

In the Senate of the United States,

December 24, 2009.

Resolved, That the bill from the House of Representatives (H.R. 3590) entitled “An Act to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes.”, do pass with the following

AMENDMENTS:

Strike all after the enacting clause and insert the following:

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) *SHORT TITLE.*—*This Act may be cited as the “Pa-*
 3 *tient Protection and Affordable Care Act”.*

4 (b) *TABLE OF CONTENTS.*—*The table of contents of this*
 5 *Act is as follows:*

Sec. 1. Short title; table of contents.

*TITLE I—QUALITY, AFFORDABLE HEALTH CARE FOR ALL
 AMERICANS*

*Subtitle A—Immediate Improvements in Health Care Coverage for All
 Americans*

Sec. 1001. Amendments to the Public Health Service Act.

“PART A—INDIVIDUAL AND GROUP MARKET REFORMS

“SUBPART II—IMPROVING COVERAGE

“Sec. 2711. No lifetime or annual limits.

“Sec. 2712. Prohibition on rescissions.

“Sec. 2713. Coverage of preventive health services.

“Sec. 2714. Extension of dependent coverage.

*“Sec. 2715. Development and utilization of uniform explanation of coverage
 documents and standardized definitions.*

“Sec. 2716. Prohibition of discrimination based on salary.

“Sec. 2717. Ensuring the quality of care.

“Sec. 2718. Bringing down the cost of health care coverage.

“Sec. 2719. Appeals process.

Sec. 1002. Health insurance consumer information.

Sec. 1003. Ensuring that consumers get value for their dollars.

Sec. 1004. Effective dates.

Subtitle B—Immediate Actions to Preserve and Expand Coverage

Sec. 1101. Immediate access to insurance for uninsured individuals with a pre-
existing condition.

Sec. 1102. Reinsurance for early retirees.

*Sec. 1103. Immediate information that allows consumers to identify affordable
 coverage options.*

Sec. 1104. Administrative simplification.

Sec. 1105. Effective date.

Subtitle C—Quality Health Insurance Coverage for All Americans

PART I—HEALTH INSURANCE MARKET REFORMS

Sec. 1201. Amendment to the Public Health Service Act.

“SUBPART I—GENERAL REFORM

- “Sec. 2704. Prohibition of preexisting condition exclusions or other discrimination based on health status.*
- “Sec. 2701. Fair health insurance premiums.*
- “Sec. 2702. Guaranteed availability of coverage.*
- “Sec. 2703. Guaranteed renewability of coverage.*
- “Sec. 2705. Prohibiting discrimination against individual participants and beneficiaries based on health status.*
- “Sec. 2706. Non-discrimination in health care.*
- “Sec. 2707. Comprehensive health insurance coverage.*
- “Sec. 2708. Prohibition on excessive waiting periods.*

PART II—OTHER PROVISIONS

- Sec. 1251. Preservation of right to maintain existing coverage.*
- Sec. 1252. Rating reforms must apply uniformly to all health insurance issuers and group health plans.*
- Sec. 1253. Effective dates.*

*Subtitle D—Available Coverage Choices for All Americans**PART I—ESTABLISHMENT OF QUALIFIED HEALTH PLANS*

- Sec. 1301. Qualified health plan defined.*
- Sec. 1302. Essential health benefits requirements.*
- Sec. 1303. Special rules.*
- Sec. 1304. Related definitions.*

PART II—CONSUMER CHOICES AND INSURANCE COMPETITION THROUGH HEALTH BENEFIT EXCHANGES

- Sec. 1311. Affordable choices of health benefit plans.*
- Sec. 1312. Consumer choice.*
- Sec. 1313. Financial integrity.*

PART III—STATE FLEXIBILITY RELATING TO EXCHANGES

- Sec. 1321. State flexibility in operation and enforcement of Exchanges and related requirements.*
- Sec. 1322. Federal program to assist establishment and operation of nonprofit, member-run health insurance issuers.*
- Sec. 1323. Community health insurance option.*
- Sec. 1324. Level playing field.*

PART IV—STATE FLEXIBILITY TO ESTABLISH ALTERNATIVE PROGRAMS

- Sec. 1331. State flexibility to establish basic health programs for low-income individuals not eligible for Medicaid.*
- Sec. 1332. Waiver for State innovation.*
- Sec. 1333. Provisions relating to offering of plans in more than one State.*

PART V—REINSURANCE AND RISK ADJUSTMENT

- Sec. 1341. Transitional reinsurance program for individual and small group markets in each State.*
- Sec. 1342. Establishment of risk corridors for plans in individual and small group markets.*

Sec. 1343. Risk adjustment.

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PART I—PREMIUM TAX CREDITS AND COST-SHARING REDUCTIONS

SUBPART A—PREMIUM TAX CREDITS AND COST-SHARING REDUCTIONS

Sec. 1401. Refundable tax credit providing premium assistance for coverage under a qualified health plan.

Sec. 1402. Reduced cost-sharing for individuals enrolling in qualified health plans.

SUBPART B—ELIGIBILITY DETERMINATIONS

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Sec. 1412. Advance determination and payment of premium tax credits and cost-sharing reductions.

Sec. 1413. Streamlining of procedures for enrollment through an exchange and State Medicaid, CHIP, and health subsidy programs.

Sec. 1414. Disclosures to carry out eligibility requirements for certain programs.

Sec. 1415. Premium tax credit and cost-sharing reduction payments disregarded for Federal and Federally-assisted programs.

PART II—SMALL BUSINESS TAX CREDIT

Sec. 1421. Credit for employee health insurance expenses of small businesses.

Subtitle F—Shared Responsibility for Health Care

PART I—INDIVIDUAL RESPONSIBILITY

Sec. 1501. Requirement to maintain minimum essential coverage.

Sec. 1502. Reporting of health insurance coverage.

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Sec. 1511. Automatic enrollment for employees of large employers.

Sec. 1512. Employer requirement to inform employees of coverage options.

Sec. 1513. Shared responsibility for employers.

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Sec. 1552. Transparency in government.

Sec. 1553. Prohibition against discrimination on assisted suicide.

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Sec. 1556. Equity for certain eligible survivors.

Sec. 1557. Nondiscrimination.

Sec. 1558. Protections for employees.

Sec. 1559. Oversight.

Sec. 1560. Rules of construction.

- Sec. 1561. Health information technology enrollment standards and protocols.*
Sec. 1562. Conforming amendments.
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- Sec. 2001. Medicaid coverage for the lowest income populations.*
Sec. 2002. Income eligibility for nonelderly determined using modified gross income.
Sec. 2003. Requirement to offer premium assistance for employer-sponsored insurance.
Sec. 2004. Medicaid coverage for former foster care children.
Sec. 2005. Payments to territories.
Sec. 2006. Special adjustment to FMAP determination for certain States recovering from a major disaster.
Sec. 2007. Medicaid Improvement Fund rescission.

Subtitle B—Enhanced Support for the Children’s Health Insurance Program

- Sec. 2101. Additional federal financial participation for CHIP.*
Sec. 2102. Technical corrections.

Subtitle C—Medicaid and CHIP Enrollment Simplification

- Sec. 2201. Enrollment Simplification and coordination with State Health Insurance Exchanges.*
Sec. 2202. Permitting hospitals to make presumptive eligibility determinations for all Medicaid eligible populations.

Subtitle D—Improvements to Medicaid Services

- Sec. 2301. Coverage for freestanding birth center services.*
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Sec. 2303. State eligibility option for family planning services.
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Sec. 2403. Money Follows the Person Rebalancing Demonstration.
Sec. 2404. Protection for recipients of home and community-based services against spousal impoverishment.
Sec. 2405. Funding to expand State Aging and Disability Resource Centers.
Sec. 2406. Sense of the Senate regarding long-term care.

Subtitle F—Medicaid Prescription Drug Coverage

- Sec. 2501. Prescription drug rebates.*
Sec. 2502. Elimination of exclusion of coverage of certain drugs.
Sec. 2503. Providing adequate pharmacy reimbursement.

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- Sec. 2551. Disproportionate share hospital payments.*

Subtitle H—Improved Coordination for Dual Eligible Beneficiaries

- Sec. 2601. 5-year period for demonstration projects.*
Sec. 2602. Providing Federal coverage and payment coordination for dual eligible beneficiaries.

Subtitle I—Improving the Quality of Medicaid for Patients and Providers

- Sec. 2701. Adult health quality measures.*
Sec. 2702. Payment Adjustment for Health Care-Acquired Conditions.
Sec. 2703. State option to provide health homes for enrollees with chronic conditions.
Sec. 2704. Demonstration project to evaluate integrated care around a hospitalization.
Sec. 2705. Medicaid Global Payment System Demonstration Project.
Sec. 2706. Pediatric Accountable Care Organization Demonstration Project.
Sec. 2707. Medicaid emergency psychiatric demonstration project.

Subtitle J—Improvements to the Medicaid and CHIP Payment and Access Commission (MACPAC)

- Sec. 2801. MACPAC assessment of policies affecting all Medicaid beneficiaries.*

Subtitle K—Protections for American Indians and Alaska Natives

- Sec. 2901. Special rules relating to Indians.*
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- Sec. 2951. Maternal, infant, and early childhood home visiting programs.*
Sec. 2952. Support, education, and research for postpartum depression.
Sec. 2953. Personal responsibility education.
Sec. 2954. Restoration of funding for abstinence education.
Sec. 2955. Inclusion of information about the importance of having a health care power of attorney in transition planning for children aging out of foster care and independent living programs.

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- Sec. 3012. Interagency Working Group on Health Care Quality.*
- Sec. 3013. Quality measure development.*
- Sec. 3014. Quality measurement.*
- Sec. 3015. Data collection; public reporting.*

PART III—ENCOURAGING DEVELOPMENT OF NEW PATIENT CARE MODELS

- Sec. 3021. Establishment of Center for Medicare and Medicaid Innovation within CMS.*
- Sec. 3022. Medicare shared savings program.*
- Sec. 3023. National pilot program on payment bundling.*
- Sec. 3024. Independence at home demonstration program.*
- Sec. 3025. Hospital readmissions reduction program.*
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- Sec. 3102. Extension of the work geographic index floor and revisions to the practice expense geographic adjustment under the Medicare physician fee schedule.*
- Sec. 3103. Extension of exceptions process for Medicare therapy caps.*
- Sec. 3104. Extension of payment for technical component of certain physician pathology services.*
- Sec. 3105. Extension of ambulance add-ons.*
- Sec. 3106. Extension of certain payment rules for long-term care hospital services and of moratorium on the establishment of certain hospitals and facilities.*
- Sec. 3107. Extension of physician fee schedule mental health add-on.*
- Sec. 3108. Permitting physician assistants to order post-Hospital extended care services.*
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- Sec. 3110. Part B special enrollment period for disabled TRICARE beneficiaries.*
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- Sec. 3122. Extension of Medicare reasonable costs payments for certain clinical diagnostic laboratory tests furnished to hospital patients in certain rural areas.*
- Sec. 3123. Extension of the Rural Community Hospital Demonstration Program.*
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- Sec. 3127. MedPAC study on adequacy of Medicare payments for health care providers serving in rural areas.*
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- Sec. 3309. Elimination of cost sharing for certain dual eligible individuals.*
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- Sec. 3311. Improved Medicare prescription drug plan and MA–PD plan complaint system.*
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- Sec. 3313. Office of the Inspector General studies and reports.*
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- Sec. 3401. Revision of certain market basket updates and incorporation of productivity improvements into market basket updates that do not already incorporate such improvements.*
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- Sec. 3502. Establishing community health teams to support the patient-centered medical home.*
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- Sec. 10323. Medicare coverage for individuals exposed to environmental health hazards.*
- Sec. 10324. Protections for frontier States.*
- Sec. 10325. Revision to skilled nursing facility prospective payment system.*
- Sec. 10326. Pilot testing pay-for-performance programs for certain Medicare providers.*
- Sec. 10327. Improvements to the physician quality reporting system.*
- Sec. 10328. Improvement in part D medication therapy management (MTM) programs.*
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- Sec. 10330. Modernizing computer and data systems of the Centers for Medicare & Medicaid services to support improvements in care delivery.*
- Sec. 10331. Public reporting of performance information.*
- Sec. 10332. Availability of medicare data for performance measurement.*
- Sec. 10333. Community-based collaborative care networks.*
- Sec. 10334. Minority health.*
- Sec. 10335. Technical correction to the hospital value-based purchasing program.*
- Sec. 10336. GAO study and report on Medicare beneficiary access to high-quality dialysis services.*

Subtitle D—Provisions Relating to Title IV

- Sec. 10401. Amendments to subtitle A.*
- Sec. 10402. Amendments to subtitle B.*
- Sec. 10403. Amendments to subtitle C.*
- Sec. 10404. Amendments to subtitle D.*
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- Sec. 10408. Grants for small businesses to provide comprehensive workplace wellness programs.*
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- Sec. 10412. Automated Defibrillation in Adam's Memory Act.*
- Sec. 10413. Young women's breast health awareness and support of young women diagnosed with breast cancer.*

Subtitle E—Provisions Relating to Title V

- Sec. 10501. Amendments to the Public Health Service Act, the Social Security Act, and title V of this Act.*

- Sec. 10502. Infrastructure to Expand Access to Care.*
Sec. 10503. Community Health Centers and the National Health Service Corps Fund.
Sec. 10504. Demonstration project to provide access to affordable care.

Subtitle F—Provisions Relating to Title VI

- Sec. 10601. Revisions to limitation on medicare exception to the prohibition on certain physician referrals for hospitals.*
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Sec. 10605. Certain other providers permitted to conduct face to face encounter for home health services.
Sec. 10606. Health care fraud enforcement.
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Sec. 10608. Extension of medical malpractice coverage to free clinics.
Sec. 10609. Labeling changes.

Subtitle G—Provisions Relating to Title VIII

- Sec. 10801. Provisions relating to title VIII.*

Subtitle H—Provisions Relating to Title IX

- Sec. 10901. Modifications to excise tax on high cost employer-sponsored health coverage.*
Sec. 10902. Inflation adjustment of limitation on health flexible spending arrangements under cafeteria plans.
Sec. 10903. Modification of limitation on charges by charitable hospitals.
Sec. 10904. Modification of annual fee on medical device manufacturers and importers.
Sec. 10905. Modification of annual fee on health insurance providers.
Sec. 10906. Modifications to additional hospital insurance tax on high-income taxpayers.
Sec. 10907. Excise tax on indoor tanning services in lieu of elective cosmetic medical procedures.
Sec. 10908. Exclusion for assistance provided to participants in State student loan repayment programs for certain health professionals.
Sec. 10909. Expansion of adoption credit and adoption assistance programs.

1 **TITLE I—QUALITY, AFFORDABLE**
2 **HEALTH CARE FOR ALL AMER-**
3 **ICANS**

4 **Subtitle A—Immediate Improve-**
5 **ments in Health Care Coverage**
6 **for All Americans**

7 **SEC. 1001. AMENDMENTS TO THE PUBLIC HEALTH SERVICE**

8 **ACT.**

9 *Part A of title XXVII of the Public Health Service Act*
10 *(42 U.S.C. 300gg et seq.) is amended—*

11 *(1) by striking the part heading and inserting*
12 *the following:*

13 **“PART A—INDIVIDUAL AND GROUP MARKET**
14 **REFORMS”;**

15 *(2) by redesignating sections 2704 through 2707*
16 *as sections 2725 through 2728, respectively;*

17 *(3) by redesignating sections 2711 through 2713*
18 *as sections 2731 through 2733, respectively;*

19 *(4) by redesignating sections 2721 through 2723*
20 *as sections 2735 through 2737, respectively; and*

21 *(5) by inserting after section 2702, the following:*

1 **“Subpart II—Improving Coverage**

2 **“SEC. 2711. NO LIFETIME OR ANNUAL LIMITS.**

3 “(a) *IN GENERAL.*—A group health plan and a health
4 insurance issuer offering group or individual health insur-
5 ance coverage may not establish—

6 “(1) *lifetime limits on the dollar value of benefits*
7 *for any participant or beneficiary; or*

8 “(2) *unreasonable annual limits (within the*
9 *meaning of section 223 of the Internal Revenue Code*
10 *of 1986) on the dollar value of benefits for any partic-*
11 *ipant or beneficiary.*

12 “(b) *PER BENEFICIARY LIMITS.*—Subsection (a) shall
13 *not be construed to prevent a group health plan or health*
14 *insurance coverage that is not required to provide essential*
15 *health benefits under section 1302(b) of the Patient Protec-*
16 *tion and Affordable Care Act from placing annual or life-*
17 *time per beneficiary limits on specific covered benefits to*
18 *the extent that such limits are otherwise permitted under*
19 *Federal or State law.*

20 **“SEC. 2712. PROHIBITION ON RESCISSIONS.**

21 “A group health plan and a health insurance issuer
22 offering group or individual health insurance coverage shall
23 not rescind such plan or coverage with respect to an enrollee
24 once the enrollee is covered under such plan or coverage in-
25 volved, except that this section shall not apply to a covered
26 individual who has performed an act or practice that con-

1 *stitutes fraud or makes an intentional misrepresentation of*
2 *material fact as prohibited by the terms of the plan or cov-*
3 *erage. Such plan or coverage may not be cancelled except*
4 *with prior notice to the enrollee, and only as permitted*
5 *under section 2702(c) or 2742(b).*

6 **“SEC. 2713. COVERAGE OF PREVENTIVE HEALTH SERVICES.**

7 “(a) *IN GENERAL.*—*A group health plan and a health*
8 *insurance issuer offering group or individual health insur-*
9 *ance coverage shall, at a minimum provide coverage for and*
10 *shall not impose any cost sharing requirements for—*

11 “(1) *evidence-based items or services that have in*
12 *effect a rating of ‘A’ or ‘B’ in the current rec-*
13 *ommendations of the United States Preventive Serv-*
14 *ices Task Force;*

15 “(2) *immunizations that have in effect a rec-*
16 *ommendation from the Advisory Committee on Im-*
17 *munization Practices of the Centers for Disease Con-*
18 *trol and Prevention with respect to the individual in-*
19 *volved; and*

20 “(3) *with respect to infants, children, and ado-*
21 *lescents, evidence-informed preventive care and*
22 *screenings provided for in the comprehensive guide-*
23 *lines supported by the Health Resources and Services*
24 *Administration.*

1 “(4) with respect to women, such additional pre-
2 ventive care and screenings not described in para-
3 graph (1) as provided for in comprehensive guidelines
4 supported by the Health Resources and Services Ad-
5 ministration for purposes of this paragraph.

6 “(5) for the purposes of this Act, and for the pur-
7 poses of any other provision of law, the current rec-
8 ommendations of the United States Preventive Service
9 Task Force regarding breast cancer screening, mam-
10 mography, and prevention shall be considered the
11 most current other than those issued in or around No-
12 vember 2009.

13 Nothing in this subsection shall be construed to prohibit a
14 plan or issuer from providing coverage for services in addi-
15 tion to those recommended by United States Preventive
16 Services Task Force or to deny coverage for services that
17 are not recommended by such Task Force.

18 “(b) INTERVAL.—

19 “(1) IN GENERAL.—The Secretary shall establish
20 a minimum interval between the date on which a rec-
21 ommendation described in subsection (a)(1) or (a)(2)
22 or a guideline under subsection (a)(3) is issued and
23 the plan year with respect to which the requirement
24 described in subsection (a) is effective with respect to

1 *the service described in such recommendation or*
2 *guideline.*

3 “(2) *MINIMUM.*—*The interval described in para-*
4 *graph (1) shall not be less than 1 year.*

5 “(c) *VALUE-BASED INSURANCE DESIGN.*—*The Sec-*
6 *retary may develop guidelines to permit a group health*
7 *plan and a health insurance issuer offering group or indi-*
8 *vidual health insurance coverage to utilize value-based in-*
9 *surance designs.*

10 **“SEC. 2714. EXTENSION OF DEPENDENT COVERAGE.**

11 “(a) *IN GENERAL.*—*A group health plan and a health*
12 *insurance issuer offering group or individual health insur-*
13 *ance coverage that provides dependent coverage of children*
14 *shall continue to make such coverage available for an adult*
15 *child (who is not married) until the child turns 26 years*
16 *of age. Nothing in this section shall require a health plan*
17 *or a health insurance issuer described in the preceding sen-*
18 *tence to make coverage available for a child of a child re-*
19 *ceiving dependent coverage.*

20 “(b) *REGULATIONS.*—*The Secretary shall promulgate*
21 *regulations to define the dependents to which coverage shall*
22 *be made available under subsection (a).*

23 “(c) *RULE OF CONSTRUCTION.*—*Nothing in this sec-*
24 *tion shall be construed to modify the definition of ‘depend-*

1 *ent’ as used in the Internal Revenue Code of 1986 with re-*
2 *spect to the tax treatment of the cost of coverage.*

3 **“SEC. 2715. DEVELOPMENT AND UTILIZATION OF UNIFORM**
4 **EXPLANATION OF COVERAGE DOCUMENTS**
5 **AND STANDARDIZED DEFINITIONS.**

6 *“(a) IN GENERAL.—Not later than 12 months after the*
7 *date of enactment of the Patient Protection and Affordable*
8 *Care Act, the Secretary shall develop standards for use by*
9 *a group health plan and a health insurance issuer offering*
10 *group or individual health insurance coverage, in com-*
11 *piling and providing to enrollees a summary of benefits and*
12 *coverage explanation that accurately describes the benefits*
13 *and coverage under the applicable plan or coverage. In de-*
14 *veloping such standards, the Secretary shall consult with*
15 *the National Association of Insurance Commissioners (re-*
16 *ferred to in this section as the ‘NAIC’), a working group*
17 *composed of representatives of health insurance-related con-*
18 *sumer advocacy organizations, health insurance issuers,*
19 *health care professionals, patient advocates including those*
20 *representing individuals with limited English proficiency,*
21 *and other qualified individuals.*

22 *“(b) REQUIREMENTS.—The standards for the sum-*
23 *mary of benefits and coverage developed under subsection*
24 *(a) shall provide for the following:*

1 “(1) *APPEARANCE.*—*The standards shall ensure*
2 *that the summary of benefits and coverage is pre-*
3 *sented in a uniform format that does not exceed 4*
4 *pages in length and does not include print smaller*
5 *than 12-point font.*

6 “(2) *LANGUAGE.*—*The standards shall ensure*
7 *that the summary is presented in a culturally and*
8 *linguistically appropriate manner and utilizes termi-*
9 *nology understandable by the average plan enrollee.*

10 “(3) *CONTENTS.*—*The standards shall ensure*
11 *that the summary of benefits and coverage includes—*

12 “(A) *uniform definitions of standard insur-*
13 *ance terms and medical terms (consistent with*
14 *subsection (g)) so that consumers may compare*
15 *health insurance coverage and understand the*
16 *terms of coverage (or exception to such coverage);*

17 “(B) *a description of the coverage, includ-*
18 *ing cost sharing for—*

19 “(i) *each of the categories of the essen-*
20 *tial health benefits described in subpara-*
21 *graphs (A) through (J) of section 1302(b)(1)*
22 *of the Patient Protection and Affordable*
23 *Care Act; and*

24 “(ii) *other benefits, as identified by the*
25 *Secretary;*

1 “(C) the exceptions, reductions, and limita-
2 tions on coverage;

3 “(D) the cost-sharing provisions, including
4 deductible, coinsurance, and co-payment obliga-
5 tions;

6 “(E) the renewability and continuation of
7 coverage provisions;

8 “(F) a coverage facts label that includes ex-
9 amples to illustrate common benefits scenarios,
10 including pregnancy and serious or chronic med-
11 ical conditions and related cost sharing, such
12 scenarios to be based on recognized clinical prac-
13 tice guidelines;

14 “(G) a statement of whether the plan or cov-
15 erage—

16 “(i) provides minimum essential cov-
17 erage (as defined under section 5000A(f) of
18 the Internal Revenue Code 1986); and

19 “(ii) ensures that the plan or coverage
20 share of the total allowed costs of benefits
21 provided under the plan or coverage is not
22 less than 60 percent of such costs;

23 “(H) a statement that the outline is a sum-
24 mary of the policy or certificate and that the
25 coverage document itself should be consulted to

1 *determine the governing contractual provisions;*
2 *and*

3 “(I) *a contact number for the consumer to*
4 *call with additional questions and an Internet*
5 *web address where a copy of the actual indi-*
6 *vidual coverage policy or group certificate of cov-*
7 *erage can be reviewed and obtained.*

8 “(c) *PERIODIC REVIEW AND UPDATING.—The Sec-*
9 *retary shall periodically review and update, as appropriate,*
10 *the standards developed under this section.*

11 “(d) *REQUIREMENT TO PROVIDE.—*

12 “(1) *IN GENERAL.—Not later than 24 months*
13 *after the date of enactment of the Patient Protection*
14 *and Affordable Care Act, each entity described in*
15 *paragraph (3) shall provide, prior to any enrollment*
16 *restriction, a summary of benefits and coverage expla-*
17 *nation pursuant to the standards developed by the*
18 *Secretary under subsection (a) to—*

19 “(A) *an applicant at the time of applica-*
20 *tion;*

21 “(B) *an enrollee prior to the time of enroll-*
22 *ment or reenrollment, as applicable; and*

23 “(C) *a policyholder or certificate holder at*
24 *the time of issuance of the policy or delivery of*
25 *the certificate.*

1 “(2) *COMPLIANCE.*—An entity described in para-
2 graph (3) is deemed to be in compliance with this sec-
3 tion if the summary of benefits and coverage described
4 in subsection (a) is provided in paper or electronic
5 form.

6 “(3) *ENTITIES IN GENERAL.*—An entity de-
7 scribed in this paragraph is—

8 “(A) a health insurance issuer (including a
9 group health plan that is not a self-insured plan)
10 offering health insurance coverage within the
11 United States; or

12 “(B) in the case of a self-insured group
13 health plan, the plan sponsor or designated ad-
14 ministrators of the plan (as such terms are de-
15 fined in section 3(16) of the Employee Retirement
16 Income Security Act of 1974).

17 “(4) *NOTICE OF MODIFICATIONS.*—If a group
18 health plan or health insurance issuer makes any ma-
19 terial modification in any of the terms of the plan or
20 coverage involved (as defined for purposes of section
21 102 of the Employee Retirement Income Security Act
22 of 1974) that is not reflected in the most recently pro-
23 vided summary of benefits and coverage, the plan or
24 issuer shall provide notice of such modification to en-

1 rollees not later than 60 days prior to the date on
2 which such modification will become effective.

3 “(e) *PREEMPTION.*—The standards developed under
4 subsection (a) shall preempt any related State standards
5 that require a summary of benefits and coverage that pro-
6 vides less information to consumers than that required to
7 be provided under this section, as determined by the Sec-
8 retary.

9 “(f) *FAILURE TO PROVIDE.*—An entity described in
10 subsection (d)(3) that willfully fails to provide the informa-
11 tion required under this section shall be subject to a fine
12 of not more than \$1,000 for each such failure. Such failure
13 with respect to each enrollee shall constitute a separate of-
14 fense for purposes of this subsection.

15 “(g) *DEVELOPMENT OF STANDARD DEFINITIONS.*—

16 “(1) *IN GENERAL.*—The Secretary shall, by regu-
17 lation, provide for the development of standards for
18 the definitions of terms used in health insurance cov-
19 erage, including the insurance-related terms described
20 in paragraph (2) and the medical terms described in
21 paragraph (3).

22 “(2) *INSURANCE-RELATED TERMS.*—The insur-
23 ance-related terms described in this paragraph are
24 premium, deductible, co-insurance, co-payment, out-
25 of-pocket limit, preferred provider, non-preferred pro-

1 *vider, out-of-network co-payments, UCR (usual, cus-*
2 *tomary and reasonable) fees, excluded services, griev-*
3 *ance and appeals, and such other terms as the Sec-*
4 *retary determines are important to define so that con-*
5 *sumers may compare health insurance coverage and*
6 *understand the terms of their coverage.*

7 *“(3) MEDICAL TERMS.—The medical terms de-*
8 *scribed in this paragraph are hospitalization, hospital*
9 *outpatient care, emergency room care, physician serv-*
10 *ices, prescription drug coverage, durable medical*
11 *equipment, home health care, skilled nursing care, re-*
12 *habilitation services, hospice services, emergency med-*
13 *ical transportation, and such other terms as the Sec-*
14 *retary determines are important to define so that con-*
15 *sumers may compare the medical benefits offered by*
16 *health insurance and understand the extent of those*
17 *medical benefits (or exceptions to those benefits).*

18 **“SEC. 2716. PROHIBITION OF DISCRIMINATION BASED ON**

19 **SALARY.**

20 *“(a) IN GENERAL.—The plan sponsor of a group*
21 *health plan (other than a self-insured plan) may not estab-*
22 *lish rules relating to the health insurance coverage eligi-*
23 *bility (including continued eligibility) of any full-time em-*
24 *ployee under the terms of the plan that are based on the*
25 *total hourly or annual salary of the employee or otherwise*

1 *establish eligibility rules that have the effect of discrimi-*
2 *nating in favor of higher wage employees.*

3 “(b) *LIMITATION.*—Subsection (a) shall not be con-
4 *strued to prohibit a plan sponsor from establishing con-*
5 *tribution requirements for enrollment in the plan or cov-*
6 *erage that provide for the payment by employees with lower*
7 *hourly or annual compensation of a lower dollar or percent-*
8 *age contribution than the payment required of similarly sit-*
9 *uated employees with a higher hourly or annual compensa-*
10 *tion.*

11 **“SEC. 2717. ENSURING THE QUALITY OF CARE.**

12 “(a) *QUALITY REPORTING.*—

13 “(1) *IN GENERAL.*—Not later than 2 years after
14 *the date of enactment of the Patient Protection and*
15 *Affordable Care Act, the Secretary, in consultation*
16 *with experts in health care quality and stakeholders,*
17 *shall develop reporting requirements for use by a*
18 *group health plan, and a health insurance issuer of-*
19 *fering group or individual health insurance coverage,*
20 *with respect to plan or coverage benefits and health*
21 *care provider reimbursement structures that—*

22 “(A) *improve health outcomes through the*
23 *implementation of activities such as quality re-*
24 *porting, effective case management, care coordi-*
25 *nation, chronic disease management, and medi-*

1 *cation and care compliance initiatives, including*
2 *through the use of the medical homes model as*
3 *defined for purposes of section 3602 of the Pa-*
4 *tient Protection and Affordable Care Act, for*
5 *treatment or services under the plan or coverage;*

6 *“(B) implement activities to prevent hos-*
7 *pital readmissions through a comprehensive pro-*
8 *gram for hospital discharge that includes pa-*
9 *tient-centered education and counseling, com-*
10 *prehensive discharge planning, and post dis-*
11 *charge reinforcement by an appropriate health*
12 *care professional;*

13 *“(C) implement activities to improve pa-*
14 *tient safety and reduce medical errors through*
15 *the appropriate use of best clinical practices, evi-*
16 *dence based medicine, and health information*
17 *technology under the plan or coverage; and*

18 *“(D) implement wellness and health pro-*
19 *motion activities.*

20 *“(2) REPORTING REQUIREMENTS.—*

21 *“(A) IN GENERAL.—A group health plan*
22 *and a health insurance issuer offering group or*
23 *individual health insurance coverage shall annu-*
24 *ally submit to the Secretary, and to enrollees*
25 *under the plan or coverage, a report on whether*

1 *the benefits under the plan or coverage satisfy*
2 *the elements described in subparagraphs (A)*
3 *through (D) of paragraph (1).*

4 “(B) *TIMING OF REPORTS.*—*A report under*
5 *subparagraph (A) shall be made available to an*
6 *enrollee under the plan or coverage during each*
7 *open enrollment period.*

8 “(C) *AVAILABILITY OF REPORTS.*—*The Sec-*
9 *retary shall make reports submitted under sub-*
10 *paragraph (A) available to the public through an*
11 *Internet website.*

12 “(D) *PENALTIES.*—*In developing the re-*
13 *porting requirements under paragraph (1), the*
14 *Secretary may develop and impose appropriate*
15 *penalties for non-compliance with such require-*
16 *ments.*

17 “(E) *EXCEPTIONS.*—*In developing the re-*
18 *porting requirements under paragraph (1), the*
19 *Secretary may provide for exceptions to such re-*
20 *quirements for group health plans and health in-*
21 *surance issuers that substantially meet the goals*
22 *of this section.*

23 “(b) *WELLNESS AND PREVENTION PROGRAMS.*—*For*
24 *purposes of subsection (a)(1)(D), wellness and health pro-*
25 *motion activities may include personalized wellness and*

