

107TH CONGRESS  
2D SESSION

# S. 2679

To amend the Internal Revenue Code of 1986 to provide for a tax credit for offering employer-based health insurance coverage, to provide for the establishment of health plan purchasing alliances, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

JUNE 25, 2002

Mr. BAUCUS (for himself and Mr. SMITH of Oregon) introduced the following bill; which was read twice and referred to the Committee on Finance

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# A BILL

To amend the Internal Revenue Code of 1986 to provide for a tax credit for offering employer-based health insurance coverage, to provide for the establishment of health plan purchasing alliances, 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; TABLE OF CONTENTS.**

4       (a) SHORT TITLE.—This Act may be cited as the  
5       “Health Insurance Access Act of 2002”.

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

Sec. 1. Short title; table of contents.

**TITLE I—TAX CREDIT FOR OFFERING EMPLOYER-BASED  
HEALTH INSURANCE COVERAGE**

Sec. 101. Credit for employee health insurance expenses.

**TITLE II—HEALTH PLAN PURCHASING ALLIANCES**

Sec. 201. Grant program for State-based or State-directed health plan purchasing alliances.

Sec. 202. Private health plan purchasing alliances.

Sec. 203. Rules of construction.

Sec. 204. Enforcement.

Sec. 205. Study concerning reauthorization.

Sec. 206. Definitions.

**TITLE III—PROMOTION OF STATE HIGH RISK POOLS**

Sec. 301. Promotion of State high risk pools.

**TITLE IV—OPTIONAL COVERAGE OF PARENTS AND PREGNANT  
WOMEN UNDER MEDICAID AND SCHIP**

Sec. 401. Optional coverage of parents and pregnant women under Medicaid and SCHIP.

Sec. 402. Automatic enrollment of children born to pregnant women.

**TITLE V—ACCESS TO MEDICARE BENEFITS FOR INDIVIDUALS 62-  
TO-65 YEARS OF AGE**

Sec. 501. Access to Medicare benefits for individuals 62-to-65 years of age.

**1    1 TITLE I—TAX CREDIT FOR OF-  
2    2      FERING      EMPLOYER-BASED  
3    3      HEALTH      INSURANCE      COV-  
4    4      ERAGE**

**5    5 SEC. 101. CREDIT FOR EMPLOYEE HEALTH INSURANCE EX-  
6    6      PENSES.**

7      (a) 7 IN GENERAL.—Subpart D of part IV of sub-  
8      8 chapter A of chapter 1 of the Internal Revenue Code of  
9      9 1986 (relating to business-related credits) is amended by  
10     10 adding at the end the following:

1   **“SEC. 45G. EMPLOYEE HEALTH INSURANCE EXPENSES.**

2       “(a) GENERAL RULE.—For purposes of section 38,  
3   in the case of a qualified small employer, the employee  
4   health insurance expenses credit determined under this  
5   section is an amount equal to the applicable percentage  
6   of the amount paid by the taxpayer during the taxable  
7   year for qualified employee health insurance expenses.

8       “(b) APPLICABLE PERCENTAGE.—For purposes of  
9   subsection (a), the applicable percentage is equal to—

10       “(1) 50 percent in the case of an employer with  
11   less than 26 qualified employees,

12       “(2) 40 percent in the case of an employer with  
13   more than 25 but less than 36 qualified employees,  
14   and

15       “(3) 30 percent in the case of an employer with  
16   more than 35 but less than 51 qualified employees.

17       “(c) PER EMPLOYEE DOLLAR LIMITATION.—The  
18   amount of qualified employee health insurance expenses  
19   taken into account under subsection (a) with respect to  
20   any qualified employee for any taxable year shall not ex-  
21   ceed the maximum employer contribution for self-only cov-  
22   erage or family coverage (as applicable) determined under  
23   section 8906(a) of title 5, United States Code, for the cal-  
24   endar year in which such taxable year begins.

25       “(d) DEFINITIONS AND SPECIAL RULES.—For pur-  
26   poses of this section—

## 1       “(1) QUALIFIED SMALL EMPLOYER.—

2               “(A) IN GENERAL.—The term ‘qualified  
3               small employer’ means any small employer  
4               which—5                       “(i) provides eligibility for health in-  
6               surance coverage (after any waiting period  
7               (as defined in section 9801(b)(4)) to all  
8               qualified employees of the employer, and9                       “(ii) pays at least 70 percent of the  
10               cost of such coverage (60 percent in the  
11               case of family coverage) for each qualified  
12               employee.13               “(B) TRANSITION RULE FOR NEW  
14               PLANS.—15                       “(i) IN GENERAL.—If a small em-  
16               ployer (or any predecessor) did not provide  
17               health insurance coverage to the qualified  
18               employees of the employer during the em-  
19               ployer’s precompliance period, then sub-  
20               paragraph (A) shall be applied to such em-  
21               ployer for the first 5 taxable years fol-  
22               lowing such period by substituting ‘50 per-  
23               cent’ for ‘70 percent’ in clause (ii) (or for  
24               ‘60 percent’ in such clause, in the case of  
25               family coverage).

1                             “(ii) PRECOMPLIANCE PERIOD.—For  
2                             purposes of clause (i), the precompliance  
3                             periods are—

4                             “(I) the period beginning with  
5                             the small employer’s taxable year pre-  
6                             ceding its first taxable year beginning  
7                             after the date of the enactment of this  
8                             section, and

9                             “(II) the period beginning with  
10                             the small employer’s taxable year pre-  
11                             ceding the first taxable year for which  
12                             the employer meets the requirement of  
13                             subparagraph (A)(i).

14                             An employer not in existence for any pe-  
15                             riod shall be treated in the same manner  
16                             as an employer which is in existence and  
17                             not providing coverage.

18                             “(C) SMALL EMPLOYER.—

19                             “(i) IN GENERAL.—For purposes of  
20                             this paragraph, the term ‘small employer’  
21                             means, with respect to any calendar year,  
22                             any employer if such employer employed  
23                             an average of not less than 2 and not more  
24                             than 50 qualified employees on business  
25                             days during either of the 2 preceding cal-

1           endar years. For purposes of the preceding  
2           sentence, a preceding calendar year may be  
3           taken into account only if the employer  
4           was in existence throughout such year.

5           “(ii) EMPLOYERS NOT IN EXISTENCE  
6           IN PRECEDING YEAR.—In the case of an  
7           employer which was not in existence  
8           throughout the 1st preceding calendar  
9           year, the determination under clause (i)  
10           shall be based on the average number of  
11           qualified employees that it is reasonably  
12           expected such employer will employ on  
13           business days in the current calendar year.

14           “(2) QUALIFIED EMPLOYEE HEALTH INSUR-  
15           ANCE EXPENSES.—

16           “(A) IN GENERAL.—The term ‘qualified  
17           employee health insurance expenses’ means any  
18           amount paid by an employer for health insur-  
19           ance coverage to the extent such amount is at-  
20           tributable to coverage provided to any employee  
21           while such employee is a qualified employee.

22           “(B) EXCEPTION FOR AMOUNTS PAID  
23           UNDER SALARY REDUCTION ARRANGEMENTS.—  
24           No amount paid or incurred for health insur-  
25           ance coverage pursuant to a salary reduction

1 arrangement shall be taken into account under  
2 subparagraph (A).

3 “(C) HEALTH INSURANCE COVERAGE.—  
4 The term ‘health insurance coverage’ has the  
5 meaning given such term by paragraph (1) of  
6 section 9832(b) (determined by disregarding  
7 the last sentence of paragraph (2) of such sec-  
8 tion).

9 “(3) QUALIFIED EMPLOYEE.—The term ‘quali-  
10 fied employee’ means an employee of an employer  
11 who, with respect to any period, is not provided  
12 health insurance coverage under—

13 “(A) a health plan of the employee’s  
14 spouse,

15 “(B) title XVIII, XIX, or XXI of the So-  
16 cial Security Act,

17 “(C) chapter 17 of title 38, United States  
18 Code,

19 “(D) chapter 55 of title 10, United States  
20 Code,

21 “(E) chapter 89 of title 5, United States  
22 Code, or

23 “(F) any other provision of law.

24 “(4) EMPLOYEE—The term ‘employee’—

1               “(A) means any individual, with respect to  
2               any calendar year, who is reasonably expected  
3               to receive at least \$5,000 of compensation from  
4               the employer during such year,

5               “(B) does not include an employee within  
6               the meaning of section 401(c)(1), and

7               “(C) includes a leased employee within the  
8               meaning of section 414(n).

9               “(5) COMPENSATION.—The term ‘compensa-  
10               tion’ means amounts described in section  
11               6051(a)(3).

12               “(e) CERTAIN RULES MADE APPLICABLE.—For pur-  
13               poses of this section, rules similar to the rules of section  
14               52 shall apply.

15               “(f) DENIAL OF DOUBLE BENEFIT.—No deduction  
16               or credit under any other provision of this chapter shall  
17               be allowed with respect to qualified employee health insur-  
18               ance expenses taken into account under subsection (a).”.

19               (b) CREDIT TO BE PART OF GENERAL BUSINESS  
20 CREDIT.—Section 38(b) of the Internal Revenue Code of  
21 1986 (relating to current year business credit) is amended  
22 by striking “plus” at the end of paragraph (14), by strik-  
23 ing the period at the end of paragraph (15) and inserting  
24 “, plus”, and by adding at the end the following:

1               “(16) the employee health insurance expenses  
2 credit determined under section 45G.”.

