107TH CONGRESS
2D SESSION

H. R. 3684

To amend the Social Security Act to establish an outpatient prescription drug assistance program for low-income Medicare beneficiaries.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 5, 2002

Mr. SIMMONS (for himself, Ms. HART, Mr. KOLBE, Mr. MANZULLO, Mr. LATOURETTE, Mr. FORBES, and Mr. PLATTS) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Energy and 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

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A BILL

To amend the Social Security Act to establish an outpatient prescription drug assistance program 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 "Immediate Helping
5 Hand Prescription Drug Assistance Act of 2002".

1 **SEC. 2. OUTPATIENT PRESCRIPTION DRUG ASSISTANCE**
2 **PROGRAM.**

3 (a) ESTABLISHMENT.—The Social Security Act (42
4 U.S.C. 301 et seq.) is amended by adding at the end the
5 following new title:

6 "TITLE XXII—OUTPATIENT PRE-
7 SCRIPTION DRUG ASSIST-
8 ANCE PROGRAM

9 **"SEC. 2201. PURPOSE: OUTPATIENT PRESCRIPTION DRUG**
10 **ASSISTANCE PROGRAMS.**

11 "(a) IN GENERAL.—The purpose of this title is to
12 provide funding for States to establish a program to pro-
13 vide assistance to low-income medicare beneficiaries (as
14 defined in section 2212(a)(4)), or to provide assistance to
15 such beneficiaries through a State plan under title XIX
16 or through part C of title XVII.

17 "(b) ENTITLEMENT.—Subject to subsection (c)(2),
18 this title constitutes budget authority in advance of appro-
19 priations Acts and represents the obligation of the Federal
20 Government to provide for the payment to the program
21 sponsors described in section 2212(a)(9), of the amounts
22 provided under section 2206.

23 "(c) PERIOD OF APPLICABILITY.—

24 "(1) IN GENERAL.—No program sponsor may
25 receive payments under section 2207 for outpatient
26 prescription drug assistance provided before the date

of enactment of this Act, or after September 30, 2008.

"(2) MEDICARE REFORM.—If legislation that includes comprehensive medicare coverage for outpatient prescription drugs for all beneficiaries is enacted during the period that begins on the date of enactment of this Act and ends on September 30, 2008, this title shall be repealed upon the effective date of such legislation, and no program sponsor shall be entitled to receive payments for any outpatient prescription drug assistance provided on or after such date.

"SEC. 2202. BENEFICIARY ELIGIBILITY AND ENROLLMENT.

"(a) ELIGIBILITY.—

"(1) IN GENERAL.—In order for a State to receive payments under section 2207 with respect to an outpatient prescription drug assistance program, the program must provide, subject to the availability of funds, outpatient prescription drug assistance to each individual who—

"(A) is a resident of the State (as defined in section 2212(a)(10);

"(B) is a low-income medicare beneficiary (as defined in section 2212(a)(4); and

"(C) applies for such assistance.

1 (2) LEGACY BENEFICIARIES.—In the case of a
2 State that has an existing comprehensive state-based
3 program, as defined in section 2212(a)(2), that pro-
4 vides outpatient prescription drug coverage for indi-
5 viduals described in paragraph (1)(A) (''Legacy
6 Beneficiaries''), the State is required to provide out-
7 patient prescription drug assistance for all such
8 beneficiaries residing in that state who were eligible
9 for such coverage on the date of enactment of this
10 Act, notwithstanding that any such beneficiaries
11 have incomes exceeding the income eligibility level
12 specified by section 2212(a)(4)(C).
13 ''(3) INDIVIDUAL NONENTITLEMENT.—Nothing
14 in this title shall be construed as providing an indi-
15 vidual with an entitlement to outpatient prescription
16 drug assistance provided under this title.
17 ''(b) ENROLLMENT OF ELIGIBLE INDIVIDUALS.—
18 States shall develop procedures designed to encourage and
19 facilitate enrollment in their outpatient prescription drug
20 assistance programs, including but not limited to the fol-
21 lowing:
22 ''(1) Developing a streamlined application proc-
23 ess that is capable of being administered separately
24 from processes used to enroll individuals in medicaid
25 or other public assistance programs;

1 "(2) Ensuring that eligible individuals may ob-
2 tain benefit information and application materials in
3 a wide variety of settings, such as physicians offices,
4 pharmacies, health clinics, senior community centers,
5 and public libraries; and

6 "(3) Developing an outreach program designed
7 to raise awareness of the availability of benefits, eli-
8 gibility requirements, and application procedures
9 under this title among all eligible individuals.

10 **"SEC. 2203. COVERAGE REQUIREMENTS.**

11 "(a) REQUIRED SCOPE OF COVERAGE.—

12 "(1) IN GENERAL.—The outpatient prescription
13 drug assistance provided by a program sponsor shall
14 provide coverage of all covered outpatient drugs, as
15 defined in section 1927(k)(2).

16 "(2) PERMISSIBLE EXCLUSIONS.—A program
17 sponsor may exclude coverage of any outpatient drug
18 described under section 1927(d)(2).

19 "(3) EXCLUSION OF DRUGS COVERED UNDER
20 PART B.—No coverage shall be provided under this
21 part for outpatient prescription drugs that are cov-
22 ered under part B of title XVIII as of the date of
23 enactment of this Act.

1 "(4) MORE GENEROUS COVERAGE.—Nothing
2 shall preclude a State from offering more generous
3 coverage that the coverage described in this section.
4 "(b) COVERAGE RESTRICTIONS AND OTHER BEN-
5 EFIT LIMITATIONS.—
6 "(1) IN GENERAL.—A drug prescribed for an
7 individual that would otherwise be a covered out-
8 patient drug under this part may be excluded or
9 subject to coverage restrictions and other benefit
10 limitations only if the program sponsor meets the re-
11 quirements of subsection (b)(3) (including providing
12 an appeals process) with respect to such restrictions
13 of limitations.
14 "(2) SCOPE OF THIS SUBSECTION.—Coverage
15 restrictions and benefit limitations to which sub-
16 section (b)(1) would apply include, without limita-
17 tion, any mechanism the purpose of which or result
18 of is to differentiate among drugs in the same cat-
19 egory or class that are not bioequivalent and phar-
20 maceutically equivalent, whether through a prior au-
21 thorization requirement, preferred drug list, tiered
22 or differential copayment structure or other differen-
23 tials in beneficiary cost-sharing requirements.
24 "(3) REQUIREMENTS FOR DEVELOPMENT AND
25 APPLICATION OF COVERAGE RESTRICTIONS AND

1 OTHER BENEFIT LIMITATIONS.—Insofar as a pro-
2 gram sponsor excludes or otherwise subjects any
3 otherwise covered outpatient drug to coverage re-
4 strictions or benefit limitations, the following re-
5 quirement must be met—

6 "(A) PHARMACEUTICAL AND THERA-
7 PEUTIC COMMITTEE.—The sponsor shall estab-
8 lish a pharmaceutical and therapeutic com-
9 mittee ("Committee"), which shall include, at a
10 minimum, practicing physicians (including spe-
11 ciality physicians), pharmacists, and others who
12 are independent of the program sponsor and
13 have expertise in the care of elderly or disabled
14 persons.