1 *prevention services, which are coordinated, maintained or*
2 *delivered by a health care provider, a wellness and preven-*
3 *tion plan manager, or a health, wellness or prevention serv-*
4 *ices organization that conducts health risk assessments or*
5 *offers ongoing face-to-face, telephonic or web-based interven-*
6 *tion efforts for each of the program’s participants, and*
7 *which may include the following wellness and prevention*
8 *efforts:*

9 “(1) *Smoking cessation.*

10 “(2) *Weight management.*

11 “(3) *Stress management.*

12 “(4) *Physical fitness.*

13 “(5) *Nutrition.*

14 “(6) *Heart disease prevention.*

15 “(7) *Healthy lifestyle support.*

16 “(8) *Diabetes prevention.*

17 “(c) *REGULATIONS.—Not later than 2 years after the*
18 *date of enactment of the Patient Protection and Affordable*
19 *Care Act, the Secretary shall promulgate regulations that*
20 *provide criteria for determining whether a reimbursement*
21 *structure is described in subsection (a).*

22 “(d) *STUDY AND REPORT.—Not later than 180 days*
23 *after the date on which regulations are promulgated under*
24 *subsection (c), the Government Accountability Office shall*
25 *review such regulations and conduct a study and submit*

1 *to the Committee on Health, Education, Labor, and Pen-*
2 *sions of the Senate and the Committee on Energy and Com-*
3 *merce of the House of Representatives a report regarding*
4 *the impact the activities under this section have had on the*
5 *quality and cost of health care.*

6 **“SEC. 2718. BRINGING DOWN THE COST OF HEALTH CARE**
7 **COVERAGE.**

8 *“(a) CLEAR ACCOUNTING FOR COSTS.—A health in-*
9 *surance issuer offering group or individual health insur-*
10 *ance coverage shall, with respect to each plan year, submit*
11 *to the Secretary a report concerning the percentage of total*
12 *premium revenue that such coverage expends—*

13 *“(1) on reimbursement for clinical services pro-*
14 *vided to enrollees under such coverage;*

15 *“(2) for activities that improve health care qual-*
16 *ity; and*

17 *“(3) on all other non-claims costs, including an*
18 *explanation of the nature of such costs, and excluding*
19 *State taxes and licensing or regulatory fees.*

20 *The Secretary shall make reports received under this section*
21 *available to the public on the Internet website of the Depart-*
22 *ment of Health and Human Services.*

23 *“(b) ENSURING THAT CONSUMERS RECEIVE VALUE*
24 *FOR THEIR PREMIUM PAYMENTS.—*

1 “(1) *REQUIREMENT TO PROVIDE VALUE FOR*
2 *PREMIUM PAYMENTS.*—*A health insurance issuer of-*
3 *fering group or individual health insurance coverage*
4 *shall, with respect to each plan year, provide an an-*
5 *nuual rebate to each enrollee under such coverage, on*
6 *a pro rata basis, in an amount that is equal to the*
7 *amount by which premium revenue expended by the*
8 *issuer on activities described in subsection (a)(3) ex-*
9 *ceeds—*

10 “(A) *with respect to a health insurance*
11 *issuer offering coverage in the group market, 20*
12 *percent, or such lower percentage as a State may*
13 *by regulation determine; or*

14 “(B) *with respect to a health insurance*
15 *issuer offering coverage in the individual market,*
16 *25 percent, or such lower percentage as a State*
17 *may by regulation determine, except that such*
18 *percentage shall be adjusted to the extent the Sec-*
19 *retary determines that the application of such*
20 *percentage with a State may destabilize the ex-*
21 *isting individual market in such State.*

22 “(2) *CONSIDERATION IN SETTING PERCENT-*
23 *AGES.*—*In determining the percentages under para-*
24 *graph (1), a State shall seek to ensure adequate par-*
25 *ticipation by health insurance issuers, competition in*

1 *the health insurance market in the State, and value*
2 *for consumers so that premiums are used for clinical*
3 *services and quality improvements.*

4 “(3) *TERMINATION.*—*The provisions of this sub-*
5 *section shall have no force or effect after December 31,*
6 *2013.*

7 “(c) *STANDARD HOSPITAL CHARGES.*—*Each hospital*
8 *operating within the United States shall for each year es-*
9 *tablish (and update) and make public (in accordance with*
10 *guidelines developed by the Secretary) a list of the hospital’s*
11 *standard charges for items and services provided by the hos-*
12 *pital, including for diagnosis-related groups established*
13 *under section 1886(d)(4) of the Social Security Act.*

14 “(d) *DEFINITIONS.*—*The Secretary, in consultation*
15 *with the National Association of Insurance Commissions,*
16 *shall establish uniform definitions for the activities reported*
17 *under subsection (a).*

18 **“SEC. 2719. APPEALS PROCESS.**

19 “A *group health plan and a health insurance issuer*
20 *offering group or individual health insurance coverage shall*
21 *implement an effective appeals process for appeals of cov-*
22 *erage determinations and claims, under which the plan or*
23 *issuer shall, at a minimum—*

24 “(1) *have in effect an internal claims appeal*
25 *process;*

1 “(2) provide notice to enrollees, in a culturally
2 and linguistically appropriate manner, of available
3 internal and external appeals processes, and the
4 availability of any applicable office of health insur-
5 ance consumer assistance or ombudsman established
6 under section 2793 to assist such enrollees with the
7 appeals processes;

8 “(3) allow an enrollee to review their file, to
9 present evidence and testimony as part of the appeals
10 process, and to receive continued coverage pending the
11 outcome of the appeals process; and

12 “(4) provide an external review process for such
13 plans and issuers that, at a minimum, includes the
14 consumer protections set forth in the Uniform Exter-
15 nal Review Model Act promulgated by the National
16 Association of Insurance Commissioners and is bind-
17 ing on such plans.”.

18 **SEC. 1002. HEALTH INSURANCE CONSUMER INFORMATION.**

19 *Part C of title XXVII of the Public Health Service Act*
20 *(42 U.S.C. 300gg–91 et seq.) is amended by adding at the*
21 *end the following:*

22 **“SEC. 2793. HEALTH INSURANCE CONSUMER INFORMATION.**

23 “(a) *IN GENERAL.*—*The Secretary shall award grants*
24 *to States to enable such States (or the Exchanges operating*

1 *in such States) to establish, expand, or provide support*
2 *for—*

3 “(1) *offices of health insurance consumer assist-*
4 *ance; or*

5 “(2) *health insurance ombudsman programs.*

6 “(b) *ELIGIBILITY.—*

7 “(1) *IN GENERAL.—To be eligible to receive a*
8 *grant, a State shall designate an independent office of*
9 *health insurance consumer assistance, or an ombuds-*
10 *man, that, directly or in coordination with State*
11 *health insurance regulators and consumer assistance*
12 *organizations, receives and responds to inquiries and*
13 *complaints concerning health insurance coverage with*
14 *respect to Federal health insurance requirements and*
15 *under State law.*

16 “(2) *CRITERIA.—A State that receives a grant*
17 *under this section shall comply with criteria estab-*
18 *lished by the Secretary for carrying out activities*
19 *under such grant.*

20 “(c) *DUTIES.—The office of health insurance consumer*
21 *assistance or health insurance ombudsman shall—*

22 “(1) *assist with the filing of complaints and ap-*
23 *peals, including filing appeals with the internal ap-*
24 *peal or grievance process of the group health plan or*

1 *health insurance issuer involved and providing infor-*
2 *mation about the external appeal process;*

3 *“(2) collect, track, and quantify problems and*
4 *inquiries encountered by consumers;*

5 *“(3) educate consumers on their rights and re-*
6 *sponsibilities with respect to group health plans and*
7 *health insurance coverage;*

8 *“(4) assist consumers with enrollment in a group*
9 *health plan or health insurance coverage by providing*
10 *information, referral, and assistance; and*

11 *“(5) resolve problems with obtaining premium*
12 *tax credits under section 36B of the Internal Revenue*
13 *Code of 1986.*

14 *“(d) DATA COLLECTION.—As a condition of receiving*
15 *a grant under subsection (a), an office of health insurance*
16 *consumer assistance or ombudsman program shall be re-*
17 *quired to collect and report data to the Secretary on the*
18 *types of problems and inquiries encountered by consumers.*
19 *The Secretary shall utilize such data to identify areas where*
20 *more enforcement action is necessary and shall share such*
21 *information with State insurance regulators, the Secretary*
22 *of Labor, and the Secretary of the Treasury for use in the*
23 *enforcement activities of such agencies.*

24 *“(e) FUNDING.—*

1 “(1) *INITIAL FUNDING.*—*There is hereby appro-*
2 *priated to the Secretary, out of any funds in the*
3 *Treasury not otherwise appropriated, \$30,000,000 for*
4 *the first fiscal year for which this section applies to*
5 *carry out this section. Such amount shall remain*
6 *available without fiscal year limitation.*

7 “(2) *AUTHORIZATION FOR SUBSEQUENT*
8 *YEARS.*—*There is authorized to be appropriated to the*
9 *Secretary for each fiscal year following the fiscal year*
10 *described in paragraph (1), such sums as may be nec-*
11 *essary to carry out this section.”.*

12 **SEC. 1003. ENSURING THAT CONSUMERS GET VALUE FOR**
13 **THEIR DOLLARS.**

14 *Part C of title XXVII of the Public Health Service Act*
15 *(42 U.S.C. 300gg–91 et seq.), as amended by section 1002,*
16 *is further amended by adding at the end the following:*

17 **“SEC. 2794. ENSURING THAT CONSUMERS GET VALUE FOR**
18 **THEIR DOLLARS.**

19 “(a) *INITIAL PREMIUM REVIEW PROCESS.*—

20 “(1) *IN GENERAL.*—*The Secretary, in conjunc-*
21 *tion with States, shall establish a process for the an-*
22 *nuual review, beginning with the 2010 plan year and*
23 *subject to subsection (b)(2)(A), of unreasonable in-*
24 *creases in premiums for health insurance coverage.*

1 “(2) *JUSTIFICATION AND DISCLOSURE.*—*The*
2 *process established under paragraph (1) shall require*
3 *health insurance issuers to submit to the Secretary*
4 *and the relevant State a justification for an unrea-*
5 *sonable premium increase prior to the implementa-*
6 *tion of the increase. Such issuers shall prominently*
7 *post such information on their Internet websites. The*
8 *Secretary shall ensure the public disclosure of infor-*
9 *mation on such increases and justifications for all*
10 *health insurance issuers.*

11 “(b) *CONTINUING PREMIUM REVIEW PROCESS.*—

12 “(1) *INFORMING SECRETARY OF PREMIUM IN-*
13 *CREASE PATTERNS.*—*As a condition of receiving a*
14 *grant under subsection (c)(1), a State, through its*
15 *Commissioner of Insurance, shall—*

16 “(A) *provide the Secretary with informa-*
17 *tion about trends in premium increases in health*
18 *insurance coverage in premium rating areas in*
19 *the State; and*

20 “(B) *make recommendations, as appro-*
21 *priate, to the State Exchange about whether par-*
22 *ticular health insurance issuers should be ex-*
23 *cluded from participation in the Exchange based*
24 *on a pattern or practice of excessive or unjusti-*
25 *fied premium increases.*

1 “(2) *MONITORING BY SECRETARY OF PREMIUM*
2 *INCREASES.*—

3 “(A) *IN GENERAL.*—*Beginning with plan*
4 *years beginning in 2014, the Secretary, in con-*
5 *junction with the States and consistent with the*
6 *provisions of subsection (a)(2), shall monitor*
7 *premium increases of health insurance coverage*
8 *offered through an Exchange and outside of an*
9 *Exchange.*

10 “(B) *CONSIDERATION IN OPENING EX-*
11 *CHANGE.*—*In determining under section*
12 *1312(f)(2)(B) of the Patient Protection and Af-*
13 *fordable Care Act whether to offer qualified*
14 *health plans in the large group market through*
15 *an Exchange, the State shall take into account*
16 *any excess of premium growth outside of the Ex-*
17 *change as compared to the rate of such growth*
18 *inside the Exchange.*

19 “(c) *GRANTS IN SUPPORT OF PROCESS.*—

20 “(1) *PREMIUM REVIEW GRANTS DURING 2010*
21 *THROUGH 2014.*—*The Secretary shall carry out a pro-*
22 *gram to award grants to States during the 5-year pe-*
23 *riod beginning with fiscal year 2010 to assist such*
24 *States in carrying out subsection (a), including—*

1 “(A) *in reviewing and, if appropriate under*
2 *State law, approving premium increases for*
3 *health insurance coverage; and*

4 “(B) *in providing information and rec-*
5 *ommendations to the Secretary under subsection*
6 *(b)(1).*

7 “(2) *FUNDING.—*

8 “(A) *IN GENERAL.—Out of all funds in the*
9 *Treasury not otherwise appropriated, there are*
10 *appropriated to the Secretary \$250,000,000, to*
11 *be available for expenditure for grants under*
12 *paragraph (1) and subparagraph (B).*

13 “(B) *FURTHER AVAILABILITY FOR INSUR-*
14 *ANCE REFORM AND CONSUMER PROTECTION.—If*
15 *the amounts appropriated under subparagraph*
16 *(A) are not fully obligated under grants under*
17 *paragraph (1) by the end of fiscal year 2014,*
18 *any remaining funds shall remain available to*
19 *the Secretary for grants to States for planning*
20 *and implementing the insurance reforms and*
21 *consumer protections under part A.*

22 “(C) *ALLOCATION.—The Secretary shall es-*
23 *tablish a formula for determining the amount of*
24 *any grant to a State under this subsection.*
25 *Under such formula—*

1 “(i) the Secretary shall consider the
2 number of plans of health insurance cov-
3 erage offered in each State and the popu-
4 lation of the State; and

5 “(ii) no State qualifying for a grant
6 under paragraph (1) shall receive less than
7 \$1,000,000, or more than \$5,000,000 for a
8 grant year.”.

9 **SEC. 1004. EFFECTIVE DATES.**

10 (a) *IN GENERAL.*—Except as provided for in sub-
11 section (b), this subtitle (and the amendments made by this
12 subtitle) shall become effective for plan years beginning on
13 or after the date that is 6 months after the date of enactment
14 of this Act, except that the amendments made by sections
15 1002 and 1003 shall become effective for fiscal years begin-
16 ning with fiscal year 2010.

17 (b) *SPECIAL RULE.*—The amendments made by sec-
18 tions 1002 and 1003 shall take effect on the date of enact-
19 ment of this Act.

1 ***Subtitle B—Immediate Actions to***
2 ***Preserve and Expand Coverage***

3 ***SEC. 1101. IMMEDIATE ACCESS TO INSURANCE FOR UNIN-***
4 ***SURED INDIVIDUALS WITH A PREEXISTING***
5 ***CONDITION.***

6 (a) *IN GENERAL.*—Not later than 90 days after the
7 date of enactment of this Act, the Secretary shall establish
8 a temporary high risk health insurance pool program to
9 provide health insurance coverage for eligible individuals
10 during the period beginning on the date on which such pro-
11 gram is established and ending on January 1, 2014.

12 (b) *ADMINISTRATION.*—

13 (1) *IN GENERAL.*—The Secretary may carry out
14 the program under this section directly or through
15 contracts to eligible entities.

16 (2) *ELIGIBLE ENTITIES.*—To be eligible for a
17 contract under paragraph (1), an entity shall—

18 (A) be a State or nonprofit private entity;

19 (B) submit to the Secretary an application
20 at such time, in such manner, and containing
21 such information as the Secretary may require;
22 and

23 (C) agree to utilize contract funding to es-
24 tablish and administer a qualified high risk pool
25 for eligible individuals.

1 (3) *MAINTENANCE OF EFFORT.*—*To be eligible to*
2 *enter into a contract with the Secretary under this*
3 *subsection, a State shall agree not to reduce the an-*
4 *nuual amount the State expended for the operation of*
5 *one or more State high risk pools during the year pre-*
6 *ceding the year in which such contract is entered into.*

7 (c) *QUALIFIED HIGH RISK POOL.*—

8 (1) *IN GENERAL.*—*Amounts made available*
9 *under this section shall be used to establish a quali-*
10 *fied high risk pool that meets the requirements of*
11 *paragraph (2).*

12 (2) *REQUIREMENTS.*—*A qualified high risk pool*
13 *meets the requirements of this paragraph if such*
14 *pool—*

15 (A) *provides to all eligible individuals*
16 *health insurance coverage that does not impose*
17 *any preexisting condition exclusion with respect*
18 *to such coverage;*

19 (B) *provides health insurance coverage—*

20 (i) *in which the issuer's share of the*
21 *total allowed costs of benefits provided*
22 *under such coverage is not less than 65 per-*
23 *cent of such costs; and*

24 (ii) *that has an out of pocket limit not*
25 *greater than the applicable amount de-*

1 scribed in section 223(c)(2) of the Internal
2 Revenue Code of 1986 for the year involved,
3 except that the Secretary may modify such
4 limit if necessary to ensure the pool meets
5 the actuarial value limit under clause (i);

6 (C) ensures that with respect to the pre-
7 mium rate charged for health insurance coverage
8 offered to eligible individuals through the high
9 risk pool, such rate shall—

10 (i) except as provided in clause (ii),
11 vary only as provided for under section
12 2701 of the Public Health Service Act (as
13 amended by this Act and notwithstanding
14 the date on which such amendments take ef-
15 fect);

16 (ii) vary on the basis of age by a factor
17 of not greater than 4 to 1; and

18 (iii) be established at a standard rate
19 for a standard population; and

20 (D) meets any other requirements deter-
21 mined appropriate by the Secretary.

22 (d) *ELIGIBLE INDIVIDUAL*.—An individual shall be
23 deemed to be an eligible individual for purposes of this sec-
24 tion if such individual—

1 (1) *is a citizen or national of the United States*
2 *or is lawfully present in the United States (as deter-*
3 *mined in accordance with section 1411);*

4 (2) *has not been covered under creditable cov-*
5 *erage (as defined in section 2701(c)(1) of the Public*
6 *Health Service Act as in effect on the date of enact-*
7 *ment of this Act) during the 6-month period prior to*
8 *the date on which such individual is applying for*
9 *coverage through the high risk pool; and*

10 (3) *has a pre-existing condition, as determined*
11 *in a manner consistent with guidance issued by the*
12 *Secretary.*

13 (e) *PROTECTION AGAINST DUMPING RISK BY INSUR-*
14 *ERS.—*

15 (1) *IN GENERAL.—The Secretary shall establish*
16 *criteria for determining whether health insurance*
17 *issuers and employment-based health plans have dis-*
18 *couraged an individual from remaining enrolled in*
19 *prior coverage based on that individual's health sta-*
20 *tus.*

21 (2) *SANCTIONS.—An issuer or employment-based*
22 *health plan shall be responsible for reimbursing the*
23 *program under this section for the medical expenses*
24 *incurred by the program for an individual who, based*
25 *on criteria established by the Secretary, the Secretary*

1 *finds was encouraged by the issuer to disenroll from*
2 *health benefits coverage prior to enrolling in coverage*
3 *through the program. The criteria shall include at*
4 *least the following circumstances:*

5 *(A) In the case of prior coverage obtained*
6 *through an employer, the provision by the em-*
7 *ployer, group health plan, or the issuer of money*
8 *or other financial consideration for disenrolling*
9 *from the coverage.*

10 *(B) In the case of prior coverage obtained*
11 *directly from an issuer or under an employment-*
12 *based health plan—*

13 *(i) the provision by the issuer or plan*
14 *of money or other financial consideration*
15 *for disenrolling from the coverage; or*

16 *(ii) in the case of an individual whose*
17 *premium for the prior coverage exceeded the*
18 *premium required by the program (adjusted*
19 *based on the age factors applied to the prior*
20 *coverage)—*

21 *(I) the prior coverage is a policy*
22 *that is no longer being actively mar-*
23 *keted (as defined by the Secretary) by*
24 *the issuer; or*

1 (II) *the prior coverage is a policy*
2 *for which duration of coverage form*
3 *issue or health status are factors that*
4 *can be considered in determining pre-*
5 *miums at renewal.*

6 (3) *CONSTRUCTION.—Nothing in this subsection*
7 *shall be construed as constituting exclusive remedies*
8 *for violations of criteria established under paragraph*
9 *(1) or as preventing States from applying or enforcing*
10 *such paragraph or other provisions under law*
11 *with respect to health insurance issuers.*

12 (f) *OVERSIGHT.—The Secretary shall establish—*

13 (1) *an appeals process to enable individuals to*
14 *appeal a determination under this section; and*

15 (2) *procedures to protect against waste, fraud,*
16 *and abuse.*

17 (g) *FUNDING; TERMINATION OF AUTHORITY.—*

18 (1) *IN GENERAL.—There is appropriated to the*
19 *Secretary, out of any moneys in the Treasury not oth-*
20 *erwise appropriated, \$5,000,000,000 to pay claims*
21 *against (and the administrative costs of) the high risk*
22 *pool under this section that are in excess of the*
23 *amount of premiums collected from eligible individ-*
24 *uals enrolled in the high risk pool. Such funds shall*
25 *be available without fiscal year limitation.*

1 (2) *INSUFFICIENT FUNDS.*—*If the Secretary esti-*
2 *mates for any fiscal year that the aggregate amounts*
3 *available for the payment of the expenses of the high*
4 *risk pool will be less than the actual amount of such*
5 *expenses, the Secretary shall make such adjustments*
6 *as are necessary to eliminate such deficit.*

7 (3) *TERMINATION OF AUTHORITY.*—

8 (A) *IN GENERAL.*—*Except as provided in*
9 *subparagraph (B), coverage of eligible individ-*
10 *uals under a high risk pool in a State shall ter-*
11 *minate on January 1, 2014.*

12 (B) *TRANSITION TO EXCHANGE.*—*The Sec-*
13 *retary shall develop procedures to provide for the*
14 *transition of eligible individuals enrolled in*
15 *health insurance coverage offered through a high*
16 *risk pool established under this section into*
17 *qualified health plans offered through an Ex-*
18 *change. Such procedures shall ensure that there*
19 *is no lapse in coverage with respect to the indi-*
20 *vidual and may extend coverage after the termi-*
21 *nation of the risk pool involved, if the Secretary*
22 *determines necessary to avoid such a lapse.*

23 (4) *LIMITATIONS.*—*The Secretary has the au-*
24 *thority to stop taking applications for participation*

1 *in the program under this section to comply with the*
2 *funding limitation provided for in paragraph (1).*

3 (5) *RELATION TO STATE LAWS.—The standards*
4 *established under this section shall supersede any*
5 *State law or regulation (other than State licensing*
6 *laws or State laws relating to plan solvency) with re-*
7 *spect to qualified high risk pools which are established*
8 *in accordance with this section.*

9 **SEC. 1102. REINSURANCE FOR EARLY RETIREES.**

10 (a) *ADMINISTRATION.—*

11 (1) *IN GENERAL.—Not later than 90 days after*
12 *the date of enactment of this Act, the Secretary shall*
13 *establish a temporary reinsurance program to provide*
14 *reimbursement to participating employment-based*
15 *plans for a portion of the cost of providing health in-*
16 *surance coverage to early retirees (and to the eligible*
17 *spouses, surviving spouses, and dependents of such re-*
18 *tirees) during the period beginning on the date on*
19 *which such program is established and ending on*
20 *January 1, 2014.*

21 (2) *REFERENCE.—In this section:*

22 (A) *HEALTH BENEFITS.—The term “health*
23 *benefits” means medical, surgical, hospital, pre-*
24 *scription drug, and such other benefits as shall*
25 *be determined by the Secretary, whether self-*

1 *funded, or delivered through the purchase of in-*
2 *surance or otherwise.*

3 (B) *EMPLOYMENT-BASED PLAN.*—*The term*
4 *“employment-based plan” means a group health*
5 *benefits plan that—*

6 (i) *is—*

7 (I) *maintained by one or more*
8 *current or former employers (including*
9 *without limitation any State or local*
10 *government or political subdivision*
11 *thereof), employee organization, a vol-*
12 *untary employees’ beneficiary associa-*
13 *tion, or a committee or board of indi-*
14 *viduals appointed to administer such*
15 *plan; or*

16 (II) *a multiemployer plan (as de-*
17 *fin ed in section 3(37) of the Employee*
18 *Retirement Income Security Act of*
19 *1974); and*

20 (ii) *provides health benefits to early re-*
21 *tirees.*

22 (C) *EARLY RETIREES.*—*The term “early re-*
23 *tirees” means individuals who are age 55 and*
24 *older but are not eligible for coverage under title*
25 *XVIII of the Social Security Act, and who are*

1 *not active employees of an employer maintain-*
2 *ing, or currently contributing to, the employ-*
3 *ment-based plan or of any employer that has*
4 *made substantial contributions to fund such*
5 *plan.*

6 **(b) PARTICIPATION.—**

7 **(1) EMPLOYMENT-BASED PLAN ELIGIBILITY.—***A*
8 *participating employment-based plan is an employ-*
9 *ment-based plan that—*

10 *(A) meets the requirements of paragraph (2)*
11 *with respect to health benefits provided under the*
12 *plan; and*

13 *(B) submits to the Secretary an application*
14 *for participation in the program, at such time,*
15 *in such manner, and containing such informa-*
16 *tion as the Secretary shall require.*

17 **(2) EMPLOYMENT-BASED HEALTH BENEFITS.—**
18 *An employment-based plan meets the requirements of*
19 *this paragraph if the plan—*

20 *(A) implements programs and procedures to*
21 *generate cost-savings with respect to participants*
22 *with chronic and high-cost conditions;*

23 *(B) provides documentation of the actual*
24 *cost of medical claims involved; and*

25 *(C) is certified by the Secretary.*

1 (c) *PAYMENTS.*—

2 (1) *SUBMISSION OF CLAIMS.*—

3 (A) *IN GENERAL.*—*A participating employ-*
4 *ment-based plan shall submit claims for reim-*
5 *bursement to the Secretary which shall contain*
6 *documentation of the actual costs of the items*
7 *and services for which each claim is being sub-*
8 *mitted.*

9 (B) *BASIS FOR CLAIMS.*—*Claims submitted*
10 *under subparagraph (A) shall be based on the ac-*
11 *tual amount expended by the participating em-*
12 *ployment-based plan involved within the plan*
13 *year for the health benefits provided to an early*
14 *retiree or the spouse, surviving spouse, or de-*
15 *pendent of such retiree. In determining the*
16 *amount of a claim for purposes of this sub-*
17 *section, the participating employment-based plan*
18 *shall take into account any negotiated price con-*
19 *cessions (such as discounts, direct or indirect*
20 *subsidies, rebates, and direct or indirect remu-*
21 *nerations) obtained by such plan with respect to*
22 *such health benefit. For purposes of determining*
23 *the amount of any such claim, the costs paid by*
24 *the early retiree or the retiree's spouse, surviving*
25 *spouse, or dependent in the form of deductibles,*

1 *co-payments, or co-insurance shall be included in*
2 *the amounts paid by the participating employ-*
3 *ment-based plan.*

4 (2) *PROGRAM PAYMENTS.*—*If the Secretary de-*
5 *termines that a participating employment-based plan*
6 *has submitted a valid claim under paragraph (1), the*
7 *Secretary shall reimburse such plan for 80 percent of*
8 *that portion of the costs attributable to such claim*
9 *that exceed \$15,000, subject to the limits contained in*
10 *paragraph (3).*

11 (3) *LIMIT.*—*To be eligible for reimbursement*
12 *under the program, a claim submitted by a partici-*
13 *parting employment-based plan shall not be less than*
14 *\$15,000 nor greater than \$90,000. Such amounts*
15 *shall be adjusted each fiscal year based on the per-*
16 *centage increase in the Medical Care Component of*
17 *the Consumer Price Index for all urban consumers*
18 *(rounded to the nearest multiple of \$1,000) for the*
19 *year involved.*

20 (4) *USE OF PAYMENTS.*—*Amounts paid to a par-*
21 *ticipating employment-based plan under this sub-*
22 *section shall be used to lower costs for the plan. Such*
23 *payments may be used to reduce premium costs for*
24 *an entity described in subsection (a)(2)(B)(i) or to re-*
25 *duce premium contributions, co-payments,*

1 *deductibles, co-insurance, or other out-of-pocket costs*
2 *for plan participants. Such payments shall not be*
3 *used as general revenues for an entity described in*
4 *subsection (a)(2)(B)(i). The Secretary shall develop a*
5 *mechanism to monitor the appropriate use of such*
6 *payments by such entities.*

7 (5) *PAYMENTS NOT TREATED AS INCOME.—Pay-*
8 *ments received under this subsection shall not be in-*
9 *cluded in determining the gross income of an entity*
10 *described in subsection (a)(2)(B)(i) that is maintain-*
11 *ing or currently contributing to a participating em-*
12 *ployment-based plan.*

13 (6) *APPEALS.—The Secretary shall establish—*

14 (A) *an appeals process to permit partici-*
15 *ating employment-based plans to appeal a de-*
16 *termination of the Secretary with respect to*
17 *claims submitted under this section; and*

18 (B) *procedures to protect against fraud,*
19 *waste, and abuse under the program.*

20 (d) *AUDITS.—The Secretary shall conduct annual au-*
21 *dits of claims data submitted by participating employment-*
22 *based plans under this section to ensure that such plans*
23 *are in compliance with the requirements of this section.*

24 (e) *FUNDING.—There is appropriated to the Secretary,*
25 *out of any moneys in the Treasury not otherwise appro-*

1 *priated, \$5,000,000,000 to carry out the program under this*
2 *section. Such funds shall be available without fiscal year*
3 *limitation.*

4 (f) *LIMITATION.—The Secretary has the authority to*
5 *stop taking applications for participation in the program*
6 *based on the availability of funding under subsection (e).*

7 **SEC. 1103. IMMEDIATE INFORMATION THAT ALLOWS CON-**
8 **SUMERS TO IDENTIFY AFFORDABLE COV-**
9 **ERAGE OPTIONS.**

10 (a) *INTERNET PORTAL TO AFFORDABLE COVERAGE*
11 *OPTIONS.—*

12 (1) *IMMEDIATE ESTABLISHMENT.—Not later*
13 *than July 1, 2010, the Secretary, in consultation with*
14 *the States, shall establish a mechanism, including an*
15 *Internet website, through which a resident of any*
16 *State may identify affordable health insurance cov-*
17 *erage options in that State.*

18 (2) *CONNECTING TO AFFORDABLE COVERAGE.—*
19 *An Internet website established under paragraph (1)*
20 *shall, to the extent practicable, provide ways for resi-*
21 *dents of any State to receive information on at least*
22 *the following coverage options:*

23 (A) *Health insurance coverage offered by*
24 *health insurance issuers, other than coverage that*

1 *provides reimbursement only for the treatment or*
2 *mitigation of—*

3 *(i) a single disease or condition; or*

4 *(ii) an unreasonably limited set of dis-*
5 *eases or conditions (as determined by the*
6 *Secretary);*

7 *(B) Medicaid coverage under title XIX of*
8 *the Social Security Act.*

9 *(C) Coverage under title XXI of the Social*
10 *Security Act.*

11 *(D) A State health benefits high risk pool,*
12 *to the extent that such high risk pool is offered*
13 *in such State; and*

14 *(E) Coverage under a high risk pool under*
15 *section 1101.*

16 **(b) ENHANCING COMPARATIVE PURCHASING OP-**
17 **TIONS.—**

18 **(1) IN GENERAL.—***Not later than 60 days after*
19 *the date of enactment of this Act, the Secretary shall*
20 *develop a standardized format to be used for the pres-*
21 *entation of information relating to the coverage op-*
22 *tions described in subsection (a)(2). Such format*
23 *shall, at a minimum, require the inclusion of infor-*
24 *mation on the percentage of total premium revenue*
25 *expended on nonclinical costs (as reported under sec-*

1 *tion 2718(a) of the Public Health Service Act), eligi-*
2 *bility, availability, premium rates, and cost sharing*
3 *with respect to such coverage options and be con-*
4 *sistent with the standards adopted for the uniform ex-*
5 *planation of coverage as provided for in section 2715*
6 *of the Public Health Service Act.*

7 (2) *USE OF FORMAT.—The Secretary shall uti-*
8 *lize the format developed under paragraph (1) in*
9 *compiling information concerning coverage options on*
10 *the Internet website established under subsection (a).*

11 (c) *AUTHORITY TO CONTRACT.—The Secretary may*
12 *carry out this section through contracts entered into with*
13 *qualified entities.*

14 **SEC. 1104. ADMINISTRATIVE SIMPLIFICATION.**

15 (a) *PURPOSE OF ADMINISTRATIVE SIMPLIFICATION.—*
16 *Section 261 of the Health Insurance Portability and Ac-*
17 *countability Act of 1996 (42 U.S.C. 1320d note) is amend-*
18 *ed—*

19 (1) *by inserting “uniform” before “standards”;*
20 *and*

21 (2) *by inserting “and to reduce the clerical bur-*
22 *den on patients, health care providers, and health*
23 *plans” before the period at the end.*

24 (b) *OPERATING RULES FOR HEALTH INFORMATION*
25 *TRANSACTIONS.—*

1 (1) *DEFINITION OF OPERATING RULES.*—Section
2 1171 of the Social Security Act (42 U.S.C. 1320d) is
3 amended by adding at the end the following:

4 “(9) *OPERATING RULES.*—The term ‘operating
5 rules’ means the necessary business rules and guide-
6 lines for the electronic exchange of information that
7 are not defined by a standard or its implementation
8 specifications as adopted for purposes of this part.”.