3               (c) CREDIT ALLOWED AGAINST MINIMUM TAX.—

4               (1) IN GENERAL.—Subsection (c) of section 38  
5 of the Internal Revenue Code of 1986 (relating to  
6 limitation based on amount of tax) is amended by  
7 redesignating paragraph (3) as paragraph (4) and  
8 by inserting after paragraph (2) the following new  
9 paragraph:

10               “(3) SPECIAL RULES FOR EMPLOYEE HEALTH  
11 INSURANCE CREDIT.—

12               “(A) IN GENERAL.—In the case of the em-  
13 ployee health insurance credit—

14               “(i) this section and section 39 shall  
15 be applied separately with respect to the  
16 credit, and

17               “(ii) in applying paragraph (1) to the  
18 credit—

19               “(I) the amounts in subparagraphs (A) and (B) thereof shall be  
20 treated as being zero, and

22               “(II) the limitation under para-  
23 graph (1) (as modified by subclause  
24 (I)) shall be reduced by the credit al-  
25 lowed under subsection (a) for the

1 taxable year (other than the employee  
2 health insurance credit).

14 (d) NO CARRYBACKS.—Subsection (d) of section 39  
15 of the Internal Revenue Code of 1986 (relating to  
16 carryback and carryforward of unused credits) is amended  
17 by adding at the end the following:

18                     “(11) NO CARRYBACK OF SECTION 45G CREDIT  
19                     BEFORE EFFECTIVE DATE.—No portion of the un-  
20                     used business credit for any taxable year which is  
21                     attributable to the employee health insurance ex-  
22                     penses credit determined under section 45G may be  
23                     carried back to a taxable year ending before the date  
24                     of the enactment of section 45G.”.

1       (e) CLERICAL AMENDMENT.—The table of sections  
2 for subpart D of part IV of subchapter A of chapter 1  
3 of the Internal Revenue Code of 1986 is amended by add-  
4 ing at the end the following:

“Sec. 45G. Employee health insurance expenses.”.

5       (f) EMPLOYER OUTREACH.—The Internal Revenue  
6 Service shall, in conjunction with the Small Business Ad-  
7 ministration, develop materials and implement an edu-  
8 cational program to ensure that business personnel are  
9 aware of—

10           (1) the eligibility criteria for the tax credit pro-  
11 vided under section 45G of the Internal Revenue  
12 Code of 1986 (as added by this section),

13           (2) the methods to be used in calculating such  
14 credit,

15           (3) the documentation needed in order to claim  
16 such credit, and

17           (4) any available health plan purchasing alli-  
18 ances established under title II,

19 so that the maximum number of eligible businesses may  
20 claim the tax credit.

21       (g) EFFECTIVE DATE.—The amendments made by  
22 this section shall apply to amounts paid or incurred in tax-  
23 able years beginning after the date of the enactment of  
24 this Act.

1                   **TITLE II—HEALTH PLAN**  
2                   **PURCHASING ALLIANCES**

3                   **SEC. 201. GRANT PROGRAM FOR STATE-BASED OR STATE-**  
4                   **DIRECTED HEALTH PLAN PURCHASING ALLI-**  
5                   **ANCES.**

6                   (a) PROGRAM ESTABLISHMENT.—The Secretary  
7 shall establish a program to award grants to eligible enti-  
8 ties to facilitate the development, establishment, and ca-  
9 pacity, in accordance with this title, of State-based or  
10 State-directed health plan purchasing alliances (or other  
11 similar health plan purchasing pools) for purposes of cre-  
12 ating greater access to lower-cost health benefits for small  
13 employer groups and individuals.

14                   (b) APPLICATION REQUIREMENTS.—An eligible enti-  
15 ty shall not be awarded a grant under this title unless  
16 the eligible entity—

17                   (1) prepares and submits to the Secretary an  
18 application, at such time, in such manner, and con-  
19 taining such information and assurances as the Sec-  
20 retary may require (including evidence of compliance  
21 with applicable requirements of this title);

22                   (2) in the case of an eligible entity described in  
23 subparagraph (B) or (C) of section 206(1), provides  
24 documentation to the Secretary of a determination  
25 by the chief executive officer of each State involved

1 that the proposed project is in the best interests of  
2 the State; and

3 (3) in the case of an entity described in sub-  
4 paragraph (A) of section 206(1), provides docu-  
5 mentation to the Secretary that the entity has pro-  
6 vided notification to an eligible small employer (as  
7 defined in section 45G(d)(1) of the Internal Revenue  
8 Code of 1986 (as added by section 101)) located in  
9 the State of—

10 (A) the availability of the employee health  
11 insurance expenses credit provided under sec-  
12 tion 45G of such Code; and

13 (B) the existence of State-based or State-  
14 directed health plan purchasing alliances (or  
15 other similar health plan purchasing pools) in  
16 the State; and

17 (4) otherwise complies with the provisions of  
18 subsections (b) through (f) of section 202.

19 (c) USE OF FUNDS.—

20 (1) DEVELOPMENT AND ESTABLISHMENT OF  
21 ALLIANCES.—

22 (A) IN GENERAL.—Except as provided in  
23 subparagraph (B), funds made available under  
24 a grant made under this section may be used  
25 by the grantee to pay the costs associated with

1           the development and establishment of a health  
2           plan purchasing alliance, the provision of tech-  
3           nical assistance concerning the alliance, and the  
4           capitalization of the alliance.

5           (B) EXCEPTION.—With respect to funds  
6           made available under a grant made under this  
7           section that are used to develop and establish a  
8           health plan purchasing alliance, such funds may  
9           only be used for the operating costs of the  
10           health plan purchasing alliance for the first 6  
11           months after the date on which the alliance is  
12           established.

13           (2) DEVELOPMENT OF CAPACITY OF EXISTING  
14           ALLIANCES.—Funds made available under a grant  
15           made under this section may be used by the grantee  
16           to pay the costs associated with developing the ca-  
17           pacity of a State-based or State-directed health plan  
18           purchasing alliance (or other similar health plan  
19           purchasing pool) that is in existence as of the date  
20           on which the grant is made to coordinate the serv-  
21           ices offered under the alliance with other Federal or  
22           State funds or subsidies that are designed to create  
23           access to lower-cost health benefits, including the  
24           employee health insurance expenses credit provided

1 under section 45G of the Internal Revenue Code of  
2 1986 (as added by section 101).

3 (d) LIMITATIONS.—

4 (1) IN GENERAL.—The Secretary shall not  
5 award more than 2 grants under this section with  
6 respect to each State.

7 (2) STATE AGENCIES.—The Secretary shall not  
8 award more than 1 grant under this section to an  
9 entity that is described in section 206(1)(A) with re-  
10 spect to a State.

11 (e) FUNDING.—There are appropriated to the Sec-  
12 retary for the purpose of awarding grants under this title,  
13 not more than—

14 (1) \$20,000,000 for fiscal year 2002; and  
15 (2) \$80,000,000 for each of fiscal years 2003  
16 through 2006.

17 (f) DURATION.—The grant period for a grant award-  
18 ed under this section shall not exceed 30 months.

19 **SEC. 202. PRIVATE HEALTH PLAN PURCHASING ALLIANCES.**

20 (a) CERTIFICATION.—

21 (1) IN GENERAL.—In order to be certified as a  
22 health plan purchasing alliance under this title, the  
23 following requirements must be met:

24 (A) REQUEST.—A coalition of small em-  
25 ployer groups (or a coalition made up of a

1 group of individuals and 1 or more small em-  
2 ployer groups) shall submit to the State a re-  
3 quest for certification as a health plan pur-  
4 chasing alliance.

5 (B) STATE DETERMINATIONS.—The State  
6 shall—

7 (i) determine that the coalition meets  
8 the requirements of this title in a timely  
9 manner; and

10 (ii) ensure continued compliance with  
11 the requirements of this title.

12 (C) REGISTRATION.—Each certified health  
13 plan purchasing alliance shall be registered with  
14 the Secretary.

15 (2) STATE FAILURE TO IMPLEMENT A CERTIFI-  
16 CATION PROGRAM.—

17 (A) IN GENERAL.—Except as provided in  
18 subparagraph (B), if a State fails to implement  
19 a program for the certification of health plan  
20 purchasing alliances in accordance with the re-  
21 quirements of this section, the Secretary shall  
22 certify and oversee the operations of alliances in  
23 the State.

24 (B) EXCEPTION.—The Secretary shall not  
25 certify a health plan purchasing alliance in a

1 State which, as of the date of enactment of this  
2 Act, has enacted a law that facilitates group  
3 purchasing of health benefits for small employ-  
4 ers or individuals, but only if the law ensures  
5 that—

6 (i) individuals and employees have a  
7 choice of multiple, unaffiliated health plan  
8 issuers;

9 (ii) health plan coverage is subject to  
10 State premium rating requirements that  
11 are not based on the factors described in  
12 subsection (e)(3), that ensure a fair rating  
13 in a manner so that premiums shall be  
14 reasonable relative to rates, and that con-  
15 tain a mandatory minimum loss ratio;

16 (iii) comparative health plan materials  
17 are disseminated consistent with subsection  
18 (d)(1)(D); and

19 (iv) the objectives of this title are oth-  
20 erwise met.

21 (3) INTERSTATE ALLIANCES.—

22 (A) IN GENERAL.—A health plan pur-  
23 chasing alliance operating in more than 1 State  
24 shall be certified in each State in which it oper-

1           ates and shall comply with the laws of each  
2           such State.

3           (B) OPERATION.—States may enter into  
4           alliance agreements for the purpose of over-  
5           seeing the operation of a health plan purchasing  
6           alliance operating in more than 1 State.

7           (C) DOMICILE.—For purposes of this  
8           paragraph, a health plan purchasing alliance  
9           operating in more than 1 State shall be consid-  
10           ered to be domiciled in the State in which most  
11           of the members of the alliance reside, as deter-  
12           mined as of the date on which the alliance is  
13           first established.

14           (b) BOARD OF DIRECTORS.—

15           (1) IN GENERAL.—Each health plan purchasing  
16           alliance shall be governed by a board of directors  
17           that shall be responsible for ensuring the perform-  
18           ance of the duties of the alliance under this section.  
19           The board shall be composed of representatives of  
20           employers, employees, and individuals participating  
21           in the alliance.

22           (2) INTERSTATE ALLIANCES.—In the case of a  
23           health plan purchasing alliance operating in more  
24           than 1 State, the board of directors governing the

1 alliance shall include representatives from each State  
2 participating in the alliance.

3 (3) LIMITATION ON COMPENSATION.—A health  
4 plan purchasing alliance may not provide compensa-  
5 tion to members of the board of directors of the alli-  
6 ance. The alliance may provide reimbursements to  
7 such members for the reasonable and necessary ex-  
8 penses incurred by the members in the performance  
9 of their duties as members of the board.

10 (c) MEMBERSHIP AND MARKETING AREA.—

11 (1) MEMBERSHIP.—A health plan purchasing  
12 alliance shall determine whether to permit individ-  
13 uals to become members. Upon the establishment of  
14 membership criteria, the alliance shall, except as  
15 provided in paragraph (2), accept all employers, em-  
16 ployees, and individuals residing within the area  
17 served by the alliance who meet such requirements  
18 as members on a first-come, first-served basis, or on  
19 another basis established by the State to ensure eq-  
20 uitable access to the alliance. The purchasing alli-  
21 ance shall not discriminate or deny membership on  
22 the basis of health status, age, race, sex, occupation,  
23 or insurability.

24 (2) MARKETING AREA.—A State may establish  
25 rules regarding the geographic area that must be

1       served by health plan purchasing alliances to ensure  
2       that alliances do not discriminate on the basis of the  
3       health status or insurability of the populations that  
4       reside in the area served. A State may not use such  
5       rules to limit arbitrarily the number of health plan  
6       purchasing alliances.

7       (d) DUTIES AND RESPONSIBILITIES.—

8           (1) IN GENERAL.—A health plan purchasing al-  
9       liance shall—

10           (A) objectively evaluate potential health  
11       plan issuers and enter into agreements with  
12       multiple, unaffiliated health plan issuers, except  
13       that the requirement of this subparagraph shall  
14       not apply in regions (such as remote or frontier  
15       areas) in which compliance with such require-  
16       ment is not possible;

17           (B) prepare and disseminate comparative  
18       health plan materials (including information  
19       about cost, quality, benefits, and other informa-  
20       tion determined necessary by the State to per-  
21       mit a comparison of all health plans offered  
22       through the alliance to small employers, em-  
23       ployees, and individuals);

1 (C) actively market to all eligible employ-  
2 ers and individuals residing within the service  
3 area;

4 (D) act as an ombudsman on behalf of  
5 group health plan or individual health plan en-  
6 rollees; and

7 (E) coordinate and provide for an open en-  
8 rollment period of at least 30 days per calendar  
9 year for participating employers and individ-  
10 uals.

15 (A) collect and distribute premiums and  
16 perform other administrative functions;

17 (B) conduct surveys of enrollee satisfaction  
18 or grievances;

19 (C) charge membership fees to enrollees  
20 and charge participation fees to alliance health  
21 plan issuers, but only if such fees are not based  
22 on health status; and

23 (D) negotiate with health care providers  
24 and health plan issuers.

1       (e) LIMITATIONS ON ACTIVITIES.—A health plan  
2 purchasing alliance shall not—

3               (1) perform any activity related to the licensing  
4 of health plan issuers;

5               (2) assume financial risk directly or indirectly  
6 on behalf of members of a health plan purchasing al-  
7 liance relating to any group health plan or individual  
8 health plan;

9               (3) establish eligibility, enrollment, or premium  
10 contribution requirements for participants or bene-  
11 ficiaries in health plans based on health status, med-  
12 ical condition, claims experience, receipt of health  
13 care, medical history, evidence of insurability, ge-  
14 netic information, or disability;

15               (4) operate on a for-profit or other basis where  
16 the legal structure of the alliance permits profits to  
17 be made and not returned to the members of the al-  
18 liance; or

19               (5) perform any other activities that are de-  
20 scribed in subsection (f) or that are otherwise incon-  
21 sistent with the performance of its duties under this  
22 title.

23       (f) CONFLICT OF INTEREST.—

24               (1) PROHIBITIONS.—No individual, partnership,  
25 or corporation shall serve on the board of directors

1 of a health plan purchasing alliance, be employed by  
2 such an alliance, receive compensation from such an  
3 alliance, or initiate or finance such an alliance if  
4 such individual, partnership, or corporation—  
5 (i) fails to discharge the duties and  
6 responsibilities in a manner that is solely  
7 in the interest of the alliance and the  
8 members of the alliance;  
9 (ii) derives personal financial benefit  
10 (other than ordinary compensation re-  
11 ceived) from the sale of the alliance, or has  
12 a financial interest in health plans or re-  
13 lated financial entities, services or products  
14 sold by or distributed through that alli-  
15 ance; or  
16 (iii) serves as a member of the board  
17 of directors of any organization doing busi-  
18 ness with, competing with, or exercising  
19 authority over the alliance.  
20 (2) CONTRACTS WITH THIRD PARTIES.—Noth-  
21 ing in subparagraph (A) shall be construed to pro-  
22 hibit the board of directors of a health plan pur-  
23 chasing alliance, or its officers from contracting with  
24 third parties to provide administrative, marketing,

1       consultative, or other services on behalf of the alliance.

3       (g) LIMITED PREEMPTION OF CERTAIN STATE  
4 LAWS.—

5               (1) IN GENERAL.—Any State law that sets restrictions on the organization of groups for the purpose of purchasing health insurance, or that prohibits groups from combining for that purpose, is preempted with respect to an alliance that meets the requirements of this title.

11               (2) HEALTH PLAN ISSUERS.—

12                       (A) RATING.—Except as provided in subparagraph (B), a health plan issuer offering a group health plan or individual health plan through a health plan purchasing alliance certified under this title shall comply with all State rating requirements that would otherwise apply if the health plan was offered outside of the alliance.

20                       (B) PREMIUM RATE EXCEPTION.—

21                               (i) IN GENERAL.—A State law that imposes premium rate requirements is preempted to the extent that such law would prohibit a health plan issuer from reducing premium rates under an agreement with a

1                   health plan purchasing alliance certified  
2                   under this title to reflect the savings de-  
3                   rived by the issuer from reductions in ad-  
4                   ministrative costs, marketing costs, profit  
5                   margins, economies of scale, or from other  
6                   factors.

7                   (ii) LIMITATION.—Clause (i) shall not  
8                   apply where the reduction in premium  
9                   rates is based on the health status, demo-  
10                  graphic factors, industry type, duration, or  
11                  other indicators of health risk of the mem-  
12                  bers of the alliance involved.

13                  (C) ALTERNATIVE BENEFIT PLAN EXCEP-  
14                  TION.—State laws authorizing the issuance of  
15                  alternative benefit plans to small employers  
16                  may be applied to health plan issuers offering  
17                  such alternative benefit plans through a health  
18                  plan purchasing alliance certified under this  
19                  title.

20 **SEC. 203. RULES OF CONSTRUCTION.**

21                  Nothing in this title shall be construed to—  
22                  (1) require that a State organize, operate, or  
23                  otherwise create health plan purchasing alliances;  
24                  (2) otherwise require the establishment of  
25                  health plan purchasing alliances;

4 (4) preempt a State from requiring licensure  
5 for individuals who are involved in directly supplying  
6 advice or selling health plans on behalf of a pur-  
7 chasing alliance;

1       such State laws among individuals, employers, and  
2       employees that are not participating in the health  
3       plan purchasing alliance; or

4               (9) except as specifically provided otherwise in  
5       this subsection, prevent the application of State laws  
6       and regulations otherwise applicable to health plan  
7       issuers offering group health plans or individual  
8       health plans through a health plan purchasing alli-  
9       ance.

10 **SEC. 204. ENFORCEMENT.**

11       For purposes of enforcement only, the requirements  
12       of parts 4 and 5 of subtitle B of title I of the Employee  
13       Retirement Income Security Act of 1974 (29 U.S.C. 1101  
14       et seq.) shall apply to a health plan purchasing alliance  
15       certified by the Secretary under section 202(a)(2) of this  
16       title as if such alliance were an employee welfare benefit  
17       plan.

18 **SEC. 205. STUDY CONCERNING REAUTHORIZATION.**

19               (a) STUDY.—The Secretary shall conduct a study to  
20       determine whether the grant program established under  
21       this title should be reauthorized for fiscal years after fiscal  
22       year 2006.

23               (b) REPORT.—Not later than 2 years after the date  
24       of enactment of this Act, the Secretary shall prepare and  
25       submit to the appropriate committees of Congress, a re-

1 port concerning the results of the study conducted under  
2 subsection (a). Such report shall include—

3 (1) the recommendations of the Secretary with  
4 respect to the reauthorization of the grant program  
5 established under this section; and

6 (2) the effect of the implementation of this title  
7 on—

8 (A) reducing the number of uninsured in-  
9 dividuals;

10 (B) premium rates paid by small employ-  
11 ers and individuals; and

12 (C) the level of health benefits offered by  
13 health insurance issuers.

14 **SEC. 206. DEFINITIONS.**

15 In this title:

16 (1) **ELIGIBLE ENTITIES.**—The term “eligible  
17 entity” means an entity that is—

18 (A) a State agency;

19 (B) a nonprofit entity organized for the  
20 purpose of establishing a health plan pur-  
21 chasing alliance; or

22 (C) a for-profit cooperative organization  
23 whose profits are shared on a pro-rata basis  
24 among the members of the cooperative.

1 (2) HEALTH PLAN PURCHASING ALLIANCE.—

2 The term “health plan purchasing alliance” means a  
3 State agency (or a consortium of State agencies on  
4 behalf of more than 1 State) or employer groups  
5 that, on a voluntary basis and in accordance with  
6 this title, form an alliance for the purpose of pur-  
7 chasing insurance plans offered by health insurance  
8 plan issuers.

16 (5) STATE.—The term “State” means the 50  
17 States, the District of Columbia, and the Common-  
18 wealth of Puerto Rico.

## **TITLE III—PROMOTION OF STATE HIGH RISK POOLS**

## 21 SEC. 301. PROMOTION OF STATE HIGH RISK POOLS.

22 (a) IN GENERAL.—Title XXVII of the Public Health  
23 Service Act is amended by inserting after section 2744 the  
24 following new section:

1   **“SEC. 2745. PROMOTION OF QUALIFIED HIGH RISK POOLS.**

2           “(a) SEED GRANTS TO STATES.—The Secretary shall  
3   establish a program to award grants of up to \$1,000,000  
4   to each State that has not created a qualified high risk  
5   pool as of the date of the enactment of this section for  
6   the State’s costs of creation and initial operation of such  
7   a pool.

8           “(b) MATCHING FUNDS FOR OPERATION OF  
9   POOLS.—

10           “(1) IN GENERAL.—In the case of a State that  
11   has established a qualified high risk pool that re-  
12   stricts premiums charged under the pool to not more  
13   than 150 percent of the premium for applicable  
14   standard risk rates and that offers a choice of 2 or  
15   more coverage options through the pool, from the  
16   funds appropriated under subsection (c) for a fiscal  
17   year and allotted to the State under paragraph (2),  
18   the Secretary shall provide a grant of up to 50 per-  
19   cent of the losses incurred by the State in connec-  
20   tion with the operation of the pool.

21           “(2) ALLOTMENT.—The amounts appropriated  
22   under subsection (c) (other than amounts used to  
23   make grants under subsection (a)) for a fiscal year,  
24   shall be allotted to each State based on the propor-  
25   tion of uninsured individuals in the State as com-  
26   pared to all individuals in the State.

1           “(3) CONSTRUCTION.—Nothing in this sub-  
2        section shall be construed as preventing a State  
3        from supplementing the funds made available under  
4        this subsection for the support and operation of  
5        qualified high risk pools.

6           “(e) FUNDING.—

7           “(1) IN GENERAL.—There are appropriated to  
8        carry out this section, not more than—

9               “(A) \$20,000,000 for fiscal year 2002; and

10               “(B) \$50,000,000 for each of fiscal years  
11        2003 through 2006.

12           “(2) AVAILABILITY.—Funds appropriated  
13        under paragraph (1) for a fiscal year shall remain  
14        available for obligation through the end of the fol-  
15        lowing fiscal year.

16           “(d) QUALIFIED HIGH RISK POOL AND STATE DE-  
17        FINED.—For purposes of this section, the term ‘qualified  
18        high risk pool’ has the meaning given such term in section  
19        2744(c)(2) and the term ‘State’ means any of the 50  
20        States, the District of Columbia, and the Commonwealth  
21        of Puerto Rico.”.

22           (b) CONSTRUCTION.—Nothing in section 2745 of the  
23        Public Health Service Act (as added by subsection (a))  
24        shall be construed as affecting the ability of a State to  
25        use mechanisms, described in sections 2741(c) and 2744

1 of the Public Health Service Act (42 U.S.C. 300gg–41(c),  
2 300gg–44), as an alternative to applying the guaranteed  
3 availability provisions of section 2741(a) of such Act (42  
4 U.S.C. 300gg–41(a)).

5 (c) STUDY CONCERNING REAUTHORIZATION.—

6 (1) STUDY.—The Secretary of Health and  
7 Human Services shall conduct a study to determine  
8 whether the grant program established under this  
9 title should be reauthorized for fiscal years after fis-  
10 cal year 2006.

11 (2) REPORT.—Not later than 2 years after the  
12 date of enactment of this Act, the Secretary of  
13 Health and Human Services shall prepare and sub-  
14 mit to the appropriate committees of Congress, a re-  
15 port concerning the results of the study conducted  
16 under paragraph (1). Such report shall include—

17 (A) the recommendations of the Secretary  
18 with respect to the reauthorization of the grant  
19 program established under section 2745 of the  
20 Public Health Service Act (as added by this  
21 section);

22 (B) a description of how amounts were  
23 used under such section; and

24 (C) the effect of the implementation of  
25 such grant program on—

1 (i) reducing the number of uninsured  
2 individuals;  
3 (ii) premium rates; and  
4 (iii) the level of health benefits offered  
5 by health insurance issuers.

6 **TITLE IV—OPTIONAL COVERAGE**  
7 **OF PARENTS AND PREGNANT**  
8 **WOMEN UNDER MEDICAID**  
9 **AND SCHIP**

10 SEC. 401. OPTIONAL COVERAGE OF PARENTS AND PREG-  
11 NANT WOMEN UNDER MEDICAID AND SCHIP.

12 (a) INCENTIVES TO IMPLEMENT COVERAGE OF PAR-  
13 ENTS.—

14 (1) UNDER MEDICAID.—

15 (A) ESTABLISHMENT OF NEW OPTIONAL  
16 ELIGIBILITY CATEGORY.—Section  
17 1902(a)(10)(A)(ii) of the Social Security Act  
18 (42 U.S.C. 1396a(a)(10)(A)(ii)) is amended—

19 (i) by striking “or” at the end of sub-  
20 clause (XVII);

21 (ii) by adding “or” at the end of sub-  
22 clause (XVIII); and

23 (iii) by adding at the end the fol-  
24 lowing:

1                             “(XIX) who are individuals de-  
2                             scribed in subsection (k)(1) (relating  
3                             to parents of categorically eligible chil-  
4                             dren);”.

5                             (B) PARENTS DESCRIBED.—Section 1902  
6                             of the Social Security Act (42 U.S.C. 1396a) is  
7                             further amended by inserting after subsection  
8                             (j) the following:

9                             “(k)(1)(A) Individuals described in this paragraph  
10                             are individuals—

11                             “(i) who are the parents of an individual who  
12                             is under 19 years of age and who is eligible for med-  
13                             ical assistance under subsection (a)(10)(A);

14                             “(ii) who are not eligible for medical assistance  
15                             under such subsection, under a waiver approved  
16                             under section 1115, or otherwise (except under sec-  
17                             tion 1931 or under subsection (a)(10)(A)(ii)(XIX));  
18                             and

19                             “(iii) whose family income or resources exceed  
20                             the effective income or resource level applicable  
21                             under the State plan under part A of title IV as in  
22                             effect as of July 16, 1996, but does not exceed the  
23                             highest effective income level applicable to a child in  
24                             the family under this title.

1       “(B) In establishing an income eligibility level for in-  
2 dividuals described in this paragraph, a State may vary  
3 such level consistent with the various income levels estab-  
4 lished under subsection (l)(2) in order to ensure, to the  
5 maximum extent possible, that such individuals shall be  
6 enrolled in the same program as their children.

7       “(C) An individual may not be treated as being de-  
8 scribed in this paragraph unless, at the time of the individ-  
9 ual’s enrollment under this title, the child referred to in  
10 subparagraph (A)(i) of the individual is also enrolled  
11 under this title.

12       “(D) In this subsection, the term ‘parent’ has the  
13 meaning given the term ‘caretaker relative’ for purposes  
14 of carrying out section 1931.

15       “(2) In the case of a parent described in paragraph  
16 (1) who is also the parent of a child who is eligible for  
17 child health assistance under title XXI, the State may  
18 elect (on a uniform basis) to cover all such parents under  
19 section 2111 or under this title.”.

20 (C) ENHANCED MATCHING FUNDS AVAIL-  
21 ABLE IF CERTAIN CONDITIONS MET.—Section  
22 1905 of the Social Security Act (42 U.S.C.  
23 1396d) is amended—

24 (i) in the fourth sentence of sub-  
25 section (b), by striking "or subsection

1 (u)(3)" and inserting ", (u)(3), or (u)(4)";

2 and

3 (ii) in subsection (u)—

4 (I) by redesignating paragraph

5 (4) as paragraph (6); and

6 (II) by inserting after paragraph

7 (3) the following:

8       “(4) For purposes of subsection (b) and section

9 2105(a), the expenditures described in this paragraph are

10 the expenditures described in the following subparagraphs

11 (A) and (B):

12                     “(A) PARENTS.—If the conditions described in  
13                     subparagraph (C)(i) are met, expenditures for med-  
14                     ical assistance for parents described in section  
15                     1902(k)(1) and for parents who would be described  
16                     in such section but for the fact that they are eligible  
17                     for medical assistance under a waiver approved  
18                     under section 1115.

19           “(B) CERTAIN PREGNANT WOMEN.—If the con-  
20           ditions described in subparagraph (C)(ii) are met,  
21           expenditures for medical assistance for pregnant  
22           women described in subsection (n) or under section  
23           1902(l)(1)(A) in a family the income of which ex-  
24           ceeds 133 percent of the poverty line.

## 25                   “(C) CONDITIONS.—

1                     “(i) EXPENDITURES FOR PARENTS.—The  
2                     conditions described in this clause are the fol-  
3                     lowing:

4                         “(I) The State child health plan under  
5                     title XXI (whether implemented under that  
6                     title or under this title) does not limit the  
7                     acceptance of applications, does not use a  
8                     waiting list for children who meet eligi-  
9                     bility standards to qualify for assistance,  
10                     and provides benefits to all children in the  
11                     State who apply for and meet eligibility  
12                     standards.

13                         “(II) The State plans under this title  
14                     and title XXI do not provide coverage for  
15                     parents described in subparagraph (A)  
16                     with higher family income without covering  
17                     such parents with a lower family income.

18                         “(III) The State does not apply an in-  
19                     come level for parents that is lower than  
20                     the effective income level (expressed as a  
21                     percent of the poverty line and considering  
22                     applicable income disregards) that has  
23                     been specified under the State plan under  
24                     this title (including under a waiver author-  
25                     ized by the Secretary or under section

7                             “(I) The State plans under this title  
8                             and title XXI do not provide coverage for  
9                             pregnant women described in subparagraph  
10                            (B) with higher family income with-  
11                            out covering such pregnant women with a  
12                            lower family income.