15 "(B) PROCEDURES FOR ESTABLISHING
16 COVERAGE RESTRICTIONS OR BENEFIT LIMITA-
17 TIONS.—

18 "(i) A covered outpatient drug may be
19 excluded, or made subject to other cov-
20 erage restrictions or benefit limitations,
21 with respect to the treatment of a specific
22 disease or condition, if the Committee de-
23 termines, based on reliable scientific evi-
24 dence, that the drug does not have a sig-
25 nificant, clinically meaningful therapeutic

1 advantage over other drugs in the same
2 category or class and the Committee's de-
3 termination is set forth in a written record
4 that includes a specific explanation of the
5 scientific and clinical bases for the deter-
6 mination.

7 "(ii) Notwithstanding subsection
8 (b)(3)(B)(i), no coverage restrictions or
9 benefit limitations shall apply with respect
10 to a drug when prescribed for a beneficiary
11 who is part of an identified population for
12 which such drug has been determined to
13 have a significant, clinically meaningful
14 therapeutic advantage over alternative
15 treatments.

16 "(C) MEDICAL EXCEPTIONS PROCESS.—
17 The program sponsor shall have, as part of the
18 appeals process under subsection 2205(b)(4), a
19 medical exceptions process that provides for ex-
20 ceptions from application of coverage restric-
21 tions or benefit limitations when a drug is
22 medically necessary and appropriate for a bene-
23 ficiary. In the case of such an exception, the
24 same cost-sharing and other requirements that
25 would have applied to the alternative covered

1 outpatient drug would apply to the drug cov-
2 ered pursuant to this exception process.
3 "(c) BENEFICIARY PREMIUMS AND COST-SHAR-
4 ING.—
5 "(1) GENERAL CONDITIONS.—
6 "(A) PUBLIC SCHEDULE OF CHARGES.—
7 Any premium or cost-sharing shall be imposed
8 by the program sponsor in accordance with a
9 public schedule.
10 "(B) PROTECTION FOR BENEFICIARIES.—
11 The program sponsor may only vary premiums
12 and cost-sharing based on the family income of
13 low-income medicare beneficiaries in a manner
14 that does not favor such beneficiaries with high-
15 er incomes over beneficiaries with lower in-
16 comes.
17 "(2) LIMITATIONS ON PREMIUMS AND COST-
18 SHARING.—
19 "(A) NO PREMIUMS OR COST-SHARING FOR
20 BENEFICIARIES WITH INCOME BELOW 150 PER-
21 CENT OF POVERTY LINE.—In the case of a low-
22 income medicare beneficiary whose family in-
23 come does not exceed 150 percent of the pov-
24 erty line, the program sponsor may not charge

1 the beneficiary any premium and may impose
2 only nominal cost-sharing.
3 "(B) OTHER BENEFICIARIES.—
4 "(i) For low-income medicare bene-
5 ficiaries not described in subparagraph
6 (A), any premiums or cost-sharing imposed
7 by the program sponsor may be based,
8 subject to paragraph (1)(B), on a sliding
9 scale related to income, except that the
10 total annual aggregate amount of such pre-
11 miums and cost-sharing with respect to all
12 such beneficiaries in a family under this
13 title may not exceed five percent of the
14 family income.
15 "(ii) No low-income medicare bene-
16 ficiary described in subparagraph (B)(i)
17 shall be responsible for more than 50 per-
18 cent of any premium imposed by the pro-
19 gram sponsor.
20 "(3) PREMIUMS AND COST-SHARING FOR LEG-
21 ACY BENEFICIARIES.—In the case of Legacy Bene-
22 ficiaries described in section 2202(a)(2), the pro-
23 gram sponsor shall not impose any premium or cost-
24 sharing higher than that imposed under the existing

1 comprehensive state-based program before enactment of this Act.

3 "(d) RESTRICTION ON APPLICATION OF PRE-EXISTING CONDITION EXCLUSIONS.—The program sponsor shall not permit the imposition of any preexisting condition exclusion for covered benefits and may not discriminate in the pricing of premiums because of health status, claims experience, receipt of health care, or medical condition.

10 **"Sec. 2204. MANUFACTURER REBATES.**

11 "(A) IN GENERAL.—A state with an outpatient prescription drug program that administers its drug benefit on a fee-for-service basis shall be eligible to receive manufacturer rebates as provided under subsection (b).

15 "(b) REBATES.—

16 "(1) A manufacturer, as defined in section 1927(k)(5), shall provide rebates to States described in subsection (a) for drugs of the manufacturer for which payment is made under this title.

20 "(2) Such rebates shall be calculated and paid in accordance with the requirements of section 1927.

22 **"Sec. 2205. BENEFICIARY PROTECTIONS.**

23 "(a) BENEFICIARIES COVERED UNDER MEDICAID AND MEDICARE+CHOICE PROGRAMS.—

1 "(1) IN GENERAL.—Eligible beneficiaries who
2 are provided outpatient prescription drug assistance
3 under a State plan under title XIX or under part C
4 of title XVIII shall be afforded the patient protec-
5 tions contained in those programs.

6 "(2) ADDITIONAL PROTECTION.—In addition to
7 the protections required under subsection (a)(1), all
8 program sponsors must meet the requirements es-
9 tablished in subsections (b)(1) and (b)(2).