9 (2) *TRANSACTION STANDARDS; OPERATING*
10 *RULES AND COMPLIANCE.*—Section 1173 of the Social
11 Security Act (42 U.S.C. 1320d–2) is amended—

12 (A) in subsection (a)(2), by adding at the
13 end the following new subparagraph:

14 “(J) *Electronic funds transfers.*”;

15 (B) in subsection (a), by adding at the end
16 the following new paragraph:

17 “(4) *REQUIREMENTS FOR FINANCIAL AND ADMIN-*
18 *ISTRATIVE TRANSACTIONS.*—

19 “(A) *IN GENERAL.*—The standards and as-
20 sociated operating rules adopted by the Secretary
21 shall—

22 “(i) to the extent feasible and appro-
23 priate, enable determination of an individ-
24 ual’s eligibility and financial responsibility

1 *for specific services prior to or at the point*
2 *of care;*

3 “(ii) *be comprehensive, requiring mini-*
4 *mal augmentation by paper or other com-*
5 *munications;*

6 “(iii) *provide for timely acknowledg-*
7 *ment, response, and status reporting that*
8 *supports a transparent claims and denial*
9 *management process (including adjudica-*
10 *tion and appeals); and*

11 “(iv) *describe all data elements (in-*
12 *cluding reason and remark codes) in unam-*
13 *biguous terms, require that such data ele-*
14 *ments be required or conditioned upon set*
15 *values in other fields, and prohibit addi-*
16 *tional conditions (except where necessary to*
17 *implement State or Federal law, or to pro-*
18 *tect against fraud and abuse).*

19 “(B) *REDUCTION OF CLERICAL BURDEN.—*
20 *In adopting standards and operating rules for*
21 *the transactions referred to under paragraph (1),*
22 *the Secretary shall seek to reduce the number*
23 *and complexity of forms (including paper and*
24 *electronic forms) and data entry required by pa-*
25 *tients and providers.”; and*

1 (C) by adding at the end the following new
2 subsections:

3 “(g) *OPERATING RULES.*—

4 “(1) *IN GENERAL.*—*The Secretary shall adopt a*
5 *single set of operating rules for each transaction re-*
6 *ferred to under subsection (a)(1) with the goal of cre-*
7 *ating as much uniformity in the implementation of*
8 *the electronic standards as possible. Such operating*
9 *rules shall be consensus-based and reflect the necessary*
10 *business rules affecting health plans and health care*
11 *providers and the manner in which they operate pur-*
12 *suant to standards issued under Health Insurance*
13 *Portability and Accountability Act of 1996.*

14 “(2) *OPERATING RULES DEVELOPMENT.*—*In*
15 *adopting operating rules under this subsection, the*
16 *Secretary shall consider recommendations for oper-*
17 *ating rules developed by a qualified nonprofit entity*
18 *that meets the following requirements:*

19 “(A) *The entity focuses its mission on ad-*
20 *ministrative simplification.*

21 “(B) *The entity demonstrates a multi-stake-*
22 *holder and consensus-based process for develop-*
23 *ment of operating rules, including representation*
24 *by or participation from health plans, health*
25 *care providers, vendors, relevant Federal agen-*

1 *cies, and other standard development organiza-*
2 *tions.*

3 “(C) *The entity has a public set of guiding*
4 *principles that ensure the operating rules and*
5 *process are open and transparent, and supports*
6 *nondiscrimination and conflict of interest poli-*
7 *cies that demonstrate a commitment to open,*
8 *fair, and nondiscriminatory practices.*

9 “(D) *The entity builds on the transaction*
10 *standards issued under Health Insurance Port-*
11 *ability and Accountability Act of 1996.*

12 “(E) *The entity allows for public review*
13 *and updates of the operating rules.*

14 “(3) *REVIEW AND RECOMMENDATIONS.—The Na-*
15 *tional Committee on Vital and Health Statistics*
16 *shall—*

17 “(A) *advise the Secretary as to whether a*
18 *nonprofit entity meets the requirements under*
19 *paragraph (2);*

20 “(B) *review the operating rules developed*
21 *and recommended by such nonprofit entity;*

22 “(C) *determine whether such operating rules*
23 *represent a consensus view of the health care*
24 *stakeholders and are consistent with and do not*
25 *conflict with other existing standards;*

1 “(D) evaluate whether such operating rules
2 are consistent with electronic standards adopted
3 for health information technology; and

4 “(E) submit to the Secretary a rec-
5 ommendation as to whether the Secretary should
6 adopt such operating rules.

7 “(4) IMPLEMENTATION.—

8 “(A) IN GENERAL.—The Secretary shall
9 adopt operating rules under this subsection, by
10 regulation in accordance with subparagraph (C),
11 following consideration of the operating rules de-
12 veloped by the non-profit entity described in
13 paragraph (2) and the recommendation sub-
14 mitted by the National Committee on Vital and
15 Health Statistics under paragraph (3)(E) and
16 having ensured consultation with providers.

17 “(B) ADOPTION REQUIREMENTS; EFFECTIVE
18 DATES.—

19 “(i) ELIGIBILITY FOR A HEALTH PLAN
20 AND HEALTH CLAIM STATUS.—The set of
21 operating rules for eligibility for a health
22 plan and health claim status transactions
23 shall be adopted not later than July 1,
24 2011, in a manner ensuring that such oper-
25 ating rules are effective not later than Jan-

1 uary 1, 2013, and may allow for the use of
2 a machine readable identification card.

3 “(ii) *ELECTRONIC FUNDS TRANSFERS*
4 *AND HEALTH CARE PAYMENT AND REMIT-*
5 *TANCE ADVICE.*—*The set of operating rules*
6 *for electronic funds transfers and health*
7 *care payment and remittance advice trans-*
8 *actions shall—*

9 “(I) *allow for automated rec-*
10 *onciliation of the electronic payment*
11 *with the remittance advice; and*

12 “(II) *be adopted not later than*
13 *July 1, 2012, in a manner ensuring*
14 *that such operating rules are effective*
15 *not later than January 1, 2014.*

16 “(iii) *HEALTH CLAIMS OR EQUIVALENT*
17 *ENCOUNTER INFORMATION, ENROLLMENT*
18 *AND DISENROLLMENT IN A HEALTH PLAN,*
19 *HEALTH PLAN PREMIUM PAYMENTS, REFER-*
20 *RAL CERTIFICATION AND AUTHORIZATION.*—
21 *The set of operating rules for health claims*
22 *or equivalent encounter information, enroll-*
23 *ment and disenrollment in a health plan,*
24 *health plan premium payments, and refer-*
25 *ral certification and authorization trans-*

1 actions shall be adopted not later than July
2 1, 2014, in a manner ensuring that such
3 operating rules are effective not later than
4 January 1, 2016.

5 “(C) *EXPEDITED RULEMAKING.*—The Sec-
6 retary shall promulgate an interim final rule
7 applying any standard or operating rule rec-
8 ommended by the National Committee on Vital
9 and Health Statistics pursuant to paragraph
10 (3). The Secretary shall accept and consider pub-
11 lic comments on any interim final rule published
12 under this subparagraph for 60 days after the
13 date of such publication.

14 “(h) *COMPLIANCE.*—

15 “(1) *HEALTH PLAN CERTIFICATION.*—

16 “(A) *ELIGIBILITY FOR A HEALTH PLAN,*
17 *HEALTH CLAIM STATUS, ELECTRONIC FUNDS*
18 *TRANSFERS, HEALTH CARE PAYMENT AND RE-*
19 *MITTANCE ADVICE.*—Not later than December 31,
20 2013, a health plan shall file a statement with
21 the Secretary, in such form as the Secretary may
22 require, certifying that the data and information
23 systems for such plan are in compliance with
24 any applicable standards (as described under
25 paragraph (7) of section 1171) and associated

1 *operating rules (as described under paragraph*
2 *(9) of such section) for electronic funds transfers,*
3 *eligibility for a health plan, health claim status,*
4 *and health care payment and remittance advice,*
5 *respectively.*

6 *“(B) HEALTH CLAIMS OR EQUIVALENT EN-*
7 *COUNTER INFORMATION, ENROLLMENT AND*
8 *DISENROLLMENT IN A HEALTH PLAN, HEALTH*
9 *PLAN PREMIUM PAYMENTS, HEALTH CLAIMS AT-*
10 *TACHMENTS, REFERRAL CERTIFICATION AND AU-*
11 *THORIZATION.—Not later than December 31,*
12 *2015, a health plan shall file a statement with*
13 *the Secretary, in such form as the Secretary may*
14 *require, certifying that the data and information*
15 *systems for such plan are in compliance with*
16 *any applicable standards and associated oper-*
17 *ating rules for health claims or equivalent en-*
18 *counter information, enrollment and*
19 *disenrollment in a health plan, health plan pre-*
20 *mium payments, health claims attachments, and*
21 *referral certification and authorization, respec-*
22 *tively. A health plan shall provide the same level*
23 *of documentation to certify compliance with such*
24 *transactions as is required to certify compliance*

1 with the transactions specified in subparagraph
2 (A).

3 “(2) *DOCUMENTATION OF COMPLIANCE.*—A
4 health plan shall provide the Secretary, in such form
5 as the Secretary may require, with adequate docu-
6 mentation of compliance with the standards and op-
7 erating rules described under paragraph (1). A health
8 plan shall not be considered to have provided ade-
9 quate documentation and shall not be certified as
10 being in compliance with such standards, unless the
11 health plan—

12 “(A) demonstrates to the Secretary that the
13 plan conducts the electronic transactions speci-
14 fied in paragraph (1) in a manner that fully
15 complies with the regulations of the Secretary;
16 and

17 “(B) provides documentation showing that
18 the plan has completed end-to-end testing for
19 such transactions with their partners, such as
20 hospitals and physicians.

21 “(3) *SERVICE CONTRACTS.*—A health plan shall
22 be required to ensure that any entities that provide
23 services pursuant to a contract with such health plan
24 shall comply with any applicable certification and
25 compliance requirements (and provide the Secretary

1 *with adequate documentation of such compliance)*
2 *under this subsection.*

3 “(4) *CERTIFICATION BY OUTSIDE ENTITY.*—*The*
4 *Secretary may designate independent, outside entities*
5 *to certify that a health plan has complied with the re-*
6 *quirements under this subsection, provided that the*
7 *certification standards employed by such entities are*
8 *in accordance with any standards or operating rules*
9 *issued by the Secretary.*

10 “(5) *COMPLIANCE WITH REVISED STANDARDS*
11 *AND OPERATING RULES.*—

12 “(A) *IN GENERAL.*—*A health plan (includ-*
13 *ing entities described under paragraph (3)) shall*
14 *file a statement with the Secretary, in such form*
15 *as the Secretary may require, certifying that the*
16 *data and information systems for such plan are*
17 *in compliance with any applicable revised stand-*
18 *ards and associated operating rules under this*
19 *subsection for any interim final rule promul-*
20 *gated by the Secretary under subsection (i)*
21 *that—*

22 “(i) *amends any standard or operating*
23 *rule described under paragraph (1) of this*
24 *subsection; or*

1 “(i) establishes a standard (as de-
2 scribed under subsection (a)(1)(B)) or asso-
3 ciated operating rules (as described under
4 subsection (i)(5)) for any other financial
5 and administrative transactions.

6 “(B) DATE OF COMPLIANCE.—A health plan
7 shall comply with such requirements not later
8 than the effective date of the applicable standard
9 or operating rule.

10 “(6) AUDITS OF HEALTH PLANS.—The Secretary
11 shall conduct periodic audits to ensure that health
12 plans (including entities described under paragraph
13 (3)) are in compliance with any standards and oper-
14 ating rules that are described under paragraph (1) or
15 subsection (i)(5).

16 “(i) REVIEW AND AMENDMENT OF STANDARDS AND
17 OPERATING RULES.—

18 “(1) ESTABLISHMENT.—Not later than January
19 1, 2014, the Secretary shall establish a review com-
20 mittee (as described under paragraph (4)).

21 “(2) EVALUATIONS AND REPORTS.—

22 “(A) HEARINGS.—Not later than April 1,
23 2014, and not less than biennially thereafter, the
24 Secretary, acting through the review committee,
25 shall conduct hearings to evaluate and review the

1 *adopted standards and operating rules estab-*
2 *lished under this section.*

3 “(B) *REPORT.*—*Not later than July 1,*
4 *2014, and not less than biennially thereafter, the*
5 *review committee shall provide recommendations*
6 *for updating and improving such standards and*
7 *operating rules. The review committee shall rec-*
8 *ommend a single set of operating rules per trans-*
9 *action standard and maintain the goal of cre-*
10 *ating as much uniformity as possible in the im-*
11 *plementation of the electronic standards.*

12 “(3) *INTERIM FINAL RULEMAKING.*—

13 “(A) *IN GENERAL.*—*Any recommendations*
14 *to amend adopted standards and operating rules*
15 *that have been approved by the review committee*
16 *and reported to the Secretary under paragraph*
17 *(2)(B) shall be adopted by the Secretary through*
18 *promulgation of an interim final rule not later*
19 *than 90 days after receipt of the committee’s re-*
20 *port.*

21 “(B) *PUBLIC COMMENT.*—

22 “(i) *PUBLIC COMMENT PERIOD.*—*The*
23 *Secretary shall accept and consider public*
24 *comments on any interim final rule pub-*

1 lished under this paragraph for 60 days
2 after the date of such publication.

3 “(ii) *EFFECTIVE DATE.*—The effective
4 date of any amendment to existing stand-
5 ards or operating rules that is adopted
6 through an interim final rule published
7 under this paragraph shall be 25 months
8 following the close of such public comment
9 period.

10 “(4) *REVIEW COMMITTEE.*—

11 “(A) *DEFINITION.*—For the purposes of this
12 subsection, the term ‘review committee’ means a
13 committee chartered by or within the Depart-
14 ment of Health and Human services that has
15 been designated by the Secretary to carry out
16 this subsection, including—

17 “(i) the National Committee on Vital
18 and Health Statistics; or

19 “(ii) any appropriate committee as de-
20 termined by the Secretary.

21 “(B) *COORDINATION OF HIT STANDARDS.*—

22 In developing recommendations under this sub-
23 section, the review committee shall ensure coordi-
24 nation, as appropriate, with the standards that
25 support the certified electronic health record tech-

1 *nology approved by the Office of the National*
2 *Coordinator for Health Information Technology.*

3 *“(5) OPERATING RULES FOR OTHER STANDARDS*
4 *ADOPTED BY THE SECRETARY.—The Secretary shall*
5 *adopt a single set of operating rules (pursuant to the*
6 *process described under subsection (g)) for any trans-*
7 *action for which a standard had been adopted pursu-*
8 *ant to subsection (a)(1)(B).*

9 *“(j) PENALTIES.—*

10 *“(1) PENALTY FEE.—*

11 *“(A) IN GENERAL.—Not later than April 1,*
12 *2014, and annually thereafter, the Secretary*
13 *shall assess a penalty fee (as determined under*
14 *subparagraph (B)) against a health plan that*
15 *has failed to meet the requirements under sub-*
16 *section (h) with respect to certification and docu-*
17 *mentation of compliance with—*

18 *“(i) the standards and associated oper-*
19 *ating rules described under paragraph (1)*
20 *of such subsection; and*

21 *“(ii) a standard (as described under*
22 *subsection (a)(1)(B)) and associated oper-*
23 *ating rules (as described under subsection*
24 *(i)(5)) for any other financial and adminis-*
25 *trative transactions.*

1 “(B) *FEE AMOUNT.*—Subject to subpara-
2 graphs (C), (D), and (E), the Secretary shall as-
3 sess a penalty fee against a health plan in the
4 amount of \$1 per covered life until certification
5 is complete. The penalty shall be assessed per
6 person covered by the plan for which its data
7 systems for major medical policies are not in
8 compliance and shall be imposed against the
9 health plan for each day that the plan is not in
10 compliance with the requirements under sub-
11 section (h).

12 “(C) *ADDITIONAL PENALTY FOR MISREPRE-*
13 *SENTATION.*—A health plan that knowingly pro-
14 vides inaccurate or incomplete information in a
15 statement of certification or documentation of
16 compliance under subsection (h) shall be subject
17 to a penalty fee that is double the amount that
18 would otherwise be imposed under this sub-
19 section.

20 “(D) *ANNUAL FEE INCREASE.*—The amount
21 of the penalty fee imposed under this subsection
22 shall be increased on an annual basis by the an-
23 nual percentage increase in total national health
24 care expenditures, as determined by the Sec-
25 retary.

1 “(E) *PENALTY LIMIT.*—A penalty fee as-
2 sessed against a health plan under this sub-
3 section shall not exceed, on an annual basis—

4 “(i) an amount equal to \$20 per cov-
5 ered life under such plan; or

6 “(ii) an amount equal to \$40 per cov-
7 ered life under the plan if such plan has
8 knowingly provided inaccurate or incom-
9 plete information (as described under sub-
10 paragraph (C)).

11 “(F) *DETERMINATION OF COVERED INDIVID-*
12 *UALS.*—The Secretary shall determine the num-
13 ber of covered lives under a health plan based
14 upon the most recent statements and filings that
15 have been submitted by such plan to the Securi-
16 ties and Exchange Commission.

17 “(2) *NOTICE AND DISPUTE PROCEDURE.*—The
18 Secretary shall establish a procedure for assessment of
19 penalty fees under this subsection that provides a
20 health plan with reasonable notice and a dispute reso-
21 lution procedure prior to provision of a notice of as-
22 sessment by the Secretary of the Treasury (as de-
23 scribed under paragraph (4)(B)).

24 “(3) *PENALTY FEE REPORT.*—Not later than
25 May 1, 2014, and annually thereafter, the Secretary

1 *shall provide the Secretary of the Treasury with a re-*
2 *port identifying those health plans that have been as-*
3 *essed a penalty fee under this subsection.*

4 “(4) *COLLECTION OF PENALTY FEE.—*

5 “(A) *IN GENERAL.—The Secretary of the*
6 *Treasury, acting through the Financial Manage-*
7 *ment Service, shall administer the collection of*
8 *penalty fees from health plans that have been*
9 *identified by the Secretary in the penalty fee re-*
10 *port provided under paragraph (3).*

11 “(B) *NOTICE.—Not later than August 1,*
12 *2014, and annually thereafter, the Secretary of*
13 *the Treasury shall provide notice to each health*
14 *plan that has been assessed a penalty fee by the*
15 *Secretary under this subsection. Such notice*
16 *shall include the amount of the penalty fee as-*
17 *essed by the Secretary and the due date for pay-*
18 *ment of such fee to the Secretary of the Treasury*
19 *(as described in subparagraph (C)).*

20 “(C) *PAYMENT DUE DATE.—Payment by a*
21 *health plan for a penalty fee assessed under this*
22 *subsection shall be made to the Secretary of the*
23 *Treasury not later than November 1, 2014, and*
24 *annually thereafter.*

1 “(D) *UNPAID PENALTY FEES.*—*Any amount*
2 *of a penalty fee assessed against a health plan*
3 *under this subsection for which payment has not*
4 *been made by the due date provided under sub-*
5 *paragraph (C) shall be—*

6 “(i) *increased by the interest accrued*
7 *on such amount, as determined pursuant to*
8 *the underpayment rate established under*
9 *section 6621 of the Internal Revenue Code*
10 *of 1986; and*

11 “(ii) *treated as a past-due, legally en-*
12 *forceable debt owed to a Federal agency for*
13 *purposes of section 6402(d) of the Internal*
14 *Revenue Code of 1986.*

15 “(E) *ADMINISTRATIVE FEES.*—*Any fee*
16 *charged or allocated for collection activities con-*
17 *ducted by the Financial Management Service*
18 *will be passed on to a health plan on a pro-rata*
19 *basis and added to any penalty fee collected from*
20 *the plan.”.*

21 (c) *PROMULGATION OF RULES.*—

22 (1) *UNIQUE HEALTH PLAN IDENTIFIER.*—*The*
23 *Secretary shall promulgate a final rule to establish a*
24 *unique health plan identifier (as described in section*
25 *1173(b) of the Social Security Act (42 U.S.C. 1320d-*

1 2(b))) based on the input of the National Committee
2 on Vital and Health Statistics. The Secretary may do
3 so on an interim final basis and such rule shall be
4 effective not later than October 1, 2012.

5 (2) *ELECTRONIC FUNDS TRANSFER.*—The Sec-
6 retary shall promulgate a final rule to establish a
7 standard for electronic funds transfers (as described
8 in section 1173(a)(2)(J) of the Social Security Act, as
9 added by subsection (b)(2)(A)). The Secretary may do
10 so on an interim final basis and shall adopt such
11 standard not later than January 1, 2012, in a man-
12 ner ensuring that such standard is effective not later
13 than January 1, 2014.

14 (3) *HEALTH CLAIMS ATTACHMENTS.*—The Sec-
15 retary shall promulgate a final rule to establish a
16 transaction standard and a single set of associated
17 operating rules for health claims attachments (as de-
18 scribed in section 1173(a)(2)(B) of the Social Secu-
19 rity Act (42 U.S.C. 1320d–2(a)(2)(B))) that is con-
20 sistent with the X12 Version 5010 transaction stand-
21 ards. The Secretary may do so on an interim final
22 basis and shall adopt a transaction standard and a
23 single set of associated operating rules not later than
24 January 1, 2014, in a manner ensuring that such
25 standard is effective not later than January 1, 2016.

1 (d) *EXPANSION OF ELECTRONIC TRANSACTIONS IN*
2 *MEDICARE.*—Section 1862(a) of the Social Security Act (42
3 U.S.C. 1395y(a)) is amended—

4 (1) in paragraph (23), by striking the “or” at
5 the end;

6 (2) in paragraph (24), by striking the period
7 and inserting “; or”; and

8 (3) by inserting after paragraph (24) the fol-
9 lowing new paragraph:

10 “(25) not later than January 1, 2014, for which
11 the payment is other than by electronic funds transfer
12 (EFT) or an electronic remittance in a form as speci-
13 fied in ASC X12 835 Health Care Payment and Re-
14 mittance Advice or subsequent standard.”.

15 **SEC. 1105. EFFECTIVE DATE.**

16 This subtitle shall take effect on the date of enactment
17 of this Act.

18 **Subtitle C—Quality Health Insur-**
19 **ance Coverage for All Americans**

20 **PART I—HEALTH INSURANCE MARKET REFORMS**

21 **SEC. 1201. AMENDMENT TO THE PUBLIC HEALTH SERVICE**

22 **ACT.**

23 Part A of title XXVII of the Public Health Service Act
24 (42 U.S.C. 300gg et seq.), as amended by section 1001, is
25 further amended—

1 (1) *by striking the heading for subpart 1 and in-*
 2 *serting the following:*

3 **“Subpart I—General Reform”;**

4 (2)(A) *in section 2701 (42 U.S.C. 300gg), by*
 5 *striking the section heading and subsection (a) and*
 6 *inserting the following:*

7 **“SEC. 2704. PROHIBITION OF PREEXISTING CONDITION EX-**
 8 **CLUSIONS OR OTHER DISCRIMINATION**
 9 **BASED ON HEALTH STATUS.**

10 “(a) *IN GENERAL.—A group health plan and a health*
 11 *insurance issuer offering group or individual health insur-*
 12 *ance coverage may not impose any preexisting condition*
 13 *exclusion with respect to such plan or coverage.”; and*

14 (B) *by transferring such section (as amended by*
 15 *subparagraph (A)) so as to appear after the section*
 16 *2703 added by paragraph (4);*

17 (3)(A) *in section 2702 (42 U.S.C. 300gg–1)—*

18 (i) *by striking the section heading and all*
 19 *that follows through subsection (a);*

20 (ii) *in subsection (b)—*

21 (I) *by striking “health insurance issuer*
 22 *offering health insurance coverage in con-*
 23 *nection with a group health plan” each*
 24 *place that such appears and inserting*

1 “health insurance issuer offering group or
2 individual health insurance coverage”; and

3 (II) in paragraph (2)(A)—

4 (aa) by inserting “or individual”
5 after “employer”; and

6 (bb) by inserting “or individual
7 health coverage, as the case may be”

8 before the semicolon; and

9 (iii) in subsection (e)—

10 (I) by striking “(a)(1)(F)” and insert-
11 ing “(a)(6)”;

12 (II) by striking “2701” and inserting
13 “2704”; and

14 (III) by striking “2721(a)” and insert-
15 ing “2735(a)”;

16 (B) by transferring such section (as amend-
17 ed by subparagraph (A)) to appear after section

18 2705(a) as added by paragraph (4); and

19 (4) by inserting after the subpart heading (as
20 added by paragraph (1)) the following:

21 **“SEC. 2701. FAIR HEALTH INSURANCE PREMIUMS.**

22 “*(a) PROHIBITING DISCRIMINATORY PREMIUM*
23 *RATES.—*

24 “*(1) IN GENERAL.—With respect to the premium*
25 *rate charged by a health insurance issuer for health*

1 *insurance coverage offered in the individual or small*
2 *group market—*

3 “(A) *such rate shall vary with respect to the*
4 *particular plan or coverage involved only by—*

5 “(i) *whether such plan or coverage cov-*
6 *ers an individual or family;*

7 “(ii) *rating area, as established in ac-*
8 *cordance with paragraph (2);*

9 “(iii) *age, except that such rate shall*
10 *not vary by more than 3 to 1 for adults*
11 *(consistent with section 2707(c)); and*

12 “(iv) *tobacco use, except that such rate*
13 *shall not vary by more than 1.5 to 1; and*

14 “(B) *such rate shall not vary with respect*
15 *to the particular plan or coverage involved by*
16 *any other factor not described in subparagraph*
17 *(A).*

18 “(2) *RATING AREA.—*

19 “(A) *IN GENERAL.—Each State shall estab-*
20 *lish 1 or more rating areas within that State for*
21 *purposes of applying the requirements of this*
22 *title.*

23 “(B) *SECRETARIAL REVIEW.—The Sec-*
24 *retary shall review the rating areas established*
25 *by each State under subparagraph (A) to ensure*

1 *the adequacy of such areas for purposes of car-*
2 *rying out the requirements of this title. If the*
3 *Secretary determines a State’s rating areas are*
4 *not adequate, or that a State does not establish*
5 *such areas, the Secretary may establish rating*
6 *areas for that State.*

7 “(3) *PERMISSIBLE AGE BANDS.—The Secretary,*
8 *in consultation with the National Association of In-*
9 *surance Commissioners, shall define the permissible*
10 *age bands for rating purposes under paragraph*
11 *(1)(A)(iii).*

12 “(4) *APPLICATION OF VARIATIONS BASED ON AGE*
13 *OR TOBACCO USE.—With respect to family coverage*
14 *under a group health plan or health insurance cov-*
15 *erage, the rating variations permitted under clauses*
16 *(iii) and (iv) of paragraph (1)(A) shall be applied*
17 *based on the portion of the premium that is attrib-*
18 *utable to each family member covered under the plan*
19 *or coverage.*

20 “(5) *SPECIAL RULE FOR LARGE GROUP MAR-*
21 *KET.—If a State permits health insurance issuers*
22 *that offer coverage in the large group market in the*
23 *State to offer such coverage through the State Ex-*
24 *change (as provided for under section 1312(f)(2)(B) of*
25 *the Patient Protection and Affordable Care Act), the*

1 provisions of this subsection shall apply to all cov-
2 erage offered in such market in the State.

3 **“SEC. 2702. GUARANTEED AVAILABILITY OF COVERAGE.**

4 “(a) *GUARANTEED ISSUANCE OF COVERAGE IN THE*
5 *INDIVIDUAL AND GROUP MARKET.*—Subject to subsections
6 (b) through (e), each health insurance issuer that offers
7 health insurance coverage in the individual or group mar-
8 ket in a State must accept every employer and individual
9 in the State that applies for such coverage.

10 “(b) *ENROLLMENT.*—

11 “(1) *RESTRICTION.*—A health insurance issuer
12 described in subsection (a) may restrict enrollment in
13 coverage described in such subsection to open or spe-
14 cial enrollment periods.

15 “(2) *ESTABLISHMENT.*—A health insurance
16 issuer described in subsection (a) shall, in accordance
17 with the regulations promulgated under paragraph
18 (3), establish special enrollment periods for qualifying
19 events (under section 603 of the *Employee Retirement*
20 *Income Security Act of 1974*).

21 “(3) *REGULATIONS.*—The Secretary shall pro-
22 mulgate regulations with respect to enrollment periods
23 under paragraphs (1) and (2).

1 **“SEC. 2703. GUARANTEED RENEWABILITY OF COVERAGE.**

2 “(a) *IN GENERAL.*—*Except as provided in this section,*
3 *if a health insurance issuer offers health insurance coverage*
4 *in the individual or group market, the issuer must renew*
5 *or continue in force such coverage at the option of the plan*
6 *sponsor or the individual, as applicable.*

7 **“SEC. 2705. PROHIBITING DISCRIMINATION AGAINST INDI-**
8 **VIDUAL PARTICIPANTS AND BENEFICIARIES**
9 **BASED ON HEALTH STATUS.**

10 “(a) *IN GENERAL.*—*A group health plan and a health*
11 *insurance issuer offering group or individual health insur-*
12 *ance coverage may not establish rules for eligibility (includ-*
13 *ing continued eligibility) of any individual to enroll under*
14 *the terms of the plan or coverage based on any of the fol-*
15 *lowing health status-related factors in relation to the indi-*
16 *vidual or a dependent of the individual:*

17 “(1) *Health status.*

18 “(2) *Medical condition (including both physical*
19 *and mental illnesses).*

20 “(3) *Claims experience.*

21 “(4) *Receipt of health care.*

22 “(5) *Medical history.*

23 “(6) *Genetic information.*

24 “(7) *Evidence of insurability (including condi-*
25 *tions arising out of acts of domestic violence).*

26 “(8) *Disability.*

1 “(9) *Any other health status-related factor deter-*
2 *mined appropriate by the Secretary.*

3 “(j) *PROGRAMS OF HEALTH PROMOTION OR DISEASE*
4 *PREVENTION.—*

5 “(1) *GENERAL PROVISIONS.—*

6 “(A) *GENERAL RULE.—For purposes of sub-*
7 *section (b)(2)(B), a program of health promotion*
8 *or disease prevention (referred to in this sub-*
9 *section as a ‘wellness program’) shall be a pro-*
10 *gram offered by an employer that is designed to*
11 *promote health or prevent disease that meets the*
12 *applicable requirements of this subsection.*

13 “(B) *NO CONDITIONS BASED ON HEALTH*
14 *STATUS FACTOR.—If none of the conditions for*
15 *obtaining a premium discount or rebate or other*
16 *reward for participation in a wellness program*
17 *is based on an individual satisfying a standard*
18 *that is related to a health status factor, such*
19 *wellness program shall not violate this section if*
20 *participation in the program is made available*
21 *to all similarly situated individuals and the re-*
22 *quirements of paragraph (2) are complied with.*

23 “(C) *CONDITIONS BASED ON HEALTH STA-*
24 *TUS FACTOR.—If any of the conditions for ob-*
25 *taining a premium discount or rebate or other*

1 *reward for participation in a wellness program*
2 *is based on an individual satisfying a standard*
3 *that is related to a health status factor, such*
4 *wellness program shall not violate this section if*
5 *the requirements of paragraph (3) are complied*
6 *with.*

7 “(2) *WELLNESS PROGRAMS NOT SUBJECT TO RE-*
8 *QUIREMENTS.—If none of the conditions for obtaining*
9 *a premium discount or rebate or other reward under*
10 *a wellness program as described in paragraph (1)(B)*
11 *are based on an individual satisfying a standard that*
12 *is related to a health status factor (or if such a*
13 *wellness program does not provide such a reward), the*
14 *wellness program shall not violate this section if par-*
15 *ticipation in the program is made available to all*
16 *similarly situated individuals. The following pro-*
17 *grams shall not have to comply with the requirements*
18 *of paragraph (3) if participation in the program is*
19 *made available to all similarly situated individuals:*

20 “(A) *A program that reimburses all or part*
21 *of the cost for memberships in a fitness center.*

22 “(B) *A diagnostic testing program that pro-*
23 *vides a reward for participation and does not*
24 *base any part of the reward on outcomes.*

1 “(C) A program that encourages preventive
2 care related to a health condition through the
3 waiver of the copayment or deductible require-
4 ment under group health plan for the costs of
5 certain items or services related to a health con-
6 dition (such as prenatal care or well-baby visits).

7 “(D) A program that reimburses individ-
8 uals for the costs of smoking cessation programs
9 without regard to whether the individual quits
10 smoking.

11 “(E) A program that provides a reward to
12 individuals for attending a periodic health edu-
13 cation seminar.

14 “(3) WELLNESS PROGRAMS SUBJECT TO RE-
15 QUIREMENTS.—If any of the conditions for obtaining
16 a premium discount, rebate, or reward under a
17 wellness program as described in paragraph (1)(C) is
18 based on an individual satisfying a standard that is
19 related to a health status factor, the wellness program
20 shall not violate this section if the following require-
21 ments are complied with:

22 “(A) The reward for the wellness program,
23 together with the reward for other wellness pro-
24 grams with respect to the plan that requires sat-
25 isfaction of a standard related to a health status

1 *factor, shall not exceed 30 percent of the cost of*
2 *employee-only coverage under the plan. If, in ad-*
3 *dition to employees or individuals, any class of*
4 *dependents (such as spouses or spouses and de-*
5 *pendent children) may participate fully in the*
6 *wellness program, such reward shall not exceed*
7 *30 percent of the cost of the coverage in which*
8 *an employee or individual and any dependents*
9 *are enrolled. For purposes of this paragraph, the*
10 *cost of coverage shall be determined based on the*
11 *total amount of employer and employee contribu-*
12 *tions for the benefit package under which the em-*
13 *ployee is (or the employee and any dependents*
14 *are) receiving coverage. A reward may be in the*
15 *form of a discount or rebate of a premium or*
16 *contribution, a waiver of all or part of a cost-*
17 *sharing mechanism (such as deductibles, copay-*
18 *ments, or coinsurance), the absence of a sur-*
19 *charge, or the value of a benefit that would other-*
20 *wise not be provided under the plan. The Secre-*
21 *taries of Labor, Health and Human Services,*
22 *and the Treasury may increase the reward avail-*
23 *able under this subparagraph to up to 50 percent*
24 *of the cost of coverage if the Secretaries deter-*
25 *mine that such an increase is appropriate.*

1 “(B) *The wellness program shall be reason-*
2 *ably designed to promote health or prevent dis-*
3 *ease. A program complies with the preceding sen-*
4 *tence if the program has a reasonable chance of*
5 *improving the health of, or preventing disease in,*
6 *participating individuals and it is not overly*
7 *burdensome, is not a subterfuge for discrimi-*
8 *nating based on a health status factor, and is*
9 *not highly suspect in the method chosen to pro-*
10 *mote health or prevent disease.*

11 “(C) *The plan shall give individuals eligible*
12 *for the program the opportunity to qualify for*
13 *the reward under the program at least once each*
14 *year.*

15 “(D) *The full reward under the wellness*
16 *program shall be made available to all similarly*
17 *situated individuals. For such purpose, among*
18 *other things:*

19 “(i) *The reward is not available to all*
20 *similarly situated individuals for a period*
21 *unless the wellness program allows—*

22 “(I) *for a reasonable alternative*
23 *standard (or waiver of the otherwise*
24 *applicable standard) for obtaining the*
25 *reward for any individual for whom,*

1 *for that period, it is unreasonably dif-*
2 *ficult due to a medical condition to*
3 *satisfy the otherwise applicable stand-*
4 *ard; and*

5 *“(II) for a reasonable alternative*
6 *standard (or waiver of the otherwise*
7 *applicable standard) for obtaining the*
8 *reward for any individual for whom,*
9 *for that period, it is medically inadvis-*
10 *able to attempt to satisfy the otherwise*
11 *applicable standard.*

12 *“(ii) If reasonable under the cir-*
13 *cumstances, the plan or issuer may seek*
14 *verification, such as a statement from an*
15 *individual’s physician, that a health status*
16 *factor makes it unreasonably difficult or*
17 *medically inadvisable for the individual to*
18 *satisfy or attempt to satisfy the otherwise*
19 *applicable standard.*

20 *“(E) The plan or issuer involved shall dis-*
21 *close in all plan materials describing the terms*
22 *of the wellness program the availability of a rea-*
23 *sonable alternative standard (or the possibility of*
24 *waiver of the otherwise applicable standard) re-*
25 *quired under subparagraph (D). If plan mate-*

1 *rials disclose that such a program is available,*
2 *without describing its terms, the disclosure under*
3 *this subparagraph shall not be required.*

4 “(k) *EXISTING PROGRAMS.*—*Nothing in this section*
5 *shall prohibit a program of health promotion or disease pre-*
6 *vention that was established prior to the date of enactment*
7 *of this section and applied with all applicable regulations,*
8 *and that is operating on such date, from continuing to be*
9 *carried out for as long as such regulations remain in effect.*

10 “(l) *WELLNESS PROGRAM DEMONSTRATION*
11 *PROJECT.*—

12 “(1) *IN GENERAL.*—*Not later than July 1, 2014,*
13 *the Secretary, in consultation with the Secretary of*
14 *the Treasury and the Secretary of Labor, shall estab-*
15 *lish a 10-State demonstration project under which*
16 *participating States shall apply the provisions of sub-*
17 *section (j) to programs of health promotion offered by*
18 *a health insurance issuer that offers health insurance*
19 *coverage in the individual market in such State.*

20 “(2) *EXPANSION OF DEMONSTRATION*
21 *PROJECT.*—*If the Secretary, in consultation with the*
22 *Secretary of the Treasury and the Secretary of Labor,*
23 *determines that the demonstration project described in*
24 *paragraph (1) is effective, such Secretaries may, be-*

1 *ginning on July 1, 2017 expand such demonstration*
2 *project to include additional participating States.*

3 “(3) *REQUIREMENTS.*—

4 “(A) *MAINTENANCE OF COVERAGE.*—*The*
5 *Secretary, in consultation with the Secretary of*
6 *the Treasury and the Secretary of Labor, shall*
7 *not approve the participation of a State in the*
8 *demonstration project under this section unless*
9 *the Secretaries determine that the State’s project*
10 *is designed in a manner that—*

11 “(i) *will not result in any decrease in*
12 *coverage; and*

13 “(ii) *will not increase the cost to the*
14 *Federal Government in providing credits*
15 *under section 36B of the Internal Revenue*
16 *Code of 1986 or cost-sharing assistance*
17 *under section 1402 of the Patient Protection*
18 *and Affordable Care Act.*

19 “(B) *OTHER REQUIREMENTS.*—*States that*
20 *participate in the demonstration project under*
21 *this subsection—*

22 “(i) *may permit premium discounts or*
23 *rebates or the modification of otherwise ap-*
24 *plicable copayments or deductibles for ad-*
25 *herence to, or participation in, a reasonably*

1 *designed program of health promotion and*
2 *disease prevention;*

3 “(ii) shall ensure that requirements of
4 consumer protection are met in programs of
5 health promotion in the individual market;

6 “(iii) shall require verification from
7 health insurance issuers that offer health in-
8 surance coverage in the individual market
9 of such State that premium discounts—

10 “(I) do not create undue burdens
11 for individuals insured in the indi-
12 vidual market;

13 “(II) do not lead to cost shifting;
14 and

15 “(III) are not a subterfuge for dis-
16 crimination;

17 “(iv) shall ensure that consumer data
18 is protected in accordance with the require-
19 ments of section 264(c) of the Health Insur-
20 ance Portability and Accountability Act of
21 1996 (42 U.S.C. 1320d–2 note); and

22 “(v) shall ensure and demonstrate to
23 the satisfaction of the Secretary that the
24 discounts or other rewards provided under
25 the project reflect the expected level of par-

1 *ticipation in the wellness program involved*
2 *and the anticipated effect the program will*
3 *have on utilization or medical claim costs.*

4 “(m) *REPORT.—*

5 “(1) *IN GENERAL.—Not later than 3 years after*
6 *the date of enactment of the Patient Protection and*
7 *Affordable Care Act, the Secretary, in consultation*
8 *with the Secretary of the Treasury and the Secretary*
9 *of Labor, shall submit a report to the appropriate*
10 *committees of Congress concerning—*

11 “(A) *the effectiveness of wellness programs*
12 *(as defined in subsection (j)) in promoting health*
13 *and preventing disease;*

14 “(B) *the impact of such wellness programs*
15 *on the access to care and affordability of cov-*
16 *erage for participants and non-participants of*
17 *such programs;*

18 “(C) *the impact of premium-based and cost-*
19 *sharing incentives on participant behavior and*
20 *the role of such programs in changing behavior;*
21 *and*

22 “(D) *the effectiveness of different types of re-*
23 *wards.*

24 “(2) *DATA COLLECTION.—In preparing the re-*
25 *port described in paragraph (1), the Secretaries shall*

1 gather relevant information from employers who pro-
2 vide employees with access to wellness programs, in-
3 cluding State and Federal agencies.

4 “(n) *REGULATIONS.*—Nothing in this section shall be
5 construed as prohibiting the Secretaries of Labor, Health
6 and Human Services, or the Treasury from promulgating
7 regulations in connection with this section.

8 **“SEC. 2706. NON-DISCRIMINATION IN HEALTH CARE.**

9 “(a) *PROVIDERS.*—A group health plan and a health
10 insurance issuer offering group or individual health insur-
11 ance coverage shall not discriminate with respect to partici-
12 pation under the plan or coverage against any health care
13 provider who is acting within the scope of that provider’s
14 license or certification under applicable State law. This sec-
15 tion shall not require that a group health plan or health
16 insurance issuer contract with any health care provider
17 willing to abide by the terms and conditions for participa-
18 tion established by the plan or issuer. Nothing in this sec-
19 tion shall be construed as preventing a group health plan,
20 a health insurance issuer, or the Secretary from establishing
21 varying reimbursement rates based on quality or perform-
22 ance measures.

23 “(b) *INDIVIDUALS.*—The provisions of section 1558 of
24 the Patient Protection and Affordable Care Act (relating
25 to non-discrimination) shall apply with respect to a group

1 *health plan or health insurance issuer offering group or in-*
2 *dividual health insurance coverage.*

3 **“SEC. 2707. COMPREHENSIVE HEALTH INSURANCE COV-**
4 **ERAGE.**

5 *“(a) COVERAGE FOR ESSENTIAL HEALTH BENEFITS*
6 *PACKAGE.—A health insurance issuer that offers health in-*
7 *surance coverage in the individual or small group market*
8 *shall ensure that such coverage includes the essential health*
9 *benefits package required under section 1302(a) of the Pa-*
10 *tient Protection and Affordable Care Act.*

11 *“(b) COST-SHARING UNDER GROUP HEALTH*
12 *PLANS.—A group health plan shall ensure that any annual*
13 *cost-sharing imposed under the plan does not exceed the*
14 *limitations provided for under paragraphs (1) and (2) of*
15 *section 1302(c).*

16 *“(c) CHILD-ONLY PLANS.—If a health insurance issuer*
17 *offers health insurance coverage in any level of coverage*
18 *specified under section 1302(d) of the Patient Protection*
19 *and Affordable Care Act, the issuer shall also offer such cov-*
20 *erage in that level as a plan in which the only enrollees*
21 *are individuals who, as of the beginning of a plan year,*
22 *have not attained the age of 21.*

23 *“(d) DENTAL ONLY.—This section shall not apply to*
24 *a plan described in section 1302(d)(2)(B)(i)(I).*

1 **“SEC. 2708. PROHIBITION ON EXCESSIVE WAITING PERIODS.**

2 *“A group health plan and a health insurance issuer*
 3 *offering group or individual health insurance coverage shall*
 4 *not apply any waiting period (as defined in section*
 5 *2704(b)(4)) that exceeds 90 days.”.*

6 **PART II—OTHER PROVISIONS**

7 **SEC. 1251. PRESERVATION OF RIGHT TO MAINTAIN EXIST-**
 8 **ING COVERAGE.**

9 *(a) NO CHANGES TO EXISTING COVERAGE.—*

10 *(1) IN GENERAL.—Nothing in this Act (or an*
 11 *amendment made by this Act) shall be construed to*
 12 *require that an individual terminate coverage under*
 13 *a group health plan or health insurance coverage in*
 14 *which such individual was enrolled on the date of en-*
 15 *actment of this Act.*

16 *(2) CONTINUATION OF COVERAGE.—With respect*
 17 *to a group health plan or health insurance coverage*
 18 *in which an individual was enrolled on the date of*
 19 *enactment of this Act, this subtitle and subtitle A*
 20 *(and the amendments made by such subtitles) shall*
 21 *not apply to such plan or coverage, regardless of*
 22 *whether the individual renews such coverage after*
 23 *such date of enactment.*

24 *(b) ALLOWANCE FOR FAMILY MEMBERS TO JOIN CUR-*
 25 *RENT COVERAGE.—With respect to a group health plan or*
 26 *health insurance coverage in which an individual was en-*

1 rolled on the date of enactment of this Act and which is
2 renewed after such date, family members of such individual
3 shall be permitted to enroll in such plan or coverage if such
4 enrollment is permitted under the terms of the plan in effect
5 as of such date of enactment.

6 (c) *ALLOWANCE FOR NEW EMPLOYEES TO JOIN CUR-*
7 *RENT PLAN.*—A group health plan that provides coverage
8 on the date of enactment of this Act may provide for the
9 enrolling of new employees (and their families) in such
10 plan, and this subtitle and subtitle A (and the amendments
11 made by such subtitles) shall not apply with respect to such
12 plan and such new employees (and their families).

13 (d) *EFFECT ON COLLECTIVE BARGAINING AGREE-*
14 *MENTS.*—In the case of health insurance coverage main-
15 tained pursuant to one or more collective bargaining agree-
16 ments between employee representatives and one or more
17 employers that was ratified before the date of enactment of
18 this Act, the provisions of this subtitle and subtitle A (and
19 the amendments made by such subtitles) shall not apply
20 until the date on which the last of the collective bargaining
21 agreements relating to the coverage terminates. Any cov-
22 erage amendment made pursuant to a collective bargaining
23 agreement relating to the coverage which amends the cov-
24 erage solely to conform to any requirement added by this

1 *subtitle or subtitle A (or amendments) shall not be treated*
2 *as a termination of such collective bargaining agreement.*

3 (e) *DEFINITION.—In this title, the term “grand-*
4 *fathered health plan” means any group health plan or*
5 *health insurance coverage to which this section applies.*

6 **SEC. 1252. RATING REFORMS MUST APPLY UNIFORMLY TO**
7 **ALL HEALTH INSURANCE ISSUERS AND**
8 **GROUP HEALTH PLANS.**

9 *Any standard or requirement adopted by a State pur-*
10 *suant to this title, or any amendment made by this title,*
11 *shall be applied uniformly to all health plans in each insur-*
12 *ance market to which the standard and requirements apply.*
13 *The preceding sentence shall also apply to a State standard*
14 *or requirement relating to the standard or requirement re-*
15 *quired by this title (or any such amendment) that is not*
16 *the same as the standard or requirement but that is not*
17 *preempted under section 1321(d).*

18 **SEC. 1253. EFFECTIVE DATES.**

19 *This subtitle (and the amendments made by this sub-*
20 *title) shall become effective for plan years beginning on or*
21 *after January 1, 2014.*

1 ***Subtitle D—Available Coverage***
2 ***Choices for All Americans***

3 ***PART I—ESTABLISHMENT OF QUALIFIED HEALTH***
4 ***PLANS***

5 ***SEC. 1301. QUALIFIED HEALTH PLAN DEFINED.***

6 (a) *QUALIFIED HEALTH PLAN.—In this title:*

7 (1) *IN GENERAL.—The term “qualified health*
8 *plan” means a health plan that—*

9 (A) *has in effect a certification (which may*
10 *include a seal or other indication of approval)*
11 *that such plan meets the criteria for certification*
12 *described in section 1311(c) issued or recognized*
13 *by each Exchange through which such plan is of-*
14 *fered;*

15 (B) *provides the essential health benefits*
16 *package described in section 1302(a); and*

17 (C) *is offered by a health insurance issuer*
18 *that—*

19 (i) *is licensed and in good standing to*
20 *offer health insurance coverage in each*
21 *State in which such issuer offers health in-*
22 *surance coverage under this title;*

23 (ii) *agrees to offer at least one quali-*
24 *fied health plan in the silver level and at*

1 *least one plan in the gold level in each such*
2 *Exchange;*

3 *(iii) agrees to charge the same pre-*
4 *mium rate for each qualified health plan of*
5 *the issuer without regard to whether the*
6 *plan is offered through an Exchange or*
7 *whether the plan is offered directly from the*
8 *issuer or through an agent; and*

9 *(iv) complies with the regulations de-*
10 *veloped by the Secretary under section*
11 *1311(d) and such other requirements as an*
12 *applicable Exchange may establish.*

13 (2) *INCLUSION OF CO-OP PLANS AND COMMUNITY*
14 *HEALTH INSURANCE OPTION.—Any reference in this*
15 *title to a qualified health plan shall be deemed to in-*
16 *clude a qualified health plan offered through the CO-*
17 *OP program under section 1322 or a community*
18 *health insurance option under section 1323, unless*
19 *specifically provided for otherwise.*

20 (b) *TERMS RELATING TO HEALTH PLANS.—In this*
21 *title:*

22 (1) *HEALTH PLAN.—*

23 (A) *IN GENERAL.—The term “health plan”*
24 *means health insurance coverage and a group*
25 *health plan.*

1 (B) *EXCEPTION FOR SELF-INSURED PLANS*
 2 AND MEWAS.—*Except to the extent specifically*
 3 *provided by this title, the term “health plan”*
 4 *shall not include a group health plan or multiple*
 5 *employer welfare arrangement to the extent the*
 6 *plan or arrangement is not subject to State in-*
 7 *surance regulation under section 514 of the Em-*
 8 *ployee Retirement Income Security Act of 1974.*

9 (2) *HEALTH INSURANCE COVERAGE AND*
 10 *ISSUER.—The terms “health insurance coverage” and*
 11 *“health insurance issuer” have the meanings given*
 12 *such terms by section 2791(b) of the Public Health*
 13 *Service Act.*

14 (3) *GROUP HEALTH PLAN.—The term “group*
 15 *health plan” has the meaning given such term by sec-*
 16 *tion 2791(a) of the Public Health Service Act.*

17 **SEC. 1302. ESSENTIAL HEALTH BENEFITS REQUIREMENTS.**

18 (a) *ESSENTIAL HEALTH BENEFITS PACKAGE.—In*
 19 *this title, the term “essential health benefits package”*
 20 *means, with respect to any health plan, coverage that—*

21 (1) *provides for the essential health benefits de-*
 22 *finied by the Secretary under subsection (b);*

23 (2) *limits cost-sharing for such coverage in ac-*
 24 *cordance with subsection (c); and*

1 (3) *subject to subsection (e), provides either the*
2 *bronze, silver, gold, or platinum level of coverage de-*
3 *scribed in subsection (d).*

4 *(b) ESSENTIAL HEALTH BENEFITS.—*

5 (1) *IN GENERAL.—Subject to paragraph (2), the*
6 *Secretary shall define the essential health benefits, ex-*
7 *cept that such benefits shall include at least the fol-*
8 *lowing general categories and the items and services*
9 *covered within the categories:*

10 (A) *Ambulatory patient services.*

11 (B) *Emergency services.*

12 (C) *Hospitalization.*

13 (D) *Maternity and newborn care.*

14 (E) *Mental health and substance use dis-*
15 *order services, including behavioral health treat-*
16 *ment.*

17 (F) *Prescription drugs.*

18 (G) *Rehabilitative and habilitative services*
19 *and devices.*

20 (H) *Laboratory services.*

21 (I) *Preventive and wellness services and*
22 *chronic disease management.*

23 (J) *Pediatric services, including oral and*
24 *vision care.*

25 (2) *LIMITATION.—*

1 (A) *IN GENERAL.*—*The Secretary shall en-*
2 *sure that the scope of the essential health benefits*
3 *under paragraph (1) is equal to the scope of ben-*
4 *efits provided under a typical employer plan, as*
5 *determined by the Secretary. To inform this de-*
6 *termination, the Secretary of Labor shall con-*
7 *duct a survey of employer-sponsored coverage to*
8 *determine the benefits typically covered by em-*
9 *ployers, including multiemployer plans, and pro-*
10 *vide a report on such survey to the Secretary.*

11 (B) *CERTIFICATION.*—*In defining the essen-*
12 *tial health benefits described in paragraph (1),*
13 *and in revising the benefits under paragraph*
14 *(4)(H), the Secretary shall submit a report to the*
15 *appropriate committees of Congress containing a*
16 *certification from the Chief Actuary of the Cen-*
17 *ters for Medicare & Medicaid Services that such*
18 *essential health benefits meet the limitation de-*
19 *scribed in paragraph (2).*

20 (3) *NOTICE AND HEARING.*—*In defining the es-*
21 *sential health benefits described in paragraph (1),*
22 *and in revising the benefits under paragraph (4)(H),*
23 *the Secretary shall provide notice and an opportunity*
24 *for public comment.*

1 (4) *REQUIRED ELEMENTS FOR CONSIDER-*
2 *ATION.—In defining the essential health benefits*
3 *under paragraph (1), the Secretary shall—*

4 (A) *ensure that such essential health benefits*
5 *reflect an appropriate balance among the cat-*
6 *egories described in such subsection, so that bene-*
7 *fits are not unduly weighted toward any cat-*
8 *egory;*

9 (B) *not make coverage decisions, determine*
10 *reimbursement rates, establish incentive pro-*
11 *grams, or design benefits in ways that discrimi-*
12 *nate against individuals because of their age,*
13 *disability, or expected length of life;*

14 (C) *take into account the health care needs*
15 *of diverse segments of the population, including*
16 *women, children, persons with disabilities, and*
17 *other groups;*

18 (D) *ensure that health benefits established*
19 *as essential not be subject to denial to individ-*
20 *uals against their wishes on the basis of the indi-*
21 *viduals' age or expected length of life or of the*
22 *individuals' present or predicted disability, de-*
23 *gree of medical dependency, or quality of life;*

24 (E) *provide that a qualified health plan*
25 *shall not be treated as providing coverage for the*

1 *essential health benefits described in paragraph*
2 *(1) unless the plan provides that—*

3 *(i) coverage for emergency department*
4 *services will be provided without imposing*
5 *any requirement under the plan for prior*
6 *authorization of services or any limitation*
7 *on coverage where the provider of services*
8 *does not have a contractual relationship*
9 *with the plan for the providing of services*
10 *that is more restrictive than the require-*
11 *ments or limitations that apply to emer-*
12 *gency department services received from*
13 *providers who do have such a contractual*
14 *relationship with the plan; and*

15 *(ii) if such services are provided out-of-*
16 *network, the cost-sharing requirement (ex-*
17 *pressed as a copayment amount or coinsur-*
18 *ance rate) is the same requirement that*
19 *would apply if such services were provided*
20 *in-network;*

21 *(F) provide that if a plan described in sec-*
22 *tion 1311(b)(2)(B)(ii) (relating to stand-alone*
23 *dental benefits plans) is offered through an Ex-*
24 *change, another health plan offered through such*
25 *Exchange shall not fail to be treated as a quali-*

1 *fied health plan solely because the plan does not*
2 *offer coverage of benefits offered through the*
3 *stand-alone plan that are otherwise required*
4 *under paragraph (1)(J); and*

5 *(G) periodically review the essential health*
6 *benefits under paragraph (1), and provide a re-*
7 *port to Congress and the public that contains—*

8 *(i) an assessment of whether enrollees*
9 *are facing any difficulty accessing needed*
10 *services for reasons of coverage or cost;*

11 *(ii) an assessment of whether the essen-*
12 *tial health benefits needs to be modified or*
13 *updated to account for changes in medical*
14 *evidence or scientific advancement;*

15 *(iii) information on how the essential*
16 *health benefits will be modified to address*
17 *any such gaps in access or changes in the*
18 *evidence base;*

19 *(iv) an assessment of the potential of*
20 *additional or expanded benefits to increase*
21 *costs and the interactions between the addi-*
22 *tion or expansion of benefits and reductions*
23 *in existing benefits to meet actuarial limi-*
24 *tations described in paragraph (2); and*

1 (H) periodically update the essential health
2 benefits under paragraph (1) to address any
3 gaps in access to coverage or changes in the evi-
4 dence base the Secretary identifies in the review
5 conducted under subparagraph (G).

6 (5) *RULE OF CONSTRUCTION.*—Nothing in this
7 title shall be construed to prohibit a health plan from
8 providing benefits in excess of the essential health ben-
9 efits described in this subsection.

10 (c) *REQUIREMENTS RELATING TO COST-SHARING.*—

11 (1) *ANNUAL LIMITATION ON COST-SHARING.*—

12 (A) 2014.—The cost-sharing incurred under
13 a health plan with respect to self-only coverage
14 or coverage other than self-only coverage for a
15 plan year beginning in 2014 shall not exceed the
16 dollar amounts in effect under section
17 223(c)(2)(A)(ii) of the Internal Revenue Code of
18 1986 for self-only and family coverage, respec-
19 tively, for taxable years beginning in 2014.

20 (B) 2015 AND LATER.—In the case of any
21 plan year beginning in a calendar year after
22 2014, the limitation under this paragraph
23 shall—

24 (i) in the case of self-only coverage, be
25 equal to the dollar amount under subpara-

1 *graph (A) for self-only coverage for plan*
2 *years beginning in 2014, increased by an*
3 *amount equal to the product of that amount*
4 *and the premium adjustment percentage*
5 *under paragraph (4) for the calendar year;*
6 *and*

7 *(ii) in the case of other coverage, twice*
8 *the amount in effect under clause (i).*

9 *If the amount of any increase under clause (i)*
10 *is not a multiple of \$50, such increase shall be*
11 *rounded to the next lowest multiple of \$50.*

12 (2) *ANNUAL LIMITATION ON DEDUCTIBLES FOR*
13 *EMPLOYER-SPONSORED PLANS.—*

14 (A) *IN GENERAL.—In the case of a health*
15 *plan offered in the small group market, the de-*
16 *ductible under the plan shall not exceed—*

17 (i) *\$2,000 in the case of a plan cov-*
18 *ering a single individual; and*

19 (ii) *\$4,000 in the case of any other*
20 *plan.*

21 *The amounts under clauses (i) and (ii) may be*
22 *increased by the maximum amount of reimburse-*
23 *ment which is reasonably available to a partici-*
24 *part under a flexible spending arrangement de-*
25 *scribed in section 106(c)(2) of the Internal Rev-*

1 *enue Code of 1986 (determined without regard to*
2 *any salary reduction arrangement).*

3 *(B) INDEXING OF LIMITS.—In the case of*
4 *any plan year beginning in a calendar year*
5 *after 2014—*

6 *(i) the dollar amount under subpara-*
7 *graph (A)(i) shall be increased by an*
8 *amount equal to the product of that amount*
9 *and the premium adjustment percentage*
10 *under paragraph (4) for the calendar year;*
11 *and*

12 *(ii) the dollar amount under subpara-*
13 *graph (A)(ii) shall be increased to an*
14 *amount equal to twice the amount in effect*
15 *under subparagraph (A)(i) for plan years*
16 *beginning in the calendar year, determined*
17 *after application of clause (i).*

18 *If the amount of any increase under clause (i)*
19 *is not a multiple of \$50, such increase shall be*
20 *rounded to the next lowest multiple of \$50.*

21 *(C) ACTUARIAL VALUE.—The limitation*
22 *under this paragraph shall be applied in such a*
23 *manner so as to not affect the actuarial value of*
24 *any health plan, including a plan in the bronze*
25 *level.*

1 (D) *COORDINATION WITH PREVENTIVE LIM-*
2 *ITS.—Nothing in this paragraph shall be con-*
3 *strued to allow a plan to have a deductible under*
4 *the plan apply to benefits described in section*
5 *2713 of the Public Health Service Act.*

6 (3) *COST-SHARING.—In this title—*

7 (A) *IN GENERAL.—The term “cost-sharing”*
8 *includes—*

9 (i) *deductibles, coinsurance, copay-*
10 *ments, or similar charges; and*

11 (ii) *any other expenditure required of*
12 *an insured individual which is a qualified*
13 *medical expense (within the meaning of sec-*
14 *tion 223(d)(2) of the Internal Revenue Code*
15 *of 1986) with respect to essential health ben-*
16 *efits covered under the plan.*

17 (B) *EXCEPTIONS.—Such term does not in-*
18 *clude premiums, balance billing amounts for*
19 *non-network providers, or spending for non-cov-*
20 *ered services.*

21 (4) *PREMIUM ADJUSTMENT PERCENTAGE.—For*
22 *purposes of paragraphs (1)(B)(i) and (2)(B)(i), the*
23 *premium adjustment percentage for any calendar*
24 *year is the percentage (if any) by which the average*
25 *per capita premium for health insurance coverage in*

1 *the United States for the preceding calendar year (as*
2 *estimated by the Secretary no later than October 1 of*
3 *such preceding calendar year) exceeds such average*
4 *per capita premium for 2013 (as determined by the*
5 *Secretary).*

6 *(d) LEVELS OF COVERAGE.—*

7 *(1) LEVELS OF COVERAGE DEFINED.—The levels*
8 *of coverage described in this subsection are as follows:*

9 *(A) BRONZE LEVEL.—A plan in the bronze*
10 *level shall provide a level of coverage that is de-*
11 *signed to provide benefits that are actuarially*
12 *equivalent to 60 percent of the full actuarial*
13 *value of the benefits provided under the plan.*

14 *(B) SILVER LEVEL.—A plan in the silver*
15 *level shall provide a level of coverage that is de-*
16 *signed to provide benefits that are actuarially*
17 *equivalent to 70 percent of the full actuarial*
18 *value of the benefits provided under the plan.*

19 *(C) GOLD LEVEL.—A plan in the gold level*
20 *shall provide a level of coverage that is designed*
21 *to provide benefits that are actuarially equiva-*
22 *lent to 80 percent of the full actuarial value of*
23 *the benefits provided under the plan.*

24 *(D) PLATINUM LEVEL.—A plan in the plat-*
25 *inum level shall provide a level of coverage that*

1 *is designed to provide benefits that are actuari-*
2 *ally equivalent to 90 percent of the full actuarial*
3 *value of the benefits provided under the plan.*

4 (2) *ACTUARIAL VALUE.—*

5 (A) *IN GENERAL.—Under regulations issued*
6 *by the Secretary, the level of coverage of a plan*
7 *shall be determined on the basis that the essential*
8 *health benefits described in subsection (b) shall*
9 *be provided to a standard population (and with-*
10 *out regard to the population the plan may actu-*
11 *ally provide benefits to).*

12 (B) *EMPLOYER CONTRIBUTIONS.—The Sec-*
13 *retary may issue regulations under which em-*
14 *ployer contributions to a health savings account*
15 *(within the meaning of section 223 of the Inter-*
16 *nal Revenue Code of 1986) may be taken into ac-*
17 *count in determining the level of coverage for a*
18 *plan of the employer.*

19 (C) *APPLICATION.—In determining under*
20 *this title, the Public Health Service Act, or the*
21 *Internal Revenue Code of 1986 the percentage of*
22 *the total allowed costs of benefits provided under*
23 *a group health plan or health insurance coverage*
24 *that are provided by such plan or coverage, the*

1 *rules contained in the regulations under this*
2 *paragraph shall apply.*

3 (3) *ALLOWABLE VARIANCE.*—*The Secretary shall*
4 *develop guidelines to provide for a de minimis vari-*
5 *ation in the actuarial valuations used in determining*
6 *the level of coverage of a plan to account for dif-*
7 *ferences in actuarial estimates.*

8 (4) *PLAN REFERENCE.*—*In this title, any ref-*
9 *erence to a bronze, silver, gold, or platinum plan shall*
10 *be treated as a reference to a qualified health plan*
11 *providing a bronze, silver, gold, or platinum level of*
12 *coverage, as the case may be.*

13 (e) *CATASTROPHIC PLAN.*—

14 (1) *IN GENERAL.*—*A health plan not providing*
15 *a bronze, silver, gold, or platinum level of coverage*
16 *shall be treated as meeting the requirements of sub-*
17 *section (d) with respect to any plan year if—*

18 (A) *the only individuals who are eligible to*
19 *enroll in the plan are individuals described in*
20 *paragraph (2); and*

21 (B) *the plan provides—*

22 (i) *except as provided in clause (ii),*
23 *the essential health benefits determined*
24 *under subsection (b), except that the plan*
25 *provides no benefits for any plan year until*

1 *the individual has incurred cost-sharing ex-*
2 *penses in an amount equal to the annual*
3 *limitation in effect under subsection (c)(1)*
4 *for the plan year (except as provided for in*
5 *section 2713); and*

6 *(ii) coverage for at least three primary*
7 *care visits.*

8 (2) *INDIVIDUALS ELIGIBLE FOR ENROLLMENT.—*

9 *An individual is described in this paragraph for any*
10 *plan year if the individual—*

11 *(A) has not attained the age of 30 before the*
12 *beginning of the plan year; or*

13 *(B) has a certification in effect for any plan*
14 *year under this title that the individual is ex-*
15 *empt from the requirement under section 5000A*
16 *of the Internal Revenue Code of 1986 by reason*
17 *of—*

18 *(i) section 5000A(e)(1) of such Code*
19 *(relating to individuals without affordable*
20 *coverage); or*

21 *(ii) section 5000A(e)(5) of such Code*
22 *(relating to individuals with hardships).*

23 (3) *RESTRICTION TO INDIVIDUAL MARKET.—If a*
24 *health insurance issuer offers a health plan described*

1 *in this subsection, the issuer may only offer the plan*
2 *in the individual market.*

3 (f) *CHILD-ONLY PLANS.—If a qualified health plan is*
4 *offered through the Exchange in any level of coverage speci-*
5 *fied under subsection (d), the issuer shall also offer that*
6 *plan through the Exchange in that level as a plan in which*
7 *the only enrollees are individuals who, as of the beginning*
8 *of a plan year, have not attained the age of 21, and such*
9 *plan shall be treated as a qualified health plan.*

10 **SEC. 1303. SPECIAL RULES.**

11 (a) *SPECIAL RULES RELATING TO COVERAGE OF*
12 *ABORTION SERVICES.—*

13 (1) *VOLUNTARY CHOICE OF COVERAGE OF ABOR-*
14 *TION SERVICES.—*

15 (A) *IN GENERAL.—Notwithstanding any*
16 *other provision of this title (or any amendment*
17 *made by this title), and subject to subparagraphs*
18 *(C) and (D)—*

19 (i) *nothing in this title (or any amend-*
20 *ment made by this title), shall be construed*
21 *to require a qualified health plan to provide*
22 *coverage of services described in subpara-*
23 *graph (B)(i) or (B)(ii) as part of its essen-*
24 *tial health benefits for any plan year; and*

1 (ii) the issuer of a qualified health
2 plan shall determine whether or not the
3 plan provides coverage of services described
4 in subparagraph (B)(i) or (B)(ii) as part of
5 such benefits for the plan year.

6 (B) ABORTION SERVICES.—

7 (i) ABORTIONS FOR WHICH PUBLIC
8 FUNDING IS PROHIBITED.—The services de-
9 scribed in this clause are abortions for
10 which the expenditure of Federal funds ap-
11 propriated for the Department of Health
12 and Human Services is not permitted,
13 based on the law as in effect as of the date
14 that is 6 months before the beginning of the
15 plan year involved.

16 (ii) ABORTIONS FOR WHICH PUBLIC
17 FUNDING IS ALLOWED.—The services de-
18 scribed in this clause are abortions for
19 which the expenditure of Federal funds ap-
20 propriated for the Department of Health
21 and Human Services is permitted, based on
22 the law as in effect as of the date that is 6
23 months before the beginning of the plan
24 year involved.

1 (C) *PROHIBITION ON FEDERAL FUNDS FOR*
2 *ABORTION SERVICES IN COMMUNITY HEALTH IN-*
3 *SURANCE OPTION.—*

4 (i) *DETERMINATION BY SECRETARY.—*

5 *The Secretary may not determine, in ac-*
6 *cordance with subparagraph (A)(ii), that*
7 *the community health insurance option es-*
8 *tablished under section 1323 shall provide*
9 *coverage of services described in subpara-*
10 *graph (B)(i) as part of benefits for the plan*
11 *year unless the Secretary—*

12 (I) *assures compliance with the*
13 *requirements of paragraph (2);*

14 (II) *assures, in accordance with*
15 *applicable provisions of generally ac-*
16 *cepted accounting requirements, circu-*
17 *lars on funds management of the Office*
18 *of Management and Budget, and guid-*
19 *ance on accounting of the Government*
20 *Accountability Office, that no Federal*
21 *funds are used for such coverage; and*

22 (III) *notwithstanding section*
23 *1323(e)(1)(C) or any other provision of*
24 *this title, takes all necessary steps to*
25 *assure that the United States does not*

1 *bear the insurance risk for a commu-*
2 *nity health insurance option's coverage*
3 *of services described in subparagraph*
4 *(B)(i).*

5 *(ii) STATE REQUIREMENT.—If a State*
6 *requires, in addition to the essential health*
7 *benefits required under section 1323(b)(3)*
8 *(A), coverage of services described in sub-*
9 *paragraph (B)(i) for enrollees of a commu-*
10 *nity health insurance option offered in such*
11 *State, the State shall assure that no funds*
12 *flowing through or from the community*
13 *health insurance option, and no other Fed-*
14 *eral funds, pay or defray the cost of pro-*
15 *viding coverage of services described in sub-*
16 *paragraph (B)(i). The United States shall*
17 *not bear the insurance risk for a State's re-*
18 *quired coverage of services described in sub-*
19 *paragraph (B)(i).*

20 *(iii) EXCEPTIONS.—Nothing in this*
21 *subparagraph shall apply to coverage of*
22 *services described in subparagraph (B)(ii)*
23 *by the community health insurance option.*
24 *Services described in subparagraph (B)(ii)*
25 *shall be covered to the same extent as such*

1 *services are covered under title XIX of the*
2 *Social Security Act.*

3 *(D) ASSURED AVAILABILITY OF VARIED*
4 *COVERAGE THROUGH EXCHANGES.—*

5 *(i) IN GENERAL.—The Secretary shall*
6 *assure that with respect to qualified health*
7 *plans offered in any Exchange established*
8 *pursuant to this title—*

9 *(I) there is at least one such plan*
10 *that provides coverage of services de-*
11 *scribed in clauses (i) and (ii) of sub-*
12 *paragraph (B); and*

13 *(II) there is at least one such plan*
14 *that does not provide coverage of serv-*
15 *ices described in subparagraph (B)(i).*

16 *(ii) SPECIAL RULES.—For purposes of*
17 *clause (i)—*

18 *(I) a plan shall be treated as de-*
19 *scribed in clause (i)(II) if the plan*
20 *does not provide coverage of services*
21 *described in either subparagraph (B)(i)*
22 *or (B)(ii); and*

23 *(II) if a State has one Exchange*
24 *covering more than 1 insurance mar-*
25 *ket, the Secretary shall meet the re-*

1 *quirements of clause (i) separately*
2 *with respect to each such market.*

3 (2) *PROHIBITION ON THE USE OF FEDERAL*
4 *FUNDS.—*

5 (A) *IN GENERAL.—If a qualified health*
6 *plan provides coverage of services described in*
7 *paragraph (1)(B)(i), the issuer of the plan shall*
8 *not use any amount attributable to any of the*
9 *following for purposes of paying for such serv-*
10 *ices:*

11 (i) *The credit under section 36B of the*
12 *Internal Revenue Code of 1986 (and the*
13 *amount (if any) of the advance payment of*
14 *the credit under section 1412 of the Patient*
15 *Protection and Affordable Care Act).*

16 (ii) *Any cost-sharing reduction under*
17 *section 1402 of the Patient Protection and*
18 *Affordable Care Act (and the amount (if*
19 *any) of the advance payment of the reduc-*
20 *tion under section 1412 of the Patient Pro-*
21 *tection and Affordable Care Act).*

22 (B) *SEGREGATION OF FUNDS.—In the case*
23 *of a plan to which subparagraph (A) applies, the*
24 *issuer of the plan shall, out of amounts not de-*
25 *scribed in subparagraph (A), segregate an*

1 *amount equal to the actuarial amounts deter-*
2 *mined under subparagraph (C) for all enrollees*
3 *from the amounts described in subparagraph*
4 *(A).*

5 (C) *ACTUARIAL VALUE OF OPTIONAL SERV-*
6 *ICE COVERAGE.—*

7 (i) *IN GENERAL.—The Secretary shall*
8 *estimate the basic per enrollee, per month*
9 *cost, determined on an average actuarial*
10 *basis, for including coverage under a quali-*
11 *fied health plan of the services described in*
12 *paragraph (1)(B)(i).*

13 (ii) *CONSIDERATIONS.—In making*
14 *such estimate, the Secretary—*

15 (I) *may take into account the im-*
16 *act on overall costs of the inclusion of*
17 *such coverage, but may not take into*
18 *account any cost reduction estimated*
19 *to result from such services, including*
20 *prenatal care, delivery, or postnatal*
21 *care;*

22 (II) *shall estimate such costs as if*
23 *such coverage were included for the en-*
24 *tire population covered; and*

1 (III) may not estimate such a cost
2 at less than \$1 per enrollee, per month.

3 (3) *PROVIDER CONSCIENCE PROTECTIONS.*—No
4 individual health care provider or health care facility
5 may be discriminated against because of a willingness
6 or an unwillingness, if doing so is contrary to the re-
7 ligious or moral beliefs of the provider or facility, to
8 provide, pay for, provide coverage of, or refer for
9 abortions.

10 (b) *APPLICATION OF STATE AND FEDERAL LAWS RE-*
11 *GARDING ABORTION.*—

12 (1) *NO PREEMPTION OF STATE LAWS REGARDING*
13 *ABORTION.*—Nothing in this Act shall be construed to
14 preempt or otherwise have any effect on State laws re-
15 garding the prohibition of (or requirement of) cov-
16 erage, funding, or procedural requirements on abor-
17 tions, including parental notification or consent for
18 the performance of an abortion on a minor.

19 (2) *NO EFFECT ON FEDERAL LAWS REGARDING*
20 *ABORTION.*—

21 (A) *IN GENERAL.*—Nothing in this Act shall
22 be construed to have any effect on Federal laws
23 regarding—

24 (i) conscience protection;

1 (ii) willingness or refusal to provide
2 abortion; and

3 (iii) discrimination on the basis of the
4 willingness or refusal to provide, pay for,
5 cover, or refer for abortion or to provide or
6 participate in training to provide abortion.

7 (3) *NO EFFECT ON FEDERAL CIVIL RIGHTS*
8 *LAW.*—Nothing in this subsection shall alter the rights
9 and obligations of employees and employers under
10 title VII of the Civil Rights Act of 1964.

11 (c) *APPLICATION OF EMERGENCY SERVICES LAWS.*—
12 Nothing in this Act shall be construed to relieve any health
13 care provider from providing emergency services as required
14 by State or Federal law, including section 1867 of the So-
15 cial Security Act (popularly known as “EMTALA”).

16 **SEC. 1304. RELATED DEFINITIONS.**

17 (a) *DEFINITIONS RELATING TO MARKETS.*—In this
18 title:

19 (1) *GROUP MARKET.*—The term “group market”
20 means the health insurance market under which indi-
21 viduals obtain health insurance coverage (directly or
22 through any arrangement) on behalf of themselves
23 (and their dependents) through a group health plan
24 maintained by an employer.

1 (2) *INDIVIDUAL MARKET.*—*The term “individual*
2 *market” means the market for health insurance cov-*
3 *erage offered to individuals other than in connection*
4 *with a group health plan.*

5 (3) *LARGE AND SMALL GROUP MARKETS.*—*The*
6 *terms “large group market” and “small group mar-*
7 *ket” mean the health insurance market under which*
8 *individuals obtain health insurance coverage (directly*
9 *or through any arrangement) on behalf of themselves*
10 *(and their dependents) through a group health plan*
11 *maintained by a large employer (as defined in sub-*
12 *section (b)(1)) or by a small employer (as defined in*
13 *subsection (b)(2)), respectively.*

14 (b) *EMPLOYERS.*—*In this title:*

15 (1) *LARGE EMPLOYER.*—*The term “large em-*
16 *ployer” means, in connection with a group health*
17 *plan with respect to a calendar year and a plan year,*
18 *an employer who employed an average of at least 101*
19 *employees on business days during the preceding cal-*
20 *endar year and who employs at least 1 employee on*
21 *the first day of the plan year.*

22 (2) *SMALL EMPLOYER.*—*The term “small em-*
23 *ployer” means, in connection with a group health*
24 *plan with respect to a calendar year and a plan year,*
25 *an employer who employed an average of at least 1*

1 *but not more than 100 employees on business days*
2 *during the preceding calendar year and who employs*
3 *at least 1 employee on the first day of the plan year.*

4 (3) *STATE OPTION TO TREAT 50 EMPLOYEES AS*
5 *SMALL.—In the case of plan years beginning before*
6 *January 1, 2016, a State may elect to apply this sub-*
7 *section by substituting “51 employees” for “101 em-*
8 *ployees” in paragraph (1) and by substituting “50*
9 *employees” for “100 employees” in paragraph (2).*

10 (4) *RULES FOR DETERMINING EMPLOYER*
11 *SIZE.—For purposes of this subsection—*

12 (A) *APPLICATION OF AGGREGATION RULE*
13 *FOR EMPLOYERS.—All persons treated as a sin-*
14 *gle employer under subsection (b), (c), (m), or*
15 *(o) of section 414 of the Internal Revenue Code*
16 *of 1986 shall be treated as 1 employer.*

17 (B) *EMPLOYERS NOT IN EXISTENCE IN PRE-*
18 *CEDING YEAR.—In the case of an employer which*
19 *was not in existence throughout the preceding*
20 *calendar year, the determination of whether such*
21 *employer is a small or large employer shall be*
22 *based on the average number of employees that*
23 *it is reasonably expected such employer will em-*
24 *ploy on business days in the current calendar*
25 *year.*

1 (C) *PREDECESSORS.*—*Any reference in this*
2 *subsection to an employer shall include a ref-*
3 *erence to any predecessor of such employer.*

4 (D) *CONTINUATION OF PARTICIPATION FOR*
5 *GROWING SMALL EMPLOYERS.*—*If—*

6 (i) *a qualified employer that is a small*
7 *employer makes enrollment in qualified*
8 *health plans offered in the small group mar-*
9 *ket available to its employees through an*
10 *Exchange; and*

11 (ii) *the employer ceases to be a small*
12 *employer by reason of an increase in the*
13 *number of employees of such employer;*

14 *the employer shall continue to be treated as a*
15 *small employer for purposes of this subtitle for*
16 *the period beginning with the increase and end-*
17 *ing with the first day on which the employer*
18 *does not make such enrollment available to its*
19 *employees.*

20 (c) *SECRETARY.*—*In this title, the term “Secretary”*
21 *means the Secretary of Health and Human Services.*

22 (d) *STATE.*—*In this title, the term “State” means each*
23 *of the 50 States and the District of Columbia.*

1 **PART II—CONSUMER CHOICES AND INSURANCE**
2 **COMPETITION THROUGH HEALTH BENEFIT**
3 **EXCHANGES**

4 **SEC. 1311. AFFORDABLE CHOICES OF HEALTH BENEFIT**
5 **PLANS.**

6 (a) *ASSISTANCE TO STATES TO ESTABLISH AMERICAN*
7 *HEALTH BENEFIT EXCHANGES.*—

8 (1) *PLANNING AND ESTABLISHMENT GRANTS.*—

9 *There shall be appropriated to the Secretary, out of*
10 *any moneys in the Treasury not otherwise appro-*
11 *priated, an amount necessary to enable the Secretary*
12 *to make awards, not later than 1 year after the date*
13 *of enactment of this Act, to States in the amount*
14 *specified in paragraph (2) for the uses described in*
15 *paragraph (3).*

16 (2) *AMOUNT SPECIFIED.*—*For each fiscal year,*
17 *the Secretary shall determine the total amount that*
18 *the Secretary will make available to each State for*
19 *grants under this subsection.*

20 (3) *USE OF FUNDS.*—*A State shall use amounts*
21 *awarded under this subsection for activities (includ-*
22 *ing planning activities) related to establishing an*
23 *American Health Benefit Exchange, as described in*
24 *subsection (b).*

25 (4) *RENEWABILITY OF GRANT.*—

1 (A) *IN GENERAL.*—*Subject to subsection*
2 *(d)(4), the Secretary may renew a grant award-*
3 *ed under paragraph (1) if the State recipient of*
4 *such grant—*

5 (i) *is making progress, as determined*
6 *by the Secretary, toward—*

7 (I) *establishing an Exchange; and*

8 (II) *implementing the reforms de-*
9 *scribed in subtitles A and C (and the*
10 *amendments made by such subtitles);*
11 *and*

12 (ii) *is meeting such other benchmarks*
13 *as the Secretary may establish.*

14 (B) *LIMITATION.*—*No grant shall be award-*
15 *ed under this subsection after January 1, 2015.*

16 (5) *TECHNICAL ASSISTANCE TO FACILITATE PAR-*
17 *TICIPATION IN SHOP EXCHANGES.*—*The Secretary*
18 *shall provide technical assistance to States to facili-*
19 *tate the participation of qualified small businesses in*
20 *such States in SHOP Exchanges.*

21 (b) *AMERICAN HEALTH BENEFIT EXCHANGES.*—

22 (1) *IN GENERAL.*—*Each State shall, not later*
23 *than January 1, 2014, establish an American Health*
24 *Benefit Exchange (referred to in this title as an “Ex-*
25 *change”) for the State that—*

1 (A) facilitates the purchase of qualified
2 health plans;

3 (B) provides for the establishment of a
4 Small Business Health Options Program (in this
5 title referred to as a “SHOP Exchange”) that is
6 designed to assist qualified employers in the
7 State who are small employers in facilitating the
8 enrollment of their employees in qualified health
9 plans offered in the small group market in the
10 State; and

11 (C) meets the requirements of subsection (d).

12 (2) *MERGER OF INDIVIDUAL AND SHOP EX-*
13 *CHANGES.*—A State may elect to provide only one
14 Exchange in the State for providing both Exchange
15 and SHOP Exchange services to both qualified indi-
16 viduals and qualified small employers, but only if the
17 Exchange has adequate resources to assist such indi-
18 viduals and employers.

19 (c) *RESPONSIBILITIES OF THE SECRETARY.*—

20 (1) *IN GENERAL.*—The Secretary shall, by regu-
21 lation, establish criteria for the certification of health
22 plans as qualified health plans. Such criteria shall re-
23 quire that, to be certified, a plan shall, at a min-
24 imum—

1 (A) meet marketing requirements, and not
2 employ marketing practices or benefit designs
3 that have the effect of discouraging the enroll-
4 ment in such plan by individuals with signifi-
5 cant health needs;

6 (B) ensure a sufficient choice of providers
7 (in a manner consistent with applicable network
8 adequacy provisions under section 2702(c) of the
9 Public Health Service Act), and provide infor-
10 mation to enrollees and prospective enrollees on
11 the availability of in-network and out-of-network
12 providers;

13 (C) include within health insurance plan
14 networks those essential community providers,
15 where available, that serve predominately low-in-
16 come, medically-underserved individuals, such as
17 health care providers defined in section
18 340B(a)(4) of the Public Health Service Act and
19 providers described in section
20 1927(c)(1)(D)(i)(IV) of the Social Security Act
21 as set forth by section 221 of Public Law 111-
22 8, except that nothing in this subparagraph shall
23 be construed to require any health plan to pro-
24 vide coverage for any specific medical procedure;

1 (D)(i) be accredited with respect to local
2 performance on clinical quality measures such as
3 the Healthcare Effectiveness Data and Informa-
4 tion Set, patient experience ratings on a stand-
5 arized Consumer Assessment of Healthcare Pro-
6 viders and Systems survey, as well as consumer
7 access, utilization management, quality assur-
8 ance, provider credentialing, complaints and ap-
9 peals, network adequacy and access, and patient
10 information programs by any entity recognized
11 by the Secretary for the accreditation of health
12 insurance issuers or plans (so long as any such
13 entity has transparent and rigorous methodo-
14 logical and scoring criteria); or

15 (ii) receive such accreditation within a pe-
16 riod established by an Exchange for such accred-
17 itation that is applicable to all qualified health
18 plans;

19 (E) implement a quality improvement
20 strategy described in subsection (g)(1);

21 (F) utilize a uniform enrollment form that
22 qualified individuals and qualified employers
23 may use (either electronically or on paper) in
24 enrolling in qualified health plans offered
25 through such Exchange, and that takes into ac-

1 *count criteria that the National Association of*
2 *Insurance Commissioners develops and submits*
3 *to the Secretary;*

4 *(G) utilize the standard format established*
5 *for presenting health benefits plan options; and*

6 *(H) provide information to enrollees and*
7 *prospective enrollees, and to each Exchange in*
8 *which the plan is offered, on any quality meas-*
9 *ures for health plan performance endorsed under*
10 *section 399JJ of the Public Health Service Act,*
11 *as applicable.*

12 *(2) RULE OF CONSTRUCTION.—Nothing in para-*
13 *graph (1)(C) shall be construed to require a qualified*
14 *health plan to contract with a provider described in*
15 *such paragraph if such provider refuses to accept the*
16 *generally applicable payment rates of such plan.*

17 *(3) RATING SYSTEM.—The Secretary shall de-*
18 *velop a rating system that would rate qualified health*
19 *plans offered through an Exchange in each benefits*
20 *level on the basis of the relative quality and price.*
21 *The Exchange shall include the quality rating in the*
22 *information provided to individuals and employers*
23 *through the Internet portal established under para-*
24 *graph (4).*

1 (4) *ENROLLEE SATISFACTION SYSTEM.*—*The Sec-*
2 *retary shall develop an enrollee satisfaction survey*
3 *system that would evaluate the level of enrollee satis-*
4 *faction with qualified health plans offered through an*
5 *Exchange, for each such qualified health plan that*
6 *had more than 500 enrollees in the previous year. The*
7 *Exchange shall include enrollee satisfaction informa-*
8 *tion in the information provided to individuals and*
9 *employers through the Internet portal established*
10 *under paragraph (5) in a manner that allows indi-*
11 *viduals to easily compare enrollee satisfaction levels*
12 *between comparable plans.*

13 (5) *INTERNET PORTALS.*—*The Secretary shall—*

14 (A) *continue to operate, maintain, and up-*
15 *date the Internet portal developed under section*
16 *1103(a) and to assist States in developing and*
17 *maintaining their own such portal; and*

18 (B) *make available for use by Exchanges a*
19 *model template for an Internet portal that may*
20 *be used to direct qualified individuals and quali-*
21 *fied employers to qualified health plans, to assist*
22 *such individuals and employers in determining*
23 *whether they are eligible to participate in an*
24 *Exchange or eligible for a premium tax credit or*
25 *cost-sharing reduction, and to present standard-*

1 *ized information (including quality ratings) re-*
2 *garding qualified health plans offered through an*
3 *Exchange to assist consumers in making easy*
4 *health insurance choices.*

5 *Such template shall include, with respect to each*
6 *qualified health plan offered through the Exchange in*
7 *each rating area, access to the uniform outline of cov-*
8 *erage the plan is required to provide under section*
9 *2716 of the Public Health Service Act and to a copy*
10 *of the plan's written policy.*

11 *(6) ENROLLMENT PERIODS.—The Secretary shall*
12 *require an Exchange to provide for—*

13 *(A) an initial open enrollment, as deter-*
14 *mined by the Secretary (such determination to*
15 *be made not later than July 1, 2012);*

16 *(B) annual open enrollment periods, as de-*
17 *termined by the Secretary for calendar years*
18 *after the initial enrollment period;*

19 *(C) special enrollment periods specified in*
20 *section 9801 of the Internal Revenue Code of*
21 *1986 and other special enrollment periods under*
22 *circumstances similar to such periods under part*
23 *D of title XVIII of the Social Security Act; and*

1 (D) special monthly enrollment periods for
2 Indians (as defined in section 4 of the Indian
3 Health Care Improvement Act).

4 (d) REQUIREMENTS.—

5 (1) IN GENERAL.—An Exchange shall be a gov-
6 ernmental agency or nonprofit entity that is estab-
7 lished by a State.

8 (2) OFFERING OF COVERAGE.—

9 (A) IN GENERAL.—An Exchange shall make
10 available qualified health plans to qualified indi-
11 viduals and qualified employers.

12 (B) LIMITATION.—

13 (i) IN GENERAL.—An Exchange may
14 not make available any health plan that is
15 not a qualified health plan.

16 (ii) OFFERING OF STAND-ALONE DEN-
17 TAL BENEFITS.—Each Exchange within a
18 State shall allow an issuer of a plan that
19 only provides limited scope dental benefits
20 meeting the requirements of section
21 9832(c)(2)(A) of the Internal Revenue Code
22 of 1986 to offer the plan through the Ex-
23 change (either separately or in conjunction
24 with a qualified health plan) if the plan

1 *provides pediatric dental benefits meeting*
2 *the requirements of section 1302(b)(1)(J).*

3 (3) *RULES RELATING TO ADDITIONAL REQUIRED*
4 *BENEFITS.—*

5 (A) *IN GENERAL.—Except as provided in*
6 *subparagraph (B), an Exchange may make*
7 *available a qualified health plan notwith-*
8 *standing any provision of law that may require*
9 *benefits other than the essential health benefits*
10 *specified under section 1302(b).*

11 (B) *STATES MAY REQUIRE ADDITIONAL*
12 *BENEFITS.—*

13 (i) *IN GENERAL.—Subject to the re-*
14 *quirements of clause (ii), a State may re-*
15 *quire that a qualified health plan offered in*
16 *such State offer benefits in addition to the*
17 *essential health benefits specified under sec-*
18 *tion 1302(b).*

19 (ii) *STATE MUST ASSUME COST.—A*
20 *State shall make payments to or on behalf*
21 *of an individual eligible for the premium*
22 *tax credit under section 36B of the Internal*
23 *Revenue Code of 1986 and any cost-sharing*
24 *reduction under section 1402 to defray the*
25 *cost to the individual of any additional ben-*

1 *efits described in clause (i) which are not el-*
2 *igible for such credit or reduction under sec-*
3 *tion 36B(b)(3)(D) of such Code and section*
4 *1402(c)(4).*

5 (4) *FUNCTIONS.—An Exchange shall, at a min-*
6 *imum—*

7 (A) *implement procedures for the certifi-*
8 *cation, recertification, and decertification, con-*
9 *sistent with guidelines developed by the Sec-*
10 *retary under subsection (c), of health plans as*
11 *qualified health plans;*

12 (B) *provide for the operation of a toll-free*
13 *telephone hotline to respond to requests for assist-*
14 *ance;*

15 (C) *maintain an Internet website through*
16 *which enrollees and prospective enrollees of*
17 *qualified health plans may obtain standardized*
18 *comparative information on such plans;*

19 (D) *assign a rating to each qualified health*
20 *plan offered through such Exchange in accord-*
21 *ance with the criteria developed by the Secretary*
22 *under subsection (c)(3);*

23 (E) *utilize a standardized format for pre-*
24 *senting health benefits plan options in the Ex-*
25 *change, including the use of the uniform outline*

1 of coverage established under section 2715 of the
2 Public Health Service Act;

3 (F) in accordance with section 1413, inform
4 individuals of eligibility requirements for the
5 medicaid program under title XIX of the Social
6 Security Act, the CHIP program under title XXI
7 of such Act, or any applicable State or local pub-
8 lic program and if through screening of the ap-
9 plication by the Exchange, the Exchange deter-
10 mines that such individuals are eligible for any
11 such program, enroll such individuals in such
12 program;

13 (G) establish and make available by elec-
14 tronic means a calculator to determine the ac-
15 tual cost of coverage after the application of any
16 premium tax credit under section 36B of the In-
17 ternal Revenue Code of 1986 and any cost-shar-
18 ing reduction under section 1402;

19 (H) subject to section 1411, grant a certifi-
20 cation attesting that, for purposes of the indi-
21 vidual responsibility penalty under section
22 5000A of the Internal Revenue Code of 1986, an
23 individual is exempt from the individual re-
24 quirement or from the penalty imposed by such
25 section because—

1 (i) there is no affordable qualified
2 health plan available through the Exchange,
3 or the individual's employer, covering the
4 individual; or

5 (ii) the individual meets the require-
6 ments for any other such exemption from
7 the individual responsibility requirement or
8 penalty;

9 (I) transfer to the Secretary of the Treas-
10 ury—

11 (i) a list of the individuals who are
12 issued a certification under subparagraph
13 (H), including the name and taxpayer iden-
14 tification number of each individual;

15 (ii) the name and taxpayer identifica-
16 tion number of each individual who was an
17 employee of an employer but who was deter-
18 mined to be eligible for the premium tax
19 credit under section 36B of the Internal
20 Revenue Code of 1986 because—

21 (I) the employer did not provide
22 minimum essential coverage; or

23 (II) the employer provided such
24 minimum essential coverage but it was
25 determined under section 36B(c)(2)(C)

1 of such Code to either be unaffordable
2 to the employee or not provide the re-
3 quired minimum actuarial value; and
4 (iii) the name and taxpayer identifica-
5 tion number of each individual who notifies
6 the Exchange under section 1411(b)(4) that
7 they have changed employers and of each
8 individual who ceases coverage under a
9 qualified health plan during a plan year
10 (and the effective date of such cessation);

11 (J) provide to each employer the name of
12 each employee of the employer described in sub-
13 paragraph (I)(ii) who ceases coverage under a
14 qualified health plan during a plan year (and
15 the effective date of such cessation); and

16 (K) establish the Navigator program de-
17 scribed in subsection (i).

18 (5) *FUNDING LIMITATIONS.*—

19 (A) *NO FEDERAL FUNDS FOR CONTINUED*
20 *OPERATIONS.*—*In establishing an Exchange*
21 *under this section, the State shall ensure that*
22 *such Exchange is self-sustaining beginning on*
23 *January 1, 2015, including allowing the Ex-*
24 *change to charge assessments or user fees to par-*

1 *ticipating health insurance issuers, or to other-*
2 *wise generate funding, to support its operations.*

3 (B) *PROHIBITING WASTEFUL USE OF*
4 *FUNDS.—In carrying out activities under this*
5 *subsection, an Exchange shall not utilize any*
6 *funds intended for the administrative and oper-*
7 *ational expenses of the Exchange for staff re-*
8 *treats, promotional giveaways, excessive executive*
9 *compensation, or promotion of Federal or State*
10 *legislative and regulatory modifications.*

11 (6) *CONSULTATION.—An Exchange shall consult*
12 *with stakeholders relevant to carrying out the activi-*
13 *ties under this section, including—*

14 (A) *health care consumers who are enrollees*
15 *in qualified health plans;*

16 (B) *individuals and entities with experience*
17 *in facilitating enrollment in qualified health*
18 *plans;*

19 (C) *representatives of small businesses and*
20 *self-employed individuals;*

21 (D) *State Medicaid offices; and*

22 (E) *advocates for enrolling hard to reach*
23 *populations.*

24 (7) *PUBLICATION OF COSTS.—An Exchange shall*
25 *publish the average costs of licensing, regulatory fees,*

1 *and any other payments required by the Exchange,*
2 *and the administrative costs of such Exchange, on an*
3 *Internet website to educate consumers on such costs.*
4 *Such information shall also include monies lost to*
5 *waste, fraud, and abuse.*

6 *(e) CERTIFICATION.—*

7 *(1) IN GENERAL.—An Exchange may certify a*
8 *health plan as a qualified health plan if—*

9 *(A) such health plan meets the requirements*
10 *for certification as promulgated by the Secretary*
11 *under subsection (c)(1); and*

12 *(B) the Exchange determines that making*
13 *available such health plan through such Ex-*
14 *change is in the interests of qualified individuals*
15 *and qualified employers in the State or States in*
16 *which such Exchange operates, except that the*
17 *Exchange may not exclude a health plan—*

18 *(i) on the basis that such plan is a fee-*
19 *for-service plan;*

20 *(ii) through the imposition of premium*
21 *price controls; or*

22 *(iii) on the basis that the plan provides*
23 *treatments necessary to prevent patients'*
24 *deaths in circumstances the Exchange deter-*
25 *mines are inappropriate or too costly.*

1 (2) *PREMIUM CONSIDERATIONS.*—*The Exchange*
2 *shall require health plans seeking certification as*
3 *qualified health plans to submit a justification for*
4 *any premium increase prior to implementation of the*
5 *increase. Such plans shall prominently post such in-*
6 *formation on their websites. The Exchange may take*
7 *this information, and the information and the rec-*
8 *ommendations provided to the Exchange by the State*
9 *under section 2794(b)(1) of the Public Health Service*
10 *Act (relating to patterns or practices of excessive or*
11 *unjustified premium increases), into consideration*
12 *when determining whether to make such health plan*
13 *available through the Exchange. The Exchange shall*
14 *take into account any excess of premium growth out-*
15 *side the Exchange as compared to the rate of such*
16 *growth inside the Exchange, including information*
17 *reported by the States.*

18 (f) *FLEXIBILITY.*—

19 (1) *REGIONAL OR OTHER INTERSTATE EX-*
20 *CHANGES.*—*An Exchange may operate in more than*
21 *one State if—*

22 (A) *each State in which such Exchange op-*
23 *erates permits such operation; and*

24 (B) *the Secretary approves such regional or*
25 *interstate Exchange.*

1 (2) *SUBSIDIARY EXCHANGES.*—A State may es-
2 tablish one or more subsidiary Exchanges if—

3 (A) each such Exchange serves a geographi-
4 cally distinct area; and

5 (B) the area served by each such Exchange
6 is at least as large as a rating area described in
7 section 2701(a) of the Public Health Service Act.

8 (3) *AUTHORITY TO CONTRACT.*—

9 (A) *IN GENERAL.*—A State may elect to au-
10 thorize an Exchange established by the State
11 under this section to enter into an agreement
12 with an eligible entity to carry out 1 or more re-
13 sponsibilities of the Exchange.

14 (B) *ELIGIBLE ENTITY.*—In this paragraph,
15 the term “eligible entity” means—

16 (i) a person—

17 (I) incorporated under, and sub-
18 ject to the laws of, 1 or more States;

19 (II) that has demonstrated experi-
20 ence on a State or regional basis in the
21 individual and small group health in-
22 surance markets and in benefits cov-
23 erage; and

24 (III) that is not a health insur-
25 ance issuer or that is treated under

1 *subsection (a) or (b) of section 52 of*
2 *the Internal Revenue Code of 1986 as*
3 *a member of the same controlled group*
4 *of corporations (or under common con-*
5 *trol with) as a health insurance issuer;*
6 *or*
7 *(ii) the State medicaid agency under*
8 *title XIX of the Social Security Act.*

9 *(g) REWARDING QUALITY THROUGH MARKET-BASED*
10 *INCENTIVES.—*

11 *(1) STRATEGY DESCRIBED.—A strategy described*
12 *in this paragraph is a payment structure that pro-*
13 *vides increased reimbursement or other incentives*
14 *for—*

15 *(A) improving health outcomes through the*
16 *implementation of activities that shall include*
17 *quality reporting, effective case management,*
18 *care coordination, chronic disease management,*
19 *medication and care compliance initiatives, in-*
20 *cluding through the use of the medical home*
21 *model, for treatment or services under the plan*
22 *or coverage;*

23 *(B) the implementation of activities to pre-*
24 *vent hospital readmissions through a comprehen-*
25 *sive program for hospital discharge that includes*

1 *patient-centered education and counseling, com-*
2 *prehensive discharge planning, and post dis-*
3 *charge reinforcement by an appropriate health*
4 *care professional;*

5 *(C) the implementation of activities to im-*
6 *prove patient safety and reduce medical errors*
7 *through the appropriate use of best clinical prac-*
8 *tices, evidence based medicine, and health infor-*
9 *mation technology under the plan or coverage;*
10 *and*

11 *(D) the implementation of wellness and*
12 *health promotion activities.*

13 (2) *GUIDELINES.*—*The Secretary, in consulta-*
14 *tion with experts in health care quality and stake-*
15 *holders, shall develop guidelines concerning the mat-*
16 *ters described in paragraph (1).*

17 (3) *REQUIREMENTS.*—*The guidelines developed*
18 *under paragraph (2) shall require the periodic report-*
19 *ing to the applicable Exchange of the activities that*
20 *a qualified health plan has conducted to implement a*
21 *strategy described in paragraph (1).*

22 (h) *QUALITY IMPROVEMENT.*—

23 (1) *ENHANCING PATIENT SAFETY.*—*Beginning on*
24 *January 1, 2015, a qualified health plan may con-*
25 *tract with—*

1 (A) a hospital with greater than 50 beds
2 only if such hospital—

3 (i) utilizes a patient safety evaluation
4 system as described in part C of title IX of
5 the Public Health Service Act; and

6 (ii) implements a mechanism to ensure
7 that each patient receives a comprehensive
8 program for hospital discharge that includes
9 patient-centered education and counseling,
10 comprehensive discharge planning, and post
11 discharge reinforcement by an appropriate
12 health care professional; or

13 (B) a health care provider only if such pro-
14 vider implements such mechanisms to improve
15 health care quality as the Secretary may by reg-
16 ulation require.

17 (2) *EXCEPTIONS.*—The Secretary may establish
18 reasonable exceptions to the requirements described in
19 paragraph (1).

20 (3) *ADJUSTMENT.*—The Secretary may by regu-
21 lation adjust the number of beds described in para-
22 graph (1)(A).

23 (i) *NAVIGATORS.*—

24 (1) *IN GENERAL.*—An Exchange shall establish a
25 program under which it awards grants to entities de-

1 *scribed in paragraph (2) to carry out the duties de-*
2 *scribed in paragraph (3).*

3 (2) *ELIGIBILITY.—*

4 (A) *IN GENERAL.—To be eligible to receive*
5 *a grant under paragraph (1), an entity shall*
6 *demonstrate to the Exchange involved that the*
7 *entity has existing relationships, or could readily*
8 *establish relationships, with employers and em-*
9 *ployees, consumers (including uninsured and*
10 *underinsured consumers), or self-employed indi-*
11 *viduals likely to be qualified to enroll in a quali-*
12 *fied health plan.*

13 (B) *TYPES.—Entities described in subpara-*
14 *graph (A) may include trade, industry, and pro-*
15 *fessional associations, commercial fishing indus-*
16 *try organizations, ranching and farming organi-*
17 *zations, community and consumer-focused non-*
18 *profit groups, chambers of commerce, unions,*
19 *small business development centers, other licensed*
20 *insurance agents and brokers, and other entities*
21 *that—*

22 (i) *are capable of carrying out the du-*
23 *ties described in paragraph (3);*

24 (ii) *meet the standards described in*
25 *paragraph (4); and*

1 (iii) provide information consistent
2 with the standards developed under para-
3 graph (5).

4 (3) *DUTIES.*—An entity that serves as a navi-
5 gator under a grant under this subsection shall—

6 (A) conduct public education activities to
7 raise awareness of the availability of qualified
8 health plans;

9 (B) distribute fair and impartial informa-
10 tion concerning enrollment in qualified health
11 plans, and the availability of premium tax cred-
12 its under section 36B of the Internal Revenue
13 Code of 1986 and cost-sharing reductions under
14 section 1402;

15 (C) facilitate enrollment in qualified health
16 plans;

17 (D) provide referrals to any applicable of-
18 fice of health insurance consumer assistance or
19 health insurance ombudsman established under
20 section 2793 of the Public Health Service Act, or
21 any other appropriate State agency or agencies,
22 for any enrollee with a grievance, complaint, or
23 question regarding their health plan, coverage, or
24 a determination under such plan or coverage;
25 and

1 (E) provide information in a manner that
2 is culturally and linguistically appropriate to
3 the needs of the population being served by the
4 Exchange or Exchanges.

5 (4) STANDARDS.—

6 (A) IN GENERAL.—The Secretary shall es-
7 tablish standards for navigators under this sub-
8 section, including provisions to ensure that any
9 private or public entity that is selected as a nav-
10 igator is qualified, and licensed if appropriate,
11 to engage in the navigator activities described in
12 this subsection and to avoid conflicts of interest.

13 Under such standards, a navigator shall not—

14 (i) be a health insurance issuer; or

15 (ii) receive any consideration directly
16 or indirectly from any health insurance
17 issuer in connection with the enrollment of
18 any qualified individuals or employees of a
19 qualified employer in a qualified health
20 plan.

21 (5) FAIR AND IMPARTIAL INFORMATION AND
22 SERVICES.—The Secretary, in collaboration with
23 States, shall develop standards to ensure that infor-
24 mation made available by navigators is fair, accu-
25 rate, and impartial.

1 (6) *FUNDING.*—*Grants under this subsection*
2 *shall be made from the operational funds of the Ex-*
3 *change and not Federal funds received by the State to*
4 *establish the Exchange.*

5 (j) *APPLICABILITY OF MENTAL HEALTH PARITY.*—
6 *Section 2726 of the Public Health Service Act shall apply*
7 *to qualified health plans in the same manner and to the*
8 *same extent as such section applies to health insurance*
9 *issuers and group health plans.*

10 (k) *CONFLICT.*—*An Exchange may not establish rules*
11 *that conflict with or prevent the application of regulations*
12 *promulgated by the Secretary under this subtitle.*

13 **SEC. 1312. CONSUMER CHOICE.**

14 (a) *CHOICE.*—

15 (1) *QUALIFIED INDIVIDUALS.*—*A qualified indi-*
16 *vidual may enroll in any qualified health plan avail-*
17 *able to such individual.*

18 (2) *QUALIFIED EMPLOYERS.*—

19 (A) *EMPLOYER MAY SPECIFY LEVEL.*—*A*
20 *qualified employer may provide support for cov-*
21 *erage of employees under a qualified health plan*
22 *by selecting any level of coverage under section*
23 *1302(d) to be made available to employees*
24 *through an Exchange.*

1 (B) *EMPLOYEE MAY CHOOSE PLANS WITHIN*
2 *A LEVEL.*—Each employee of a qualified em-
3 ployer that elects a level of coverage under sub-
4 paragraph (A) may choose to enroll in a quali-
5 fied health plan that offers coverage at that level.

6 (b) *PAYMENT OF PREMIUMS BY QUALIFIED INDIVID-*
7 *UALS.*—A qualified individual enrolled in any qualified
8 health plan may pay any applicable premium owed by such
9 individual to the health insurance issuer issuing such quali-
10 fied health plan.

11 (c) *SINGLE RISK POOL.*—

12 (1) *INDIVIDUAL MARKET.*—A health insurance
13 issuer shall consider all enrollees in all health plans
14 (other than grandfathered health plans) offered by
15 such issuer in the individual market, including those
16 enrollees who do not enroll in such plans through the
17 Exchange, to be members of a single risk pool.

18 (2) *SMALL GROUP MARKET.*—A health insurance
19 issuer shall consider all enrollees in all health plans
20 (other than grandfathered health plans) offered by
21 such issuer in the small group market, including those
22 enrollees who do not enroll in such plans through the
23 Exchange, to be members of a single risk pool.

24 (3) *MERGER OF MARKETS.*—A State may re-
25 quire the individual and small group insurance mar-

1 *kets within a State to be merged if the State deter-*
2 *mines appropriate.*

3 (4) *STATE LAW.*—*A State law requiring grand-*
4 *fathered health plans to be included in a pool de-*
5 *scribed in paragraph (1) or (2) shall not apply.*

6 (d) *EMPOWERING CONSUMER CHOICE.*—

7 (1) *CONTINUED OPERATION OF MARKET OUTSIDE*
8 *EXCHANGES.*—*Nothing in this title shall be construed*
9 *to prohibit—*

10 (A) *a health insurance issuer from offering*
11 *outside of an Exchange a health plan to a quali-*
12 *fied individual or qualified employer; and*

13 (B) *a qualified individual from enrolling*
14 *in, or a qualified employer from selecting for its*
15 *employees, a health plan offered outside of an*
16 *Exchange.*

17 (2) *CONTINUED OPERATION OF STATE BENEFIT*
18 *REQUIREMENTS.*—*Nothing in this title shall be con-*
19 *strued to terminate, abridge, or limit the operation of*
20 *any requirement under State law with respect to any*
21 *policy or plan that is offered outside of an Exchange*
22 *to offer benefits.*

23 (3) *VOLUNTARY NATURE OF AN EXCHANGE.*—

24 (A) *CHOICE TO ENROLL OR NOT TO EN-*
25 *ROLL.*—*Nothing in this title shall be construed to*

1 *restrict the choice of a qualified individual to en-*
2 *roll or not to enroll in a qualified health plan*
3 *or to participate in an Exchange.*

4 *(B) PROHIBITION AGAINST COMPELLED EN-*
5 *ROLLMENT.—Nothing in this title shall be con-*
6 *strued to compel an individual to enroll in a*
7 *qualified health plan or to participate in an Ex-*
8 *change.*

9 *(C) INDIVIDUALS ALLOWED TO ENROLL IN*
10 *ANY PLAN.—A qualified individual may enroll*
11 *in any qualified health plan, except that in the*
12 *case of a catastrophic plan described in section*
13 *1302(e), a qualified individual may enroll in the*
14 *plan only if the individual is eligible to enroll in*
15 *the plan under section 1302(e)(2).*

16 *(D) MEMBERS OF CONGRESS IN THE EX-*
17 *CHANGE.—*

18 *(i) REQUIREMENT.—Notwithstanding*
19 *any other provision of law, after the effec-*
20 *tive date of this subtitle, the only health*
21 *plans that the Federal Government may*
22 *make available to Members of Congress and*
23 *congressional staff with respect to their serv-*
24 *ice as a Member of Congress or congress-*
25 *ional staff shall be health plans that are—*

1 (I) created under this Act (or an
2 amendment made by this Act); or

3 (II) offered through an Exchange
4 established under this Act (or an
5 amendment made by this Act).

6 (ii) DEFINITIONS.—In this section:

7 (I) MEMBER OF CONGRESS.—The
8 term “Member of Congress” means any
9 member of the House of Representa-
10 tives or the Senate.

11 (II) CONGRESSIONAL STAFF.—The
12 term “congressional staff” means all
13 full-time and part-time employees em-
14 ployed by the official office of a Mem-
15 ber of Congress, whether in Wash-
16 ington, DC or outside of Washington,
17 DC.

18 (4) NO PENALTY FOR TRANSFERRING TO MIN-
19 IMUM ESSENTIAL COVERAGE OUTSIDE EXCHANGE.—
20 An Exchange, or a qualified health plan offered
21 through an Exchange, shall not impose any penalty
22 or other fee on an individual who cancels enrollment
23 in a plan because the individual becomes eligible for
24 minimum essential coverage (as defined in section
25 5000A(f) of the Internal Revenue Code of 1986 with-

1 out regard to paragraph (1)(C) or (D) thereof) or
2 such coverage becomes affordable (within the meaning
3 of section 36B(c)(2)(C) of such Code).

4 (e) *ENROLLMENT THROUGH AGENTS OR BROKERS.*—
5 *The Secretary shall establish procedures under which a*
6 *State may allow agents or brokers—*

7 (1) *to enroll individuals in any qualified health*
8 *plans in the individual or small group market as*
9 *soon as the plan is offered through an Exchange in*
10 *the State; and*

11 (2) *to assist individuals in applying for pre-*
12 *mium tax credits and cost-sharing reductions for*
13 *plans sold through an Exchange.*

14 *Such procedures may include the establishment of rate*
15 *schedules for broker commissions paid by health benefits*
16 *plans offered through an exchange.*

17 (f) *QUALIFIED INDIVIDUALS AND EMPLOYERS; ACCESS*
18 *LIMITED TO CITIZENS AND LAWFUL RESIDENTS.*—

19 (1) *QUALIFIED INDIVIDUALS.*—*In this title:*

20 (A) *IN GENERAL.*—*The term “qualified in-*
21 *dividual” means, with respect to an Exchange,*
22 *an individual who—*

23 (i) *is seeking to enroll in a qualified*
24 *health plan in the individual market offered*
25 *through the Exchange; and*

1 (ii) resides in the State that established
2 the Exchange (except with respect to terri-
3 torial agreements under section 1312(f)).

4 (B) *INCARCERATED INDIVIDUALS EX-*
5 *CLUDED.*—An individual shall not be treated as
6 a qualified individual if, at the time of enroll-
7 ment, the individual is incarcerated, other than
8 incarceration pending the disposition of charges.

9 (2) *QUALIFIED EMPLOYER.*—In this title:

10 (A) *IN GENERAL.*—The term “qualified em-
11 ployer” means a small employer that elects to
12 make all full-time employees of such employer el-
13 igible for 1 or more qualified health plans offered
14 in the small group market through an Exchange
15 that offers qualified health plans.

16 (B) *EXTENSION TO LARGE GROUPS.*—

17 (i) *IN GENERAL.*—Beginning in 2017,
18 each State may allow issuers of health in-
19 surance coverage in the large group market
20 in the State to offer qualified health plans
21 in such market through an Exchange. Noth-
22 ing in this subparagraph shall be construed
23 as requiring the issuer to offer such plans
24 through an Exchange.

1 (ii) *LARGE EMPLOYERS ELIGIBLE.*—If
2 a State under clause (i) allows issuers to
3 offer qualified health plans in the large
4 group market through an Exchange, the
5 term “qualified employer” shall include a
6 large employer that elects to make all full-
7 time employees of such employer eligible for
8 1 or more qualified health plans offered in
9 the large group market through the Ex-
10 change.

11 (3) *ACCESS LIMITED TO LAWFUL RESIDENTS.*—
12 If an individual is not, or is not reasonably expected
13 to be for the entire period for which enrollment is
14 sought, a citizen or national of the United States or
15 an alien lawfully present in the United States, the in-
16 dividual shall not be treated as a qualified individual
17 and may not be covered under a qualified health plan
18 in the individual market that is offered through an
19 Exchange.

20 **SEC. 1313. FINANCIAL INTEGRITY.**

21 (a) *ACCOUNTING FOR EXPENDITURES.*—

22 (1) *IN GENERAL.*—An Exchange shall keep an
23 accurate accounting of all activities, receipts, and ex-
24 penditures and shall annually submit to the Secretary
25 a report concerning such accountings.

1 (2) *INVESTIGATIONS.*—*The Secretary, in coordi-*
2 *nation with the Inspector General of the Department*
3 *of Health and Human Services, may investigate the*
4 *affairs of an Exchange, may examine the properties*
5 *and records of an Exchange, and may require peri-*
6 *odic reports in relation to activities undertaken by an*
7 *Exchange. An Exchange shall fully cooperate in any*
8 *investigation conducted under this paragraph.*

9 (3) *AUDITS.*—*An Exchange shall be subject to*
10 *annual audits by the Secretary.*

11 (4) *PATTERN OF ABUSE.*—*If the Secretary deter-*
12 *mines that an Exchange or a State has engaged in*
13 *serious misconduct with respect to compliance with*
14 *the requirements of, or carrying out of activities re-*
15 *quired under, this title, the Secretary may rescind*
16 *from payments otherwise due to such State involved*
17 *under this or any other Act administered by the Sec-*
18 *retary an amount not to exceed 1 percent of such pay-*
19 *ments per year until corrective actions are taken by*
20 *the State that are determined to be adequate by the*
21 *Secretary.*

22 (5) *PROTECTIONS AGAINST FRAUD AND ABUSE.*—
23 *With respect to activities carried out under this title,*
24 *the Secretary shall provide for the efficient and non-*

1 *discriminatory administration of Exchange activities*
2 *and implement any measure or procedure that—*

3 *(A) the Secretary determines is appropriate*
4 *to reduce fraud and abuse in the administration*
5 *of this title; and*

6 *(B) the Secretary has authority to imple-*
7 *ment under this title or any other Act.*

8 *(6) APPLICATION OF THE FALSE CLAIMS ACT.—*

9 *(A) IN GENERAL.—Payments made by,*
10 *through, or in connection with an Exchange are*
11 *subject to the False Claims Act (31 U.S.C. 3729*
12 *et seq.) if those payments include any Federal*
13 *funds. Compliance with the requirements of this*
14 *Act concerning eligibility for a health insurance*
15 *issuer to participate in the Exchange shall be a*
16 *material condition of an issuer's entitlement to*
17 *receive payments, including payments of pre-*
18 *mium tax credits and cost-sharing reductions,*
19 *through the Exchange.*

20 *(B) DAMAGES.—Notwithstanding para-*
21 *graph (1) of section 3729(a) of title 31, United*
22 *States Code, and subject to paragraph (2) of such*
23 *section, the civil penalty assessed under the False*
24 *Claims Act on any person found liable under*
25 *such Act as described in subparagraph (A) shall*

1 *be increased by not less than 3 times and not*
2 *more than 6 times the amount of damages which*
3 *the Government sustains because of the act of*
4 *that person.*

5 **(b) GAO OVERSIGHT.**—*Not later than 5 years after*
6 *the first date on which Exchanges are required to be oper-*
7 *ational under this title, the Comptroller General shall con-*
8 *duct an ongoing study of Exchange activities and the enroll-*
9 *ees in qualified health plans offered through Exchanges.*
10 *Such study shall review—*

11 *(1) the operations and administration of Ex-*
12 *changes, including surveys and reports of qualified*
13 *health plans offered through Exchanges and on the ex-*
14 *perience of such plans (including data on enrollees in*
15 *Exchanges and individuals purchasing health insur-*
16 *ance coverage outside of Exchanges), the expenses of*
17 *Exchanges, claims statistics relating to qualified*
18 *health plans, complaints data relating to such plans,*
19 *and the manner in which Exchanges meet their goals;*

20 *(2) any significant observations regarding the*
21 *utilization and adoption of Exchanges;*

22 *(3) where appropriate, recommendations for im-*
23 *provements in the operations or policies of Exchanges;*
24 *and*

1 (4) *how many physicians, by area and specialty,*
 2 *are not taking or accepting new patients enrolled in*
 3 *Federal Government health care programs, and the*
 4 *adequacy of provider networks of Federal Government*
 5 *health care programs.*

6 **PART III—STATE FLEXIBILITY RELATING TO**
 7 **EXCHANGES**

8 **SEC. 1321. STATE FLEXIBILITY IN OPERATION AND EN-**
 9 **FORCEMENT OF EXCHANGES AND RELATED**
 10 **REQUIREMENTS.**

11 (a) *ESTABLISHMENT OF STANDARDS.—*

12 (1) *IN GENERAL.—The Secretary shall, as soon*
 13 *as practicable after the date of enactment of this Act,*
 14 *issue regulations setting standards for meeting the re-*
 15 *quirements under this title, and the amendments*
 16 *made by this title, with respect to—*

17 (A) *the establishment and operation of Ex-*
 18 *changes (including SHOP Exchanges);*

19 (B) *the offering of qualified health plans*
 20 *through such Exchanges;*

21 (C) *the establishment of the reinsurance and*
 22 *risk adjustment programs under part V; and*

23 (D) *such other requirements as the Sec-*
 24 *retary determines appropriate.*

1 *The preceding sentence shall not apply to standards*
2 *for requirements under subtitles A and C (and the*
3 *amendments made by such subtitles) for which the*
4 *Secretary issues regulations under the Public Health*
5 *Service Act.*

6 (2) *CONSULTATION.—In issuing the regulations*
7 *under paragraph (1), the Secretary shall consult with*
8 *the National Association of Insurance Commissioners*
9 *and its members and with health insurance issuers,*
10 *consumer organizations, and such other individuals*
11 *as the Secretary selects in a manner designed to en-*
12 *sure balanced representation among interested par-*
13 *ties.*

14 (b) *STATE ACTION.—Each State that elects, at such*
15 *time and in such manner as the Secretary may prescribe,*
16 *to apply the requirements described in subsection (a) shall,*
17 *not later than January 1, 2014, adopt and have in effect—*

18 (1) *the Federal standards established under sub-*
19 *section (a); or*

20 (2) *a State law or regulation that the Secretary*
21 *determines implements the standards within the*
22 *State.*

23 (c) *FAILURE TO ESTABLISH EXCHANGE OR IMPLE-*
24 *MENT REQUIREMENTS.—*

25 (1) *IN GENERAL.—If—*

1 (A) a State is not an electing State under
2 subsection (b); or

3 (B) the Secretary determines, on or before
4 January 1, 2013, that an electing State—

5 (i) will not have any required Ex-
6 change operational by January 1, 2014; or

7 (ii) has not taken the actions the Sec-
8 retary determines necessary to implement—

9 (I) the other requirements set forth
10 in the standards under subsection (a);

11 or

12 (II) the requirements set forth in
13 subtitles A and C and the amendments
14 made by such subtitles;

15 the Secretary shall (directly or through agreement
16 with a not-for-profit entity) establish and operate
17 such Exchange within the State and the Secretary
18 shall take such actions as are necessary to implement
19 such other requirements.

20 (2) *ENFORCEMENT AUTHORITY.*—The provisions
21 of section 2736(b) of the Public Health Services Act
22 shall apply to the enforcement under paragraph (1)
23 of requirements of subsection (a)(1) (without regard to
24 any limitation on the application of those provisions
25 to group health plans).

1 (d) *NO INTERFERENCE WITH STATE REGULATORY*
2 *AUTHORITY.*—*Nothing in this title shall be construed to*
3 *preempt any State law that does not prevent the applica-*
4 *tion of the provisions of this title.*

5 (e) *PRESUMPTION FOR CERTAIN STATE-OPERATED*
6 *EXCHANGES.*—

7 (1) *IN GENERAL.*—*In the case of a State oper-*
8 *ating an Exchange before January 1, 2010, and*
9 *which has insured a percentage of its population not*
10 *less than the percentage of the population projected to*
11 *be covered nationally after the implementation of this*
12 *Act, that seeks to operate an Exchange under this sec-*
13 *tion, the Secretary shall presume that such Exchange*
14 *meets the standards under this section unless the Sec-*
15 *retary determines, after completion of the process es-*
16 *tablished under paragraph (2), that the Exchange*
17 *does not comply with such standards.*

18 (2) *PROCESS.*—*The Secretary shall establish a*
19 *process to work with a State described in paragraph*
20 *(1) to provide assistance necessary to assist the*
21 *State's Exchange in coming into compliance with the*
22 *standards for approval under this section.*

1 **SEC. 1322. FEDERAL PROGRAM TO ASSIST ESTABLISHMENT**
2 **AND OPERATION OF NONPROFIT, MEMBER-**
3 **RUN HEALTH INSURANCE ISSUERS.**

4 (a) *ESTABLISHMENT OF PROGRAM.*—

5 (1) *IN GENERAL.*—*The Secretary shall establish*
6 *a program to carry out the purposes of this section*
7 *to be known as the Consumer Operated and Oriented*
8 *Plan (CO–OP) program.*

9 (2) *PURPOSE.*—*It is the purpose of the CO–OP*
10 *program to foster the creation of qualified nonprofit*
11 *health insurance issuers to offer qualified health plans*
12 *in the individual and small group markets in the*
13 *States in which the issuers are licensed to offer such*
14 *plans.*

15 (b) *LOANS AND GRANTS UNDER THE CO–OP PRO-*
16 *GRAM.*—

17 (1) *IN GENERAL.*—*The Secretary shall provide*
18 *through the CO–OP program for the awarding to per-*
19 *sons applying to become qualified nonprofit health in-*
20 *surance issuers of—*

21 (A) *loans to provide assistance to such per-*
22 *son in meeting its start-up costs; and*

23 (B) *grants to provide assistance to such per-*
24 *son in meeting any solvency requirements of*
25 *States in which the person seeks to be licensed to*
26 *issue qualified health plans.*

1 (2) *REQUIREMENTS FOR AWARDING LOANS AND*
2 *GRANTS.*—

3 (A) *IN GENERAL.*—*In awarding loans and*
4 *grants under the CO-OP program, the Secretary*
5 *shall—*

6 (i) *take into account the recommenda-*
7 *tions of the advisory board established*
8 *under paragraph (3);*

9 (ii) *give priority to applicants that*
10 *will offer qualified health plans on a State-*
11 *wide basis, will utilize integrated care mod-*
12 *els, and have significant private support;*
13 *and*

14 (iii) *ensure that there is sufficient*
15 *funding to establish at least 1 qualified*
16 *nonprofit health insurance issuer in each*
17 *State, except that nothing in this clause*
18 *shall prohibit the Secretary from funding*
19 *the establishment of multiple qualified non-*
20 *profit health insurance issuers in any State*
21 *if the funding is sufficient to do so.*

22 (B) *STATES WITHOUT ISSUERS IN PRO-*
23 *GRAM.*—*If no health insurance issuer applies to*
24 *be a qualified nonprofit health insurance issuer*
25 *within a State, the Secretary may use amounts*

1 *appropriated under this section for the awarding*
2 *of grants to encourage the establishment of a*
3 *qualified nonprofit health insurance issuer with-*
4 *in the State or the expansion of a qualified non-*
5 *profit health insurance issuer from another State*
6 *to the State.*

7 (C) *AGREEMENT.—*

8 (i) *IN GENERAL.—The Secretary shall*
9 *require any person receiving a loan or*
10 *grant under the CO-OP program to enter*
11 *into an agreement with the Secretary which*
12 *requires such person to meet (and to con-*
13 *tinue to meet)—*

14 (I) *any requirement under this*
15 *section for such person to be treated as*
16 *a qualified nonprofit health insurance*
17 *issuer; and*

18 (II) *any requirements contained*
19 *in the agreement for such person to re-*
20 *ceive such loan or grant.*

21 (ii) *RESTRICTIONS ON USE OF FED-*
22 *ERAL FUNDS.—The agreement shall include*
23 *a requirement that no portion of the funds*
24 *made available by any loan or grant under*
25 *this section may be used—*

1 (I) for carrying on propaganda,
2 or otherwise attempting, to influence
3 legislation; or

4 (II) for marketing.

5 Nothing in this clause shall be construed to
6 allow a person to take any action prohib-
7 ited by section 501(c)(29) of the Internal
8 Revenue Code of 1986.

9 (iii) *FAILURE TO MEET REQUIRE-*
10 *MENTS.—If the Secretary determines that a*
11 *person has failed to meet any requirement*
12 *described in clause (i) or (ii) and has failed*
13 *to correct such failure within a reasonable*
14 *period of time of when the person first*
15 *knows (or reasonably should have known) of*
16 *such failure, such person shall repay to the*
17 *Secretary an amount equal to the sum of—*

18 (I) 110 percent of the aggregate
19 amount of loans and grants received
20 under this section; plus

21 (II) interest on the aggregate
22 amount of loans and grants received
23 under this section for the period the
24 loans or grants were outstanding.

1 *The Secretary shall notify the Secretary of*
2 *the Treasury of any determination under*
3 *this section of a failure that results in the*
4 *termination of an issuer's tax-exempt status*
5 *under section 501(c)(29) of such Code.*

6 (D) *TIME FOR AWARDING LOANS AND*
7 *GRANTS.—The Secretary shall not later than*
8 *July 1, 2013, award the loans and grants under*
9 *the CO-OP program and begin the distribution*
10 *of amounts awarded under such loans and*
11 *grants.*

12 (3) *ADVISORY BOARD.—*

13 (A) *IN GENERAL.—The advisory board*
14 *under this paragraph shall consist of 15 mem-*
15 *bers appointed by the Comptroller General of the*
16 *United States from among individuals with*
17 *qualifications described in section 1805(c)(2) of*
18 *the Social Security Act.*

19 (B) *RULES RELATING TO APPOINTMENTS.—*

20 (i) *STANDARDS.—Any individual ap-*
21 *pointed under subparagraph (A) shall meet*
22 *ethics and conflict of interest standards pro-*
23 *tecting against insurance industry involve-*
24 *ment and interference.*

1 (ii) ORIGINAL APPOINTMENTS.—The
2 original appointment of board members
3 under subparagraph (A)(ii) shall be made
4 no later than 3 months after the date of en-
5 actment of this Act.

6 (C) VACANCY.—Any vacancy on the advi-
7 sory board shall be filled in the same manner as
8 the original appointment.

9 (D) PAY AND REIMBURSEMENT.—

10 (i) NO COMPENSATION FOR MEMBERS
11 OF ADVISORY BOARD.—Except as provided
12 in clause (ii), a member of the advisory
13 board may not receive pay, allowances, or
14 benefits by reason of their service on the
15 board.

16 (ii) TRAVEL EXPENSES.—Each mem-
17 ber shall receive travel expenses, including
18 per diem in lieu of subsistence under sub-
19 chapter I of chapter 57 of title 5, United
20 States Code.

21 (E) APPLICATION OF FACA.—The Federal
22 Advisory Committee Act (5 U.S.C. App.) shall
23 apply to the advisory board, except that section
24 14 of such Act shall not apply.

