

110TH CONGRESS  
1ST SESSION

# S. 2101

To amend title XIX of the Social Security Act to assist low-income Medicare beneficiaries by improving eligibility and services under the Medicare Savings Program, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

SEPTEMBER 26, 2007

Mr. BINGAMAN (for himself, Mr. KERRY, Mr. SALAZAR, and Ms. STABENOW) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend title XIX of the Social Security Act to assist low-income Medicare beneficiaries by improving eligibility and services under the Medicare Savings Program, 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 “Medicare Savings Program Improvement Act of 2007”.

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

Sec. 1. Short title; table of contents.

- Sec. 2. References to Medicare Savings Program.  
 Sec. 3. Increase in income levels for eligibility.  
 Sec. 4. Elimination of application of estate recovery for Medicare Savings Program beneficiaries.  
 Sec. 5. Modification of asset test.  
 Sec. 6. Eligibility for other programs.  
 Sec. 7. Effective date of MSP benefits.  
 Sec. 8. Expediting eligibility under the Medicare Savings Program.  
 Sec. 9. Treatment of qualified medicare beneficiaries, specified low-income medicare beneficiaries, and other dual eligibles as Medicare beneficiaries.  
 Sec. 10. Medicaid treatment of certain medicare providers.  
 Sec. 11. Monitoring and enforcement of limitation on beneficiary liability.  
 Sec. 12. State provision of medical assistance to dual eligibles in MA plans.

**1 SEC. 2. REFERENCES TO MEDICARE SAVINGS PROGRAM.**

2       The low-income assistance programs for Medicare  
 3 beneficiaries under the Medicaid program under title XIX  
 4 of the Social Security Act now popularly referred to the  
 5 “QMB” and “SLMB” programs are to be known as the  
 6 “Medicare Savings Program”.

**7 SEC. 3. INCREASE IN INCOME LEVELS FOR ELIGIBILITY.**

8       (a) INCREASE TO 135 PERCENT OF FPL FOR QUALI-  
 9 FIED MEDICARE BENEFICIARIES.—

10           (1) IN GENERAL.—Section 1905(p)(2) of the  
 11 Social Security Act (42 U.S.C. 1396d(p)(2)) is  
 12 amended—

13                   (A) in subparagraph (A), by striking “100  
 14 percent” and inserting “135 percent”;

15                   (B) in subparagraph (B)—

16                           (i) by striking “and” at the end of  
 17 clause (ii);

18                           (ii) by striking the period at the end  
 19 of clause (iii) and inserting “, and”; and

1 (iii) by adding at the end the fol-  
 2 lowing:

3 “(iv) January 1, 2008, is 135 percent.”; and

4 (C) in subparagraph (C)—

5 (i) by striking “and” at the end of  
 6 clause (iii);

7 (ii) by striking the period at the end  
 8 of clause (iv) and inserting “, and”; and

9 (iii) by adding at the end the fol-  
 10 lowing:

11 “(v) January 1, 2008, is 135 percent.”.

12 (2) APPLICATION OF INCOME TEST BASED ON  
 13 FAMILY SIZE.—Section 1905(p)(2)(A) of such Act  
 14 (42 U.S.C. 1396d(p)(2)(A)) is amended by adding  
 15 at the end the following: “For purposes of this sub-  
 16 paragraph, family size means the applicant, the  
 17 spouse (if any) of the applicant if living in the same  
 18 household as the applicant, and the number of indi-  
 19 viduals who are related to the applicant (or appli-  
 20 cants), who are living in the same household as the  
 21 applicant (or applicants), and who are dependent on  
 22 the applicant (or the applicant’s spouse) for at least  
 23 one-half of their financial support.”.

24 (3) NOT COUNTING IN-KIND SUPPORT AND  
 25 MAINTENANCE AS INCOME.—Section 1905(p)(2)(D)

1 of such Act (42 U.S.C. 1396d(p)(2)(D)) is amended  
 2 by adding at the end the following new clause:

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

6 (b) EXPANSION OF SPECIFIED LOW-INCOME MEDI-  
 7 CARE BENEFICIARY (SLMB) PROGRAM.—

8 (1) ELIGIBILITY OF INDIVIDUALS WITH IN-  
 9 COMES BELOW 150 PERCENT OF FPL.—Section  
 10 1902(a)(10)(E) of the Social Security Act (42  
 11 U.S.C. 1396b(a)(10)(E)) is amended—

12 (A) by adding “and” at the end of clause  
 13 (ii);

14 (B) in clause (iii)—

15 (i) by striking “and 120 percent in  
 16 1995 and years thereafter” and inserting  
 17 “, or 120 percent in 1995 and any suc-  
 18 ceeding year before 2008, or 150 percent  
 19 beginning in 2008”; and

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

21 (C) by striking clause (iv).

22 (2) PROVIDING 100 PERCENT FEDERAL FINANC-  
 23 ING.—The third sentence of section 1905(b) of such  
 24 Act (42 U.S.C. 1396d(b)) is amended by inserting  
 25 before the period at the end the following: “and with

1 respect to medical assistance for medicare cost-shar-  
2 ing provided under section 1902(a)(10)(E)(iii)”.

3 (3) REFERENCES.—Section 1905(p)(1) of such  
4 Act (42 U.S.C. 1396d(p)(1)) is amended by adding  
5 at and below subparagraph (C) the following: “The  
6 term ‘specified low-income medicare beneficiary’  
7 means an individual described in section  
8 1902(a)(10)(E)(iii).”.