10 "(b) OTHER BENEFICIARIES.—Eligible beneficiaries
11 who are provided outpatient prescription drug assistance
12 under this title shall be afforded the following patient
13 protections—

14 "(1) CONFLICT OF INTEREST SAFEGUARDS.—
15 Before entering into a contract with a program
16 sponsor, the State shall determine whether the pro-
17 gram sponsor or any of its proposed subcontractors
18 has any significant organizational conflict of inter-
19 est, and if so, shall only contract with the prospec-
20 tive sponsor if the sponsor has implemented ade-
21 quate safeguards to avoid or neutralize any such
22 conflict. Prior to renewing such a contract, the Sec-
23 retary shall evaluate the effectiveness of the safe-
24 guards in avoiding or neutralizing the conflict and
25 shall ensure that the program sponsor makes any

1 changes necessary to ensure their continuing effec-
2 tiveness during the new contract period.

3 "(2) ACKNOWLEDGEMENT OF BENEFICIARY IN-
4 TERESTS.—A program sponsor shall certify to the
5 State that it shall at all times act in the best inter-
6 ests of enrollee in connection with the provision of
7 outpatient prescription drug assistance.

8 "(3) GRIEVANCE PROCEDURES.—A program
9 sponsor shall meet the requirements of section
10 1852(f) with respect to hearing and resolving griev-
11 ances in the same manner as such requirements
12 apply to a Medicare+Choice organization under that
13 section.

14 "(4) COVERAGE DETERMINATIONS AND AP-
15 PEALS.—A program sponsor shall meet the require-
16 ments of section 1852(g) with respect to coverage
17 determinations and appeals in the same manner as
18 such requirements apply to a Medicare+Choice or-
19 ganization under that section.

20 "(5) CONFIDENTIALITY AND ACCURACY OF
21 BENEFICIARY RECORDS.—A program sponsor shall
22 meet the requirements of section 1852(h) with re-
23 spect to confidentiality and accuracy of patient
24 records in the same manner as such requirements

1 apply to a Medicare+Choice organization under that
2 section.
3 “(6) ACCESS TO COVERED OUTPATIENT
4 DRUGS.—
5 “(A) IN GENERAL.—A program sponsor
6 shall secure the participation of sufficient num-
7 bers of pharmacies to ensure convenient access
8 to covered outpatient drugs for eligible bene-
9 ficiaries.
10 “(B) ANY WILLING PHARMACY.—A pro-
11 gram sponsor shall permit the participation of
12 any pharmacy that meets State licensing re-
13 quirements for such an entity.
14 **“SEC. 2206. ALLOTMENTS.**
15 “(A) APPROPRIATION.—
16 “(1) IN GENERAL.—For the purpose of pro-
17 viding allotments under this section to States, there
18 is appropriated, out of any funds in the Treasury
19 not otherwise appropriated—
20 “(A) for fiscal year 2003, $7,000,000,000;
21 “(B) for fiscal year 2004, $7,000,000,000;
22 “(C) for fiscal year 2005, $7,000,000,000;
23 “(D) for fiscal year 2006, $7,000,000,000;
24 “(E) for fiscal year 2007, $7,000,000,000;

1 "(F) for fiscal year 2008, $7,000,000,000;
2 and
3 "(G) for fiscal year 2009, $6,000,000,000.
4 "(2) AVAILABILITY.—Amounts appropriated
5 under paragraph (1) shall only be available for pro-
6 viding the allotments described in such paragraph
7 during the fiscal year for which such amounts are
8 appropriated. Any amounts that have not been obli-
9 gated by the Secretary for the purposes of making
10 payments from such allotments under section 2207,
11 or under section 2211, on or before September 30
12 of fiscal year 2003, 2004, 2005, 2006, 2007, 2008,
13 or 2009 (as applicable), shall be returned to the
14 Treasury.
15 "(b) ALLOTMENTS TO 50 STATES AND DISTRICT OF
16 COLUMBIA.—
17 "(1) IN GENERAL.—Subject to paragraph (3),
18 of the amount available for allotment under sub-
19 section (a) for a fiscal year, reduced by the amount
20 of allotments made under subsection (c) for the fis-
21 cal year, the Secretary shall allot to each State with
22 an outpatient prescription drug assistance program
23 the same proportion as the ratio of—
24 "(A) the number of medicare beneficiaries
25 with family income that does not exceed 200

1 percent of the poverty line residing in the State
2 for the fiscal year; to

3 "(B) the total number of such beneficiaries
4 residing in all such States.

5 "(2) DETERMINATION OF NUMBER OF MEDI-
6 CARE BENEFICIARIES WITH INCOME THAT DOES NOT
7 EXCEED 200 PERCENT OF POVERTY.—For purposes
8 of paragraph (1), a determination of the number of
9 medicare beneficiaries with family income that does
10 not exceed 200 percent of the poverty line residing
11 in a State for the fiscal year shall be made on the
12 basis of the arithmetic average of the number of
13 such medicare beneficiaries, as reported and defined
14 in the five most recent March supplements to the
15 Current Population Survey of the Bureau of the
16 Census.

17 "(3) MINIMUM ALLOTMENT.—In no case shall
18 the amount of the allotment under this subsection
19 for one of the 50 States or the District of Columbia
20 for a fiscal year be less than an amount equal to 0.5
21 percent of the amount provided for all allotments
22 under subsection (a) for that fiscal year (reduced by
23 the amount of allotments made under subsection (c)
24 for the fiscal year). To the extent that the applica-
25 tion of the previous sentence results in an increase

1 in the allotment to a State or the District of Colum-
2 bia above the amount otherwise provided, the allot-
3 ments for the other States and District of Columbia
4 under this subsection shall be reduced in a pro rata
5 manner (but not below the minimum allotment de-
6 scribed in such preceding sentence), so that the total
7 of such allotments in a fiscal year does not exceed
8 the amount otherwise provided for allotments under
9 subsection (a) for that fiscal year (as so reduced).

10 ''(c) ALLOTMENTS TO TERRITORIES.—

11 ''(1) IN GENERAL.—Of the total amount avail-
12 able for allotment under subsection (a) for a fiscal
13 year, the Secretary shall allot 0.25 percent among
14 each of the commonwealths and territories described
15 in paragraph (3) in the same proportion as the per-
16 centage specified in paragraph (2) for such common-
17 wealth or territory bears to the sum of such percent-
18 ages for all such commonwealths or territories so de-
19 scribed.