1 (F) *TERMINATION.*—*The advisory board*
2 *shall terminate on the earlier of the date that it*
3 *completes its duties under this section or Decem-*
4 *ber 31, 2015.*

5 (c) *QUALIFIED NONPROFIT HEALTH INSURANCE*
6 *ISSUER.*—*For purposes of this section—*

7 (1) *IN GENERAL.*—*The term “qualified nonprofit*
8 *health insurance issuer” means a health insurance*
9 *issuer that is an organization—*

10 (A) *that is organized under State law as a*
11 *nonprofit, member corporation;*

12 (B) *substantially all of the activities of*
13 *which consist of the issuance of qualified health*
14 *plans in the individual and small group markets*
15 *in each State in which it is licensed to issue such*
16 *plans; and*

17 (C) *that meets the other requirements of this*
18 *subsection.*

19 (2) *CERTAIN ORGANIZATIONS PROHIBITED.*—*An*
20 *organization shall not be treated as a qualified non-*
21 *profit health insurance issuer if—*

22 (A) *the organization or a related entity (or*
23 *any predecessor of either) was a health insurance*
24 *issuer on July 16, 2009; or*

1 *(B) the organization is sponsored by a State*
2 *or local government, any political subdivision*
3 *thereof, or any instrumentality of such govern-*
4 *ment or political subdivision.*

5 *(3) GOVERNANCE REQUIREMENTS.—An organi-*
6 *zation shall not be treated as a qualified nonprofit*
7 *health insurance issuer unless—*

8 *(A) the governance of the organization is*
9 *subject to a majority vote of its members;*

10 *(B) its governing documents incorporate*
11 *ethics and conflict of interest standards pro-*
12 *tecting against insurance industry involvement*
13 *and interference; and*

14 *(C) as provided in regulations promulgated*
15 *by the Secretary, the organization is required to*
16 *operate with a strong consumer focus, including*
17 *timeliness, responsiveness, and accountability to*
18 *members.*

19 *(4) PROFITS INURE TO BENEFIT OF MEMBERS.—*
20 *An organization shall not be treated as a qualified*
21 *nonprofit health insurance issuer unless any profits*
22 *made by the organization are required to be used to*
23 *lower premiums, to improve benefits, or for other pro-*
24 *grams intended to improve the quality of health care*
25 *delivered to its members.*

1 (5) *COMPLIANCE WITH STATE INSURANCE*
2 *LAWS.—An organization shall not be treated as a*
3 *qualified nonprofit health insurance issuer unless the*
4 *organization meets all the requirements that other*
5 *issuers of qualified health plans are required to meet*
6 *in any State where the issuer offers a qualified health*
7 *plan, including solvency and licensure requirements,*
8 *rules on payments to providers, and compliance with*
9 *network adequacy rules, rate and form filing rules,*
10 *any applicable State premium assessments and any*
11 *other State law described in section 1324(b).*

12 (6) *COORDINATION WITH STATE INSURANCE RE-*
13 *FORMS.—An organization shall not be treated as a*
14 *qualified nonprofit health insurance issuer unless the*
15 *organization does not offer a health plan in a State*
16 *until that State has in effect (or the Secretary has*
17 *implemented for the State) the market reforms re-*
18 *quired by part A of title XXVII of the Public Health*
19 *Service Act (as amended by subtitles A and C of this*
20 *Act).*

21 (d) *ESTABLISHMENT OF PRIVATE PURCHASING COUN-*
22 *CIL.—*

23 (1) *IN GENERAL.—Qualified nonprofit health in-*
24 *surance issuers participating in the CO-OP program*
25 *under this section may establish a private purchasing*

1 *council to enter into collective purchasing arrange-*
2 *ments for items and services that increase adminis-*
3 *trative and other cost efficiencies, including claims*
4 *administration, administrative services, health infor-*
5 *mation technology, and actuarial services.*

6 (2) *COUNCIL MAY NOT SET PAYMENT RATES.—*

7 *The private purchasing council established under*
8 *paragraph (1) shall not set payment rates for health*
9 *care facilities or providers participating in health in-*
10 *surance coverage provided by qualified nonprofit*
11 *health insurance issuers.*

12 (3) *CONTINUED APPLICATION OF ANTITRUST*
13 *LAWS.—*

14 (A) *IN GENERAL.—Nothing in this section*
15 *shall be construed to limit the application of the*
16 *antitrust laws to any private purchasing council*
17 *(whether or not established under this subsection)*
18 *or to any qualified nonprofit health insurance*
19 *issuer participating in such a council.*

20 (B) *ANTITRUST LAWS.—For purposes of*
21 *this subparagraph, the term “antitrust laws” has*
22 *the meaning given the term in subsection (a) of*
23 *the first section of the Clayton Act (15 U.S.C.*
24 *12(a)). Such term also includes section 5 of the*
25 *Federal Trade Commission Act (15 U.S.C. 45) to*

1 *the extent that such section 5 applies to unfair*
2 *methods of competition.*

3 (e) *LIMITATION ON PARTICIPATION.*—*No representa-*
4 *tive of any Federal, State, or local government (or of any*
5 *political subdivision or instrumentality thereof), and no*
6 *representative of a person described in subsection (c)(2)(A),*
7 *may serve on the board of directors of a qualified nonprofit*
8 *health insurance issuer or with a private purchasing coun-*
9 *cil established under subsection (d).*

10 (f) *LIMITATIONS ON SECRETARY.*—

11 (1) *IN GENERAL.*—*The Secretary shall not—*

12 (A) *participate in any negotiations between*
13 *1 or more qualified nonprofit health insurance*
14 *issuers (or a private purchasing council estab-*
15 *lished under subsection (d)) and any health care*
16 *facilities or providers, including any drug man-*
17 *ufacturer, pharmacy, or hospital; and*

18 (B) *establish or maintain a price structure*
19 *for reimbursement of any health benefits covered*
20 *by such issuers.*

21 (2) *COMPETITION.*—*Nothing in this section shall*
22 *be construed as authorizing the Secretary to interfere*
23 *with the competitive nature of providing health bene-*
24 *fits through qualified nonprofit health insurance*
25 *issuers.*

1 (g) *APPROPRIATIONS.*—*There are hereby appropriated,*
2 *out of any funds in the Treasury not otherwise appro-*
3 *priated, \$6,000,000,000 to carry out this section.*

4 (h) *TAX EXEMPTION FOR QUALIFIED NONPROFIT*
5 *HEALTH INSURANCE ISSUER.*—

6 (1) *IN GENERAL.*—*Section 501(c) of the Internal*
7 *Revenue Code of 1986 (relating to list of exempt orga-*
8 *nizations) is amended by adding at the end the fol-*
9 *lowing:*

10 “(29) *CO–OP HEALTH INSURANCE ISSUERS.*—

11 “(A) *IN GENERAL.*—*A qualified nonprofit*
12 *health insurance issuer (within the meaning of*
13 *section 1322 of the Patient Protection and Af-*
14 *fordable Care Act) which has received a loan or*
15 *grant under the CO–OP program under such sec-*
16 *tion, but only with respect to periods for which*
17 *the issuer is in compliance with the requirements*
18 *of such section and any agreement with respect*
19 *to the loan or grant.*

20 “(B) *CONDITIONS FOR EXEMPTION.*—*Sub-*
21 *paragraph (A) shall apply to an organization*
22 *only if—*

23 “(i) *the organization has given notice*
24 *to the Secretary, in such manner as the Sec-*
25 *retary may by regulations prescribe, that it*

1 *is applying for recognition of its status*
2 *under this paragraph,*

3 “(ii) *except as provided in section*
4 *1322(c)(4) of the Patient Protection and Af-*
5 *fordable Care Act, no part of the net earn-*
6 *ings of which inures to the benefit of any*
7 *private shareholder or individual,*

8 “(iii) *no substantial part of the activi-*
9 *ties of which is carrying on propaganda, or*
10 *otherwise attempting, to influence legisla-*
11 *tion, and*

12 “(iv) *the organization does not partici-*
13 *pate in, or intervene in (including the pub-*
14 *lishing or distributing of statements), any*
15 *political campaign on behalf of (or in oppo-*
16 *sition to) any candidate for public office.”.*

17 (2) *ADDITIONAL REPORTING REQUIREMENT.—*
18 *Section 6033 of such Code (relating to returns by ex-*
19 *empt organizations) is amended by redesignating sub-*
20 *section (m) as subsection (n) and by inserting after*
21 *subsection (l) the following:*

22 “(m) *ADDITIONAL INFORMATION REQUIRED FROM*
23 *CO-OP INSURERS.—An organization described in section*
24 *501(c)(29) shall include on the return required under sub-*
25 *section (a) the following information:*

1 “(1) *The amount of the reserves required by each*
2 *State in which the organization is licensed to issue*
3 *qualified health plans.*”

4 “(2) *The amount of reserves on hand.*”.

5 (3) *APPLICATION OF TAX ON EXCESS BENEFIT*
6 *TRANSACTIONS.—Section 4958(e)(1) of such Code (de-*
7 *fining applicable tax-exempt organization) is amend-*
8 *ed by striking “paragraph (3) or (4)” and inserting*
9 *“paragraph (3), (4), or (29)”.*

10 (i) *GAO STUDY AND REPORT.—*

11 (1) *STUDY.—The Comptroller General of the*
12 *General Accountability Office shall conduct an ongo-*
13 *ing study on competition and market concentration*
14 *in the health insurance market in the United States*
15 *after the implementation of the reforms in such mar-*
16 *ket under the provisions of, and the amendments*
17 *made by, this Act. Such study shall include an anal-*
18 *ysis of new issuers of health insurance in such mar-*
19 *ket.*

20 (2) *REPORT.—The Comptroller General shall,*
21 *not later than December 31 of each even-numbered*
22 *year (beginning with 2014), report to the appropriate*
23 *committees of the Congress the results of the study*
24 *conducted under paragraph (1), including any rec-*
25 *ommendations for administrative or legislative*

1 *changes the Comptroller General determines necessary*
2 *or appropriate to increase competition in the health*
3 *insurance market.*

4 **SEC. 1323. COMMUNITY HEALTH INSURANCE OPTION.**

5 *(a) VOLUNTARY NATURE.—*

6 *(1) NO REQUIREMENT FOR HEALTH CARE PRO-*
7 *VIDERS TO PARTICIPATE.—Nothing in this section*
8 *shall be construed to require a health care provider to*
9 *participate in a community health insurance option,*
10 *or to impose any penalty for non-participation.*

11 *(2) NO REQUIREMENT FOR INDIVIDUALS TO*
12 *JOIN.—Nothing in this section shall be construed to*
13 *require an individual to participate in a community*
14 *health insurance option, or to impose any penalty for*
15 *non-participation.*

16 *(3) STATE OPT OUT.—*

17 *(A) IN GENERAL.—A State may elect to*
18 *prohibit Exchanges in such State from offering a*
19 *community health insurance option if such State*
20 *enacts a law to provide for such prohibition.*

21 *(B) TERMINATION OF OPT OUT.—A State*
22 *may repeal a law described in subparagraph (A)*
23 *and provide for the offering of such an option*
24 *through the Exchange.*

1 (b) *ESTABLISHMENT OF COMMUNITY HEALTH INSUR-*
2 *ANCE OPTION.*—

3 (1) *ESTABLISHMENT.*—*The Secretary shall estab-*
4 *lish a community health insurance option to offer,*
5 *through the Exchanges established under this title*
6 *(other than Exchanges in States that elect to opt out*
7 *as provided for in subsection (a)(3)), health care cov-*
8 *erage that provides value, choice, competition, and*
9 *stability of affordable, high quality coverage through-*
10 *out the United States.*

11 (2) *COMMUNITY HEALTH INSURANCE OPTION.*—
12 *In this section, the term “community health insur-*
13 *ance option” means health insurance coverage that—*

14 (A) *except as specifically provided for in*
15 *this section, complies with the requirements for*
16 *being a qualified health plan;*

17 (B) *provides high value for the premium*
18 *charged;*

19 (C) *reduces administrative costs and pro-*
20 *motates administrative simplification for bene-*
21 *ficiaries;*

22 (D) *promotes high quality clinical care;*

23 (E) *provides high quality customer service*
24 *to beneficiaries;*

1 (F) offers a sufficient choice of providers;
2 and

3 (G) complies with State laws (if any), ex-
4 cept as otherwise provided for in this title, relat-
5 ing to the laws described in section 1324(b).

6 (3) *ESSENTIAL HEALTH BENEFITS.*—

7 (A) *GENERAL RULE.*—Except as provided
8 in subparagraph (B), a community health insur-
9 ance option offered under this section shall pro-
10 vide coverage only for the essential health bene-
11 fits described in section 1302(b).

12 (B) *STATES MAY OFFER ADDITIONAL BENE-*
13 *FITS.*—Nothing in this section shall preclude a
14 State from requiring that benefits in addition to
15 the essential health benefits required under sub-
16 paragraph (A) be provided to enrollees of a com-
17 munity health insurance option offered in such
18 State.

19 (C) *CREDITS.*—

20 (i) *IN GENERAL.*—An individual en-
21 rolled in a community health insurance op-
22 tion under this section shall be eligible for
23 credits under section 36B of the Internal
24 Revenue Code of 1986 in the same manner

1 *as an individual who is enrolled in a quali-*
2 *fied health plan.*

3 *(ii) NO ADDITIONAL FEDERAL COST.—*

4 *A requirement by a State under subpara-*
5 *graph (B) that benefits in addition to the*
6 *essential health benefits required under sub-*
7 *paragraph (A) be provided to enrollees of a*
8 *community health insurance option shall*
9 *not affect the amount of a premium tax*
10 *credit provided under section 36B of the In-*
11 *ternal Revenue Code of 1986 with respect to*
12 *such plan.*

13 *(D) STATE MUST ASSUME COST.—A State*
14 *shall make payments to or on behalf of an eligi-*
15 *ble individual to defray the cost of any addi-*
16 *tional benefits described in subparagraph (B).*

17 *(E) ENSURING ACCESS TO ALL SERVICES.—*
18 *Nothing in this Act shall prohibit an individual*
19 *enrolled in a community health insurance option*
20 *from paying out-of-pocket the full cost of any*
21 *item or service not included as an essential*
22 *health benefit or otherwise covered as a benefit by*
23 *a health plan. Nothing in subparagraph (B)*
24 *shall prohibit any type of medical provider from*
25 *accepting an out-of-pocket payment from an in-*

1 *dividual enrolled in a community health insur-*
2 *ance option for a service otherwise not included*
3 *as an essential health benefit.*

4 (F) *PROTECTING ACCESS TO END OF LIFE*
5 *CARE.—A community health insurance option*
6 *offered under this section shall be prohibited*
7 *from limiting access to end of life care.*

8 (4) *COST SHARING.—A community health insur-*
9 *ance option shall offer coverage at each of the levels*
10 *of coverage described in section 1302(d).*

11 (5) *PREMIUMS.—*

12 (A) *PREMIUMS SUFFICIENT TO COVER*
13 *COSTS.—The Secretary shall establish geographi-*
14 *cally adjusted premium rates in an amount suf-*
15 *ficient to cover expected costs (including claims*
16 *and administrative costs) using methods in gen-*
17 *eral use by qualified health plans.*

18 (B) *APPLICABLE RULES.—The provisions of*
19 *title XXVII of the Public Health Service Act re-*
20 *lating to premiums shall apply to community*
21 *health insurance options under this section, in-*
22 *cluding modified community rating provisions*
23 *under section 2701 of such Act.*

1 (C) *COLLECTION OF DATA.*—*The Secretary*
2 *shall collect data as necessary to set premium*
3 *rates under subparagraph (A).*

4 (D) *NATIONAL POOLING.*—*Notwithstanding*
5 *any other provision of law, the Secretary may*
6 *treat all enrollees in community health insur-*
7 *ance options as members of a single pool.*

8 (E) *CONTINGENCY MARGIN.*—*In establishing*
9 *premium rates under subparagraph (A), the Sec-*
10 *retary shall include an appropriate amount for*
11 *a contingency margin.*

12 (6) *REIMBURSEMENT RATES.*—

13 (A) *NEGOTIATED RATES.*—*The Secretary*
14 *shall negotiate rates for the reimbursement of*
15 *health care providers for benefits covered under*
16 *a community health insurance option.*

17 (B) *LIMITATION.*—*The rates described in*
18 *subparagraph (A) shall not be higher, in aggre-*
19 *gate, than the average reimbursement rates paid*
20 *by health insurance issuers offering qualified*
21 *health plans through the Exchange.*

22 (C) *INNOVATION.*—*Subject to the limits con-*
23 *tained in subparagraph (A), a State Advisory*
24 *Council established or designated under sub-*
25 *section (d) may develop or encourage the use of*

1 *innovative payment policies that promote qual-*
2 *ity, efficiency and savings to consumers.*

3 (7) *SOLVENCY AND CONSUMER PROTECTION.*—

4 (A) *SOLVENCY.*—*The Secretary shall estab-*
5 *lish a Federal solvency standard to be applied*
6 *with respect to a community health insurance*
7 *option. A community health insurance option*
8 *shall also be subject to the solvency standard of*
9 *each State in which such community health in-*
10 *surance option is offered.*

11 (B) *MINIMUM REQUIRED.*—*In establishing*
12 *the standard described under subparagraph (A),*
13 *the Secretary shall require a reserve fund that*
14 *shall be equal to at least the dollar value of the*
15 *incurred but not reported claims of a community*
16 *health insurance option.*

17 (C) *CONSUMER PROTECTIONS.*—*The con-*
18 *sumer protection laws of a State shall apply to*
19 *a community health insurance option.*

20 (8) *REQUIREMENTS ESTABLISHED IN PARTNER-*
21 *SHIP WITH INSURANCE COMMISSIONERS.*—

22 (A) *IN GENERAL.*—*The Secretary, in col-*
23 *laboration with the National Association of In-*
24 *surance Commissioners (in this paragraph re-*
25 *ferred to as the “NAIC”), may promulgate regu-*

1 *lations to establish additional requirements for a*
2 *community health insurance option.*

3 *(B) APPLICABILITY.—Any requirement pro-*
4 *mulgated under subparagraph (A) shall be appli-*
5 *cable to such option beginning 90 days after the*
6 *date on which the regulation involved becomes*
7 *final.*

8 *(c) START-UP FUND.—*

9 *(1) ESTABLISHMENT OF FUND.—*

10 *(A) IN GENERAL.—There is established in*
11 *the Treasury of the United States a trust fund*
12 *to be known as the “Health Benefit Plan Start-*
13 *Up Fund” (referred to in this section as the*
14 *“Start-Up Fund”), that shall consist of such*
15 *amounts as may be appropriated or credited to*
16 *the Start-Up Fund as provided for in this sub-*
17 *section to provide loans for the initial operations*
18 *of a community health insurance option. Such*
19 *amounts shall remain available until expended.*

20 *(B) FUNDING.—There is hereby appro-*
21 *priated to the Start-Up Fund, out of any mon-*
22 *neys in the Treasury not otherwise appropriated*
23 *an amount requested by the Secretary of Health*
24 *and Human Services as necessary to—*

1 (i) pay the start-up costs associated
2 with the initial operations of a community
3 health insurance option; and

4 (ii) pay the costs of making payments
5 on claims submitted during the period that
6 is not more than 90 days from the date on
7 which such option is offered.

8 (2) *USE OF START-UP FUND.*—The Secretary
9 shall use amounts contained in the Start-Up Fund to
10 make payments (subject to the repayment require-
11 ments in paragraph (4)) for the purposes described in
12 paragraph (1)(B).

13 (3) *PASS THROUGH OF REBATES.*—The Sec-
14 retary may establish procedures for reducing the
15 amount of payments to a contracting administrator
16 to take into account any rebates or price concessions.

17 (4) *REPAYMENT.*—

18 (A) *IN GENERAL.*—A community health in-
19 surance option shall be required to repay the
20 Secretary of the Treasury (on such terms as the
21 Secretary may require) for any payments made
22 under paragraph (1)(B) by the date that is not
23 later than 9 years after the date on which the
24 payment is made. The Secretary may require the
25 payment of interest with respect to such repay-

1 *ments at rates that do not exceed the market in-*
2 *terest rate (as determined by the Secretary).*

3 *(B) SANCTIONS IN CASE OF FOR-PROFIT*
4 *CONVERSION.—In any case in which the Sec-*
5 *retary enters into a contract with a qualified en-*
6 *tity for the offering of a community health in-*
7 *surance option and such entity is determined to*
8 *be a for-profit entity by the Secretary, such enti-*
9 *ty shall be—*

10 *(i) immediately liable to the Secretary*
11 *for any payments received by such entity*
12 *from the Start-Up Fund; and*

13 *(ii) permanently ineligible to offer a*
14 *qualified health plan.*

15 *(d) STATE ADVISORY COUNCIL.—*

16 *(1) ESTABLISHMENT.—A State (other than a*
17 *State that elects to opt out as provided for in sub-*
18 *section (a)(3)) shall establish or designate a public or*
19 *non-profit private entity to serve as the State Advi-*
20 *sory Council to provide recommendations to the Sec-*
21 *retary on the operations and policies of a community*
22 *health insurance option in the State. Such Council*
23 *shall provide recommendations on at least the fol-*
24 *lowing:*

1 (A) *policies and procedures to integrate*
2 *quality improvement and cost containment*
3 *mechanisms into the health care delivery system;*

4 (B) *mechanisms to facilitate public aware-*
5 *ness of the availability of a community health*
6 *insurance option; and*

7 (C) *alternative payment structures under a*
8 *community health insurance option for health*
9 *care providers that encourage quality improve-*
10 *ment and cost control.*

11 (2) *MEMBERS.*—*The members of the State Advi-*
12 *sory Council shall be representatives of the public and*
13 *shall include health care consumers and providers.*

14 (3) *APPLICABILITY OF RECOMMENDATIONS.*—*The*
15 *Secretary may apply the recommendations of a State*
16 *Advisory Council to a community health insurance*
17 *option in that State, in any other State, or in all*
18 *States.*

19 (e) *AUTHORITY TO CONTRACT; TERMS OF CON-*
20 *TRACT.*—

21 (1) *AUTHORITY.*—

22 (A) *IN GENERAL.*—*The Secretary may enter*
23 *into a contract or contracts with one or more*
24 *qualified entities for the purpose of performing*
25 *administrative functions (including functions de-*

1 scribed in subsection (a)(4) of section 1874A of
2 the Social Security Act) with respect to a com-
3 munity health insurance option in the same
4 manner as the Secretary may enter into con-
5 tracts under subsection (a)(1) of such section.
6 The Secretary shall have the same authority with
7 respect to a community health insurance option
8 under this section as the Secretary has under
9 subsections (a)(1) and (b) of section 1874A of the
10 Social Security Act with respect to title XVIII of
11 such Act.

12 (B) *REQUIREMENTS APPLY.*—If the Sec-
13 retary enters into a contract with a qualified en-
14 tity to offer a community health insurance op-
15 tion, under such contract such entity—

16 (i) shall meet the criteria established
17 under paragraph (2); and

18 (ii) shall receive an administrative fee
19 under paragraph (7).

20 (C) *LIMITATION.*—Contracts under this sub-
21 section shall not involve the transfer of insurance
22 risk to the contracting administrator.

23 (D) *REFERENCE.*—An entity with which
24 the Secretary has entered into a contract under

1 *this paragraph shall be referred to as a “con-*
2 *tracting administrator”.*

3 (2) *QUALIFIED ENTITY.—To be qualified to be*
4 *selected by the Secretary to offer a community health*
5 *insurance option, an entity shall—*

6 (A) *meet the criteria established under sec-*
7 *tion 1874A(a)(2) of the Social Security Act;*

8 (B) *be a nonprofit entity for purposes of of-*
9 *fering such option;*

10 (C) *meet the solvency standards applicable*
11 *under subsection (b)(7);*

12 (D) *be eligible to offer health insurance or*
13 *health benefits coverage;*

14 (E) *meet quality standards specified by the*
15 *Secretary;*

16 (F) *have in place effective procedures to*
17 *control fraud, abuse, and waste; and*

18 (G) *meet such other requirements as the*
19 *Secretary may impose.*

20 *Procedures described under subparagraph (F) shall*
21 *include the implementation of procedures to use bene-*
22 *ficiary identifiers to identify individuals entitled to*
23 *benefits so that such an individual’s social security*
24 *account number is not used, and shall also include*
25 *procedures for the use of technology (including front-*

1 *end, prepayment intelligent data-matching technology*
2 *similar to that used by hedge funds, investment funds,*
3 *and banks) to provide real-time data analysis of*
4 *claims for payment under this title to identify and*
5 *investigate unusual billing or order practices under*
6 *this title that could indicate fraud or abuse.*

7 (3) *TERM.—A contract provided for under para-*
8 *graph (1) shall be for a term of at least 5 years but*
9 *not more than 10 years, as determined by the Sec-*
10 *retary. At the end of each such term, the Secretary*
11 *shall conduct a competitive bidding process for the*
12 *purposes of renewing existing contracts or selecting*
13 *new qualified entities with which to enter into con-*
14 *tracts under such paragraph.*

15 (4) *LIMITATION.—A contract may not be re-*
16 *newed under this subsection unless the Secretary de-*
17 *termines that the contracting administrator has met*
18 *performance requirements established by the Secretary*
19 *in the areas described in paragraph (7)(B).*

20 (5) *AUDITS.—The Inspector General shall con-*
21 *duct periodic audits with respect to contracting ad-*
22 *ministrators under this subsection to ensure that the*
23 *administrator involved is in compliance with this sec-*
24 *tion.*

1 (6) *REVOCATION.*—A contract awarded under
2 this subsection shall be revoked by the Secretary, upon
3 the recommendation of the Inspector General, only
4 after notice to the contracting administrator involved
5 and an opportunity for a hearing. The Secretary may
6 revoke such contract if the Secretary determines that
7 such administrator has engaged in fraud, deception,
8 waste, abuse of power, negligence, mismanagement of
9 taxpayer dollars, or gross mismanagement. An entity
10 that has had a contract revoked under this paragraph
11 shall not be qualified to enter into a subsequent con-
12 tract under this subsection.

13 (7) *FEE FOR ADMINISTRATION.*—

14 (A) *IN GENERAL.*—The Secretary shall pay
15 the contracting administrator a fee for the man-
16 agement, administration, and delivery of the
17 benefits under this section.

18 (B) *REQUIREMENT FOR HIGH QUALITY AD-*
19 *MINISTRATION.*—The Secretary may increase the
20 fee described in subparagraph (A) by not more
21 than 10 percent, or reduce the fee described in
22 subparagraph (A) by not more than 50 percent,
23 based on the extent to which the contracting ad-
24 ministrator, in the determination of the Sec-
25 retary, meets performance requirements estab-

1 *lished by the Secretary, in at least the following*
2 *areas:*

3 *(i) Maintaining low premium costs*
4 *and low cost sharing requirements, provided*
5 *that such requirements are consistent with*
6 *section 1302.*

7 *(ii) Reducing administrative costs and*
8 *promoting administrative simplification for*
9 *beneficiaries.*

10 *(iii) Promoting high quality clinical*
11 *care.*

12 *(iv) Providing high quality customer*
13 *service to beneficiaries.*

14 *(C) NON-RENEWAL.—The Secretary may*
15 *not renew a contract to offer a community health*
16 *insurance option under this section with any*
17 *contracting entity that has been assessed more*
18 *than one reduction under subparagraph (B) dur-*
19 *ing the contract period.*

20 *(8) LIMITATION.—Notwithstanding the terms of*
21 *a contract under this subsection, the Secretary shall*
22 *negotiate the reimbursement rates for purposes of sub-*
23 *section (b)(6).*

24 *(f) REPORT BY HHS AND INSOLVENCY WARNINGS.—*

1 (1) *IN GENERAL.*—On an annual basis, the Sec-
2 retary shall conduct a study on the solvency of a com-
3 munity health insurance option and submit to Con-
4 gress a report describing the results of such study.

5 (2) *RESULT.*—If, in any year, the result of the
6 study under paragraph (1) is that a community
7 health insurance option is insolvent, such result shall
8 be treated as a community health insurance option
9 solvency warning.

10 (3) *SUBMISSION OF PLAN AND PROCEDURE.*—

11 (A) *IN GENERAL.*—If there is a community
12 health insurance option solvency warning under
13 paragraph (2) made in a year, the President
14 shall submit to Congress, within the 15-day pe-
15 riod beginning on the date of the budget submis-
16 sion to Congress under section 1105(a) of title
17 31, United States Code, for the succeeding year,
18 proposed legislation to respond to such warning.

19 (B) *PROCEDURE.*—In the case of a legisla-
20 tive proposal submitted by the President pursu-
21 ant to subparagraph (A), such proposal shall be
22 considered by Congress using the same proce-
23 dures described under sections 803 and 804 of
24 the Medicare Prescription Drug, Improvement,

1 *and Modernization Act of 2003 that shall be used*
2 *for a medicare funding warning.*

3 (g) *MARKETING PARITY.—In a facility controlled by*
4 *the Federal Government, or by a State, where marketing*
5 *or promotional materials related to a community health in-*
6 *surance option are made available to the public, making*
7 *available marketing or promotional materials relating to*
8 *private health insurance plans shall not be prohibited. Such*
9 *materials include informational pamphlets, guidebooks, en-*
10 *rollment forms, or other materials determined reasonable*
11 *for display.*

12 (h) *AUTHORIZATION OF APPROPRIATIONS.—There is*
13 *authorized to be appropriated such sums as may be nec-*
14 *essary to carry out this section.*

15 **SEC. 1324. LEVEL PLAYING FIELD.**

16 (a) *IN GENERAL.—Notwithstanding any other provi-*
17 *sion of law, any health insurance coverage offered by a pri-*
18 *vate health insurance issuer shall not be subject to any Fed-*
19 *eral or State law described in subsection (b) if a qualified*
20 *health plan offered under the Consumer Operated and Ori-*
21 *ented Plan program under section 1322, a community*
22 *health insurance option under section 1323, or a nation-*
23 *wide qualified health plan under section 1333(b), is not sub-*
24 *ject to such law.*

1 (b) *LAWS DESCRIBED.*—*The Federal and State laws*
2 *described in this subsection are those Federal and State*
3 *laws relating to—*

4 (1) *guaranteed renewal;*

5 (2) *rating;*

6 (3) *preexisting conditions;*

7 (4) *non-discrimination;*

8 (5) *quality improvement and reporting;*

9 (6) *fraud and abuse;*

10 (7) *solvency and financial requirements;*

11 (8) *market conduct;*

12 (9) *prompt payment;*

13 (10) *appeals and grievances;*

14 (11) *privacy and confidentiality;*

15 (12) *licensure; and*

16 (13) *benefit plan material or information.*

17 ***PART IV—STATE FLEXIBILITY TO ESTABLISH***

18 ***ALTERNATIVE PROGRAMS***

19 ***SEC. 1331. STATE FLEXIBILITY TO ESTABLISH BASIC***
20 ***HEALTH PROGRAMS FOR LOW-INCOME INDI-***
21 ***VIDUALS NOT ELIGIBLE FOR MEDICAID.***

22 (a) *ESTABLISHMENT OF PROGRAM.*—

23 (1) *IN GENERAL.*—*The Secretary shall establish*
24 *a basic health program meeting the requirements of*
25 *this section under which a State may enter into con-*

1 *tracts to offer 1 or more standard health plans pro-*
2 *viding at least the essential health benefits described*
3 *in section 1302(b) to eligible individuals in lieu of of-*
4 *fering such individuals coverage through an Ex-*
5 *change.*

6 (2) *CERTIFICATIONS AS TO BENEFIT COVERAGE*
7 *AND COSTS.—Such program shall provide that a*
8 *State may not establish a basic health program under*
9 *this section unless the State establishes to the satisfac-*
10 *tion of the Secretary, and the Secretary certifies,*
11 *that—*

12 (A) *in the case of an eligible individual en-*
13 *rolled in a standard health plan offered through*
14 *the program, the State provides—*

15 (i) *that the amount of the monthly pre-*
16 *mium an eligible individual is required to*
17 *pay for coverage under the standard health*
18 *plan for the individual and the individual's*
19 *dependents does not exceed the amount of*
20 *the monthly premium that the eligible indi-*
21 *vidual would have been required to pay (in*
22 *the rating area in which the individual re-*
23 *sides) if the individual had enrolled in the*
24 *applicable second lowest cost silver plan (as*
25 *defined in section 36B(b)(3)(B) of the Inter-*

1 *nal Revenue Code of 1986) offered to the in-*
2 *dividual through an Exchange; and*

3 *(ii) that the cost-sharing an eligible in-*
4 *dividual is required to pay under the stand-*
5 *ard health plan does not exceed—*

6 *(I) the cost-sharing required*
7 *under a platinum plan in the case of*
8 *an eligible individual with household*
9 *income not in excess of 150 percent of*
10 *the poverty line for the size of the fam-*
11 *ily involved; and*

12 *(II) the cost-sharing required*
13 *under a gold plan in the case of an eli-*
14 *gible individual not described in sub-*
15 *clause (I); and*

16 *(B) the benefits provided under the stand-*
17 *ard health plans offered through the program*
18 *cover at least the essential health benefits de-*
19 *scribed in section 1302(b).*

20 *For purposes of subparagraph (A)(i), the amount of*
21 *the monthly premium an individual is required to*
22 *pay under either the standard health plan or the ap-*
23 *plicable second lowest cost silver plan shall be deter-*
24 *mined after reduction for any premium tax credits*

1 *and cost-sharing reductions allowable with respect to*
2 *either plan.*

3 **(b) STANDARD HEALTH PLAN.**—*In this section, the*
4 *term “standard health plan” means a health benefits plan*
5 *that the State contracts with under this section—*

6 *(1) under which the only individuals eligible to*
7 *enroll are eligible individuals;*

8 *(2) that provides at least the essential health ben-*
9 *efits described in section 1302(b); and*

10 *(3) in the case of a plan that provides health in-*
11 *surance coverage offered by a health insurance issuer,*
12 *that has a medical loss ratio of at least 85 percent.*

13 **(c) CONTRACTING PROCESS.**—

14 **(1) IN GENERAL.**—*A State basic health program*
15 *shall establish a competitive process for entering into*
16 *contracts with standard health plans under subsection*
17 *(a), including negotiation of premiums and cost-shar-*
18 *ing and negotiation of benefits in addition to the es-*
19 *sential health benefits described in section 1302(b).*

20 **(2) SPECIFIC ITEMS TO BE CONSIDERED.**—*A*
21 *State shall, as part of its competitive process under*
22 *paragraph (1), include at least the following:*

23 **(A) INNOVATION.**—*Negotiation with offerors*
24 *of a standard health plan for the inclusion of in-*
25 *novative features in the plan, including—*

1 (i) care coordination and care manage-
2 ment for enrollees, especially for those with
3 chronic health conditions;

4 (ii) incentives for use of preventive
5 services; and

6 (iii) the establishment of relationships
7 between providers and patients that maxi-
8 mize patient involvement in health care de-
9 cision-making, including providing incen-
10 tives for appropriate utilization under the
11 plan.