1           “(D) DEFINITIONS.—In this paragraph:

2               “(i) The term ‘parent’ has the meaning  
3               given the term ‘caretaker relative’ for purposes  
4               of carrying out section 1931.

5               “(ii) The term ‘poverty line’ has the mean-  
6               ing given such term in section 2110(c)(5).”.

7               (D) APPROPRIATION FROM TITLE XXI AL-  
8               LOTMENT FOR MEDICAID EXPANSION COSTS  
9               FOR PARENTS; ELIMINATION OF COUNTING  
10       MEDICAID CHILD PRESUMPTIVE ELIGIBILITY  
11       COSTS AGAINST TITLE XXI ALLOTMENT.—Sec-  
12       tion 2105(a)(1)(B) of the Social Security Act  
13       (42 U.S.C. 1397ee(a)(1)(B)) is amended to  
14       read as follows:

15               “(B) for the provision of medical assist-  
16       ance that is attributable to expenditures de-  
17       scribed in subparagraph (A) or (B) of section  
18       1905(u)(4);”.

19               (E) RULES FOR COUNTING ONLY EN-  
20       HANCED PORTION OF CERTAIN EXPENDITURES  
21       FOR COVERAGE OF PREGNANT WOMEN AGAINST  
22       A STATE’S TITLE XXI ALLOTMENT.—Section  
23       1905 of the Social Security Act (42 U.S.C.  
24       1396d), as amended by subparagraph (C), is  
25       amended—

7       “(5) For purposes of the fourth sentence of sub-  
8 section (b) and section 2105(a), the following payments  
9 under this title do not count against a State’s allotment  
10 under section 2104:

11                     “(A) REGULAR FMAP FOR EXPENDITURES FOR  
12                     COVERAGE OF PREGNANT WOMEN THAT EXCEEDS  
13                     133 PERCENT OF POVERTY.—With respect to expend-  
14                     itures described in paragraph (4)(B), the portion of  
15                     the payments made for such expenditures that rep-  
16                     resents the amount that would have been paid for  
17                     such expenditures if the enhanced FMAP had not  
18                     been substituted for the Federal medical assistance  
19                     percentage.”.

20 (2) UNDER TITLE XXI.—

21 (A) COVERAGE.—Title XXI of the Social  
22 Security Act (42 U.S.C. 1397aa et seq.) is  
23 amended by adding at the end the following:

1     **“SEC. 2111. OPTIONAL COVERAGE OF PARENTS OF TAR-**

2                   **GETED LOW-INCOME CHILDREN OR TAR-**

3                   **GETED LOW-INCOME PREGNANT WOMEN.**

4     “(a) OPTIONAL COVERAGE.—Notwithstanding any  
5 other provision of this title, a State may provide for cov-  
6 erage, through an amendment to its State child health  
7 plan under section 2102, of parent health assistance for  
8 targeted low-income parents, pregnancy-related assistance  
9 for targeted low-income pregnant women, or both, in ac-  
10 cordance with this section, but only if—

11               “(1) with respect to the provision of parent  
12 health assistance, the State meets the conditions de-  
13 scribed in clause (i) of section 1905(u)(4)(C);

14               “(2) with respect to the provision of pregnancy-  
15 related assistance, the State meets the conditions de-  
16 scribed in clause (ii) of section 1905(u)(4)(C); and

17               “(3) in the case of parent health assistance for  
18 targeted low-income parents, the State elects to pro-  
19 vide medical assistance under section  
20 1902(a)(10)(A)(ii)(XIX), under section 1931, or  
21 under a waiver under section 1115 to individuals de-  
22 scribed in section 1902(k)(1)(A)(i) and elects an ef-  
23 fective income level that, consistent with paragraphs  
24 (1)(B) and (2) of section 1902(k), ensures to the  
25 maximum extent possible, that such individuals shall  
26 be enrolled in the same program as their children if

1       their children are eligible for coverage under title  
2       XIX (including under a waiver authorized by the  
3       Secretary or under section 1902(r)(2)).”.

4       “(b) DEFINITIONS.—For purposes of this title:

5           “(1) PARENT HEALTH ASSISTANCE.—The term  
6       ‘parent health assistance’ has the meaning given the  
7       term child health assistance in section 2110(a) as if  
8       any reference to targeted low-income children were  
9       a reference to targeted low-income parents.

10          “(2) PARENT.—The term ‘parent’ has the  
11       meaning given the term ‘caretaker relative’ for pur-  
12       poses of carrying out section 1931.

13          “(3) PREGNANCY-RELATED ASSISTANCE.—The  
14       term ‘pregnancy-related assistance’ has the meaning  
15       given the term child health assistance in section  
16       2110(a) as if any reference to targeted low-income  
17       children were a reference to targeted low-income  
18       pregnant women, except that the assistance shall be  
19       limited to services related to pregnancy (which in-  
20       clude prenatal, delivery, and postpartum services)  
21       and to other conditions that may complicate preg-  
22       nancy.

23          “(4) TARGETED LOW-INCOME PARENT.—The  
24       term ‘targeted low-income parent’ has the meaning  
25       given the term targeted low-income child in section

1       2110(b) as if any reference to a child were a reference to a parent (as defined in paragraph (2)) of  
2       the child; except that in applying such section—  
3

4               “(A) there shall be substituted for the income level described in paragraph (1)(B)(ii)(I)  
5               the applicable income level in effect for a targeted low-income child;

6               “(B) in paragraph (3), January 1, 2002,  
7       shall be substituted for July 1, 1997; and

8               “(C) in paragraph (4), January 1, 2002,  
9       shall be substituted for March 31, 1997.

10               “(5) TARGETED LOW-INCOME PREGNANT  
11       WOMAN.—The term ‘targeted low-income pregnant  
12       woman’ has the meaning given the term targeted  
13       low-income child in section 2110(b) as if any reference to a child were a reference to a woman during  
14       pregnancy and through the end of the month in  
15       which the 60-day period beginning on the last day  
16       of her pregnancy ends; except that in applying such  
17       section—

18               “(A) there shall be substituted for the income level described in paragraph (1)(B)(ii)(I)  
19               the applicable income level in effect for a targeted low-income child;

1                   “(B) in paragraph (3), January 1, 2002,  
2                   shall be substituted for July 1, 1997; and

3                   “(C) in paragraph (4), January 1, 2002,  
4                   shall be substituted for March 31, 1997.

5                “(c) REFERENCES TO TERMS AND SPECIAL  
6 RULES.—In the case of, and with respect to, a State pro-  
7 viding for coverage of parent health assistance to targeted  
8 low-income parents or pregnancy-related assistance to tar-  
9 geted low-income pregnant women under subsection (a),  
10 the following special rules apply:

11               “(1) Any reference in this title (other than in  
12 subsection (b)) to a targeted low-income child is  
13 deemed to include a reference to a targeted low-in-  
14 come parent or a targeted low-income pregnant  
15 woman (as applicable).

16               “(2) Any such reference to child health  
17 assistance—

18               “(A) with respect to such parents is  
19                   deemed a reference to parent health assistance;  
20                   and

21               “(B) with respect to such pregnant women,  
22                   is deemed a reference to pregnancy-related as-  
23                   sistance.

24               “(3) In applying section 2103(e)(3)(B) in the  
25                   case of a family or pregnant woman provided cov-

1 erage under this section, the limitation on total an-  
2 nual aggregate cost-sharing shall be applied to the  
3 entire family or such pregnant woman.

4 “(4) In applying section 2110(b)(4), any ref-  
5 erence to ‘section 1902(l)(2) or 1905(n)(2) (as se-  
6 lected by a State)’ is deemed a reference to the ef-  
7 fective income level applicable to parents under sec-  
8 tion 1931 or a waiver approved under section 1115,  
9 or, in the case of a pregnant woman, the income  
10 level established under section 1902(l)(2)(A).

11 “(5) In applying section 2102(b)(3)(B), any  
12 reference to children found through screening to be  
13 eligible for medical assistance under the State med-  
14 icaid plan under title XIX is deemed a reference to  
15 parents and pregnant women.”.

16 (B) ADDITIONAL ALLOTMENTS FOR PRO-  
17 VIDING COVERAGE OF PARENTS OR PREGNANT  
18 WOMEN.—

19 (i) IN GENERAL.—Section 2104 of the  
20 Social Security Act (42 U.S.C. 1397dd) is  
21 amended by inserting after subsection (c)  
22 the following:

23 “(d) ADDITIONAL ALLOTMENTS FOR PROVIDING  
24 COVERAGE OF PARENTS OR PREGNANT WOMEN.—

## 1           “(1) APPROPRIATION; TOTAL ALLOTMENT.—

2       For the purpose of providing additional allotments  
3       to States under this title, there is appropriated, out  
4       of any money in the Treasury not otherwise appro-  
5       priated, for each of fiscal years 2003 through 2007,  
6       \$4,000,000,000.

## 7           “(2) STATE AND TERRITORIAL ALLOTMENTS.—

8       In addition to the allotments provided under sub-  
9       sections (b) and (c), subject to paragraph (3), of the  
10      amount available for the additional allotments under  
11      paragraph (1) for a fiscal year, the Secretary shall  
12      allot to each State with a State child health plan ap-  
13      proved under this title—

14           “(A) in the case of such a State other than  
15       a commonwealth or territory described in sub-  
16       paragraph (B), the same proportion as the pro-  
17       portion of the State’s allotment under sub-  
18       section (b) (determined without regard to sub-  
19       section (f)) to 98.95 percent of the total  
20       amount of the allotments under such section for  
21       such States eligible for an allotment under this  
22       paragraph for such fiscal year; and

23           “(B) in the case of a commonwealth or ter-  
24       ritory described in subsection (c)(3), the same  
25       proportion as the proportion of the common-

1 wealth's or territory's allotment under sub-  
2 section (c) (determined without regard to sub-  
3 section (f)) to 1.05 percent of the total amount  
4 of the allotments under such section for com-  
5 monwealths and territories eligible for an allot-  
6 ment under this paragraph for such fiscal year.

7       “(3) USE OF ADDITIONAL ALLOTMENT.—Additional  
8       allotments provided under this subsection are  
9       not available for amounts expended before October  
10      1, 2002. Such amounts are available for amounts ex-  
11      pended on or after such date for child health assist-  
12      ance for targeted low-income children, as well as for  
13      parent health assistance for targeted low-income  
14      parents, and pregnancy-related assistance for tar-  
15      geted low-income pregnant women.”.

16 (ii) CONFORMING AMENDMENTS.—  
17 Section 2104 of the Social Security Act  
18 (42 U.S.C. 1397dd) is amended—  
19 (I) in subsection (a), by inserting  
20 “subject to subsection (d),” after  
21 “under this section,”;  
22 (II) in subsection (b)(1), by in-  
23 serting “and subsection (d)” after  
24 “Subject to paragraph (4)”;  
25 and  
26

(III) in subsection (c)(1), by inserting “subject to subsection (d),” after “for a fiscal year.”.

4 (C) No COST-SHARING FOR PREGNANCY-  
5 RELATED BENEFITS.—Section 2103(e)(2) of  
6 the Social Security Act (42 U.S.C.  
7 1397cc(e)(2)) is amended—

11 (ii) by inserting before the period at  
12 the end the following: “and for pregnancy-  
13 related services”.

14 (b) CONFORMING AMENDMENTS.—

19 (A) by striking “or” at the end of clause  
20 (xii);

21 (B) by inserting “or” at the end of clause  
22 (xiii); and

23 (C) by inserting after clause (xiii) the fol-  
24 lowing:

1           “(xiv) who are parents described in section  
2        1902(k)(1),”.

3           (2) INCOME LIMITATIONS.—Section 1903(f)(4)  
4        of the Social Security Act (42 U.S.C. 1396b(f)(4))  
5        is amended by inserting “1902(a)(10)(A)(ii)(XIX),”  
6        after “1902(a)(10)(A)(ii)(XVIII),”.

7           (3) CONFORMING AMENDMENT RELATING TO  
8        NO WAITING PERIOD FOR CERTAIN WOMEN.—Section  
9        2102(b)(1)(B) of the Social Security Act (42 U.S.C.  
10      1397bb(b)(1)(B)) is amended—

11           (A) by striking “, and” at the end of  
12        clause (i) and inserting a semicolon;

13           (B) by striking the period at the end of  
14        clause (ii) and inserting “; and”; and

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

16           “(iii) may not apply a waiting period  
17        (including a waiting period to carry out  
18        paragraph (3)(C)) in the case of a targeted  
19        low-income pregnant woman.”.

20           (c) EFFECTIVE DATE.—The amendments made by  
21        this section apply to items and services furnished on or  
22        after October 1, 2002, whether or not regulations imple-  
23        menting such amendments have been issued.

1 **SEC. 402. AUTOMATIC ENROLLMENT OF CHILDREN BORN**  
2 **TO PREGNANT WOMEN.**

3 (a) TITLE XXI.—Section 2102(b)(1) of the Social  
4 Security Act (42 U.S.C. 1397bb(b)(1)) is amended by  
5 adding at the end the following:

6 “(C) AUTOMATIC ELIGIBILITY OF CHIL-  
7 DREN BORN TO PREGNANT WOMEN.—Such eli-  
8 gibility standards shall provide for automatic  
9 coverage of a child born to an individual who is  
10 provided assistance under this title in the same  
11 manner as medical assistance would be provided  
12 under section 1902(e)(4) to a child described in  
13 such section.”.

14 (b) CONFORMING AMENDMENT TO MEDICAID.—Sec-  
15 tion 1902(e)(4) of the Social Security Act (42 U.S.C.  
16 1396a(e)(4)) is amended in the first sentence by striking  
17 “so long as the child is a member of the woman’s house-  
18 hold and the woman remains (or would remain if preg-  
19 nant) eligible for such assistance”.

20 **TITLE V—ACCESS TO MEDICARE**  
21 **BENEFITS FOR INDIVIDUALS**  
22 **62-TO-65 YEARS OF AGE**

23 **SEC. 501. ACCESS TO MEDICARE BENEFITS FOR INDIVID-  
24 UALS 62-TO-65 YEARS OF AGE.**

25 (a) IN GENERAL.—Title XVIII of the Social Security  
26 Act is amended—

3 (2) by inserting after such section the following

4 new part:

## 5 "PART D—PURCHASE OF MEDICARE BENEFITS BY

## 6 CERTAIN INDIVIDUALS AGE 62-TO-65 YEARS OF AGE

## 7 SEC. 1859. PROGRAM BENEFITS; ELIGIBILITY.

8       “(a) ENTITLEMENT TO MEDICARE BENEFITS FOR  
9 ENROLLED INDIVIDUALS.—

10               “(1) IN GENERAL.—An individual enrolled  
11       under this part is entitled to the same benefits  
12       under this title as an individual entitled to benefits  
13       under part A and enrolled under part B.

14                   “(2) DEFINITIONS.—For purposes of this part:

1                     “(i) MEDICARE.—Part A or part B of  
2                     this title (other than by reason of this  
3                     part).

4                     “(ii) MEDICAID.—A State plan under  
5                     title XIX.

6                     “(iii) SCHIP.—A State plan under  
7                     title XXI.

8                     “(iv) FEHBP.—The Federal employ-  
9                     ees health benefit program under chapter  
10                     89 of title 5, United States Code.

11                     “(v) TRICARE.—The TRICARE  
12                     program (as defined in section 1072(7) of  
13                     title 10, United States Code).

14                     “(vi) ACTIVE DUTY MILITARY.—  
15                     Health benefits under title 10, United  
16                     States Code, to an individual as a member  
17                     of the uniformed services of the United  
18                     States.

19                     “(C) GROUP HEALTH PLAN.—The term  
20                     ‘group health plan’ has the meaning given such  
21                     term in section 2791(a)(1) of the Public Health  
22                     Service Act.

23                     “(b) ELIGIBILITY OF INDIVIDUALS AGE 62-TO-65  
24                     YEARS OF AGE.—

1           “(1) IN GENERAL.—Subject to paragraph (2),  
2        an individual who meets the following requirements  
3        with respect to a month is eligible to enroll under  
4        this part with respect to such month:

5           “(A) AGE.—As of the last day of the  
6        month, the individual has attained 62 years of  
7        age, but has not attained 65 years of age.

8           “(B) MEDICARE ELIGIBILITY (BUT FOR  
9        AGE).—The individual would be eligible for ben-  
10        efits under part A or part B for the month if  
11        the individual were 65 years of age.

12           “(C) NOT ELIGIBLE FOR COVERAGE  
13        UNDER GROUP HEALTH PLANS OR FEDERAL  
14        HEALTH INSURANCE PROGRAMS.—The indi-  
15        vidual is not, as of the last day of the month  
16        involved, eligible for benefits or coverage  
17        under—

18           “(i) a group health plan (other than  
19        such eligibility merely through a Federal or  
20        State COBRA continuation provision);

21           “(ii) a health plan of the employee’s  
22        spouse;

23           “(iii) title XVIII, XIX, or XXI;

24           “(iv) chapter 17 of title 38, United  
25        States Code;

1                         “(v) chapter 55 of title 10, United  
2                         States Code;

3                         “(vi) chapter 89 of title 5, United  
4                         States Code; or

5                         “(vii) any other provision of law.

6                         “(2) LIMITATION ON ELIGIBILITY IF TERMINATED ENROLLMENT.—If an individual described in  
7                         paragraph (1) enrolls under this part and coverage  
8                         of the individual is terminated under section  
9                         1859A(d) (other than because of age), the individual  
10                        is not again eligible to enroll under this subsection  
11                        unless the following requirements are met:

13                        “(A) NEW COVERAGE UNDER GROUP  
14                        HEALTH PLAN OR FEDERAL HEALTH INSUR-  
15                        ANCE PROGRAM.—After the date of termination  
16                        of coverage under such section, the individual  
17                        obtains coverage under a group health plan or  
18                        under a Federal health insurance program.

19                        “(B) SUBSEQUENT LOSS OF NEW COV-  
20                        ERAGE.—The individual subsequently loses eli-  
21                        gibility for the coverage described in subpara-  
22                        graph (A) and exhausts any eligibility the indi-  
23                        vidual may subsequently have for coverage  
24                        under a Federal or State COBRA continuation  
25                        provision.

1           “(3) CHANGE IN HEALTH PLAN ELIGIBILITY  
2        DOES NOT AFFECT COVERAGE.—In the case of an  
3        individual who is eligible for and enrolls under this  
4        part under this subsection, the individual’s continued  
5        entitlement to benefits under this part shall not be  
6        affected by the individual’s subsequent eligibility for  
7        benefits or coverage described in paragraph (1)(C),  
8        or entitlement to such benefits or coverage.

9        **“SEC. 1859A. ENROLLMENT PROCESS; COVERAGE.**

10       “(a) IN GENERAL.—An individual may enroll in the  
11      program established under this part only in such manner  
12      and form as may be prescribed by regulations, and only  
13      during an enrollment period prescribed by the Secretary  
14      consistent with the provisions of this section. Such regula-  
15      tions shall provide a process under which—

16           “(1) individuals eligible to enroll as of a month  
17      are permitted to pre-enroll during a prior month  
18      within an enrollment period described in subsection  
19      (b); and

20           “(2) each individual seeking to enroll under sec-  
21      tion 1859(b) is notified, before enrolling, of the de-  
22      ferred monthly premium amount the individual will  
23      be liable for under section 1859C(b) upon attaining  
24      65 years of age as determined under section  
25      1859B(c)(3).