20 ''(2) PERCENTAGE.—The percentage specified
21 in this paragraph for—

22 ''(A) Puerto Rico is 91.6 percent;

23 ''(B) Guam is 3.5 percent;

24 ''(C) the United States Virgin Islands is
25 2.6 percent;

1 ‘‘(D) American Samoa is 1.2 percent; and
2 ‘‘(E) the Northern Mariana Islands is 1.1
3 percent.
4 ‘‘(3) COMMONWEALTHS AND TERRITORIES.—A
5 commonwealth or territory described in this para-
6 graph is any of the following if it has an outpatient
7 prescription drug assistance program approved
8 under this title:
9 ‘‘(A) Puerto Rico.
10 ‘‘(B) Guam.
11 ‘‘(C) the United States Virgin Islands.
12 ‘‘(D) American Samoa.
13 ‘‘(E) the Northern Mariana Islands.
14 ‘‘(d) TRANSFER OF CERTAIN ALLOTMENTS AND
15 PORTIONS OF ALLOTMENTS.—
16 ‘‘(1) IN GENERAL.—If, not later than within
17 two years of the date of enactment of this Act, a
18 State has not submitted a State Participation Plan
19 to the Secretary that meets the requirements of this
20 title—
21 ‘‘(A) 90 percent of the allotment deter-
22 mined for a fiscal year (or pro rata share there-
23 of) under subsection (b) or (c) for a State shall
24 be transferred and made available in such fiscal
25 year to the Secretary for purposes of carrying

1 out the default program established under sec-
2 tion 2211; and
3 ‘‘(B) 10 percent of such allotment shall be
4 used to make payments to States in accordance
5 with section 2207(b).
6 ‘‘(2) Notwithstanding paragraph (1), if a State
7 submits a State Participation Plan to the Secretary
8 that meets the requirements of this title after the
9 two-year period described above such State’s allot-
10 ment (or pro rata share thereof) for the fiscal year
11 shall be distributed in accordance with subsections
12 (b) and (c).
13 **‘‘Sec. 2207. PAYMENTS TO STATES.**
14 ‘‘(a) IN GENERAL.—Subject to the succeeding provi-
15 sions of this section, the Secretary shall pay to each State
16 with a State Participation Plan approved under section
17 2208(c) from the State’s allotment under section 2206,
18 an amount for each quarter equal to the expenditures as
19 estimated by the State in the quarter—
20 ‘‘(1) for outpatient prescription drug assistance
21 furnished to low-income medicare beneficiaries in a
22 manner consistent with the requirements of this
23 title; and
24 ‘‘(2) only to the extent permitted under subsection
25 (d), for reasonable costs incurred to administer a program

1 implemented under this title, including, but not limited to,
2 benefit management costs and outreach initiatives.

3 ‘‘(b) ADDITIONAL PAYMENTS.—In addition to fund-
4 ing under subsection (a), the Secretary shall make pay-
5 ments to States as follows:

6 ‘‘(1) ENROLLMENT BONUSES.—The Secretary
7 shall establish program enrollment targets and make
8 bonus payments to States that achieve such targets;
9 such bonus payments may be used to provide ex-
10 panded drug benefits to low-income medicare bene-
11 ficiaries or to reduce or eliminate premium or cost-
12 sharing obligations for such beneficiaries;

13 ‘‘(2) GENERAL OUTREACH SUPPORT.—During
14 the first two years of program operation, the Sec-
15 retary shall provide additional funding to States for
16 outreach efforts designed to encourage enrollment in
17 programs implemented under this title.

18 ‘‘(3) DUAL ELIGIBLE OUTREACH SUPPORT
19 FUNDS.—The Secretary shall make funds available
20 to States to develop and implement innovative out-
21 reach programs to enroll medicare beneficiaries cur-
22 rently eligible for, but not enrolled in, medicaid; and

23 ‘‘(4) FMAP ENHANCEMENT FOR DUAL ELIGI-
24 BLES.—The Secretary shall pay each State an en-
25 hanced Federal medical assistance percentage

1 ("FMAP"), as defined in section 2105(b), for pre-
2 scription drug benefits furnished to dual eligibles
3 who are enrolled in both medicare and medicaid.
4 "(c) LIMITATION ON PAYMENTS FOR CERTAIN EX-
5 PENDITURES.—
6 "(1) GENERAL LIMITATIONS.—Funds provided
7 to a State under this title shall only be used to carry
8 out the purposes of this title.
9 "(2) ADMINISTRATIVE EXPENDITURES.—
10 "(A) IN GENERAL.—Subject to subpara-
11 graph (B), payment shall not be made under
12 subsection (a) for expenditures described in
13 subsection (a)(2) for a fiscal year to the extent
14 the total of such expenditures (for which pay-
15 ment is made under such subsection) exceeds
16 10 percent of the total expenditures described
17 in subsection (a)(1) made by the State for such
18 fiscal year; and
19 "(B) SPECIAL RULE.—With respect to the
20 first fiscal year that a State provides outpatient
21 prescription drug assistance under a program
22 approved under this title, the limitation de-
23 scribed in subparagraph (A) shall be increased
24 to 15 percent of the total expenditures de-
25 scribed in subsection (a)(1).

1 "(3) OFFSET OF RECEIPTS ATTRIBUTABLE TO
2 PREMIUMS OR COST-SHARING.—For purposes of sub-
3 section (a), the amount of the expenditures under a
4 program shall be reduced by the amount of any pre-
5 miums or cost-sharing received by a State.

6 "(4) PREVENTION OF DUPLICATIVE PAY-
7 MENTS.—

8 "(A) OTHER HEALTH PLANS.—No pay-
9 ment shall be made under this section for ex-
10 penditures for outpatient prescription drug as-
11 sistance provided under an outpatient prescrip-
12 tion drug assistance program to the extent that
13 a private insurer (as defined by the Secretary
14 in regulations) would have been obligated to
15 provide such assistance but for a provision of
16 its insurance contract which has the effect of
17 limiting or excluding such obligation because
18 the beneficiary is eligible for or is provided out-
19 patient prescription drug assistance under the
20 program.

21 "(B) OTHER FEDERAL GOVERNMENT PRO-
22 GRAMS.—Except as otherwise provided by law,
23 no payment shall be made under this section for
24 expenditures for outpatient prescription drug
25 assistance provided under an outpatient pre-

1 scription drug assistance program to the extent
2 that payment has been made or can reasonably
3 be expected to be made promptly (as deter-
4 mined in accordance with regulations) under
5 any other federally operated or financed health
6 care insurance program identified by the Sec-
7 retary.