9 (c) EFFECTIVE DATE.—

10 (1) Except as provided in paragraph (2), the  
11 amendments made by this section shall take effect  
12 on January 1, 2008, and, with respect to title XIX  
13 of the Social Security Act, shall apply to calendar  
14 quarters beginning on or after January 1, 2008.

15 (2) In the case of a State plan for medical as-  
16 sistance under title XIX of the Social Security Act  
17 which the Secretary of Health and Human Services  
18 determines requires State legislation (other than leg-  
19 islation appropriating funds) in order for the plan to  
20 meet the additional requirements imposed by the  
21 amendments made by this section, the State plan  
22 shall not be regarded as failing to comply with the  
23 requirements of such title solely on the basis of its  
24 failure to meet these additional requirements before  
25 the first day of the first calendar quarter beginning

1 after the close of the first regular session of the  
 2 State legislature that begins after the date of the en-  
 3 actment of this Act. For purposes of the previous  
 4 sentence, in the case of a State that has a 2-year  
 5 legislative session, each year of such session shall be  
 6 deemed to be a separate regular session of the State  
 7 legislature.

8 **SEC. 4. ELIMINATION OF APPLICATION OF ESTATE RECOV-**  
 9 **ERY FOR MEDICARE SAVINGS PROGRAM**  
 10 **BENEFICIARIES.**

11 (a) IN GENERAL.—Section 1917(b)(1)(B)(ii) of the  
 12 Social Security Act (42 U.S.C. 1396p(b)(1)(B)(ii)) is  
 13 amended by inserting “(but not including medical assist-  
 14 ance for medicare cost-sharing or for benefits described  
 15 in section 1902(a)(10)(E))” before the period at the end.

16 (b) EFFECTIVE DATE.—The amendment made by  
 17 subsection (a) shall apply to actions commencing on or  
 18 after January 1, 2008.

19 **SEC. 5. MODIFICATION OF ASSET TEST.**

20 (a) FOR QMBS.—Section 1905(p) of the Social Secu-  
 21 rity Act (42 U.S.C. 1396d(p)) is amended—

22 (1) in paragraph (1), by amending subpara-  
 23 graph (C) to read as follows:

24 “(C) whose resources (as determined under sec-  
 25 tion 1613 for purposes of the supplemental income

1 security program, except as provided in paragraph  
2 (6)(C)) do not exceed the amount described in para-  
3 graph (6)(A).”;

4 (2) by redesignating paragraph (6) as para-  
5 graph (7); and

6 (3) by inserting after paragraph (5) the fol-  
7 lowing:

8 “(6)(A) The resource level specified in this subpara-  
9 graph for—

10 “(i) for 2008 is six times the maximum amount  
11 of resources that an individual may have and obtain  
12 benefits under the supplemental security income pro-  
13 gram under title XVI; or

14 “(ii) for a subsequent year is the resource level  
15 specified in this subparagraph for the previous year  
16 increased by the annual percentage increase in the  
17 consumer price index (all items; U.S. city average)  
18 as of September of such previous year.

19 Any dollar amount established under clause (ii) that is not  
20 a multiple of \$10 shall be rounded to the nearest multiple  
21 of \$10.

22 “(B) In determining the resources of an individual  
23 (and their eligible spouse, if any) under section 1613 for  
24 purposes of paragraph (1)(C) (relating to qualified medi-  
25 care beneficiaries) or section 1902(a)(10)(E)(iii) (relating

1 to individuals popularly known as specified low-income  
2 medicare beneficiaries), the following additional exclusions  
3 shall apply—

4 “(i) No part of the value of any life insurance  
5 policy shall be taken into account.

6 “(ii) No balance in any pension or retirement  
7 plan or account shall be taken into account.”.

8 (b) FOR SLMBs.—

9 (1) PERMITTING GREATER ASSETS.—Section  
10 1902(a)(10)(E)(iii) of such Act (42 U.S.C.  
11 1396b(a)(10)(E)(iii)) is amended by inserting before  
12 the semicolon the following: “or but for the fact that  
13 their resources exceed the resource level specified in  
14 section 1905(p)(6)(A) but does not exceed the re-  
15 source level specified in section 1905(p)(6)(B)”.

16 (2) HIGHER RESOURCE LEVEL SPECIFIED.—  
17 Section 1905(p)(6) of such Act, as inserted by sub-  
18 section (a)(3), is amended by inserting after sub-  
19 paragraph (A) the following new subparagraph:

20 “(B) The resource level specified in this subpara-  
21 graph for—

22 “(i) for 2008, is \$27,500 (or \$55,000 in the  
23 case of the combined value of the individual’s assets  
24 or resources and the assets or resources of the indi-  
25 vidual’s spouse); and



1           “(ii) for a subsequent year is the applicable re-  
2           source level specified in this subparagraph for the  
3           previous year increased by the annual percentage in-  
4           crease in the consumer price index (all items; U.S.  
5           city average) as of September of such previous year.  
6 Any dollar amount established under clause (ii) that is not  
7 a multiple of \$10 shall be rounded to the nearest multiple  
8 of \$10.”.

9           (c) EFFECTIVE DATE.—

10           (1) Except as provided in paragraph (2), the  
11           amendments made by this section shall apply to cal-  
12           endar quarters beginning on or after January 1,  
13           2008.

14           (2) In the case of a State plan for medical as-  
15           sistance under title XIX of the Social Security Act  
16           which the Secretary of Health and Human Services  
17           determines requires State legislation (other than leg-  
18           islation appropriating funds) in order for the plan to  
19           meet the additional requirements imposed by the  
20           amendments made by this section, the State plan  
21           shall not be regarded as failing to comply with the  
22           requirements of such title solely on the basis of its  
23           failure to meet these additional requirements before  
24           the first day of the first calendar quarter beginning  
25           after the close of the first regular session of the

1 State legislature that begins after the date of the en-  
2 actment of this Act. For purposes of the previous  
3 sentence, in the case of a State that has a 2-year  
4 legislative session, each year of such session shall be  
5 deemed to be a separate regular session of the State  
6 legislature.

7 **SEC. 6. ELIGIBILITY FOR OTHER PROGRAMS.**

8 (a) IN GENERAL.—Section 1905(p) of the Social Se-  
9 curity Act (42 U.S.C. 1396d(p)), as amended by section  
10 4(a), is amended—

11 (1) by redesignating paragraph (7) as para-  
12 graph (8); and

13 (2) by inserting after paragraph (6) the fol-  
14 lowing new paragraph:

15 “(7) Medical assistance for some or all medicare cost-  
16 sharing under this title shall not be treated as benefits  
17 or otherwise taken into account in determining an individ-  
18 ual’s eligibility for, or the amount of benefits under, any  
19 other Federal program.”.

20 (b) EFFECTIVE DATE.—The amendments made by  
21 subsection (a) shall apply to eligibility for benefits on or  
22 after January 1, 2008.

23 **SEC. 7. EFFECTIVE DATE OF MSP BENEFITS.**

24 (a) PROVIDING FOR 3 MONTHS RETROACTIVE ELIGI-  
25 BILITY.—

1           (1) IN GENERAL.—Section 1905(a) of the So-  
2           cial Security Act (42 U.S.C. 1396d(a)) is amended,  
3           in the matter preceding paragraph (1), by striking  
4           “described in subsection (p)(1), if provided after the  
5           month” and inserting “described in subsection  
6           (p)(1) or a specified low-income medicare beneficiary  
7           described in section 1902(a)(10)(E)(iii), if provided  
8           in or after the third month before the month in  
9           which the individual expresses an interest in apply-  
10          ing to become such a beneficiary, as determined in  
11          the manner provided for assistance under section  
12          1860D–14”.

13           (2) CONFORMING AMENDMENTS.—(A) The first  
14          sentence of section 1902(e)(8) of such Act (42  
15          U.S.C. 1396a(e)(8)), as amended by section 4(c)(2),  
16          is amended by striking “(8)” and the first sentence.

17           (B) Section 1848(g)(3) of such Act (42 U.S.C.  
18          1395w–4(g)(3)) is amended by adding at the end  
19          the following new subparagraph:

20                   “(C) TREATMENT OF RETROACTIVE ELIGI-  
21                   BILITY.—In the case of an individual who is de-  
22                   termined to be eligible for medical assistance  
23                   described in subparagraph (A) retroactively, the  
24                   Secretary shall provide a process whereby  
25                   claims which are submitted for services fur-

1 nished during the period of retroactive eligi-  
 2 bility and during a month in which the indi-  
 3 vidual otherwise would have been eligible for  
 4 such assistance and which were not submitted  
 5 in accordance with such subparagraph are re-  
 6 submitted and re-processed in accordance with  
 7 such subparagraph.”.

8 (b) EFFECTIVE DATE.—The amendments made by  
 9 this section shall take effect on January 1, 2008, but shall  
 10 not result in eligibility for benefits for medicare cost-shar-  
 11 ing for months before January 2008.

12 **SEC. 8. EXPEDITING ELIGIBILITY UNDER THE MEDICARE**  
 13 **SAVINGS PROGRAM.**

14 (a) INCREASING ELIGIBILITY THROUGH THE SOCIAL  
 15 SECURITY OFFICE.—

16 (1) IN GENERAL.—Title XVIII of the Social Se-  
 17 curity Act is amended by inserting after section  
 18 1808 the following new section:

19 “EXPEDITED ENROLLMENT UNDER THE MEDICARE  
 20 SAVINGS PROGRAM THROUGH SOCIAL SECURITY OFFICES

21 “SEC. 1809. (a) IN GENERAL.—The Secretary shall  
 22 provide, in cooperation with the Commissioner of Social  
 23 Security, for an expedited process under this section for  
 24 individuals to apply and qualify for benefits under the  
 25 Medicare Savings Program. For purposes of this section,  
 26 the term ‘Medicare Savings Program’ means medical as-

1 sistance for medicare cost-sharing (as defined in section  
2 1905(p)(3)) for qualified medicare beneficiaries and speci-  
3 fied low-income medicare beneficiaries under title XIX.

4 “(b) PROCESS.—The process shall be consistent with  
5 the following:

6 “(1) COORDINATION WITH SOCIAL SECURITY  
7 AND MEDICARE ENROLLMENT PROCESS.—The appli-  
8 cation shall be part of the process for applying for  
9 benefits under title II and this title.

10 “(2) SIMPLIFIED APPLICATION PROCESS.—The  
11 application may be made over the Internet, by tele-  
12 phone, or by mail, without the need for an interview  
13 in person by the applicant or a representative of the  
14 applicant.

15 “(3) CONTENTS OF APPLICATION.—The appli-  
16 cation shall contain a description (in English, Span-  
17 ish and other languages determined appropriate by  
18 the Secretary) of the availability of and the require-  
19 ments for obtaining benefits under the Medicare  
20 Savings Program.

21 “(4) TRAINING.—Employees of the Social Secu-  
22 rity office involved shall be trained to assist individ-  
23 uals completing such applications.

