

109TH CONGRESS
2^D SESSION

H. R. 5864

To provide for innovation in health care through State initiatives that expand coverage and access.

IN THE HOUSE OF REPRESENTATIVES

JULY 24, 2006

Ms. BALDWIN (for herself, Mr. PRICE of Georgia, Mr. TIERNEY, and Mr. BEAUPREZ) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To provide for innovation in health care through State initiatives that expand coverage and access.

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 “Health Partnership
5 Through Creative Federalism Act”.

6 **SEC. 2. STATE HEALTH REFORM PROJECTS.**

7 (a) **PURPOSES; ESTABLISHMENT OF STATE HEALTH**
8 **CARE EXPANSION AND IMPROVEMENT PROGRAM.—**

1 (1) PURPOSES.—The purposes of the programs
2 approved under this section shall include, but not be
3 limited to—

4 (A) achieving the goals of increased health
5 coverage and access; and

6 (B) testing alternative reforms, such as
7 building on the public or private health systems,
8 or creating new systems, to achieve the objec-
9 tives of this Act.

10 (2) INTENT OF CONGRESS.—It is the intent of
11 Congress that—

12 (A) the programs approved under this Act
13 each comprise significant coverage expansions;

14 (B) taken as a whole, such programs
15 should be diverse and balanced in their ap-
16 proaches to covering the uninsured; and

17 (C) each such program should be rigor-
18 ously and objectively evaluated, so that the
19 State programs developed pursuant to this Act
20 may guide the development of future State and
21 national policy.

22 (b) APPLICATIONS BY STATES AND LOCAL GOVERN-
23 MENTS.—

24 (1) ENTITIES THAT MAY APPLY.—

1 (A) IN GENERAL.—A State may apply for
2 a State health care expansion and improvement
3 program for the entire State (or for regions of
4 the State) under paragraph (2).

5 (B) REGIONAL AND SUB-STATE GROUPS.—
6 A regional entity consisting of more than one
7 State or one or more local governments within
8 a State may apply for a multi-State or a sub-
9 state health care expansion and improvement
10 program for the region or area involved.

11 (C) DEFINITION.—In this Act, the term
12 “State” means the 50 States, the District of
13 Columbia, and the Commonwealth of Puerto
14 Rico. Such term shall include a regional entity
15 described in subparagraph (B).

16 (2) SUBMISSION OF APPLICATION.—In accord-
17 ance with this section, each State or regional entity
18 desiring to implement a State health care expansion
19 and improvement program may submit an applica-
20 tion to the State Health Coverage Innovation Com-
21 mission under subsection (c) (referred to in this sec-
22 tion as the “Commission”) for approval.

23 (3) LOCAL GOVERNMENT APPLICATIONS.—
24 Where a State fails to submit an application under
25 this section, a unit of local government of such

1 State, or a consortium of such units of local govern-
2 ments, may submit an application directly to the
3 Commission for programs or projects under this sub-
4 section. Such an application shall be subject to the
5 requirements of this section.

6 (c) STATE HEALTH COVERAGE INNOVATION COM-
7 MISSION.—

8 (1) IN GENERAL.—Within 90 days after the
9 date of the enactment of this Act, the Secretary of
10 Health and Human Services (in this section referred
11 to as the “Secretary”) shall establish a State Health
12 Coverage Innovation Commission that—

13 (A) shall be comprised of—

14 (i) the Secretary;

15 (ii) four State governors to be ap-
16 pointed by the National Governors Associa-
17 tion on a bipartisan basis;

18 (iii) two members of a State legisla-
19 ture to be appointed, on a joint and bipar-
20 tisan basis, by the National Conference of
21 State Legislators and the American Legis-
22 lative Exchange Council;

23 (iv) two county officials to be ap-
24 pointed by the National Association of
25 Counties on a bipartisan basis;

1 (v) two mayors to be appointed, on a
2 joint and bipartisan basis, by the National
3 League of Cities and by the United States
4 Conference of Mayors;

5 (vi) two individuals to be appointed by
6 the Speaker of the House of Representa-
7 tives;