8 "(d) ADVANCE PAYMENT; RETROSPECTIVE ADJUST-
9 MENT.—The Secretary may make payments under this
10 section for each quarter on the basis of advance estimates
11 of expenditures submitted by a State and such other inves-
12 tigation as the Secretary may find necessary, and may re-
13 duce or increase the payments as necessary to adjust for
14 any overpayment or underpayment for prior quarters.

15 "(e) FLEXIBILITY IN SUBMISSION OF CLAIMS.—
16 Nothing in this section shall be construed as preventing
17 a State from claiming as expenditures in any quarter of
18 a fiscal year expenditures that were incurred in a previous
19 quarter of such fiscal year.

20 **"SEC. 2208. SUBMISSION, APPROVAL, AND AMENDMENT OF**
21 **STATE PARTICIPATION PLANS.**

22 "(a) INITIAL PLAN.—

23 "(1) IN GENERAL.—A State may receive pay-
24 ments under section 2207 if the State has submitted
25 to the Secretary either an outpatient prescription

1 drug assistance program description (for States not
2 implementing this title as part of a title XIX State
3 plan) or a State plan amendment (for States imple-
4 menting this title as part of a title XIX State plan),
5 that meets the applicable requirements of this title
6 (collectively, ''State Participation Plans''). All States
7 submitting a State Participation Plan shall be reim-
8 bursed the reasonable costs incurred in preparing
9 the Plan, regardless of whether such submission is
10 approved.

11 ''(2) CONTENT OF STATE PARTICIPATION
12 PLAN.—The State Participation Plan submitted
13 must describe:

14 ''(A) the purpose, nature, and scope of the
15 outpatient prescription drug assistance pro-
16 gram;

17 ''(B) how the State intends to use the
18 funds provided under this title to provide out-
19 patient prescription drug assistance to low-in-
20 come Medicare beneficiaries;

21 ''(C) the budget for the program and de-
22 tails on the planned use of funds, the sources
23 of any non-federal share of program expendi-
24 tures, and beneficiary premium and cost-shar-

1 ing requirements for each of the defined groups
2 of eligible individuals;
3 ‘‘(D) the procedures to be used to ensure
4 that the outpatient prescription drug assistance
5 provided to low-income Medicare beneficiaries
6 under the program does not supplant coverage
7 for outpatient prescription drugs available to
8 such beneficiaries under group health plans;
9 ‘‘(E) standards for determining eligibility
10 for enrollment, including provisions pertaining
11 to income, resources, and access to other cov-
12 erage, and procedures for ensuring that only in-
13 dividuals who remain eligible continue to be en-
14 rolled in the program;
15 ‘‘(F) the proposed methods of delivery of
16 benefits to eligible individuals, as well as proce-
17 dures designed to ensure quality and access to
18 covered services, particularly in rural regions;
19 ‘‘(G) safeguards in place to protect bene-
20 ficiaries from potential conflicts of interest;
21 ‘‘(H) plans for specific outreach initiatives
22 that will be undertaken to inform Medicare
23 beneficiaries about the availability of benefits
24 under this title and to provide enrollment as-
25 sistance to eligible individuals;

1 "(I) efforts designed to identify, contact,
2 and enroll Medicare beneficiaries eligible for
3 Medicaid; and

4 "(J) plans for public participation in the
5 design, implementation, and development of the
6 program on an ongoing basis.

7 "(b) STATE PARTICIPATION PLAN AMENDMENTS.—
8 Within 30 days after a State amends a State Participation
9 Plan submitted pursuant to section (a), the State shall
10 notify the Secretary of the amendment.

11 "(c) APPROVAL OF STATE PARTICIPATION PLANS
12 AND STATE PARTICIPATING PLAN AMENDMENTS.—

13 "(1) PROMPT REVIEW OF STATE PARTICIPA-
14 TION PLANS AND STATE PARTICIPATION PLAN
15 AMENDMENTS.—Except as provided in subparagraph
16 (2)(B), the Secretary shall review promptly State
17 Participation Plans and State Participation Plan
18 amendments to determine if they substantially com-
19 ply with the requirements of this title.

20 "(2) STREAMLINED APPROVAL PROCESS.—

21 "(A) IN GENERAL.—A State Participation
22 Plan or amendment thereto is considered ap-
23 proved unless the Secretary notifies the State in
24 writing, within 45 days after receipt of the
25 State Participation Plan or amendment, that

1 the submission is disapproved (and the reason
2 or reasons for disapproval) or that specified ad-
3 ditional information is needed.

4 "(B) EXISTING COMPREHENSIVE STATE-
5 BASED PROGRAMS.—A State Participation Plan
6 that implements this title through an existing
7 comprehensive state-based program, as defined
8 in section 2212(a)(2), is deemed approved, pro-
9 vided that the responsible State official certifies
10 that the comprehensive state-based program is
11 consistent with the requirements of this title.

12 "(3) CORRECTION AND SUPPLEMENTATION.—
13 In the case of a disapproval of a State Participation
14 Plan or amendment thereto, the Secretary shall pro-
15 vide the State with a reasonable opportunity for cor-
16 rection or supplementation to respond to identified
17 deficiencies before taking action against the State on
18 the basis of such disapproval.

19 "(4) EFFECTIVE DATE.—A State Participation
20 Plan or amendment thereto shall be effective begin-
21 ning with a calendar quarter that is specified in the
22 Plan, but in no case earlier than the date of enact-
23 ment of this Act.

24 "(d) PROGRAM OPERATION.—

1 "(1) IN GENERAL.—A State shall conduct the
2 program in accordance with the State Participation
3 Plan (and any amendments thereto) approved under
4 this section and consistent with the requirements of
5 this title.

6 "(2) VIOLATIONS.—The Secretary shall estab-
7 lish a process for enforcing requirements under this
8 title. Such process shall provide for the withholding
9 of funds in the case of substantial noncompliance
10 with such requirements. In the case of an enforce-
11 ment action against a State under this paragraph,
12 the Secretary shall provide a State with a reasonable
13 opportunity for correction and for administrative
14 and judicial appeal of the Secretary's action before
15 imposing financial sanctions against the State on the
16 basis of such an action.