1       “(b) ENROLLMENT PERIODS.—

2           “(1) INDIVIDUALS 62-TO-65 YEARS OF AGE.—In  
3           the case of individuals eligible to enroll under this  
4           part under section 1859(b)—

5           “(A) INITIAL ENROLLMENT PERIOD.—If  
6           the individual is eligible to enroll under such  
7           section for July 2003, the enrollment period  
8           shall begin on May 1, 2003, and shall end on  
9           August 31, 2003. Any such enrollment before  
10          July 1, 2003, is conditioned upon compliance  
11          with the conditions of eligibility for July 2003.

12          “(B) SUBSEQUENT PERIODS.—If the indi-  
13          vidual is eligible to enroll under such section for  
14          a month after July 2003, the enrollment period  
15          shall begin on the first day of the second month  
16          before the month in which the individual first is  
17          eligible to so enroll and shall end four months  
18          later. Any such enrollment before the first day  
19          of the third month of such enrollment period is  
20          conditioned upon compliance with the condi-  
21          tions of eligibility for such third month.

22          “(2) AUTHORITY TO CORRECT FOR GOVERN-  
23          MENT ERRORS.—The provisions of section 1837(h)  
24          apply with respect to enrollment under this part in

1 the same manner as they apply to enrollment under  
2 part B.

3 “(c) DATE COVERAGE BEGINS.—

4 “(1) IN GENERAL.—The period during which  
5 an individual is entitled to benefits under this part  
6 shall begin as follows, but in no case earlier than  
7 July 1, 2003:

8 “(A) In the case of an individual who en-  
9 rolls (including pre-enrolls) before the month in  
10 which the individual satisfies eligibility for en-  
11 rollment under section 1859, the first day of  
12 such month of eligibility.

13 “(B) In the case of an individual who en-  
14 rolls during or after the month in which the in-  
15 dividual first satisfies eligibility for enrollment  
16 under such section, the first day of the fol-  
17 lowing month.

18 “(2) AUTHORITY TO PROVIDE FOR PARTIAL  
19 MONTHS OF COVERAGE.—Under regulations, the  
20 Secretary may, in the Secretary’s discretion, provide  
21 for coverage periods that include portions of a  
22 month in order to avoid lapses of coverage.

23 “(3) LIMITATION ON PAYMENTS.—No payments  
24 may be made under this title with respect to the ex-  
25 penses of an individual enrolled under this part un-

1 less such expenses were incurred by such individual  
2 during a period which, with respect to the individual,  
3 is a coverage period under this section.

4 “(d) TERMINATION OF COVERAGE.—

5 “(1) IN GENERAL.—An individual’s coverage  
6 period under this part shall continue until the indi-  
7 vidual’s enrollment has been terminated at the ear-  
8 liest of the following:

9 “(A) GENERAL PROVISIONS.—

10 “(i) NOTICE.—The individual files no-  
11 tice (in a form and manner prescribed by  
12 the Secretary) that the individual no  
13 longer wishes to participate in the insur-  
14 ance program under this part.

15 “(ii) NONPAYMENT OF PREMIUMS.—  
16 The individual fails to make payment of  
17 premiums required for enrollment under  
18 this part.

19 “(iii) MEDICARE ELIGIBILITY.—The  
20 individual becomes entitled to benefits  
21 under part A or enrolled under part B  
22 (other than by reason of this part).

23 “(B) TERMINATION BASED ON AGE.—The  
24 individual attains 65 years of age.

25 “(2) EFFECTIVE DATE OF TERMINATION.—

1                     “(A) NOTICE.—The termination of a cov-  
2 erage period under paragraph (1)(A)(i) shall  
3 take effect at the close of the month following  
4 for which the notice is filed.

5                     “(B) NONPAYMENT OF PREMIUM.—The  
6 termination of a coverage period under para-  
7 graph (1)(A)(ii) shall take effect on a date de-  
8 termined under regulations, which may be de-  
9 termined so as to provide a grace period in  
10 which overdue premiums may be paid and cov-  
11 erage continued. The grace period determined  
12 under the preceding sentence shall not exceed  
13 60 days; except that it may be extended for an  
14 additional 30 days in any case where the Sec-  
15 retary determines that there was good cause for  
16 failure to pay the overdue premiums within  
17 such 60-day period.

18                     “(C) AGE OR MEDICARE ELIGIBILITY.—  
19 The termination of a coverage period under  
20 paragraph (1)(A)(iii) or (1)(B) shall take effect  
21 as of the first day of the month in which the  
22 individual attains 65 years of age or becomes  
23 entitled to benefits under part A or enrolled for  
24 benefits under part B (other than by reason of  
25 this part).

1   **“SEC. 1859B. PREMIUMS.**

2       “(a) AMOUNT OF MONTHLY PREMIUMS.—

3           “(1) BASE MONTHLY PREMIUMS.—The Sec-  
4           retary shall, during September of each year (begin-  
5           ning with 2002), determine the following premium  
6           rates which shall apply with respect to coverage pro-  
7           vided under this title for any month in the suc-  
8           ceeding year:9           “(A) BASE MONTHLY PREMIUM FOR INDIVIDUALS 62 YEARS OF AGE OR OLDER.—A base  
10           monthly premium for individuals 62 years of  
11           age or older, equal to  $\frac{1}{12}$  of the base annual  
12           premium rate computed under subsection (b).14           “(2) DEFERRED MONTHLY PREMIUMS FOR INDIVIDUALS 62 YEARS OF AGE OR OLDER.—The Sec-  
15           retary shall, during September of each year (begin-  
16           ning with 2002), determine under subsection (c) the  
17           amount of deferred monthly premiums that shall  
18           apply with respect to individuals who first obtain  
19           coverage under this part under section 1859(b) in  
20           the succeeding year.22           “(b) BASE ANNUAL PREMIUM FOR INDIVIDUALS 62  
23           YEARS OF AGE OR OLDER.—24           “(1) IN GENERAL.—The base annual premium  
25           under this subsection for months in a year for indi-  
26           viduals 62 years of age or older residing is equal to

1 the average, annual per capita amount estimated for  
2 the year by the Secretary in accordance with para-  
3 graph (2).

4       “(2) NATIONAL, PER CAPITA AVERAGE.—The  
5       Secretary shall estimate the average, annual per  
6       capita amount that would be payable under this title  
7       with respect to individuals residing in the United  
8       States who meet the requirements of section  
9       1859(b)(1) as if all such individuals were eligible for  
10       (and enrolled) under this title during the entire year  
11       (and assuming that section 1862(b)(2)(A)(i) did not  
12       apply).

13       “(c) DEFERRED PREMIUM RATE FOR INDIVIDUALS  
14 62 YEARS OF AGE OR OLDER.—The deferred premium  
15 rate for individuals within a cohort of enrollees who obtain  
16 coverage under section 1859(b) in a year shall be com-  
17 puted by the Secretary as follows:

18       “(1) ESTIMATION OF NATIONAL, PER CAPITA  
19       ANNUAL AVERAGE EXPENDITURES FOR ENROLL-  
20       MENT COHORT.—The Secretary shall estimate the  
21       average, per capita annual amount that will be paid  
22       under this part for individuals in such cohort during  
23       the period of enrollment under section 1859(b). In  
24       making such estimate for coverage beginning in a  
25       year before 2004, the Secretary may base such esti-

1       mate on the average, per capita amount that would  
2       be payable if the program had been in operation over  
3       a previous period of at least 4 years.

4               “(2) DIFFERENCE BETWEEN ESTIMATED EX-  
5       PENDITURES AND ESTIMATED PREMIUMS.—Based  
6       on the characteristics of individuals in such cohort,  
7       the Secretary shall estimate during the period of  
8       coverage of the cohort under this part under section  
9       1859(b) the amount by which—

10               “(A) the amount estimated under para-  
11       graph (1); exceeds

12               “(B) the average, annual per capita  
13       amount of premiums that will be payable for  
14       months during the year under section 1859C(a)  
15       for individuals in such cohort (including pre-  
16       miums that would be payable if there were no  
17       terminations in enrollment under clause (i) or  
18       (ii) of section 1859A(d)(1)(A)).

19               “(3) ACTUARIAL COMPUTATION OF DEFERRED  
20       MONTHLY PREMIUM RATES.—The Secretary shall  
21       determine deferred monthly premium rates for indi-  
22       viduals in such cohort in a manner so that the esti-  
23       mated actuarial value of such premiums payable  
24       under section 1859C(b) is equal to the estimated ac-  
25       tuarial present value of the differences described in

1       paragraph (2). Such rate shall be computed for each  
2       individual in the cohort in a manner so that the rate  
3       is based on the number of months between the first  
4       month of coverage based on enrollment under sec-  
5       tion 1859(b) and the month in which the individual  
6       attains 65 years of age.

7               “(4) DETERMINANTS OF ACTUARIAL PRESENT  
8       VALUES.—The actuarial present values described in  
9       paragraph (3) shall reflect—

10               “(A) the estimated probabilities of survival  
11       at ages 62 through 84 for individuals enrolled  
12       during the year; and

13               “(B) the estimated effective average inter-  
14       est rates that would be earned on investments  
15       held in the trust funds under this title during  
16       the period in question.

17       **“SEC. 1859C. PAYMENT OF PREMIUMS.**

18               “(a) PAYMENT OF BASE MONTHLY PREMIUM.—

19               “(1) IN GENERAL.—The Secretary shall provide  
20       for payment and collection of the base monthly pre-  
21       mium, determined under section 1859B(a)(1) for the  
22       age (and age cohort, if applicable) of the individual  
23       involved, in the same manner as for payment of  
24       monthly premiums under section 1840, except that,  
25       for purposes of applying this section, any reference

1       in such section to the Federal Supplementary Medi-  
2       cal Insurance Trust Fund is deemed a reference to  
3       the Trust Fund established under section 1859D.