8 (vii) two individuals to be appointed
9 by the Minority Leader of the House of
10 Representatives;

11 (viii) two individuals to be appointed
12 by the Majority Leader of the Senate; and

13 (ix) two individuals to be appointed by
14 the Minority Leader of the Senate;

15 (B) shall request States to submit pro-
16 posals, which may include a variety of reform
17 options such as tax credit approaches, expan-
18 sions of public programs such as Medicaid and
19 the State Children's Health Insurance Pro-
20 gram, the creation of purchasing pooling ar-
21 rangements similar to the Federal Employees
22 Health Benefits Program, individual market
23 purchasing options, single risk pool or single
24 payer systems, health savings accounts, a com-
25 bination of the options described in this sub-

1 paragraph, or other alternatives determined ap-
2 propriate by the Commission, including options
3 suggested by States or the public, and nothing
4 in this subparagraph shall be construed to pre-
5 vent the Commission from approving a reform
6 proposal not included in this subparagraph;

7 (C) shall conduct a thorough review of the
8 grant application from a State and carry on a
9 dialogue with all State applicants concerning
10 possible modifications and adjustments;

11 (D) shall submit the recommendations and
12 legislative proposal described in subsection
13 (d)(4)(C);

14 (E) shall be responsible for receiving infor-
15 mation to determine the status and progress
16 achieved under program or projects granted
17 under this section;

18 (F) shall report to the public concerning
19 progress made by States with respect to the
20 performance measures and goals established
21 under this Act, the periodic progress of the
22 State relative to its State performance meas-
23 ures and goals, and the State program applica-
24 tion procedures, by region and State jurisdic-
25 tion;

1 (G) shall promote information exchange
2 between States and the Federal Government;

3 (H) shall be responsible for making rec-
4 ommendations to the Secretary and the Con-
5 gress, using equivalency or minimum standards,
6 for minimizing the negative effect of State pro-
7 gram on national employer groups, provider or-
8 ganizations, and insurers because of differing
9 State requirements under the programs; and

10 (I) may require States to submit additional
11 information or reports concerning the status
12 and progress achieved under health care expan-
13 sion and improvement programs granted under
14 this section, as needed.

15 (2) PERIOD OF APPOINTMENT; REPRESENTA-
16 TION REQUIREMENTS; VACANCIES.—Members shall
17 be appointed for a term of 5 years. In appointing
18 such members under paragraph (1)(A), the des-
19 ignated appointing individuals shall ensure the rep-
20 resentation of urban and rural areas and an appro-
21 priate geographic distribution of such members. Any
22 vacancy in the Commission shall not affect its pow-
23 ers, but shall be filled in the same manner as the
24 original appointment.

25 (3) CHAIRPERSON, MEETINGS.—

1 (A) CHAIRPERSON.—The Commission shall
2 select a Chairperson from among its members.

3 (B) QUORUM.—Two-thirds of the members
4 of the Commission shall constitute a quorum,
5 but a lesser number of members may hold hear-
6 ings.

7 (C) MEETINGS.—Not later than 30 days
8 after the date on which all members of the
9 Commission have been appointed, the Commis-
10 sion shall hold its first meeting. The Commis-
11 sion shall meet at the call of the Chairperson.

12 (4) POWERS OF THE COMMISSION.—

13 (A) NEGOTIATIONS WITH STATES.—The
14 Commission may conduct detailed discussions
15 and negotiations with States submitting appli-
16 cations under this section, either individually or
17 in groups, to facilitate a final set of rec-
18 ommendations for purposes of subsection
19 (d)(4)(C).

20 (B) HEARINGS.—The Commission may
21 hold such hearings, sit and act at such times
22 and places, take such testimony, and receive
23 such evidence as the Commission considers ad-
24 visable to carry out the purposes of this sub-
25 section.

1 (C) MEETINGS.—In addition to other
2 meetings the Commission may hold, the Com-
3 mission shall hold an annual meeting with the
4 participating States under this section for the
5 purpose of having States report progress to-
6 ward the purposes in subsection (a) and for an
7 exchange of information.