24 “(5) SELF-CERTIFICATION AND  
25 VERIFICATION.—In determining whether an indi-

1       vidual is eligible for benefits under the Medicare  
2       Savings Program, the Secretary shall permit individ-  
3       uals to qualify on the basis of self certifications of  
4       income and resources meeting applicable standards  
5       without the need to provide additional documenta-  
6       tion. The Secretary shall verify that information pro-  
7       vided in the application is correct.

8               “(6) TRANSMITTAL OF APPLICATION.—

9               “(A) ELIGIBLE APPLICANTS.—In the case  
10              of an applicant determined by the Social Secu-  
11              rity office to be eligible for benefits under the  
12              Medicare Savings Program based on income  
13              and resources meeting the standards otherwise  
14              applicable, the office shall transmit to the appli-  
15              cable State Medicaid office the application so  
16              that the applicant can be enrolled within 30  
17              days based on the information collected by the  
18              office.

19              “(B) USE OF ELECTRONIC TRANSFER SYS-  
20              TEM.—Not later than two years after the date  
21              of implementation of improvements of the elec-  
22              tronic data transfer system under section 8(c)  
23              of the Medicare Savings Program Improvement  
24              Act of 2007, the process under this paragraph

1 shall use the such system for information trans-  
2 mittal.

3 “(C) INELIGIBLE APPLICANTS.—In the  
4 case of other applicants whose income and re-  
5 sources do not meet such standards, the Social  
6 Security office shall transmit to the applicable  
7 State Medicaid office the application so that the  
8 application may be considered under State  
9 standards that may be more generous than the  
10 standards otherwise generally applicable.

11 The process under this subsection shall be established and  
12 implemented one year after the date of the enactment of  
13 this section.

14 “(c) DISTRIBUTION OF APPLICATION FORM.—The  
15 Secretary shall distribute the application form used under  
16 subsection (b) to any organization that requests them, in-  
17 cluding entities receiving grants from the Secretary for  
18 programs designed to provide services to individuals 65  
19 years of age or older and people with disabilities. The  
20 Commissioner of Social Security shall make such forms  
21 available at local offices of the Social Security Administra-  
22 tion.

23 “(d) STATE RESPONSE AND APPLICATION PROC-  
24 ESS.—

1           “(1) IN GENERAL.—In the case of an applica-  
 2           tion transmitted under subsection (b)(6), the State  
 3           agency responsible for determinations of eligibility  
 4           for benefits under the State’s Medicare Savings Pro-  
 5           gram—

6                   “(A) shall make a determination on the  
 7                   application within 30 days of the date of its re-  
 8                   ceipt; and

9                   “(B) shall notify the applicant of the de-  
 10                  termination within 10 days after it is made.

11           “(2) USE OF SIMPLIFIED APPLICATION PROC-  
 12           CESS.—In the case of an application other than an  
 13           application transmitted under subsection (b)(6), a  
 14           State plan under title XIX shall provide that an ap-  
 15           plication for benefits under the Medicare Savings  
 16           Program may be made over the Internet, by tele-  
 17           phone, or by mail, without the need for an interview  
 18           in person by the applicant or a representative of the  
 19           applicant.

20           “(e) EXPEDITED APPLICATION AND ELIGIBILITY  
 21           PROCESS.—

22                   “(1) EXPEDITED PROCESS.—

23                           “(A) IN GENERAL.—As part of the expe-  
 24                           dited process for obtaining benefits under the  
 25                           Medicare Savings Program, the Secretary shall



1 through a request to the Secretary of the  
2 Treasury to obtain information sufficient to  
3 identify whether the individual involved is likely  
4 eligible for such benefits based on such infor-  
5 mation and the type of assistance under the  
6 Medicare Savings Program for which they  
7 would qualify based on such information. Such  
8 process shall be conducted in cooperation with  
9 the Commissioner of Social Security.

10 “(B) OPT IN FOR NEWLY ELIGIBLE INDI-  
11 VIDUALS.—Not later than 60 days after the  
12 date of the enactment of this subsection, the  
13 Secretary shall ensure that, as part of the  
14 Medicare enrollment process, enrolling individ-  
15 uals—

16 “(i) receive information describing the  
17 Medicare Savings Program provided under  
18 this section; and

19 “(ii) are provided the opportunity to  
20 opt-in to the expedited process described in  
21 this subsection by requesting that the  
22 Commissioner of Social Security screen the  
23 individual involved for eligibility for the  
24 Medicare Savings Program through a re-  
25 quest to the Secretary of the Treasury

1                   under section 6103(l)(21) of the Internal  
2                   Revenue Code of 1986.

3                   “(C) TRANSITION FOR CURRENTLY ELIGI-  
4                   BLE INDIVIDUALS.—In the case of any Medi-  
5                   care Savings Program eligible individual to  
6                   which subparagraph (B) did not apply at the  
7                   time of such individual’s enrollment, the Sec-  
8                   retary shall, not later than 60 days after the  
9                   date of the implementation of subparagraph  
10                  (B), request that the Commissioner of Social  
11                  Security screen such individual for eligibility for  
12                  the Medicare Savings Program provided under  
13                  this section through a request to the Secretary  
14                  of the Treasury under section 6103(l)(21) of  
15                  the Internal Revenue Code of 1986.

16                  “(2) NOTIFICATION OF POTENTIALLY ELIGIBLE  
17                  INDIVIDUALS.—Under such process, in the case of  
18                  each individual identified under paragraph (1) who  
19                  has not otherwise applied for, or been determined el-  
20                  igible for, benefits under the Medicare Savings Pro-  
21                  gram (or who has applied for and been determined  
22                  ineligible for such benefits based only on standards  
23                  in effect before January 1, 2008), the Secretary  
24                  shall send them a letter (using basic, uncomplicated  
25                  language) containing the following:

1           “(A) ELIGIBILITY.—A statement that,  
2 based on the information obtained under proc-  
3 ess under this section, the individual is likely el-  
4 ible for benefits under the Medicare Savings  
5 Program.

6           “(B) AMOUNT OF ASSISTANCE.—A de-  
7 scription of the amount of assistance under  
8 such program for which the individual would  
9 likely be eligible based on such information.

10           “(C) ATTESTATION.—A one-page applica-  
11 tion form that provides for a signed attestation,  
12 under penalty of law, as to the amount of in-  
13 come and assets of the individual and con-  
14 stitutes an application for the benefits under  
15 the Medicare Savings Program. Such form—

16           “(i) shall not require the submittal of  
17 additional documentation regarding income  
18 or assets; and

19           “(ii) shall allow for the specification  
20 of a language (other than English) that is  
21 preferred by the individual for subsequent  
22 communications with respect to the indi-  
23 vidual under this title and title XIX.

24           “(D) INFORMATION ON OUTREACH  
25 GROUPS.—Information on how the individual

1           may contact the a State outreach effort or  
2           other groups that receive grants from the Sec-  
3           retary to conduct outreach to individuals to re-  
4           ceive benefits under the Medicare Savings Pro-  
5           gram.

6           “(3) FOLLOW-UP COMMUNICATIONS.—If the in-  
7           dividual does not respond to the letter described in  
8           paragraph (2) by completing an attestation de-  
9           scribed in paragraph (2)(C) or declining to do so,  
10          the Secretary shall make additional attempts to con-  
11          tact the individual to obtain such an affirmative re-  
12          sponse.

13          “(4) HOLD-HARMLESS.—Under such process, if  
14          an individual in good faith and in the absence of  
15          fraud executes an attestation described in paragraph  
16          (2)(C) and is provided benefits under the Medicare  
17          Savings Program on the basis of such attestation, if  
18          the individual is subsequently found not eligible for  
19          such benefits, there shall be no recovery made  
20          against the individual because of such benefits im-  
21          properly paid.

22          “(5) USE OF PREFERRED LANGUAGE IN SUBSE-  
23          QUENT COMMUNICATIONS.—In the case an attesta-  
24          tion described in paragraph (2)(C) is completed and  
25          in which a language other than English is specified

1 under clause (ii) of such paragraph, the Secretary  
2 shall provide that subsequent communications to the  
3 individual under this subsection shall be in such lan-  
4 guage.

5 “(6) CONSTRUCTION.—Nothing in this sub-  
6 section shall be construed as precluding the Sec-  
7 retary from taking additional outreach efforts to en-  
8 roll eligible individuals under the Medicare Savings  
9 Program.

10 “(f) ELECTRONIC COMMUNICATION BETWEEN SO-  
11 CIAL SECURITY AND STATE MEDICAID AGENCIES AND  
12 THE SECRETARY.—

13 “(1) NOTICE BY SOCIAL SECURITY TO SEC-  
14 RETARY AND STATE MEDICAID AGENCIES.—In the  
15 case of a determination of eligibility of an individual  
16 under section 1860D–14(a)(3)(B)(i) by the Commis-  
17 sioner of Social Security, the Commissioner shall  
18 provide for notice, preferably in electronic form, to  
19 the Secretary and to State medicaid agency under  
20 title XIX of such determination for purposes of ena-  
21 bling the individual to automatically qualify for ben-  
22 efits under the Medicare Savings Program under  
23 such title through the operation of section  
24 1905(p)(8).

1           “(2) NOTICE BY STATES TO SECRETARY.—In  
2           the case that the State determines that an individual  
3           is a qualified medicare beneficiary or a specified low-  
4           income medicare beneficiary under title XIX, the  
5           State shall provide for notice, preferably in elec-  
6           tronic form, to the Secretary of such determination  
7           for purposes of enabling the individual to automati-  
8           cally qualify for low-income subsidies under section  
9           1860D–14 through the operation of section  
10          1905(a)(3)(G).

11          “(3) DEADLINE.—Each State (as defined for  
12          purposes of title XIX) and the Secretary shall estab-  
13          lish the notification process described in this sub-  
14          section not later than 1 year after the date of the  
15          enactment of this section.”.

16          (2) DISCLOSURE OF RETURN INFORMATION  
17          FOR PURPOSES OF SCREENING INDIVIDUALS FOR  
18          ELIGIBILITY FOR BENEFITS UNDER THE MEDICARE  
19          SAVINGS PROGRAM.—

20                 (A) IN GENERAL.—Subsection (l) of sec-  
21                 tion 6103 of the Internal Revenue Code of 1986  
22                 is amended by adding at the end the following  
23                 new paragraph:

1           “(21) DISCLOSURE OF RETURN INFORMATION  
2           FOR PURPOSES OF PROVIDING BENEFITS UNDER  
3           THE MEDICARE SAVINGS PROGRAM.—

4                   “(A) RETURN INFORMATION FROM INTER-  
5                   NAL REVENUE SERVICE TO SOCIAL SECURITY  
6                   ADMINISTRATION.—The Secretary, upon writ-  
7                   ten request from the Commissioner of Social  
8                   Security under section 1809(e)(1)(A) of the So-  
9                   cial Security Act, shall disclose to the Commis-  
10                  sioner with respect to any taxpayer identified by  
11                  the Commissioner—

