELIGIBLE FOR THE MEDICARE SAVINGS PROGRAM.—Each grant awarded under this subsection with respect to

1 amounts allocated under paragraph (3)(A) shall be
2 used to provide outreach to individuals who may be
3 subsidy eligible individuals (as defined in section
4 1860D–14(a)(3)(A) of the Social Security Act (42
5 U.S.C. 1395w–114(a)(3)(A))) or eligible for the pro-
6 gram of medical assistance for payment of the cost
7 of medicare cost-sharing under the Medicaid pro-
8 gram pursuant to sections 1902(a)(10)(E) and 1933
9 of such Act (42 U.S.C. 1396a(a)(10)(E), 1396u–3).
10 (k) EFFECTIVE DATE.—

11 (1) IN GENERAL.—Except as provided in para-
12 graph (2), the amendments and repeal made by this
13 section take effect on January 1, 2021, and, with re-
14 spect to title XIX of the Social Security Act, apply
15 to calendar quarters beginning on or after January
16 1, 2021.

17 (2) EXCEPTION FOR STATE LEGISLATION.—In
18 the case of a State plan for medical assistance under
19 title XIX of the Social Security Act which the Sec-
20 retary of Health and Human Services determines re-
21 quires State legislation (other than legislation appro-
22 priating funds) in order for the plan to meet the ad-
23 ditional requirements imposed by the amendments
24 and repeal made by this section, the State plan shall
25 not be regarded as failing to comply with the re-

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

Union Calendar No. 305

116TH CONGRESS
2D Session

H. R. 4671

[Report No. 116-381, Part I]

A BILL

To amend titles XVIII and XIX of the Social Security Act to reduce cost-sharing, align income and resource eligibility tests, simplify enrollment, and provide for other program improvements for low-income Medicare beneficiaries.

JANUARY 24, 2020

Reported from the Committee on Energy and Commerce

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Committee on Ways and Means discharged, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed