

106TH CONGRESS
2D SESSION

H. R. 4029

To amend the Public Health Service Act to provide for Alzheimer's clinical research and training awards, to amend title XVIII of the Social Security Act to expand the definition of homebound for purposes of receiving home health services under the medicare program to allow medicare beneficiaries to attend adult day care programs for treatment of Alzheimer's disease and other conditions, to amend the Internal Revenue Code of 1986 to allow individuals a deduction for qualified long-term care insurance premiums, use of such insurance under cafeteria plans and flexible spending arrangements, and a credit for individuals with long-term care needs, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 16, 2000

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

A BILL

To amend the Public Health Service Act to provide for Alzheimer's clinical research and training awards, to amend title XVIII of the Social Security Act to expand the definition of homebound for purposes of receiving home health services under the medicare program to allow medicare beneficiaries to attend adult day care programs for treatment of Alzheimer's disease and other conditions, to amend the Internal Revenue Code of 1986 to allow individuals a deduction for qualified long-term

care insurance premiums, use of such insurance under cafeteria plans and flexible spending arrangements, and a credit for individuals with long-term care needs, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Long Term Care and
5 Alzheimer’s Disease Advancement Act of 2000”.

6 **SEC. 2. ALZHEIMER’S CLINICAL RESEARCH AND TRAINING**

7 **AWARDS.**

8 Subpart 5 of part C of title IV of the Public Health
9 Service Act (42 U.S.C. 285e et seq.) is amended—

10 (1) by redesignating section 445I as section
11 445J; and

12 (2) by inserting after section 445H the fol-
13 lowing section:

14 **“ALZHEIMER’S CLINICAL RESEARCH AND TRAINING**

15 **AWARDS**

16 **“SEC. 445I.** (a) The Director of the Institute is au-
17 thorized to establish and maintain the Alzheimer’s disease
18 Physician-Scientist program to enhance and promote the
19 translation of new scientific knowledge into clinical prac-
20 tice toward the diagnosis, care and treatment of individ-
21 uals with Alzheimer’s disease.

1 “(b) In order to foster the application of the latest
2 developments in Alzheimer’s diagnosis, treatment and
3 care, funds under this program shall be directed to sup-
4 port promising clinicians through awards for research,
5 study, and practice at centers of excellence in Alzheimer
6 research and treatment.

7 “(c) Research awards under subsection (b) shall be
8 carried out in environments of demonstrated excellence in
9 neuroscience, neurobiology, geriatric medicine, psychiatry
10 and foster innovation and integration of these disciplines
11 or other environments determined suitable by the Director
12 of the Institute.

13 “(d) In addition to any other authorization of appro-
14 priations available for the purpose of carrying out this sec-
15 tion, there are authorized to be appropriated for such pur-
16 pose \$2,250,000 for each of fiscal years 2001 through
17 2005.”.

18 **SEC. 3. MEDPAC STUDY ON MEDICARE PHYSICIAN REIM-
19 BURSEMENT RATES FOR ALZHEIMER’S DIS-
20 EASE.**

21 (a) STUDY.—The Medicare Payment Advisory Com-
22 mission, established under section 1805 of the Social Se-
23 curity Act (42 U.S.C. 1395b–6), shall conduct a study of
24 reimbursement rates under the medicare program (under
25 title XVIII of that Act (42 U.S.C. 1395 et seq.) to physi-

1 cians for Alzheimer services, including a determination of
2 the adequacy of such reimbursement rates. The study
3 shall include the following analyses:

4 (1) COMPREHENSIVE CLINICAL ASSESS-
5 MENTS.—An analysis of whether payment policy
6 under the medicare program for Alzheimer services
7 encourages or discourages physicians to conduct
8 comprehensive clinical assessments for medicare
9 beneficiaries who exhibit symptoms of possible de-
10 mentia.

11 (2) CLINICAL PRACTICE GUIDELINES.—An
12 analysis of whether payment policy under the medi-
13 care program encourages or discourages physicians
14 to provide diagnostic and management services for
15 Alzheimer's disease or a related dementia as speci-
16 fied in generally accepted clinical practice guidelines
17 and protocols.

18 (3) ONGOING PHYSICIAN CONSULTATION.—An
19 analysis of whether payment policy under the medi-
20 care program for Alzheimer services encourages or
21 discourages ongoing physician consultation with the
22 medicare beneficiary's caregivers, as specified in
23 generally accepted diagnosis and practice guidelines.

24 (4) CAREER CHOICE.—An analysis of whether
25 payment rates under the medicare program for phy-

1 sicians encourages or discourages physicians from
2 choosing a career with a speciality in the treatment
3 and management of Alzheimer's disease and related
4 dementia.

5 (b) DEFINITIONS.—In this section:

6 (1) The term “Alzheimer services” means the
7 evaluation, diagnosis, and management of a medi-
8 care beneficiary with Alzheimer's disease or a related
9 dementia, including ongoing consultation between
10 the physician and caregivers of the beneficiary, con-
11 sistent with generally accepted diagnosis and prac-
12 tice guidelines.

13 (2) The term “medicare beneficiary” means an
14 individual entitled to benefits under title XVIII of
15 the Social Security Act (42 U.S.C. 1395 et seq.).

16 (c) REPORT.—Not later than 1 year after the date
17 of the enactment of this Act, the Medicare Payment Advi-
18 sory Commission shall submit to Congress a report on the
19 results of the study conducted under this section, together
20 with any recommendations for legislation that the Com-
21 mission determines to be appropriate as a result of such
22 study.

1 **SEC. 4. CLARIFICATION OF MEDICARE DEFINITION OF**
2 **HOMEBOUND FOR PURPOSES OF HOME**
3 **HEALTH SERVICES.**

4 (a) FINDINGS.—Congress finds the following:

5 (1) Home health services are a vital component
6 of the benefits that are furnished to beneficiaries
7 under the medicare program under title XVIII of the
8 Social Security Act.

9 (2) Home health services under the medicare
10 program enable homebound individuals who are at
11 great risk for costly institutionalized care to stay in
12 their own homes and communities.

13 (3) Existing medicare regulations and practices
14 inadvertently penalize medicare beneficiaries (includ-
15 ing those with Alzheimer's disease, a related demen-
16 tia, or both) who participate in an adult day care
17 program. Under those regulations, if a medicare
18 beneficiary attends a privately funded adult day care
19 program as part of their Alzheimer's treatment re-
20 gime, including an Alzheimer's treatment regime,
21 they may lose eligibility for the medicare home
22 health benefit because the absences of the individual
23 from home are not infrequent or short duration.

24 (4) Adult day care programs can be a valuable
25 and medically beneficial part of a treatment regime
26 for a person with Alzheimer's disease or a related

1 dementia. These programs can provide structured
2 activities and health monitoring to maintain func-
3 tion, manage behavioral symptoms and prevent
4 health care crises and premature institutionalization.

5 (5) The Health Care Financing Administration
6 and its various medicare contractors and fiscal inter-
7 mediaries have misinterpreted the intent of Congress
8 with respect to eligibility for home health services.
9 Participation by medicare beneficiaries in privately
10 funded adult day care programs is not intended to
11 preclude eligibility for home health services for those
12 medicare beneficiaries under the medicare program.

13 (b) CLARIFICATION OF THE DEFINITION OF HOME-
14 BOUND.—

15 (1) IN GENERAL.—The last sentence of sections
16 1814(a) and 1835(a) of the Social Security Act (42
17 U.S.C. 1395f(a); 1395n(a)) are each amended by
18 striking the period and inserting “Including partici-
19 pating in an adult day care program licensed by a
20 State to furnish adult day care services in the State,
21 for the purpose of therapeutic treatment for Alz-
22 heimer’s disease or a related dementia, or for med-
23 ical treatment furnished in an adult day care pro-
24 gram.”.

5 SEC. 5. TREATMENT OF PREMIUMS ON QUALIFIED LONG-
6 TERM CARE INSURANCE CONTRACTS.

7 (a) IN GENERAL.—Part VII of subchapter B of chap-
8 ter 1 of the Internal Revenue Code of 1986 (relating to
9 additional itemized deductions) is amended by redesign-
10 nating section 222 as section 223 and by inserting after
11 section 221 the following new section:

12 "SEC. 222. PREMIUMS ON QUALIFIED LONG-TERM CARE IN-
13 SURANCE CONTRACTS.

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

21 "(b) APPLICABLE PERCENTAGE.—For purposes of
22 subsection (a)—

23 “(1) IN GENERAL.—Except as otherwise pro-
24 vided in this subsection, the applicable percentage
25 shall be determined in accordance with the following

1 table based on the number of years of continuous
 2 coverage (as of the close of the taxable year) of the
 3 individual under any qualified long-term care insur-
 4 ance contracts (as defined in section 7702B(b)):

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

5 “(2) SPECIAL RULES FOR INDIVIDUALS WHO
 6 HAVE ATTAINED AGE 55.—In the case of an indi-
 7 vidual who has attained age 55 as of the close of the
 8 taxable year, the following table shall be substituted
 9 for the table in paragraph (1).

“If the number of years of continuous coverage is—	The applicable long-term care percentage is—
Less than 1	70
At least 1 but less than 2	85
At least 2	100.

10 “(3) ONLY COVERAGE AFTER 1999 TAKEN INTO
 11 ACCOUNT.—Only coverage for periods after Decem-
 12 ber 31, 1999, shall be taken into account under this
 13 subsection.

14 “(4) CONTINUOUS COVERAGE.—An individual
 15 shall not fail to be treated as having continuous cov-
 16 erage if the aggregate breaks in coverage during any
 17 1-year period are less than 60 days.

18 “(c) COORDINATION WITH OTHER DEDUCTIONS.—
 19 Any amount paid by a taxpayer for any qualified long-

1 term care insurance contract to which subsection (a) ap-
2 plies shall not be taken into account in computing the
3 amount allowable to the taxpayer as a deduction under
4 section 162(l) or 213(a).”

5 (b) CONTINGENT NONFORFEITURE REQUIREMENTS
6 ADDED TO CONSUMER PROTECTION PROVISIONS.—

7 (1) Section 7702B(g)(2)(A)(i) of the Internal
8 Revenue Code of 1986 (relating to model regulation)
9 is amended by adding at the end the following new
10 subclause:

11 “(XII) Section 23 (relating to
12 contingent nonforfeiture benefits), if
13 the policyholder declines the offer of a
14 nonforfeiture provision described in
15 paragraph (4).”

16 (2) Section 7702B(g)(2)(A)(ii) of such Code
17 (relating to model Act) is amended by adding at the
18 end the following new subclause:

19 “(III) Section 8 (relating to con-
20 tingent nonforfeiture benefits), if the
21 policyholder declines the offer of a
22 nonforfeiture provision described in
23 paragraph (4).”

24 (c) REFERENCE TO NAIC MODEL ACT UPDATED.—
25 Section 7702B(g)(2)(B)(i) of the Internal Revenue Code

1 of 1986 (relating to model provisions) is amended by strik-
2 ing “January 1993” and inserting “January 1999”.

3 (d) LONG-TERM CARE INSURANCE PERMITTED TO
4 BE OFFERED UNDER CAFETERIA PLANS AND FLEXIBLE
5 SPENDING ARRANGEMENTS.—

6 (1) CAFETERIA PLANS.—Section 125(f) of the
7 Internal Revenue Code of 1986 (defining qualified
8 benefits) is amended by inserting before the period
9 at the end “; except that such term shall include the
10 payment of premiums for any qualified long-term
11 care insurance contract (as defined in section
12 7702B) to the extent the amount of such payment
13 does not exceed the eligible long-term care premiums
14 (as defined in section 213(d)(10)) for such con-
15 tract”.

16 (2) FLEXIBLE SPENDING ARRANGEMENTS.—
17 Section 106 of such Code (relating to contributions
18 by an employer to accident and health plans) is
19 amended by striking subsection (c).

20 (e) CONFORMING AMENDMENTS.—

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

1 “(18) PREMIUMS ON QUALIFIED LONG-TERM
2 CARE INSURANCE CONTRACTS.—The deduction al-
3 lowed by section 222.”

4 (2) Section 7702B(g)(2)(A)(i) of such Code, as
5 amended by subsection (b)(1), is amended by strik-
6 ing “7A” both places it appears, “7B”, “7C”, “7D”,
7 “7E”, “8”, “9”, “9F”, “10”, “11”, “12”, and “23”
8 the first place it appears and inserting “6A”, “6B”,
9 “6C”, “6D”, “6E”, “7”, “8”, “8F”, “9”, “10”,
10 “11”, and “22”, respectively.

11 (3) Section 4980C(c)(1)(A) of such Code is
12 amended by striking “13”, “14”, “20”, “21”,
13 “21C(1)”, “21C(6)”, “22”, “24”, and “25” and in-
14 serting “12”, “13”, “19”, “20C(1)”, “20C(6)”,
15 “21”, “25”, and “26”, respectively.

16 (4) The table of sections for part VII of sub-
17 chapter B of chapter 1 of such Code is amended by
18 striking the last item and inserting the following
19 new items:

“Sec. 222. Premiums on qualified long-term care insurance con-
tracts.

“Sec. 223. Cross reference.”

20 (f) EFFECTIVE DATES.—

21 (1) IN GENERAL.—Except as provided in para-
22 graphs (2) and (3), the amendments made by this
23 section shall apply to taxable years beginning after
24 December 31, 1999.

10 SEC. 6. CREDIT FOR TAXPAYERS WITH LONG-TERM CARE
11 NEEDS.

12 (a) IN GENERAL.—Subpart A of part IV of sub-
13 chapter A of chapter 1 of the Internal Revenue Code of
14 1986 (relating to nonrefundable personal credits) is
15 amended by inserting after section 25A the following new
16 section:

17 "SEC. 25B. CREDIT FOR TAXPAYERS WITH LONG-TERM
18 CARE NEEDS.

19 "(a) ALLOWANCE OF CREDIT.—

20 “(1) IN GENERAL.—There shall be allowed as a
21 credit against the tax imposed by this chapter for
22 the taxable year an amount equal to the applicable
23 credit amount multiplied by the number of applica-
24 ble individuals with respect to whom the taxpayer is
25 an eligible caregiver for the taxable year.

1 “(2) APPLICABLE CREDIT AMOUNT.—For pur-
 2 poses of paragraph (1), the applicable credit amount
 3 shall be determined in accordance with the following
 4 table:

“For taxable years beginning in calendar year—	The applicable credit amount is—
2000	\$1,000
2001	1,500
2002	2,000
2003	2,500
2004 or thereafter	3,000.

5 “(b) LIMITATION BASED ON ADJUSTED GROSS IN-
 6 COME.—

7 “(1) IN GENERAL.—The amount of the credit
 8 allowable under subsection (a) shall be reduced (but
 9 not below zero) by \$100 for each \$1,000 (or fraction
 10 thereof) by which the taxpayer’s modified adjusted
 11 gross income exceeds the threshold amount. For
 12 purposes of the preceding sentence, the term ‘modi-
 13 fied adjusted gross income’ means adjusted gross in-
 14 come increased by any amount excluded from gross
 15 income under section 911, 931, or 933.

16 “(2) THRESHOLD AMOUNT.—For purposes of
 17 paragraph (1), the term ‘threshold amount’ means—

18 “(A) \$150,000 in the case of a joint re-
 19 turn, and

20 “(B) \$75,000 in any other case.

21 “(3) INDEXING.—In the case of any taxable
 22 year beginning in a calendar year after 2000, each

1 dollar amount contained in paragraph (2) shall be
2 increased by an amount equal to the product of—

3 “(A) such dollar amount, and

4 “(B) the medical care cost adjustment de-
5 termined under section 213(d)(10)(B)(ii) for
6 the calendar year in which the taxable year be-
7 gins, determined by substituting ‘August 1999’
8 for ‘August 1996’ in subclause (II) thereof.

9 If any increase determined under the preceding sen-
10 tence is not a multiple of \$50, such increase shall
11 be rounded to the next lowest multiple of \$50.

12 “(c) DEFINITIONS.—For purposes of this section—

13 “(1) APPLICABLE INDIVIDUAL.—

14 “(A) IN GENERAL.—The term ‘applicable
15 individual’ means, with respect to any taxable
16 year, any individual who has been certified, be-
17 fore the due date for filing the return of tax for
18 the taxable year (without extensions), by a phy-
19 sician (as defined in section 1861(r)(1) of the
20 Social Security Act) as being an individual with
21 long-term care needs described in subparagraph
22 (B) for a period—

23 “(i) which is at least 180 consecutive
24 days, and

1 “(ii) a portion of which occurs within
2 the taxable year.

3 Such term shall not include any individual oth-
4 erwise meeting the requirements of the pre-
5 ceding sentence unless within the 39½ month
6 period ending on such due date (or such other
7 period as the Secretary prescribes) a physician
8 (as so defined) has certified that such indi-
9 vidual meets such requirements.

10 “(B) INDIVIDUALS WITH LONG-TERM CARE
11 NEEDS.—An individual is described in this sub-
12 paragraph if the individual meets any of the fol-
13 lowing requirements:

14 “(i) The individual is at least 6 years
15 of age and—

16 “(I) is unable to perform (with-
17 out substantial assistance from an-
18 other individual) at least 3 activities
19 of daily living (as defined in section
20 7702B(c)(2)(B)) due to a loss of
21 functional capacity, or

22 “(II) requires substantial super-
23 vision to protect such individual from
24 threats to health and safety due to se-
25 vere cognitive impairment and is un-

1 able to preform, without reminding or
2 cuing assistance, at least 1 activity of
3 daily living (as so defined) or to the
4 extent provided in regulations pre-
5 scribed by the Secretary (in consulta-
6 tion with the Secretary of Health and
7 Human Services), is unable to engage
8 in age appropriate activities.

22 “(2) ELIGIBLE CAREGIVER.—

23 “(A) IN GENERAL.—A taxpayer shall be
24 treated as an eligible caregiver for any taxable
25 year with respect to the following individuals:

1 “(i) The taxpayer.

2 “(ii) The taxpayer’s spouse.

3 “(iii) An individual with respect to

4 whom the taxpayer is allowed a deduction

5 under section 151 for the taxable year.

6 “(iv) An individual who would be de-

7 scribed in clause (iii) for the taxable year

8 if section 151(c)(1)(A) were applied by

9 substituting for the exemption amount an

10 amount equal to the sum of the exemption

11 amount, the standard deduction under sec-

12 tion 63(c)(2)(C), and any additional stand-

13 ard deduction under section 63(c)(3) which

14 would be applicable to the individual if

15 clause (iii) applied.

16 “(v) An individual who would be de-

17 scribed in clause (iii) for the taxable year

18 if—

19 “(I) the requirements of clause

20 (iv) are met with respect to the indi-

21 vidual, and

22 “(II) the requirements of sub-

23 paragraph (B) are met with respect to

24 the individual in lieu of the support

25 test of section 152(a).

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

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

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

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

15 “(i) IN GENERAL.—If more than 1 individual is an eligible caregiver with respect to the same applicable individual for taxable years ending with or within the same calendar year, a taxpayer shall be treated as the eligible caregiver if each such individual (other than the taxpayer) files a written declaration (in such form and manner as the Secretary may prescribe) that such individual will not claim

such applicable individual for the credit
under this section.

18 "(d) IDENTIFICATION REQUIREMENT.—No credit
19 shall be allowed under this section to a taxpayer with re-
20 spect to any applicable individual unless the taxpayer in-
21 cludes the name and taxpayer identification number of
22 such individual, and the identification number of the phy-
23 sician certifying such individual, on the return of tax for
24 the taxable year.

1 “(e) TAXABLE YEAR MUST BE FULL TAXABLE
2 YEAR.—Except in the case of a taxable year closed by rea-
3 son of the death of the taxpayer, no credit shall be allow-
4 able under this section in the case of a taxable year cov-
5 ering a period of less than 12 months.”

6 (b) CONFORMING AMENDMENTS.—

7 (1) Section 6213(g)(2) of the Internal Revenue
8 Code of 1986 is amended by striking “and” at the
9 end of subparagraph (K), by striking the period at
10 the end of subparagraph (L) and inserting “, and”,
11 and by inserting after subparagraph (L) the fol-
12 lowing new subparagraph:

13 “(M) an omission of a correct TIN or phy-
14 sician identification required under section
15 25B(d) (relating to credit for taxpayers with
16 long-term care needs) to be included on a re-
17 turn.”

18 (2) The table of sections for subpart A of part
19 IV of subchapter A of chapter 1 of such Code is
20 amended by inserting after the item relating to sec-
21 tion 25A the following new item:

“Sec. 25B. Credit for taxpayers with long-term care needs.”

22 (c) EFFECTIVE DATE.—The amendments made by
23 this section shall apply to taxable years beginning after
24 December 31, 1999.