12                           “(i)(I) whether the adjusted gross in-  
13                           come, as modified in accordance with spec-  
14                           ifications of the Secretary of Health and  
15                           Human Services for purposes of carrying  
16                           out such section, of such taxpayer and, if  
17                           applicable, such taxpayer’s spouse, for the  
18                           applicable year, exceeds the amounts speci-  
19                           fied by the Secretary of Health and  
20                           Human Services in order to apply the 135  
21                           and 150 percent poverty lines under sec-  
22                           tion           1905(p)           and           section  
23                           1902(a)(10)(E)(ii) of such Act;

24                           “(II) the adjusted gross income (as  
25                           determined under subclause (I)), in the

1 case of a taxpayer with respect to which  
2 such adjusted gross income exceeds the  
3 amount so specified for applying the 135  
4 percent poverty line and does not exceed  
5 the amount so specified for applying the  
6 150 percent poverty line;

7 “(III) whether the return was a joint  
8 return for the applicable year; and

9 “(IV) the applicable year; or

10 “(ii) if applicable, the fact that there  
11 is no return filed for such taxpayer for the  
12 applicable year.

13 “(B) DEFINITION OF APPLICABLE YEAR.—

14 For the purposes of this paragraph, the term  
15 ‘applicable year’ means the most recent taxable  
16 year for which information is available in the  
17 Internal Revenue Service’s taxpayer data infor-  
18 mation systems, or, if there is no return filed  
19 for such taxpayer for such year, the prior tax-  
20 able year.

21 “(C) RESTRICTION ON INDIVIDUALS FOR  
22 WHOM DISCLOSURE IS REQUESTED.—The Com-  
23 missioner of Social Security shall only request  
24 information under this paragraph with respect  
25 to individuals who have requested that such re-



1           quest be made under section 1809(e) of the So-  
2           cial Security Act.

3           “(D) RETURN INFORMATION FROM SOCIAL  
4           SECURITY ADMINISTRATION TO DEPARTMENT  
5           OF HEALTH AND HUMAN SERVICES.—The Com-  
6           missioner of Social Security shall, upon written  
7           request from the Secretary of Health and  
8           Human Services, disclose to the Secretary of  
9           Health and Human Services the information  
10          described in clauses (i) and (ii) of subparagraph  
11          (A).

12          “(E) PERMISSIVE DISCLOSURE TO OFFI-  
13          CERS, EMPLOYEES, AND CONTRACTORS.—The  
14          information described in clauses (i) and (ii) of  
15          subparagraph (A) may be disclosed among offi-  
16          cers, employees, and contractors of the Social  
17          Security Administration and the Department of  
18          Health and Human Services for the purposes  
19          described in subparagraph (F).

20          “(F) RESTRICTION ON USE OF DISCLOSED  
21          INFORMATION.—Return information disclosed  
22          under this paragraph may be used only for the  
23          purposes of identifying eligible individuals for,  
24          and administering—

1 “(i) low-income subsidies under sec-  
2 tion 1860D–14 of the Social Security Act;  
3 and

4 “(ii) the Medicare Savings Program  
5 implemented under clauses (i) and (ii) of  
6 section 1902(a)(10)(E) of such Act.”.

7 (B) CONFIDENTIALITY.—Paragraph (3) of  
8 section 6103(a) of such Code is amended by  
9 striking “or (20)” and inserting “(20), or  
10 (21)”.

11 (C) PROCEDURES AND RECORD KEEPING  
12 RELATED TO DISCLOSURES.—Paragraph (4) of  
13 section 6103(p) of such Code is amended by  
14 striking “or (20)” each place it appears and in-  
15 serting “(20), or (21)”.

16 (D) UNAUTHORIZED DISCLOSURE OR IN-  
17 SPECTION.—Paragraph (2) of section 7213(a)  
18 of such Code is amended by striking “or (20)”  
19 and inserting “(20), or (21)”.

20 (b) TWO-WAY DEEMING BETWEEN MEDICARE SAV-  
21 INGS PROGRAM AND LOW-INCOME SUBSIDY PROGRAM.—

22 (1) MEDICARE SAVINGS PROGRAM.—Section  
23 1905(p) of the Social Security Act (42 U.S.C.  
24 1396d(p)), as amended by sections 4(a) and 5(a), is  
25 amended—

1 (A) by redesignating paragraph (8) as  
2 paragraph (9); and

3 (B) by inserting after paragraph (7) the  
4 following new paragraph:

5 “(8) An individual who has been determined eligible  
6 for premium and cost-sharing subsidies under—

7 “(A) section 1860D–14(a)(1) is deemed, for  
8 purposes of this title and without the need to file  
9 any additional application, to be a qualified medicare  
10 beneficiary for purposes of this title; or

11 “(B) section 1860D–14(a)(2) is deemed, for  
12 purposes of this title and without the need to file  
13 any additional application, to qualify for medical as-  
14 sistance as a specified low-income medicare bene-  
15 ficiary (described in section 1902(a)(10)(E)(iii)).”.

16 (2) LOW-INCOME SUBSIDY PROGRAM.—Section  
17 1860D–14(a)(3) of such Act (42 U.S.C. 1395w–  
18 104(a)(3)) is amended by adding at the end the fol-  
19 lowing new subparagraph:

20 “(G) DEEMED TREATMENT FOR QUALI-  
21 FIED MEDICARE BENEFICIARIES AND SPECI-  
22 FIED LOW-INCOME MEDICARE BENE-  
23 FICIARIES.—

24 “(i) QMBS ELIGIBLE FOR FULL SUB-  
25 SIDY.—A part D eligible individual who

1           has been determined for purposes of title  
 2           XIX to be a qualified medicare beneficiary  
 3           is deemed, for purposes of this part and  
 4           without the need to file any additional ap-  
 5           plication, to be a subsidy eligible individual  
 6           described in paragraph (1).