4           “(2) PERIOD OF PAYMENT.—In the case of an  
5       individual who participates in the program estab-  
6       lished by this title, the base monthly premium shall  
7       be payable for the period commencing with the first  
8       month of the individual’s coverage period and ending  
9       with the month in which the individual’s coverage  
10      under this title terminates.

11       “(b) PAYMENT OF DEFERRED PREMIUM FOR INDIVI-  
12      VIDUALS COVERED AFTER ATTAINING AGE 62.—

13           “(1) RATE OF PAYMENT.—

14           “(A) IN GENERAL.—In the case of an indi-  
15       vidual who is covered under this part for a  
16       month pursuant to an enrollment under section  
17       1859(b), subject to subparagraph (B), the indi-  
18       vidual is liable for payment of a deferred pre-  
19       mium in each month during the period de-  
20       scribed in paragraph (2) in an amount equal to  
21       the full deferred monthly premium rate deter-  
22       mined for the individual under section  
23       1859B(c).

24           “(B) SPECIAL RULES FOR THOSE WHO  
25       DISENROLL EARLY.—

1                     “(i) IN GENERAL.—If such an individual’s enrollment under such section is terminated under clause (i) or (ii) of section  
2                     1859A(d)(1)(A), subject to clause (ii), the amount of the deferred premium otherwise  
3                     established under this paragraph shall be pro-rated to reflect the number of months  
4                     of coverage under this part under such enrollment compared to the maximum number  
5                     of months of coverage that the individual would have had if the enrollment  
6                     were not so terminated.

7                     “(ii) ROUNDING TO 12-MONTH MINIMUM COVERAGE PERIODS.—In applying  
8                     clause (i), the number of months of coverage (if not a multiple of 12) shall be rounded to the next highest multiple of 12  
9                     months, except that in no case shall this clause result in a number of months of coverage exceeding the maximum number  
10                     of months of coverage that the individual would have had if the enrollment were not  
11                     so terminated.

12                     “(2) PERIOD OF PAYMENT.—The period described in this paragraph for an individual is the pe-

1       riod beginning with the first month in which the in-  
2       dividual has attained 65 years of age and ending  
3       with the month before the month in which the indi-  
4       vidual attains 85 years of age.

5           “(3) COLLECTION.—In the case of an individual  
6       who is liable for a premium under this subsection,  
7       the amount of the premium shall be collected in the  
8       same manner as the premium for enrollment under  
9       such part is collected under section 1840, except  
10       that any reference in such section to the Federal  
11       Supplementary Medical Insurance Trust Fund is  
12       deemed to be a reference to the Medicare Early Ac-  
13       cess Trust Fund established under section 1859D.

14       “(c) APPLICATION OF CERTAIN PROVISIONS.—The  
15       provisions of section 1840 (other than subsection (h))  
16       shall apply to premiums collected under this section in the  
17       same manner as they apply to premiums collected under  
18       part B, except that any reference in such section to the  
19       Federal Supplementary Medical Insurance Trust Fund is  
20       deemed a reference to the Trust Fund established under  
21       section 1859D.

22       **“SEC. 1859D. MEDICARE EARLY ACCESS TRUST FUND.**

23       “(a) ESTABLISHMENT OF TRUST FUND.—

24       “(1) IN GENERAL.—There is hereby created on  
25       the books of the Treasury of the United States a

1 trust fund to be known as the ‘Medicare Early Access Trust Fund’ (in this section referred to as the  
2 ‘Trust Fund’). The Trust Fund shall consist of such  
3 gifts and bequests as may be made as provided in  
4 section 201(i)(1) and such amounts as may be de-  
5 posited in, or appropriated to, such fund as provided  
6 in this title.

8       “(2) PREMIUMS.—Premiums collected under  
9 section 1859B shall be transferred to the Trust  
10 Fund.

11       “(b) INCORPORATION OF PROVISIONS.—

12       “(1) IN GENERAL.—Subject to paragraph (2),  
13 subsections (b) through (i) of section 1841 shall  
14 apply with respect to the Trust Fund and this title  
15 in the same manner as they apply with respect to  
16 the Federal Supplementary Medical Insurance Trust  
17 Fund and part B, respectively.

18       “(2) MISCELLANEOUS REFERENCES.—In apply-  
19 ing provisions of section 1841 under paragraph  
20 (1)—

21           “(A) any reference in such section to ‘this  
22 part’ is construed to refer to this part D;

23           “(B) any reference in section 1841(h) to  
24 section 1840(d) and in section 1841(i) to sec-  
25 tions 1840(b)(1) and 1842(g) are deemed ref-

1           erences to comparable authority exercised under  
2           this part; and

3           “(C) payments may be made under section  
4           1841(g) to the Trust Funds under sections  
5           1817 and 1841 as reimbursement to such funds  
6           for payments they made for benefits provided  
7           under this part.

8   **“SEC. 1859E. OVERSIGHT AND ACCOUNTABILITY.**

9           “(a) THROUGH ANNUAL REPORTS OF TRUSTEES.—  
10   The Board of Trustees of the Medicare Early Access  
11   Trust Fund under section 1859D(b)(1) shall report on an  
12   annual basis to Congress concerning the status of the  
13   Trust Fund and the need for adjustments in the program  
14   under this part to maintain financial solvency of the pro-  
15   gram under this part.

16           “(b) PERIODIC GAO REPORTS.—The Comptroller  
17   General of the United States shall periodically submit to  
18   Congress reports on the adequacy of the financing of cov-  
19   erage provided under this part. The Comptroller General  
20   shall include in such report such recommendations for ad-  
21   justments in such financing and coverage as the Com-  
22   troller General deems appropriate in order to maintain fi-  
23   nancial solvency of the program under this part.

1   **“SEC. 1859F. ADMINISTRATION AND MISCELLANEOUS.**2       “(a) TREATMENT FOR PURPOSES OF TITLE.—Ex-  
3   cept as otherwise provided in this part—4           “(1) individuals enrolled under this part shall  
5   be treated for purposes of this title as though the in-  
6   dividual were entitled to benefits under part A and  
7   enrolled under part B; and8           “(2) benefits described in section 1859 shall be  
9   payable under this title to such individuals in the  
10   same manner as if such individuals were so entitled  
11   and enrolled.12       “(b) NOT TREATED AS MEDICARE PROGRAM FOR  
13   PURPOSES OF MEDICAID PROGRAM.—For purposes of ap-  
14   plying title XIX (including the provision of medicare cost-  
15   sharing assistance under such title), an individual who is  
16   enrolled under this part shall not be treated as being enti-  
17   tled to benefits under this title.18       “(c) NOT TREATED AS MEDICARE PROGRAM FOR  
19   PURPOSES OF COBRA CONTINUATION PROVISIONS.—In  
20   applying a COBRA continuation provision (as defined in  
21   section 2791(d)(4) of the Public Health Service Act), any  
22   reference to an entitlement to benefits under this title  
23   shall not be construed to include entitlement to benefits  
24   under this title pursuant to the operation of this part.”.25       (b) CONFORMING AMENDMENTS TO SOCIAL SECU-  
26   RITY ACT PROVISIONS.—

14 (3) Section 1820(i) of such Act (42 U.S.C.  
15 1395i-4(i)) is amended by striking “part D” and in-  
16 serting “part E”.

(A) in section 1851(a)(2)(B) (42 U.S.C. 1395w-21(a)(2)(B)), by striking “1859(b)(3)” and inserting “1858(b)(3);

22 (B) in section 1851(a)(2)(C) (42 U.S.C.  
23 1395w-21(a)(2)(C)), by striking “1859(b)(2)”  
24 and inserting “1858(b)(2);

(C) in section 1852(a)(1) (42 U.S.C. 1395w-22(a)(1)), by striking “1859(b)(3)” and inserting “1858(b)(3)”;

4 (D) in section 1852(a)(3)(B)(ii) (42  
5 U.S.C. 1395w-22(a)(3)(B)(ii)), by striking  
6 "1859(b)(2)(B)" and inserting  
7 "1858(b)(2)(B)";

(E) in section 1853(a)(1)(A) (42 U.S.C. 1395w-23(a)(1)(A)), by striking “1859(e)(4)” and inserting “1858(e)(4)”; and

11 (F) in section 1853(a)(3)(D) (42 U.S.C.  
12 1395w-23(a)(3)(D)), by striking “1859(e)(4)”  
13 and inserting “1858(e)(4)”.

16 (A) in paragraph (1), by striking “or (7)”  
17 and inserting “, (7), or (8)”, and

18 (B) by adding at the end the following:

19                         “(8) ADJUSTMENT FOR EARLY ACCESS.—In ap-  
20                         plying this subsection with respect to individuals en-  
21                         titled to benefits under part D, the Secretary shall  
22                         provide for an appropriate adjustment in the  
23                         Medicare+Choice capitation rate as may be appro-  
24                         priate to reflect differences between the population

1       served under such part and the population under  
2       parts A and B.”.

3       (c) OTHER CONFORMING AMENDMENTS.—

4           (1) Section 138(b)(4) of the Internal Revenue  
5       Code of 1986 is amended by striking “1859(b)(3)”  
6       and inserting “1858(b)(3)”.

7           (2)(A) Section 602(2)(D)(ii) of the Employee  
8       Retirement Income Security Act of 1974 (29 U.S.C.  
9       1162(2)) is amended by inserting “(not including an  
10      individual who is so entitled pursuant to enrollment  
11      under section 1859A)” after “Social Security Act”.

12           (B) Section 2202(2)(D)(ii) of the Public Health  
13       Service Act (42 U.S.C. 300bb–2(2)(D)(ii)) is amend-  
14       ed by inserting “(not including an individual who is  
15       so entitled pursuant to enrollment under section  
16       1859A)” after “Social Security Act”.

17           (C) Section 4980B(f)(2)(B)(i)(V) of the Inter-  
18       nal Revenue Code of 1986 is amended by inserting  
19       “(not including an individual who is so entitled pur-  
20       suant to enrollment under section 1859A)” after  
21       “Social Security Act”.

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