8 (D) INFORMATION.—The Commission may
9 secure directly from any Federal department or
10 agency such information as the Commission
11 considers necessary to carry out the provisions
12 of this subsection. Upon request of the Chair-
13 person of the Commission, the head of such de-
14 partment or agency shall furnish such informa-
15 tion to the Commission if the head of the de-
16 partment or agency involved determines it ap-
17 propriate.

18 (E) POSTAL SERVICES.—The Commission
19 may use the United States mails in the same
20 manner and under the same conditions as other
21 departments and agencies of the Federal Gov-
22 ernment.

23 (5) PERSONNEL MATTERS.—

24 (A) COMPENSATION.—Each member of the
25 Commission who is not an officer or employee

1 of the Federal Government or of a State or
2 local government shall be compensated at a rate
3 equal to the daily equivalent of the annual rate
4 of basic pay prescribed for level IV of the Execu-
5 tive Schedule under section 5315 of title 5,
6 United States Code, for each day (including
7 travel time) during which such member is en-
8 gaged in the performance of the duties of the
9 Commission. All members of the Commission
10 who are officers or employees of the United
11 States shall serve without compensation in addi-
12 tion to that received for their services as offi-
13 cers or employees of the United States.

14 (B) TRAVEL EXPENSES.—The members of
15 the Commission shall be allowed travel ex-
16 penses, including per diem in lieu of subsist-
17 ence, at rates authorized for employees of agen-
18 cies under subchapter I of chapter 57 of title 5,
19 United States Code, while away from their
20 homes or regular places of business in the per-
21 formance of services for the Commission.

22 (C) STAFF.—The Chairperson of the Com-
23 mission may, without regard to the civil service
24 laws and regulations, appoint and terminate an
25 executive director and such other additional

1 personnel as may be necessary to enable the
2 Commission to perform its duties. The employ-
3 ment of an executive director shall be subject to
4 confirmation by the Commission.

5 (D) DETAIL OF GOVERNMENT EMPLOY-
6 EES.—Any Federal Government employee may
7 be detailed to the Commission without reim-
8 bursement, and such detail shall be without
9 interruption or loss of civil service status or
10 privilege.

11 (E) TEMPORARY AND INTERMITTENT
12 SERVICES.—The Chairperson of the Commis-
13 sion may procure temporary and intermittent
14 services under section 3109(b) of title 5, United
15 States Code, at rates for individuals which do
16 not exceed the daily equivalent of the annual
17 rate of basic pay prescribed for level V of the
18 Executive Schedule under section 5316 of such
19 title.

20 (6) FUNDING.—For the purpose of carrying out
21 this subsection, there are authorized to be appro-
22 priated \$3,000,000 for fiscal year 2007 and each fis-
23 cal year thereafter.

24 (d) REQUIREMENTS FOR PROGRAMS.—

1 (1) STATE PLAN.—A State that seeks to oper-
2 ate a program under this section shall prepare and
3 submit to the Commission, as part of the application
4 under subsection (b), a State health care plan that
5 shall have as its goal increased coverage, and in
6 service of that goal such additional goals as improve-
7 ments in quality, efficiency, cost-effectiveness, and
8 the appropriate use of information technology. To
9 achieve such goal, the State plan shall comply with
10 the following:

11 (A) COVERAGE.—

12 (i) IN GENERAL.—With respect to
13 coverage, the State plan shall—

14 (I) provide and describe the man-
15 ner in which the State will ensure that
16 an increased number of individuals re-
17 siding within the State will have ex-
18 panded access to health care coverage
19 with a specific 5-year target for reduc-
20 tion in the number or proportion of
21 uninsured individuals through either
22 private or public program expansion,
23 or both, in accordance with or in addi-
24 tion to the options established by the
25 Commission;

1 (II) describe the number and per-
2 centage of current uninsured individ-
3 uals who will achieve coverage under a
4 State health program;

5 (III) describe the coverage that
6 will be provided to beneficiaries under
7 a State health program;

8 (IV) identify Federal, State, or
9 local and private programs that cur-
10 rently provide health care services in
11 the State and describe how such pro-
12 grams could be coordinated with a
13 State health program, to the extent
14 practicable; and

15 (V) provide for improvements in
16 the availability of appropriate health
17 care coverage that will increase access
18 to care in urban, suburban, rural, and
19 frontier areas of the State with medi-
20 cally underserved populations or
21 where there may be an inadequate
22 supply of health care providers.

23 (ii) COVERAGE OPTIONS.—The cov-
24 erage under the State plan may be—

1 (I) health insurance coverage
2 that meets the aggregate actuarial
3 value requirement of section
4 2103(a)(2)(B) of the Social Security
5 Act (42 U.S.C. 1397cc(a)(2)(B));

6 (II) a combination of health in-
7 surance coverage and a consumer-di-
8 rected health care spending account, if
9 the actuarial value of such coverage
10 plus the amount of annual deposits
11 into such account from sources other
12 than the beneficiary is not less than
13 the actuarial value amount described
14 in subclause (I); or

15 (III) health care access not less
16 on average than that provided
17 through coverage described in sub-
18 clause (I).

19 (iii) CONSTRUCTION.—Nothing in this
20 clause shall be construed to limit in any
21 way the authority of the Secretary of
22 Health and Human Services to issue waiv-
23 ers under section 1115 of the Social Secu-
24 rity Act.

1 (B) QUALITY.—With respect to quality,
2 the State plan may describe efforts to improve
3 health care quality in the State, including an
4 explanation of how such efforts would change
5 (if at all) under the State plan.

6 (C) COSTS.—With respect to costs, the
7 State plan shall—

8 (i) describe such steps as the State
9 may undertake to improve the efficiency of
10 health care;

11 (ii) describe the public and private
12 sector financing to be provided for the
13 State health program;

14 (iii) estimate the amount of Federal,
15 State, and local expenditures, as well as,
16 the costs to business and individuals under
17 the State health program; and

18 (iv) describe how the State plan will
19 ensure the financial solvency of the State
20 health program.

21 (D) HEALTH INFORMATION TECH-
22 NOLOGY.—With respect to health information
23 technology, the State plan may describe efforts
24 to improve the appropriate use of health infor-
25 mation technology, including an explanation of

1 how such efforts would change (if at all) under
2 the State plan.

3 (E) EXCEPTIONS TO FEDERAL POLICIES.—

4 The State plan shall describe the exceptions to
5 otherwise applicable Federal statutes, regula-
6 tions, and policies that would apply within the
7 geographic area and time period governed by
8 the plan.

9 (2) TECHNICAL ASSISTANCE.—The Secretary
10 shall, if requested, provide technical assistance to
11 States to assist such States in developing applica-
12 tions and plans under this section, including tech-
13 nical assistance by private sector entities if deter-
14 mined appropriate by the Commission.

15 (3) INITIAL REVIEW.—With respect to a State
16 application under subsection (b), the Secretary and
17 the Commission shall complete an initial review of
18 such State application within 60 days of the receipt
19 of such application, analyze the scope of the pro-
20 posal, and determine whether additional information
21 is needed from the State. The Commission shall ad-
22 vise the State within such period of the need to sub-
23 mit additional information.

24 (4) FINAL DETERMINATION.—

1 (A) IN GENERAL.—In a timely manner
2 consistent with subparagraph (C), the Commis-
3 sion shall determine whether to submit a State
4 proposal to Congress for approval.

5 (B) VOTING.—

6 (i) IN GENERAL.—The determination
7 to submit a State proposal to Congress
8 under subparagraph (A) shall be approved
9 by $\frac{2}{3}$ of the members of the Commission
10 who are present and eligible to vote and a
11 majority of the entire Commission.

12 (ii) ELIGIBILITY.—A member of the
13 Commission shall not participate in a de-
14 termination under subparagraph (A) if—

15 (I) in the case of a member who
16 is a Governor, such determination re-
17 lates to the State of which the mem-
18 ber is the Governor; or

19 (II) in the case of member not
20 described in subclause (I), such deter-
21 mination relates to the geographic
22 area of a State of which such member
23 serves as a State or local official or as
24 a Member of Congress.

1 (C) SUBMISSION.—Not later than 90 days
2 prior to October 1 of each fiscal year, the Com-
3 mission may submit to Congress a list, in the
4 form of a legislative proposal, of the State ap-
5 plications that the Commission recommends for
6 approval under this section.

7 (5) PROGRAM OR PROJECT PERIOD.—A State
8 program or project may be approved for a period of
9 5 years and may be extended for a subsequent pe-
10 riod of time upon approval by the Commission,
11 based upon achievement of targets.

12 (e) EXPEDITED CONGRESSIONAL CONSIDERATION.—

13 (1) INTRODUCTION AND EXPEDITED CONSIDER-
14 ATION IN THE HOUSE OF REPRESENTATIVES.—

15 (A) INTRODUCTION IN HOUSE OF REP-
16 RESENTATIVES.—The legislative proposal sub-
17 mitted pursuant to subsection (d)(4)(C) shall be
18 in the form of a joint resolution (in this sub-
19 section referred to as the “resolution”). Such
20 resolution shall be introduced in the House of
21 Representatives by the Speaker immediately
22 upon receipt of the language and shall be re-
23 ferred non-sequentially to the appropriate com-
24 mittee (or committees) of House of Representa-
25 tives. If the resolution is not introduced in ac-

1 cordance with the preceding sentence, the reso-
2 lution may be introduced by any member of the
3 House of Representatives.

4 (B) COMMITTEE CONSIDERATION.—Not
5 later than 15 calendar days after the introduc-
6 tion of the resolution described in subparagraph
7 (A), each committee of House of Representa-
8 tives to which the resolution was referred shall
9 report the resolution. The report may include,
10 at the committee’s discretion, a recommenda-
11 tion for action by the House. If a committee
12 has not reported such resolution (or an iden-
13 tical resolution) at the end of 15 calendar days
14 after its introduction or at the end of the first
15 day after there has been reported to the House
16 a resolution, whichever is earlier, such com-
17 mittee shall be deemed to be discharged from
18 further consideration of such resolution and
19 such resolution shall be placed on the appro-
20 priate calendar of the House of Representatives.

21 (C) EXPEDITED PROCEDURE IN HOUSE.—
22 Not later than 5 legislative days after the date
23 on which all committees have been discharged
24 from consideration of a resolution, the Speaker
25 of the House of Representatives, or the Speak-

1 er's designee, shall move to proceed to the con-
2 sideration of the resolution. It shall also be in
3 order for any member of the House of Rep-
4 resentatives to move to proceed to the consider-
5 ation of the resolution at any time after the
6 conclusion of such 5-day period. All points of
7 order against the resolution (and against con-
8 sideration of the resolution) are waived. A mo-
9 tion to proceed to the consideration of the reso-
10 lution is highly privileged in the House of Rep-
11 resentatives and is not debatable. The motion is
12 not subject to amendment, to a motion to post-
13 pone consideration of the resolution, or to a mo-
14 tion to proceed to the consideration of other
15 business. A motion to reconsider the vote by
16 which the motion to proceed is agreed to or not
17 agreed to shall not be in order. If the motion
18 to proceed is agreed to, the House of Rep-
19 resentatives shall immediately proceed to con-
20 sideration of the resolution without intervening
21 motion, order, or other business, and the reso-
22 lution shall remain the unfinished business of
23 the House of Representatives until disposed of.
24 A motion to recommit the resolution shall not
25 be in order. Upon its passage in the House, the

1 clerk of the House shall provide for its imme-
2 diate transmittal to the Senate.

3 (2) EXPEDITED CONSIDERATION IN THE SEN-
4 ATE.—

5 (A) REFERRAL TO COMMITTEE.—If the
6 resolution is agreed to by the House of Rep-
7 resentatives, upon its receipt in the Senate the
8 Majority Leader of the Senate, or the Leader's
9 designee, the resolution shall be referred to the
10 appropriate committee of Senate.

11 (B) COMMITTEE CONSIDERATION.—Not
12 later than 15 calendar days after the referral of
13 the resolution under subparagraph (A), the
14 committee of the Senate to which the resolution
15 was referred shall report the resolution. The re-
16 port may include, at the committee's discretion,
17 a recommendation for action by the Senate. If
18 a committee has not reported such resolution
19 (or an identical resolution) at the end of 15 cal-
20 endar days after its referral or at the end of the
21 first day after there has been reported to the
22 Senate a resolution, whichever is earlier, such
23 committee shall be deemed to be discharged
24 from further consideration of such resolution

1 and such resolution shall be placed on the ap-
2 propriate calendar of the Senate.

3 (C) EXPEDITED FLOOR CONSIDERATION.—

4 Not later than 5 legislative days after the date
5 on which all committees have been discharged
6 from consideration of a resolution, the Majority
7 Leader of the Senate, or the Majority Leader's
8 designee, shall move to proceed to the consider-
9 ation of the resolution. It shall also be in order
10 for any member of the Senate to move to pro-
11 ceed to the consideration of the resolution at
12 any time after the conclusion of such 5-day pe-
13 riod. All points of order against the resolution
14 (and against consideration of the resolution)
15 are waived. A motion to proceed to the consid-
16 eration of the resolution in the Senate is privi-
17 leged and is not debatable. The motion is not
18 subject to amendment, to a motion to postpone
19 consideration of the resolution, or to a motion
20 to proceed to the consideration of other busi-
21 ness. A motion to reconsider the vote by which
22 the motion to proceed is agreed to or not
23 agreed to shall not be in order. If the motion
24 to proceed is agreed to, the Senate shall imme-
25 diately proceed to consideration of the resolu-

1 tion without intervening motion, order, or other
2 business, and the resolution shall remain the
3 unfinished business of the Senate until disposed
4 of.

5 (3) RULES OF THE SENATE AND HOUSE OF
6 REPRESENTATIVES.—This subsection is enacted by
7 Congress—

8 (A) as an exercise of the rulemaking power
9 of the Senate and House of Representatives, re-
10 spectively, and is deemed to be part of the rules
11 of each House, respectively, but applicable only
12 with respect to the procedure to be followed in
13 that House in the case of a resolution under
14 this subsection, and it supersedes other rules
15 only to the extent that it is inconsistent with
16 such rules; and

17 (B) with full recognition of the constitu-
18 tional right of either House to change the rules
19 (so far as they relate to the procedure of that
20 House) at any time, in the same manner, and
21 to the same extent as in the case of any other
22 rule of that House.

23 (4) FEDERAL BUDGET NEUTRALITY.—Except
24 insofar as it allots appropriations made pursuant to
25 subsection (k), the legislative proposal submitted

1 pursuant to subsection (d)(4)(C) may not increase
2 the cumulative, net Federal budget deficit during the
3 multi-year operation of all the State applications
4 contained therein, taking into account such applica-
5 tions' impact on Federal mandatory and discre-
6 tionary spending, Federal revenue, and Federal tax
7 expenditures.

8 (f) FUNDING.—

9 (1) IN GENERAL.—The Secretary shall provide
10 a grant to a State that has an application approved
11 under subsection (e) to enable such State to carry
12 out an innovative State health program in the State,
13 to the extent that such a grant is included in the
14 recommendation of the Commission.

15 (2) AMOUNT OF GRANT.—The amount of a
16 grant provided to a State under paragraph (1) shall
17 be determined based upon the recommendations of
18 the Commission, subject to the amount appropriated
19 under subsection (k).

20 (3) PERFORMANCE-BASED FUNDING ALLOCA-
21 TION.—In awarding grants under paragraph (1), the
22 Commission shall direct the Secretary to—

23 (A) fund a balanced diversity of ap-
24 proaches as provided for by the Commission in
25 subsection (c)(1)(B); and

1 (B) link allocations to the State to the
2 meeting of the goals and performance measures
3 relating to health care coverage and health care
4 costs established under this Act through the
5 State project application process.

6 (4) REPORT.—One year prior to the end of the
7 5-year period beginning on the date on which the
8 first State begins to implement a plan approved
9 under subsection (e), the Commission shall prepare
10 and submit to the appropriate committees of Con-
11 gress, a report on the progress made by States in
12 meeting the goals of expanded coverage and cost
13 containment through performance measures estab-
14 lished during the 5-year period of the State plan.
15 Such report may contain the recommendation of the
16 Commission concerning any future action that Con-
17 gress should take concerning health care reform, in-
18 cluding whether or not to extend the program estab-
19 lished under this subsection.

20 (g) MONITORING AND EVALUATION.—

21 (1) ANNUAL REPORTS AND PARTICIPATION BY
22 STATES.—Each State that has received a program
23 approval shall—

24 (A) submit to the Commission an annual
25 report based on the period representing the re-

1 spective State’s fiscal year, detailing compliance
2 with the requirements established by the Com-
3 mission and the Secretary in the approval and
4 in this section; and

5 (B) participate in the annual meeting
6 under subsection (c)(4)(C).

7 (2) EVALUATIONS BY COMMISSION.—The Com-
8 mission shall prepare and submit to the Congress
9 annual reports that shall contain—

10 (A) a description of the effects of the re-
11 forms undertaken in States receiving approvals
12 under this section;

13 (B) a description of the recommendations
14 of the Commission and actions taken based on
15 these recommendations;

16 (C) an independent evaluation of the effec-
17 tiveness of such reforms in—

18 (i) expanding health care coverage for
19 State residents; and

20 (ii) reducing or containing health care
21 costs in the States,

22 as well as other relevant or significant findings;

23 (D) recommendations regarding the advis-
24 ability of increasing Federal financial assistance
25 for State ongoing or future health program ini-

1 tiatives, including the amount and source of
2 such assistance; and

3 (E) as required by the Commission or the
4 Secretary under this section, a periodic, inde-
5 pendent evaluation of the program.

6 (h) NONCOMPLIANCE.—

7 (1) CORRECTIVE ACTION PLANS.—If a State is
8 not in compliance with a requirement of this section,
9 the Commission, on recommendation of the Sec-
10 retary, shall develop a corrective action plan for such
11 State.

12 (2) TERMINATION.—The Commission, on rec-
13 ommendation of the Secretary, may revoke any pro-
14 gram granted under this section. Such decisions
15 shall be subject to a petition for reconsideration and
16 appeal pursuant to regulations established by the
17 Secretary.

18 (i) RELATIONSHIP TO FEDERAL PROGRAMS.—

19 (1) IN GENERAL.—Nothing in this Act, or in
20 section 1115 of the Social Security Act (42 U.S.C.
21 1315) shall be construed as authorizing the Sec-
22 retary, the Commission, a State, or any other person
23 or entity to alter or affect in any way the provisions
24 of title XIX of such Act (42 U.S.C. 1396 et seq.)
25 or the regulations implementing such title.

1 (2) MAINTENANCE OF EFFORT.—No payment
2 may be made under subsection (f)(1) if the State
3 adopts criteria for benefits or criteria for standards
4 and methodologies for purposes of determining an
5 individual’s eligibility for medical assistance under
6 the State plan under title XIX that are more restric-
7 tive than those required under Federal law and ap-
8 plied as of the date of enactment of this Act.

9 (j) MISCELLANEOUS PROVISIONS.—

10 (1) APPLICATION OF CERTAIN REQUIRE-
11 MENTS.—

12 (A) RESTRICTION ON APPLICATION OF
13 PREEXISTING CONDITION EXCLUSIONS.—

14 (i) IN GENERAL.—Subject to subpara-
15 graph (B), a State shall not permit the im-
16 position of any preexisting condition exclu-
17 sion for covered benefits under a program
18 or project under this section.

19 (ii) GROUP HEALTH PLANS AND
20 GROUP HEALTH INSURANCE COVERAGE.—
21 If the State program or project provides
22 for benefits through payment for, or a con-
23 tract with, a group health plan or group
24 health insurance coverage, the program or
25 project may permit the imposition of a pre-

1 existing condition exclusion but only inso-
2 far and to the extent that such exclusion is
3 permitted under the applicable provisions
4 of part 7 of subtitle B of title I of the Em-
5 ployee Retirement Income Security Act of
6 1974 and title XXVII of the Public Health
7 Service Act.

8 (B) COMPLIANCE WITH OTHER REQUIRE-
9 MENTS.—Coverage offered under the program
10 or project shall comply with the requirements of
11 subpart 2 of part A of title XXVII of the Public
12 Health Service Act insofar as such require-
13 ments apply with respect to a health insurance
14 issuer that offers group health insurance cov-
15 erage.

16 (2) PREVENTION OF DUPLICATIVE PAY-
17 MENTS.—

18 (A) OTHER HEALTH PLANS.—No payment
19 shall be made to a State under subsection (f)(1)
20 for expenditures for health assistance provided
21 for an individual to the extent that a private in-
22 surer (as defined by the Secretary by regulation
23 and including a group health plan (as defined
24 in section 607(1) of the Employee Retirement
25 Income Security Act of 1974), a service benefit

1 plan, and a health maintenance organization)
2 would have been obligated to provide such as-
3 sistance but for a provision of its insurance con-
4 tract which has the effect of limiting or exclud-
5 ing such obligation because the individual is eli-
6 gible for or is provided health assistance under
7 the plan.

8 (B) OTHER FEDERAL GOVERNMENTAL
9 PROGRAMS.—Except as provided in any other
10 provision of law, no payment shall be made to
11 a State under subsection (f)(1) for expenditures
12 for health assistance provided for an individual
13 to the extent that payment has been made or
14 can reasonably be expected to be made prompt-
15 ly (as determined in accordance with regula-
16 tions) under any other federally operated or fi-
17 nanced health care insurance program. For
18 purposes of this paragraph, rules similar to the
19 rules for overpayments under section
20 1903(d)(2) of the Social Security Act shall
21 apply.

22 (3) APPLICATION OF CERTAIN GENERAL PROVI-
23 SIONS.—The following provisions of the Social Secu-
24 rity Act shall apply to States under subsection (f)(1)

1 in the same manner as they apply to a State under
2 such title XIX:

3 (A) TITLE XIX PROVISIONS.—

4 (i) Section 1902(a)(4)(C) (relating to
5 conflict of interest standards).

6 (ii) Paragraphs (2), (16), and (17) of
7 section 1903(i) (relating to limitations on
8 payment).

9 (iii) Section 1903(w) (relating to limi-
10 tations on provider taxes and donations).

11 (iv) Section 1920A (relating to pre-
12 sumptive eligibility for children).

13 (B) TITLE XI PROVISIONS.—

14 (i) Section 1116 (relating to adminis-
15 trative and judicial review), but only inso-
16 far as consistent with this title.

17 (ii) Section 1124 (relating to disclo-
18 sure of ownership and related informa-
19 tion).

20 (iii) Section 1126 (relating to disclo-
21 sure of information about certain convicted
22 individuals).

23 (iv) Section 1128A (relating to civil
24 monetary penalties).

1 (v) Section 1128B(d) (relating to
2 criminal penalties for certain additional
3 charges).

4 (vi) Section 1132 (relating to periods
5 within which claims must be filed).

6 (4) RELATION TO HIPAA.—Health benefits cov-
7 erage provided under a State program or project
8 under this section shall be treated as creditable cov-
9 erage for purposes of part 7 of subtitle B of title I
10 of the Employee Retirement Income Security Act of
11 1974, title XXVII of the Public Health Service Act,
12 and subtitle K of the Internal Revenue Code of
13 1986.

14 (k) AUTHORIZATION OF APPROPRIATIONS.—There is
15 authorized to be appropriated to carry out this section,
16 such sums as may be necessary in each fiscal year.
17 Amounts appropriated for a fiscal year under this sub-
18 section and not expended may be used in subsequent fiscal
19 years to carry out this section.

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