7           “(ii) SLMBS ELIGIBLE FOR PARTIAL  
 8           SUBSIDY.—A part D eligible individual  
 9           who has been determined to be a specified  
 10          low-income medicare beneficiary (as de-  
 11          fined in section 1905(p)(1)) and who is not  
 12          described in paragraph (1) is deemed, for  
 13          purposes of this part and without the need  
 14          to file any additional application, to be a  
 15          subsidy eligible individual who is not de-  
 16          scribed in paragraph (1).”.

17          (3) EFFECTIVE DATE.—The amendments made  
 18          by this subsection shall apply to eligibility for  
 19          months beginning on or after January 2008.

20          (c) IMPROVEMENTS IN ELECTRONIC COMMUNICA-  
 21          TION BETWEEN SOCIAL SECURITY, STATE MEDICAID  
 22          AGENCIES, AND THE SECRETARY OF HEALTH AND  
 23          HUMAN SERVICES.—

24          (1) IN GENERAL.—Not later than two years  
 25          after the date of the enactment of this Act, the

1 Commissioner of Social Security, the Secretary of  
2 Health and Human Services, and the directors of  
3 State Medicaid agencies shall implement improve-  
4 ments to the electronic data transfer system by  
5 which they communicate directly and electronically  
6 with each other with respect to individuals who have  
7 enrolled for benefits under any part of the Medicare  
8 Savings Program in order to ensure that each of  
9 them has exactly the same list of beneficiaries who  
10 are signed up for the Medicare Savings Program.

11 (2) INCREASED ADMINISTRATIVE MATCH.—In  
12 order to implement paragraph (1)—

13 (A) the Medicaid administrative match  
14 under section 1903(a)(7) of the Social Security  
15 Act shall be increased to 75 percent with re-  
16 spect to expenditures made in carrying out such  
17 paragraph; and

18 (B) there is appropriated to the Commis-  
19 sioner of Social Security and the Secretary of  
20 Health and Human Services, from any amounts  
21 in the Treasury not otherwise appropriated,  
22 \$2,000,000 each for each of fiscal years 2008  
23 and 2009 to implement paragraph (1).

24 (3) USE OF SYSTEM.—After the implementation  
25 of the improvements to the electronic data transfer

1 system under paragraph (1), the Commissioner of  
2 Social Security, State Medicaid agencies, and the  
3 Secretary of Health and Human Services shall pri-  
4 marily use this system for the Commissioner and the  
5 Secretary to inform the State Medicaid agencies to  
6 enroll a beneficiary for the Medicare Savings Pro-  
7 gram.

8 (d) IMPROVED COORDINATION WITH STATE, LOCAL,  
9 AND OTHER PARTNERS.—

10 (1) STATE GRANTS.—

11 (A) IN GENERAL.—The Secretary of  
12 Health and Human Services shall enter into  
13 contracts with States (as defined for purposes  
14 of title XIX of the Social Security Act (42  
15 U.S.C. 1396 et seq.) to provide funds to States  
16 to use information identified under subsection  
17 (c), and other appropriate information, in order  
18 to do ex parte determinations or utilize other  
19 methods for identifying and enrolling individ-  
20 uals who are potentially—

21 (i) eligible for benefits under the  
22 Medicare Savings Program (under sections  
23 1905(p) of the Social Security Act, 42  
24 U.S.C. 1396d(p)); or

1 (ii) entitled to a premium or cost-  
2 sharing subsidy under section 1860D-14  
3 of such Act (42 U.S.C. 1395w-114).

4 (B) AUTHORIZATION OF APPROPRIA-  
5 TIONS.—There are authorized to be appro-  
6 priated such sums as may be necessary to the  
7 Secretary of Health and Human Services for  
8 the purpose of making contracts under this  
9 paragraph.

10 (2) FUNDING OF STATE HEALTH INSURANCE  
11 COUNSELING AND SIMILAR PROGRAMS.—

12 (A) AUTHORIZATION OF APPROPRIA-  
13 TIONS.—In addition to any other funds author-  
14 ized to be appropriated, there are authorized to  
15 be appropriated \$3,000,000 for each of cal-  
16 endar years 2008 through 2012 to carry out ac-  
17 tivities described in subparagraph (B).

18 (B) ACTIVITIES DESCRIBED.—The activi-  
19 ties described in this subparagraph are the fol-  
20 lowing:

21 (i) Activities under section 4360 of  
22 the Omnibus Budget Reconciliation Act of  
23 1990 for the purpose of outreach to low-in-  
24 come Medicare beneficiaries to assist in ap-  
25 plying for and obtaining benefits under the

1 Medicare Savings Program (under title  
 2 XIX of the Social Security Act) and the  
 3 low-income subsidy program under section  
 4 1860D–14 of such Act.

5 (ii) Activities of the National Center  
 6 on Senior Benefits Outreach and Enroll-  
 7 ment (as described in section  
 8 202(a)(20)(B) of the Older Americans Act  
 9 of 1965 (42 U.S.C. 3012(a)(20)(B)).

10 (iii) Similar activities carried out by  
 11 other qualified agencies designated by the  
 12 Secretary of Health and Human Services.