17 "(e) CONTINUED APPROVAL.—Subject to section
18 2201(c), an approved State Participation Plan shall con-
19 tinue in effect unless and until the State amends the Plan
20 under subsection (b) or the Secretary finds, in accordance
21 with subsection (d), substantial noncompliance of the Plan
22 with the requirements of this title.

1 **"SEC. 2209. PROGRAM ADMINISTRATION; APPLICATION OF**
2 **CERTAIN GENERAL PROVISIONS.**

3 "(a) PROGRAM ADMINISTRATION.—An outpatient
4 prescription drug assistance program shall ensure that the
5 State administering the program collect the data, main-
6 tain the records, afford the Secretary access to any records
7 or information relating to the program for the purposes
8 of review or audit, and furnish report to the Secretary,
9 at the times and in the standardized format the Secretary
10 may require, in order to enable the Secretary to monitor
11 program administration and compliance and to evaluate
12 and compare the effectiveness of programs under this title.

13 "(b) APPLICATION OF CERTAIN GENERAL PROVI-
14 SIONS.—The following sections of the Social Security Act
15 shall apply to the programs established under this title
16 in the same manner as they apply to a State under title
17 XIX:

18 "(1) Paragraph (2) and (16) of section 1903(i)
19 (relating to limitations on payment).

20 "(2) Section 1115 (relating to wavier author-
21 ity).

22 "(3) Section 1116 (relating to administrative
23 and judicial review), but only insofar as consistent
24 with this title.

25 "(4) Section 1124 (relating to disclosure of
26 ownership and related information).

1 “(5) Section 1126 (relating to disclosure of in-
2 formation about certain convicted individuals).
3 “(6) Section 1128A (relating to civil monetary
4 penalties).
5 “(7) Section 1128B(d) (relating to criminal
6 penalties for certain additional charges).
7 **“SEC. 2210. REPORTS.**
8 “(a) IN GENERAL.—Each State administering an
9 outpatient prescription drug assistance program under
10 this title shall annually—
11 “(1) assess the operation of the program in
12 each fiscal year; and
13 “(2) report to the Secretary on the result of the
14 assessment.
15 “(b) REQUIRED INFORMATION.—The annual report
16 required under subsection (a) shall include the following:
17 “(1) An assessment of the effectiveness of the
18 program in providing outpatient prescription drug
19 assistance to low-income medicare beneficiaries,
20 including—
21 “(A) the characteristics of the low-income
22 medicare beneficiaries assisted under the pro-
23 gram, including family income and access to
24 other health insurance prior to the program and
25 after eligibility for the program ends; and

1 "(B) the amount and level of assistance
2 provided under the program.
3 "(2) An analysis of costs and expenditures as-
4 sociated with the program, including a description of
5 the sources of any non-Federal share of program ex-
6 penditures.
7 "(c) ANNUAL REPORT OF THE SECRETARY.—The
8 Secretary shall submit to Congress and make available to
9 the public an annual report based on the reports required
10 under subsection (a), which report shall contain any con-
11 clusions and recommendations the Secretary considers ap-
12 propriate.

13 **"SEC. 2211. ESTABLISHMENT OF DEFAULT PROGRAM.**

14 "(a) PROGRAM AUTHORITY.—
15 "(1) IN GENERAL.—In the case of a State that
16 does not have a State Participation Plan approved
17 under this Act within two years of the date of enact-
18 ment of this Act (the "Dafault Date"), outpatient
19 prescription drug assistance to low-income medicare
20 beneficiaries who reside in such State shall be pro-
21 vided in accordance with this section and section
22 1902(a)(10)(I).
23 "(2) DEFINITION.—In this section, a low-in-
24 come medicare beneficiary means an individual
25 who—

1 "(A) satisfies the requirement of subpara-
2 graph (A) and (B) of section 2212(a)(4); and
3 "(B) is determined to have family income
4 that does not exceed 150 percent of the poverty
5 line.
6 "(b) NOTIFICATION OF STATES.—On the Default
7 Date, the Secretary shall notify in writing any State de-
8 scribed in subsection (a)(1) of its responsibility to provide
9 outpatient prescription drug coverage to low-income medi-
10 care beneficiaries as provided for under section
11 1902(a)(10)(I).
12 "(c) FUNDING.—
13 "(1) TRANSFERRED AMOUNTS.—The Secretary
14 shall use the aggregate amounts transferred and
15 made available under section 2206(d)(1)(A) for pur-
16 poses of carrying out the default program estab-
17 lished under this section. Such aggregate amounts
18 may be used to provide outpatient prescription drug
19 assistance to any low-income medicare beneficiary
20 who resides in a State described in paragraph (a)(1).
21 "(d) SUSPENSION.—In the event that a State has a
22 State Participation Plan approved under section 2208
23 more than two years from the date of enactment of this
24 Act, the default program under this section shall be sus-

1 pended until such time as such State no longer has an
2 approved State Participation Plan.

3 **"SEC. 2212. DEFINITIONS.**

4 ''(a) In this title:

5 ''(1) COST-SHARING.—The term 'cost-sharing'
6 means a deductible, coinsurance, copayment, or simi-
7 lar charge, and includes an enrollment fee.

8 ''(2) EXISTING COMPREHENSIVE STATE-BASED
9 PROGRAM.—

10 ''(A) IN GENERAL.—A program described
11 in this paragraph is an outpatient prescription
12 drug assistance program for individuals who are
13 entitled to benefits under part A of title XVIII
14 or enrolled under part B of such title, including
15 an individual enrolled in a Medicare+Choice
16 plan under part C of such title, that—

17 ''(i) is administered or overseen by the
18 State and receives funds from the State;

19 ''(ii) was offered as of the date of the
20 enactment of this title;

21 ''(iii) does not receive or use any Fed-
22 eral funds; and

23 ''(iv) satisfies the requirements of this
24 title.

1 "(B) MODIFICATIONS.—A State may mod-
2 ify the coverage of its program from time to
3 time, provided that it does not reduce the actu-
4 arial value (evaluated as of the time of the
5 modification) below the actuarial value of the
6 coverage described in section 2203.

7 "(3) GROUP HEALTH PLAN; GROUP HEALTH IN-
8 SURANCE COVERAGE; ETC.—The terms 'group health
9 plan', 'group health insurance coverage', and 'health
10 insurance coverage' have the meanings given such
11 terms in section 2791 of the Public Health Service
12 Act (42 U.S.C. 300gg–91).

13 "(4) LOW-INCOME MEDICARE BENEFICIARY.—
14 Except as provided in section 2211(a)(2), the term
15 'low-income medicare beneficiary' means an indi-
16 vidual who—

17 "(A) is entitled to benefits under part A of
18 title XVIII or enrolled under part B of such
19 title, including an individual enrolled in a
20 Medicare+Choice plan under part C of such
21 title;

22 "(B) except as provided for under section
23 1902(a)(10)(H) and section 1902(a)(10)(I), is
24 not entitled to medical assistance with respect
25 to prescribed drugs under title XIX or under a

1 waiver under section 1115 of the requirements
2 of such title;
3 "(C) except as provided in section
4 2202(a)(2), is determined to have family in-
5 come that does not exceed 200 percent of the
6 poverty line;
7 "(D) at the option of the State, is deter-
8 mined to have resources that do not exceed a
9 level specified by the State; and
10 "(E) is determined not to have coverage
11 under a comprehensive private retiree drug cov-
12 erage plan.
13 "(5) OUTPATIENT PRESCRIPTION DRUG ASSIST-
14 ANCE.—The term 'outpatient prescription drug as-
15 sistance' means payment for part or all of the cost
16 of coverage of outpatient prescription drugs and
17 biologicals for low-income medicare beneficiaries,
18 consistent with the requirements of this title.
19 "(6) OUTPATIENT PRESCRIPTION DRUG ASSIST-
20 ANCE PROGRAM; PROGRAM.—Unless the context oth-
21 erwise requires, the terms 'outpatient prescription
22 drug assistance progam' and 'program' mean a pro-
23 gram implemented pursuant to a State Participation
24 Plan approved under section 2208.

1 "(7) POVERTY LINE.—The term 'poverty line'
2 has the meaning given such term in section 673(2)
3 of the Community Services Block Grant Act (42
4 U.S.C.9902(2)), including any revision required by
5 such section.
6 "(8) PREEXISTING CONDITION EXCLUSION.—
7 The term 'preexisting condition exclusion' has the
8 meaning given such term in section 2701(b)(1)(A) of
9 the Public Health Service Act (42 U.S.C.
10 300gg(b)(1)(A)).
11 "(9) PROGRAM SPONSOR.—The term 'program
12 sponsor' means any entity that administers a pro-
13 gram under this title, including but not limited to a
14 State, third party benefit administrator,
15 Medicare+Choice organization, or group health
16 plan.
17 "(10) RESIDENT.—The term 'resident' means
18 an individual who would be deemed a resident of a
19 given State under that state's residency rules appli-
20 cable to beneficiaries under title XIX.
21 "(11) SECRETARY.—The term 'secretary' shall
22 means the Secretary of the United States Depart-
23 ment of Health and Human Services.
24 "(12) SENIOR FMAP.—For purposes of this
25 title, senior FMAP means a 100 percent FMAP per-

1 centage for low-income medicare beneficiaries with
2 family incomes that do not exceed 200 percent of
3 the poverty line.

4 ''(13) STATE.—The term 'State' has the mean-
5 ing given such term for purposes of title XIX.''.

6 (b) CONFORMING AMENDMENTS.—

7 (1) DEFINITION OF STATE.—Section
8 1101(a)(1) of the Social Security Act (42 U.S.C.
9 1301(a)(1)) is amended in the first and fourth sen-
10 tences, by striking ''and XXI'' each place it appears
11 and inserting ''XXI, and XXII''.

12 (2) TREATMENT AS STATE HEALTH CARE PRO-
13 GRAM.—Section 1128(h) of such Act (42 U.S.C.
14 1320a–7(h)) is amended—

15 (A) in paragraph (3), by striking ''or'' at
16 the end;

17 (B) in paragraph (4), by striking the pe-
18 riod at the end and inserting '', or''; and

19 (C) by adding at the end the following new
20 paragraph:

21 ''(3) an outpatient prescription drug assistance
22 program approved under title XXII.''.

1 **SEC. 3. EXPANDED COVERAGE OF LOW-INCOME MEDICARE**
2 **BENEFICIARIES UNDER MEDICAID**
3 (a) Section 1905 of the Social Security Act (42
4 U.S.C. 1396dd) is amended—
5 (1) in subsection (b), by adding at the end the
6 following new sentence: ''Notwithstanding the first
7 sentence of this subsection, in the case of a State
8 plan that meets the condition described in subsection
9 (x)(1), with respect to expenditures described in sub-
10 section (x)(2)(A) or subsection (x)(3), the Federal
11 medical assistance percentage is equal to the senior
12 FMAP described in section 2212(a)(12).''; and
13 (2) by adding at the end the following new sub-
14 section:
15 ''(x)(1) The State provides for such reporting of in-
16 formation about expenditures and payments attributable
17 to the operation of this subsection as the Secretary deems
18 necessary in order to carry out paragraph (2) and section
19 2207.
20 ''(2)(A) For purposes of subsections (b) and (c), the
21 expenditures described in this subparagraph are expendi-
22 tures for medical assistance for optional low-income medi-
23 care beneficiaries described in subparagraph (C), or for
24 mandatory low-income medicare beneficiaries described in
25 subsection (D), but not exceeding the amount described
26 in subparagraph (B) for a State for a fiscal year.

1 "(B) The amount described in this subparagraph, for
2 a State for a fiscal year, is the amount of the State's allot-
3 ment under section 2206 for the fiscal year, reduced by
4 the amounts of any payments made under section 2207
5 from such allotment for such fiscal year.

6 "(C) For purposes of this paragraph, the term 'op-
7 tional low-income medicare beneficiary' means a low-in-
8 come medicare beneficiary as defined in section
9 2212(a)(4).

10 "(D) For purposes of this paragraph, the term 'man-
11 datory low-income medicare beneficiary' means a low-in-
12 come medicare beneficiary as defined in section
13 2211(a)(2).