13 **SEC. 9. TREATMENT OF QUALIFIED MEDICARE BENE-**  
 14 **FICIARIES, SPECIFIED LOW-INCOME MEDI-**  
 15 **CARE BENEFICIARIES, AND OTHER DUAL ELI-**  
 16 **GIBLES AS MEDICARE BENEFICIARIES.**

17 (a) IN GENERAL.—Section 1862 of the Social Secu-  
 18 rity Act (42 U.S.C. 1395y) is amended by adding at the  
 19 end the following new subsection:

20 “(n) TREATMENT OF QUALIFIED MEDICARE BENE-  
 21 FICIARIES (QMBS), SPECIFIED LOW-INCOME MEDICARE  
 22 BENEFICIARIES (SLMBS), AND OTHER DUAL ELIGI-  
 23 BLES.—Nothing in this title shall be construed as author-  
 24 izing a provider of services or supplier to discriminate  
 25 (through a private contractual arrangement or otherwise)



1 against an individual who is otherwise entitled to services  
2 under this title on the basis that the individual is a quali-  
3 fied medicare beneficiary (as defined in section  
4 1905(p)(1)), a specified low-income medicare beneficiary,  
5 or is otherwise eligible for medical assistance for medicare  
6 cost-sharing or other benefits under title XIX.”.

7 (b) EFFECTIVE DATE.—The amendment made by  
8 subsection (a) shall apply to items and services furnished  
9 on or after the date of the enactment of this Act.

10 **SEC. 10. MEDICAID TREATMENT OF CERTAIN MEDICARE**  
11 **PROVIDERS.**

12 (a) IN GENERAL.—Section 1902(n) of the Social Se-  
13 curity Act (42 U.S.C. 1396a(n)) is amended by adding  
14 at the end the following new paragraph:

15 “(4) A State plan shall not deny a claim from  
16 a provider or supplier with respect to medicare cost-  
17 sharing described in subparagraph (B), (C), or (D)  
18 of section 1905(p)(3) for an item or service which is  
19 eligible for payment under title XVIII on the basis  
20 that the provider or supplier does not have a pro-  
21 vider agreement in effect under this title or does not  
22 otherwise serve all individuals entitled to medical as-  
23 sistance under this title.”.

1 (b) EFFECTIVE DATE.—The amendment made by  
2 subsection (a) shall apply to items and services furnished  
3 on or after the date of the enactment of this Act.

4 **SEC. 11. MONITORING AND ENFORCEMENT OF LIMITATION**  
5 **ON BENEFICIARY LIABILITY.**

6 Section 1902(n) of the Social Security Act (42 U.S.C.  
7 1396b(n)), as amended by section 9(a), is further amend-  
8 ed by adding at the end the following new paragraph:

9 “(5)(A) The Inspector General of the Depart-  
10 ment of Health and Human Services shall examine,  
11 not later than one year after the date of the enact-  
12 ment of this paragraph and every three years there-  
13 after, whether providers have attempted to make  
14 qualified medicare beneficiaries liable for  
15 deductibles, coinsurance, and co-payments in viola-  
16 tion of paragraph (3)(B). The Inspector General  
17 shall submit to the Secretary a report on such exam-  
18 ination and a finding as to whether qualified medi-  
19 care beneficiaries have been held liable in violation  
20 of such paragraph.

21 “(B) If a report under subparagraph (A) in-  
22 cludes a finding that qualified medicare beneficiaries  
23 have been held liable in violation of such paragraph,  
24 not later than 60 days after the date of receiving  
25 such report the Secretary shall submit to Congress

1 a report that includes a plan of action on how to en-  
2 force provisions of such paragraph.”.

3 **SEC. 12. STATE PROVISION OF MEDICAL ASSISTANCE TO**  
4 **DUAL ELIGIBLES IN MA PLANS.**

5 (a) IN GENERAL.—Section 1902(n) of the Social Se-  
6 curity Act (42 U.S.C. 1396b(n)), as amended by section  
7 10, is further amended by adding at the end the following  
8 new paragraph:

9 “(6)(A) Each State shall—

10 “(i) identify those individuals who are eli-  
11 gible for medical assistance for medicare cost-  
12 sharing and who are enrolled with a Medicare  
13 Advantage plan under part C of title XVIII;  
14 and

15 “(ii) for the individuals so identified, pro-  
16 vide for payment of medical assistance for the  
17 medicare cost-sharing (including cost-sharing  
18 under a Medicare Advantage plan) to which  
19 they are entitled.

20 “(B)(i) The Inspector General of the Depart-  
21 ment of Health and Human Services shall examine,  
22 not later than one year after the date of the enact-  
23 ment of this paragraph and every three years there-  
24 after, whether States are providing for medical as-  
25 sistance for medicare cost-sharing for individuals en-

1 rolled in Medicare Advantage plans in accordance  
2 with this title. The Inspector General shall submit to  
3 the Secretary a report on such examination and a  
4 finding as to whether States are failing to provide  
5 such medical assistance.

6 “(ii) If a report under clause (i) includes a find-  
7 ing that States are failing to provide such medical  
8 assistance, not later than 60 days after the date of  
9 receiving such report the Secretary shall submit to  
10 Congress a report that includes a plan of action on  
11 how to enforce such requirement.”.

12 (b) EFFECTIVE DATE.—

13 (1) Except as provided in paragraph (2), the  
14 amendment made by subsection (a) shall apply to  
15 calendar quarters beginning on or after the date of  
16 the enactment of this Act.

17 (2) In the case of a State plan for medical as-  
18 sistance under title XIX of the Social Security Act  
19 which the Secretary of Health and Human Services  
20 determines requires State legislation (other than leg-  
21 islation appropriating funds) in order for the plan to  
22 meet the additional requirements imposed by the  
23 amendment made by subsection (a), the State plan  
24 shall not be regarded as failing to comply with the  
25 requirements of such title solely on the basis of its

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

○