14 (b) ESTABLISHMENT OF ELIGIBILITY CATEGORY FOR
15 LOW-INCOME MEDICARE BENEFICIARIES.—Section 1902
16 (a)(10) (42 U.S.C. 1396a(a)(10)) is amended—

17 (1) in subparagraph (F), by striking "and" at
18 the end;

19 (2) in subparagraph (G), by adding "and" at
20 the end;

21 (3) by adding after subparagraph (G) the fol-
22 lowing new subparagraph:

23 "(H) at the option of the State, for mak-
24 ing prescribed drugs, consistent with the re-
25 quirements of title XXII, available to optional

1 low-income medicare beneficiaries described in
2 section 1905(x)(2)(C);'' and
3 (4) by adding at the end the following new sub-
4 paragraph:
5 ''(I)(i) upon the Default Date as described
6 in section 2211(a)(1), for making prescribed
7 drugs, consistent with the requirements of title
8 XXII, available to mandatory low-income medi-
9 care beneficiaries described in section
10 1905(x)(2)(D).
11 ''(ii) In the event that a State Participa-
12 tion Plan is approved under section 2208 after
13 clause (i) becomes effective, clause (i) shall be
14 suspended until such time as such State no
15 longer has an approved State Participation
16 Plan.''.
17 (c) EFFECTIVE DATE.—These amendments shall
18 apply for periods beginning on or after the date of enact-
19 ment of title XXII, but not beyond September 30, 2008.
20 **SEC. 4. COVERAGE OF LOW-INCOME MEDICARE BENE-**
21 **FICIARIES IN MEDICARE+CHOICE.**
22 (a) Section 1852 of the Social Security Act (U.S.C.
23 1395w–22) is amended—
24 (1) in subsection (a)(1)(A) by striking at the
25 end ''and'';

1 (2) in subsection (a)(1)(B) by striking at the
2 end ".", and adding at the end ", and";
3 (3) in subsection (a)(1) by adding at the end
4 the following new subparagraph:
5 "(C) any additional benefits required
6 under subsection (m)."; and
7 "(4) by adding at the end the following new
8 subsection:
9 "(m) OUTPATIENT PRESCRIPTION DRUG ASSIST-
10 ANCE FOR LOW-INCOME MEDICARE BENEFICIARIES.—
11 "(1) At state election under title XXII, a
12 Medicare+Choice organization shall be required to
13 provide outpatient prescription drug assistance con-
14 sistent with the requirement of title XXII for any
15 low-income medicare beneficiaries, as defined in sec-
16 tion 2212(a)(4), enrolled in its plan.
17 "(2) Payments shall be made for drugs provided
18 under this subsection in accordance with section 1853(j)."
19 "(b) Section 1853 of the Social Security Act (42
20 U.S.C. 1395w–23) is amended by adding at the end the
21 following new subsection:
22 "(j) SPECIAL RULE FOR LOW-INCOME MEDICARE
23 BENEFICIARIES.—
24 "(1) IN GENERAL.—Notwithstanding any other
25 provision of this section, a Medicare+Choice organi-

1 zation that provides outpatient prescription drug as-
2 sistance for a low-income medicare beneficiary, as
3 defined in section 2212(a)(4), may receive payments
4 for the costs of such assistance if—
5 "(A) the outpatient prescription drug cov-
6 erage meets the coverage requirements provided
7 under section 2203; and
8 "(B) the coverage is provided in a State
9 with an approved State Participation Plan as
10 described in section 2208.
11 "(2) PAYMENT.—A Medicare+Choice organiza-
12 tion that meets the requirements of paragraph (1)
13 shall be eligible for payments by a State from that
14 State's allotment pursuant to title XXII.

15 **SEC. 5. ELECTION BY LOW-INCOME MEDICARE BENE-**
16 **FICIARIES TO SUSPEND MEDICAP INSUR-**
17 **ANCE.**

18 Section 1882 of the Social Security Act (42 U.S.C.
19 1395ss) is amended by adding at the end the following
20 new paragraph:
21 "(v) SPECIAL RULE FOR LOW-INCOME MEDICARE
22 BENEFICIARIES.—Nothwithstanding any other provision
23 of this section.—
24 "(1) CURRENT LOW-INCOME MEDICARE BENE-
25 FICIARIES WITH MEDICAP COVERAGE.—

1 "(A) PROHIBITED PRACTICES.—An issuer
2 of a medicare supplemental issuance policy may
3 not deny or condition the issuance or effective-
4 ness of a medicare supplemental policy that has
5 a benefit package classified as 'A', 'B', 'C', 'D',
6 'E', 'F', or 'G' (under the standards established
7 under subsection (p)(2) of section 1882) and
8 that is offered and is available for issuance to
9 new enrollees by such issuer in the case of an
10 individual described in subparagraph (B)(i) who
11 seeks to enroll under the policy not later than
12 63 days after the date of termination of enroll-
13 ment described in subparagraph (B)(ii) and
14 who submits evidence of the date of termination
15 or disenrollment along with the application for
16 a medicare supplemental policy described in this
17 subparagraph.
18 "(B) INDIVIDUAL COVERED.—An indi-
19 vidual described in this paragraph is an indi-
20 vidual who—
21 "(i) is a low-income medicare bene-
22 ficiary (as defined in section 2212(a)(4)
23 who is being provided outpatient prescrip-
24 tion drug assistance under title XXII; and

1 "(ii) at the time the individual was
2 first provided such assistance, terminated
3 enrollment in a medicare supplemental pol-
4 icy which has a benefit package classified
5 as 'H', 'I', 'J', under the standards re-
6 ferred to in subparagraph (A).
7 "(2) RESTORATION OF MEDICAP PRESCRIPTION
8 DRUG COVERAGE FOR LOW-INCOME MEDICARE
9 BENEFICIARIES.—
10 "(A) PROHIBITED PRACTICES.—The issuer
11 of a medicare supplemental policy may not deny
12 or condition the issuance or effectiveness of a
13 medicare supplemental policy which has a ben-
14 efit package classified as 'H', 'I', or 'J', under
15 the standards referred to in subparagraph
16 (1)(A), that is offered and is available for
17 issuance to new enrollees by such issuer in the
18 case of an individual described in subparagraph
19 (B)(i) who seeks to enroll under the policy not
20 later than 63 days after the date of the termi-
21 nation of enrollment described in subparagraph
22 (B)(ii) and who submits evidence of such date
23 of termination along with the application for
24 such medicare supplemental policy.

1 "(B) INDIVIDUAL COVERED.—An indi-
2 vidual described in this paragraph is an
3 individual—
4 "(i) who, upon becoming eligible for
5 outpatient prescription drug assistance
6 under title XXII, terminated a medicare
7 supplemental insurance policy that pro-
8 vided prescription drug coverage; and
9 "(ii) who loses eligibility for out-
10 patient prescription drug assistance under
11 title XXII.".

○