12 (B) *HEALTH AND RESOURCE DIF-*
13 *FERENCES.*—Consideration of, and the making
14 of suitable allowances for, differences in health
15 care needs of enrollees and differences in local
16 availability of, and access to, health care pro-
17 viders. Nothing in this subparagraph shall be
18 construed as allowing discrimination on the
19 basis of pre-existing conditions or other health
20 status-related factors.

21 (C) *MANAGED CARE.*—Contracting with
22 managed care systems, or with systems that offer
23 as many of the attributes of managed care as are
24 feasible in the local health care market.

1 (D) *PERFORMANCE MEASURES.*—*Estab-*
2 *lishing specific performance measures and stand-*
3 *ards for issuers of standard health plans that*
4 *focus on quality of care and improved health*
5 *outcomes, requiring such plans to report to the*
6 *State with respect to the measures and stand-*
7 *ards, and making the performance and quality*
8 *information available to enrollees in a useful*
9 *form.*

10 (3) *ENHANCED AVAILABILITY.*—

11 (A) *MULTIPLE PLANS.*—*A State shall, to the*
12 *maximum extent feasible, seek to make multiple*
13 *standard health plans available to eligible indi-*
14 *viduals within a State to ensure individuals*
15 *have a choice of such plans.*

16 (B) *REGIONAL COMPACTS.*—*A State may*
17 *negotiate a regional compact with other States to*
18 *include coverage of eligible individuals in all*
19 *such States in agreements with issuers of stand-*
20 *ard health plans.*

21 (4) *COORDINATION WITH OTHER STATE PRO-*
22 *GRAMS.*—*A State shall seek to coordinate the admin-*
23 *istration of, and provision of benefits under, its pro-*
24 *gram under this section with the State medicaid pro-*
25 *gram under title XIX of the Social Security Act, the*

1 *State child health plan under title XXI of such Act,*
2 *and other State-administered health programs to*
3 *maximize the efficiency of such programs and to im-*
4 *prove the continuity of care.*

5 *(d) TRANSFER OF FUNDS TO STATES.—*

6 *(1) IN GENERAL.—If the Secretary determines*
7 *that a State electing the application of this section*
8 *meets the requirements of the program established*
9 *under subsection (a), the Secretary shall transfer to*
10 *the State for each fiscal year for which 1 or more*
11 *standard health plans are operating within the State*
12 *the amount determined under paragraph (3).*

13 *(2) USE OF FUNDS.—A State shall establish a*
14 *trust for the deposit of the amounts received under*
15 *paragraph (1) and amounts in the trust fund shall*
16 *only be used to reduce the premiums and cost-sharing*
17 *of, or to provide additional benefits for, eligible indi-*
18 *viduals enrolled in standard health plans within the*
19 *State. Amounts in the trust fund, and expenditures of*
20 *such amounts, shall not be included in determining*
21 *the amount of any non-Federal funds for purposes of*
22 *meeting any matching or expenditure requirement of*
23 *any federally-funded program.*

24 *(3) AMOUNT OF PAYMENT.—*

25 *(A) SECRETARIAL DETERMINATION.—*

1 (i) *IN GENERAL.*—*The amount deter-*
2 *mined under this paragraph for any fiscal*
3 *year is the amount the Secretary determines*
4 *is equal to 85 percent of the premium tax*
5 *credits under section 36B of the Internal*
6 *Revenue Code of 1986, and the cost-sharing*
7 *reductions under section 1402, that would*
8 *have been provided for the fiscal year to eli-*
9 *gible individuals enrolled in standard*
10 *health plans in the State if such eligible in-*
11 *dividuals were allowed to enroll in qualified*
12 *health plans through an Exchange estab-*
13 *lished under this subtitle.*

14 (ii) *SPECIFIC REQUIREMENTS.*—*The*
15 *Secretary shall make the determination*
16 *under clause (i) on a per enrollee basis and*
17 *shall take into account all relevant factors*
18 *necessary to determine the value of the pre-*
19 *mium tax credits and cost-sharing reduc-*
20 *tions that would have been provided to eli-*
21 *gible individuals described in clause (i), in-*
22 *cluding the age and income of the enrollee,*
23 *whether the enrollment is for self-only or*
24 *family coverage, geographic differences in*
25 *average spending for health care across rat-*

1 *ing areas, the health status of the enrollee*
2 *for purposes of determining risk adjustment*
3 *payments and reinsurance payments that*
4 *would have been made if the enrollee had*
5 *enrolled in a qualified health plan through*
6 *an Exchange, and whether any reconcili-*
7 *ation of the credit or cost-sharing reductions*
8 *would have occurred if the enrollee had been*
9 *so enrolled. This determination shall take*
10 *into consideration the experience of other*
11 *States with respect to participation in an*
12 *Exchange and such credits and reductions*
13 *provided to residents of the other States,*
14 *with a special focus on enrollees with in-*
15 *come below 200 percent of poverty.*

16 *(iii) CERTIFICATION.—The Chief Actua-*
17 *ry of the Centers for Medicare & Medicaid*
18 *Services, in consultation with the Office of*
19 *Tax Analysis of the Department of the*
20 *Treasury, shall certify whether the method-*
21 *ology used to make determinations under*
22 *this subparagraph, and such determina-*
23 *tions, meet the requirements of clause (ii).*
24 *Such certifications shall be based on suffi-*
25 *cient data from the State and from com-*

1 *parable States about their experience with*
2 *programs created by this Act.*

3 (B) *CORRECTIONS.*—*The Secretary shall ad-*
4 *just the payment for any fiscal year to reflect*
5 *any error in the determinations under subpara-*
6 *graph (A) for any preceding fiscal year.*

7 (4) *APPLICATION OF SPECIAL RULES.*—*The pro-*
8 *visions of section 1303 shall apply to a State basic*
9 *health program, and to standard health plans offered*
10 *through such program, in the same manner as such*
11 *rules apply to qualified health plans.*

12 (e) *ELIGIBLE INDIVIDUAL.*—

13 (1) *IN GENERAL.*—*In this section, the term “eli-*
14 *gible individual” means, with respect to any State,*
15 *an individual—*

16 (A) *who a resident of the State who is not*
17 *eligible to enroll in the State’s medicaid program*
18 *under title XIX of the Social Security Act for*
19 *benefits that at a minimum consist of the essen-*
20 *tial health benefits described in section 1302(b);*

21 (B) *whose household income exceeds 133*
22 *percent but does not exceed 200 percent of the*
23 *poverty line for the size of the family involved;*

24 (C) *who is not eligible for minimum essen-*
25 *tial coverage (as defined in section 5000A(f) of*

1 *the Internal Revenue Code of 1986) or is eligible*
2 *for an employer-sponsored plan that is not af-*
3 *fordable coverage (as determined under section*
4 *5000A(e)(2) of such Code); and*

5 *(D) who has not attained age 65 as of the*
6 *beginning of the plan year.*

7 *Such term shall not include any individual who is*
8 *not a qualified individual under section 1312 who is*
9 *eligible to be covered by a qualified health plan of-*
10 *fered through an Exchange.*

11 *(2) ELIGIBLE INDIVIDUALS MAY NOT USE EX-*
12 *CHANGE.—An eligible individual shall not be treated*
13 *as a qualified individual under section 1312 eligible*
14 *for enrollment in a qualified health plan offered*
15 *through an Exchange established under section 1311.*

16 *(f) SECRETARIAL OVERSIGHT.—The Secretary shall*
17 *each year conduct a review of each State program to ensure*
18 *compliance with the requirements of this section, including*
19 *ensuring that the State program meets—*

20 *(1) eligibility verification requirements for par-*
21 *ticipation in the program;*

22 *(2) the requirements for use of Federal funds re-*
23 *ceived by the program; and*

24 *(3) the quality and performance standards under*
25 *this section.*

1 (g) *STANDARD HEALTH PLAN OFFERORS.*—A State
2 may provide that persons eligible to offer standard health
3 plans under a basic health program established under this
4 section may include a licensed health maintenance organi-
5 zation, a licensed health insurance insurer, or a network
6 of health care providers established to offer services under
7 the program.

8 (h) *DEFINITIONS.*—Any term used in this section
9 which is also used in section 36B of the Internal Revenue
10 Code of 1986 shall have the meaning given such term by
11 such section.

12 **SEC. 1332. WAIVER FOR STATE INNOVATION.**

13 (a) *APPLICATION.*—

14 (1) *IN GENERAL.*—A State may apply to the
15 Secretary for the waiver of all or any requirements
16 described in paragraph (2) with respect to health in-
17 surance coverage within that State for plan years be-
18 ginning on or after January 1, 2017. Such applica-
19 tion shall—

20 (A) be filed at such time and in such man-
21 ner as the Secretary may require;

22 (B) contain such information as the Sec-
23 retary may require, including—

24 (i) a comprehensive description of the
25 State legislation and program to implement

1 a plan meeting the requirements for a waiver
2 under this section; and

3 (ii) a 10-year budget plan for such
4 plan that is budget neutral for the Federal
5 Government; and

6 (C) provide an assurance that the State has
7 enacted the law described in subsection (b)(2).

8 (2) *REQUIREMENTS.*—The requirements de-
9 scribed in this paragraph with respect to health in-
10 surance coverage within the State for plan years be-
11 ginning on or after January 1, 2014, are as follows:

12 (A) Part I of subtitle D.

13 (B) Part II of subtitle D.

14 (C) Section 1402.

15 (D) Sections 36B, 4980H, and 5000A of the
16 Internal Revenue Code of 1986.

17 (3) *PASS THROUGH OF FUNDING.*—With respect
18 to a State waiver under paragraph (1), under which,
19 due to the structure of the State plan, individuals and
20 small employers in the State would not qualify for the
21 premium tax credits, cost-sharing reductions, or small
22 business credits under sections 36B of the Internal
23 Revenue Code of 1986 or under part I of subtitle E
24 for which they would otherwise be eligible, the Sec-
25 retary shall provide for an alternative means by

1 *which the aggregate amount of such credits or reduc-*
2 *tions that would have been paid on behalf of partici-*
3 *pants in the Exchanges established under this title*
4 *had the State not received such waiver, shall be paid*
5 *to the State for purposes of implementing the State*
6 *plan under the waiver. Such amount shall be deter-*
7 *mined annually by the Secretary, taking into consid-*
8 *eration the experience of other States with respect to*
9 *participation in an Exchange and credits and reduc-*
10 *tions provided under such provisions to residents of*
11 *the other States.*

12 (4) WAIVER CONSIDERATION AND TRANS-
13 PARENCY.—

14 (A) IN GENERAL.—*An application for a*
15 *waiver under this section shall be considered by*
16 *the Secretary in accordance with the regulations*
17 *described in subparagraph (B).*

18 (B) REGULATIONS.—*Not later than 180*
19 *days after the date of enactment of this Act, the*
20 *Secretary shall promulgate regulations relating*
21 *to waivers under this section that provide—*

22 (i) *a process for public notice and com-*
23 *ment at the State level, including public*
24 *hearings, sufficient to ensure a meaningful*
25 *level of public input;*

1 (ii) a process for the submission of an
2 application that ensures the disclosure of—

3 (I) the provisions of law that the
4 State involved seeks to waive; and

5 (II) the specific plans of the State
6 to ensure that the waiver will be in
7 compliance with subsection (b);

8 (iii) a process for providing public no-
9 tice and comment after the application is
10 received by the Secretary, that is sufficient
11 to ensure a meaningful level of public input
12 and that does not impose requirements that
13 are in addition to, or duplicative of, re-
14 quirements imposed under the Administra-
15 tive Procedures Act, or requirements that
16 are unreasonable or unnecessarily burden-
17 some with respect to State compliance;

18 (iv) a process for the submission to the
19 Secretary of periodic reports by the State
20 concerning the implementation of the pro-
21 gram under the waiver; and

22 (v) a process for the periodic evalua-
23 tion by the Secretary of the program under
24 the waiver.

1 (C) *REPORT.*—*The Secretary shall annually*
2 *report to Congress concerning actions taken by*
3 *the Secretary with respect to applications for*
4 *waivers under this section.*

5 (5) *COORDINATED WAIVER PROCESS.*—*The Sec-*
6 *retary shall develop a process for coordinating and*
7 *consolidating the State waiver processes applicable*
8 *under the provisions of this section, and the existing*
9 *waiver processes applicable under titles XVIII, XIX,*
10 *and XXI of the Social Security Act, and any other*
11 *Federal law relating to the provision of health care*
12 *items or services. Such process shall permit a State*
13 *to submit a single application for a waiver under any*
14 *or all of such provisions.*

15 (6) *DEFINITION.*—*In this section, the term “Sec-*
16 *retary” means—*

17 (A) *the Secretary of Health and Human*
18 *Services with respect to waivers relating to the*
19 *provisions described in subparagraph (A)*
20 *through (C) of paragraph (2); and*

21 (B) *the Secretary of the Treasury with re-*
22 *spect to waivers relating to the provisions de-*
23 *scribed in paragraph (2)(D).*

24 (b) *GRANTING OF WAIVERS.*—

1 (1) *IN GENERAL.*—*The Secretary may grant a*
2 *request for a waiver under subsection (a)(1) only if*
3 *the Secretary determines that the State plan—*

4 (A) *will provide coverage that is at least as*
5 *comprehensive as the coverage defined in section*
6 *1302(b) and offered through Exchanges estab-*
7 *lished under this title as certified by Office of the*
8 *Actuary of the Centers for Medicare & Medicaid*
9 *Services based on sufficient data from the State*
10 *and from comparable States about their experi-*
11 *ence with programs created by this Act and the*
12 *provisions of this Act that would be waived;*

13 (B) *will provide coverage and cost sharing*
14 *protections against excessive out-of-pocket spend-*
15 *ing that are at least as affordable as the provi-*
16 *sions of this title would provide;*

17 (C) *will provide coverage to at least a com-*
18 *parable number of its residents as the provisions*
19 *of this title would provide; and*

20 (D) *will not increase the Federal deficit.*

21 (2) *REQUIREMENT TO ENACT A LAW.*—

22 (A) *IN GENERAL.*—*A law described in this*
23 *paragraph is a State law that provides for State*
24 *actions under a waiver under this section, in-*

1 cluding the implementation of the State plan
2 under subsection (a)(1)(B).

3 (B) *TERMINATION OF OPT OUT.*—A State
4 may repeal a law described in subparagraph (A)
5 and terminate the authority provided under the
6 waiver with respect to the State.

7 (c) *SCOPE OF WAIVER.*—

8 (1) *IN GENERAL.*—The Secretary shall determine
9 the scope of a waiver of a requirement described in
10 subsection (a)(2) granted to a State under subsection
11 (a)(1).

12 (2) *LIMITATION.*—The Secretary may not waive
13 under this section any Federal law or requirement
14 that is not within the authority of the Secretary.

15 (d) *DETERMINATIONS BY SECRETARY.*—

16 (1) *TIME FOR DETERMINATION.*—The Secretary
17 shall make a determination under subsection (a)(1)
18 not later than 180 days after the receipt of an appli-
19 cation from a State under such subsection.

20 (2) *EFFECT OF DETERMINATION.*—

21 (A) *GRANTING OF WAIVERS.*—If the Sec-
22 retary determines to grant a waiver under sub-
23 section (a)(1), the Secretary shall notify the
24 State involved of such determination and the
25 terms and effectiveness of such waiver.

1 (B) *DENIAL OF WAIVER.*—*If the Secretary*
2 *determines a waiver should not be granted under*
3 *subsection (a)(1), the Secretary shall notify the*
4 *State involved, and the appropriate committees*
5 *of Congress of such determination and the rea-*
6 *sons therefore.*

7 (e) *TERM OF WAIVER.*—*No waiver under this section*
8 *may extend over a period of longer than 5 years unless the*
9 *State requests continuation of such waiver, and such request*
10 *shall be deemed granted unless the Secretary, within 90*
11 *days after the date of its submission to the Secretary, either*
12 *denies such request in writing or informs the State in writ-*
13 *ing with respect to any additional information which is*
14 *needed in order to make a final determination with respect*
15 *to the request.*

16 **SEC. 1333. PROVISIONS RELATING TO OFFERING OF PLANS**
17 **IN MORE THAN ONE STATE.**

18 (a) *HEALTH CARE CHOICE COMPACTS.*—

19 (1) *IN GENERAL.*—*Not later than July 1, 2013,*
20 *the Secretary shall, in consultation with the National*
21 *Association of Insurance Commissioners, issue regula-*
22 *tions for the creation of health care choice compacts*
23 *under which 2 or more States may enter into an*
24 *agreement under which—*

1 (A) 1 or more qualified health plans could
2 be offered in the individual markets in all such
3 States but, except as provided in subparagraph
4 (B), only be subject to the laws and regulations
5 of the State in which the plan was written or
6 issued;

7 (B) the issuer of any qualified health plan
8 to which the compact applies—

9 (i) would continue to be subject to
10 market conduct, unfair trade practices, net-
11 work adequacy, and consumer protection
12 standards (including standards relating to
13 rating), including addressing disputes as to
14 the performance of the contract, of the State
15 in which the purchaser resides;

16 (ii) would be required to be licensed in
17 each State in which it offers the plan under
18 the compact or to submit to the jurisdiction
19 of each such State with regard to the stand-
20 ards described in clause (i) (including al-
21 lowing access to records as if the insurer
22 were licensed in the State); and

23 (iii) must clearly notify consumers
24 that the policy may not be subject to all the

1 *laws and regulations of the State in which*
2 *the purchaser resides.*

3 (2) *STATE AUTHORITY.*—*A State may not enter*
4 *into an agreement under this subsection unless the*
5 *State enacts a law after the date of the enactment of*
6 *this title that specifically authorizes the State to enter*
7 *into such agreements.*

8 (3) *APPROVAL OF COMPACTS.*—*The Secretary*
9 *may approve interstate health care choice compacts*
10 *under paragraph (1) only if the Secretary determines*
11 *that such health care choice compact—*

12 (A) *will provide coverage that is at least as*
13 *comprehensive as the coverage defined in section*
14 *1302(b) and offered through Exchanges estab-*
15 *lished under this title;*

16 (B) *will provide coverage and cost sharing*
17 *protections against excessive out-of-pocket spend-*
18 *ing that are at least as affordable as the provi-*
19 *sions of this title would provide;*

20 (C) *will provide coverage to at least a com-*
21 *parable number of its residents as the provisions*
22 *of this title would provide;*

23 (D) *will not increase the Federal deficit;*
24 *and*

1 (E) will not weaken enforcement of laws
2 and regulations described in paragraph (1)(B)(i)
3 in any State that is included in such compact.

4 (4) *EFFECTIVE DATE.*—A health care choice com-
5 pact described in paragraph (1) shall not take effect
6 before January 1, 2016.

7 (b) *AUTHORITY FOR NATIONWIDE PLANS.*—

8 (1) *IN GENERAL.*—Except as provided in para-
9 graph (2), if an issuer (including a group of health
10 insurance issuers affiliated either by common owner-
11 ship and control or by the common use of a nation-
12 ally licensed service mark) of a qualified health plan
13 in the individual or small group market meets the re-
14 quirements of this subsection (in this subsection a
15 “nationwide qualified health plan”)—

16 (A) the issuer of the plan may offer the na-
17 tionwide qualified health plan in the individual
18 or small group market in more than 1 State;
19 and

20 (B) with respect to State laws mandating
21 benefit coverage by a health plan, only the State
22 laws of the State in which such plan is written
23 or issued shall apply to the nationwide qualified
24 health plan.

1 (2) *STATE OPT-OUT.*—A State may, by specific
2 reference in a law enacted after the date of enactment
3 of this title, provide that this subsection shall not
4 apply to that State. Such opt-out shall be effective
5 until such time as the State by law revokes it.

6 (3) *PLAN REQUIREMENTS.*—An issuer meets the
7 requirements of this subsection with respect to a na-
8 tionwide qualified health plan if, in the determina-
9 tion of the Secretary—

10 (A) the plan offers a benefits package that
11 is uniform in each State in which the plan is of-
12 fered and meets the requirements set forth in
13 paragraphs (4) through (6);

14 (B) the issuer is licensed in each State in
15 which it offers the plan and is subject to all re-
16 quirements of State law not inconsistent with
17 this section, including but not limited to, the
18 standards and requirements that a State imposes
19 that do not prevent the application of a require-
20 ment of part A of title XXVII of the Public
21 Health Service Act or a requirement of this title;

22 (C) the issuer meets all requirements of this
23 title with respect to a qualified health plan, in-
24 cluding the requirement to offer the silver and

1 *gold levels of the plan in each Exchange in the*
2 *State for the market in which the plan is offered;*

3 *(D) the issuer determines the premiums for*
4 *the plan in any State on the basis of the rating*
5 *rules in effect in that State for the rating areas*
6 *in which it is offered;*

7 *(E) the issuer offers the nationwide quali-*
8 *fied health plan in at least 60 percent of the par-*
9 *ticipating States in the first year in which the*
10 *plan is offered, 65 percent of such States in the*
11 *second year, 70 percent of such States in the*
12 *third year, 75 percent of such States in the*
13 *fourth year, and 80 percent of such States in the*
14 *fifth and subsequent years;*

15 *(F) the issuer shall offer the plan in partici-*
16 *pating States across the country, in all geo-*
17 *graphic regions, and in all States that have*
18 *adopted adjusted community rating before the*
19 *date of enactment of this Act; and*

20 *(G) the issuer clearly notifies consumers*
21 *that the policy may not contain some benefits*
22 *otherwise mandated for plans in the State in*
23 *which the purchaser resides and provides a de-*
24 *tailed statement of the benefits offered and the*

1 *benefit differences in that State, in accordance*
2 *with rules promulgated by the Secretary.*

3 (4) *FORM REVIEW FOR NATIONWIDE PLANS.*—

4 *Notwithstanding any contrary provision of State law,*
5 *at least 3 months before any nationwide qualified*
6 *health plan is offered, the issuer shall file all nation-*
7 *wide qualified health plan forms with the regulator in*
8 *each participating State in which the plan will be of-*
9 *fered. An issuer may appeal the disapproval of a na-*
10 *tionwide qualified health plan form to the Secretary.*

11 (5) *APPLICABLE RULES.*—*The Secretary shall, in*
12 *consultation with the National Association of Insur-*
13 *ance Commissioners, issue rules for the offering of na-*
14 *tionwide qualified health plans under this subsection.*
15 *Nationwide qualified health plans may be offered only*
16 *after such rules have taken effect.*

17 (6) *COVERAGE.*—*The Secretary shall provide*
18 *that the health benefits coverage provided to an indi-*
19 *vidual through a nationwide qualified health plan*
20 *under this subsection shall include at least the essen-*
21 *tial benefits package described in section 1302.*

22 (7) *STATE LAW MANDATING BENEFIT COVERAGE*
23 *BY A HEALTH BENEFITS PLAN.*—*For the purposes of*
24 *this subsection, a State law mandating benefit cov-*
25 *erage by a health plan is a law that mandates health*

1 *insurance coverage or the offer of health insurance*
2 *coverage for specific health services or specific dis-*
3 *eases. A law that mandates health insurance coverage*
4 *or reimbursement for services provided by certain*
5 *classes of providers of health care services, or a law*
6 *that mandates that certain classes of individuals must*
7 *be covered as a group or as dependents, is not a State*
8 *law mandating benefit coverage by a health benefits*
9 *plan.*

10 ***PART V—REINSURANCE AND RISK ADJUSTMENT***

11 ***SEC. 1341. TRANSITIONAL REINSURANCE PROGRAM FOR IN-***
12 ***DIVIDUAL AND SMALL GROUP MARKETS IN***
13 ***EACH STATE.***

14 *(a) IN GENERAL.—Each State shall, not later than*
15 *January 1, 2014—*

16 *(1) include in the Federal standards or State*
17 *law or regulation the State adopts and has in effect*
18 *under section 1321(b) the provisions described in sub-*
19 *section (b); and*

20 *(2) establish (or enter into a contract with) 1 or*
21 *more applicable reinsurance entities to carry out the*
22 *reinsurance program under this section.*

23 *(b) MODEL REGULATION.—*

24 *(1) IN GENERAL.—In establishing the Federal*
25 *standards under section 1321(a), the Secretary, in*

1 *consultation with the National Association of Insur-*
2 *ance Commissioners (the “NAIC”), shall include pro-*
3 *visions that enable States to establish and maintain*
4 *a program under which—*

5 *(A) health insurance issuers, and third*
6 *party administrators on behalf of group health*
7 *plans, are required to make payments to an ap-*
8 *plicable reinsurance entity for any plan year be-*
9 *ginning in the 3-year period beginning January*
10 *1, 2014 (as specified in paragraph (3); and*

11 *(B) the applicable reinsurance entity col-*
12 *lects payments under subparagraph (A) and uses*
13 *amounts so collected to make reinsurance pay-*
14 *ments to health insurance issuers described in*
15 *subparagraph (A) that cover high risk individ-*
16 *uals in the individual market (excluding grand-*
17 *fathered health plans) for any plan year begin-*
18 *ning in such 3-year period.*

19 (2) *HIGH-RISK INDIVIDUAL; PAYMENT*
20 *AMOUNTS.—The Secretary shall include the following*
21 *in the provisions under paragraph (1):*

22 (A) *DETERMINATION OF HIGH-RISK INDI-*
23 *VIDUALS.—The method by which individuals will*
24 *be identified as high risk individuals for pur-*
25 *poses of the reinsurance program established*

1 *under this section. Such method shall provide for*
2 *identification of individuals as high-risk indi-*
3 *viduals on the basis of—*

4 *(i) a list of at least 50 but not more*
5 *than 100 medical conditions that are iden-*
6 *tified as high-risk conditions and that may*
7 *be based on the identification of diagnostic*
8 *and procedure codes that are indicative of*
9 *individuals with pre-existing, high-risk con-*
10 *ditions; or*

11 *(ii) any other comparable objective*
12 *method of identification recommended by*
13 *the American Academy of Actuaries.*

14 *(B) PAYMENT AMOUNT.—The formula for*
15 *determining the amount of payments that will be*
16 *paid to health insurance issuers described in*
17 *paragraph (1)(A) that insure high-risk individ-*
18 *uals. Such formula shall provide for the equitable*
19 *allocation of available funds through reconcili-*
20 *ation and may be designed—*

21 *(i) to provide a schedule of payments*
22 *that specifies the amount that will be paid*
23 *for each of the conditions identified under*
24 *subparagraph (A); or*

1 (ii) to use any other comparable meth-
2 od for determining payment amounts that
3 is recommended by the American Academy
4 of Actuaries and that encourages the use of
5 care coordination and care management
6 programs for high risk conditions.

7 (3) *DETERMINATION OF REQUIRED CONTRIBU-*
8 *TIONS.—*

9 (A) *IN GENERAL.—*The Secretary shall in-
10 clude in the provisions under paragraph (1) the
11 method for determining the amount each health
12 insurance issuer and group health plan described
13 in paragraph (1)(A) contributing to the reinsur-
14 ance program under this section is required to
15 contribute under such paragraph for each plan
16 year beginning in the 36-month period beginning
17 January 1, 2014. The contribution amount for
18 any plan year may be based on the percentage
19 of revenue of each issuer and the total costs of
20 providing benefits to enrollees in self-insured
21 plans or on a specified amount per enrollee and
22 may be required to be paid in advance or peri-
23 odically throughout the plan year.

24 (B) *SPECIFIC REQUIREMENTS.—*The method
25 under this paragraph shall be designed so that—

1 (i) the contribution amount for each
2 issuer proportionally reflects each issuer's
3 fully insured commercial book of business
4 for all major medical products and the total
5 value of all fees charged by the issuer and
6 the costs of coverage administered by the
7 issuer as a third party administrator;

8 (ii) the contribution amount can in-
9 clude an additional amount to fund the ad-
10 ministrative expenses of the applicable rein-
11 surance entity;

12 (iii) the aggregate contribution
13 amounts for all States shall, based on the
14 best estimates of the NAIC and without re-
15 gard to amounts described in clause (ii),
16 equal \$10,000,000,000 for plan years begin-
17 ning in 2014, \$6,000,000,000 for plan years
18 beginning 2015, and \$4,000,000,000 for
19 plan years beginning in 2016; and

20 (iv) in addition to the aggregate con-
21 tribution amounts under clause (iii), each
22 issuer's contribution amount for any cal-
23 endar year under clause (iii) reflects its
24 proportionate share of an additional
25 \$2,000,000,000 for 2014, an additional

1 \$2,000,000,000 for 2015, and an additional
2 \$1,000,000,000 for 2016.

3 *Nothing in this subparagraph shall be construed*
4 *to preclude a State from collecting additional*
5 *amounts from issuers on a voluntary basis.*

6 (4) *EXPENDITURE OF FUNDS.—The provisions*
7 *under paragraph (1) shall provide that—*

8 (A) *the contribution amounts collected for*
9 *any calendar year may be allocated and used in*
10 *any of the three calendar years for which*
11 *amounts are collected based on the reinsurance*
12 *needs of a particular period or to reflect experi-*
13 *ence in a prior period; and*

14 (B) *amounts remaining unexpended as of*
15 *December, 2016, may be used to make payments*
16 *under any reinsurance program of a State in the*
17 *individual market in effect in the 2-year period*
18 *beginning on January 1, 2017.*

19 *Notwithstanding the preceding sentence, any con-*
20 *tribution amounts described in paragraph (3)(B)(iv)*
21 *shall be deposited into the general fund of the Treas-*
22 *ury of the United States and may not be used for the*
23 *program established under this section.*

24 (c) *APPLICABLE REINSURANCE ENTITY.—For pur-*
25 *poses of this section—*

1 (1) *IN GENERAL.*—The term “applicable reinsur-
2 *ance entity*” means a not-for-profit organization—

3 (A) *the purpose of which is to help stabilize*
4 *premiums for coverage in the individual and*
5 *small group markets in a State during the first*
6 *3 years of operation of an Exchange for such*
7 *markets within the State when the risk of ad-*
8 *verse selection related to new rating rules and*
9 *market changes is greatest; and*

10 (B) *the duties of which shall be to carry out*
11 *the reinsurance program under this section by*
12 *coordinating the funding and operation of the*
13 *risk-spreading mechanisms designed to imple-*
14 *ment the reinsurance program.*

15 (2) *STATE DISCRETION.*—A State may have
16 *more than 1 applicable reinsurance entity to carry*
17 *out the reinsurance program under this section with-*
18 *in the State and 2 or more States may enter into*
19 *agreements to provide for an applicable reinsurance*
20 *entity to carry out such program in all such States.*

21 (3) *ENTITIES ARE TAX-EXEMPT.*—An applicable
22 *reinsurance entity established under this section shall*
23 *be exempt from taxation under chapter 1 of the Inter-*
24 *nal Revenue Code of 1986. The preceding sentence*
25 *shall not apply to the tax imposed by section 511*

1 *such Code (relating to tax on unrelated business tax-*
2 *able income of an exempt organization).*

3 *(d) COORDINATION WITH STATE HIGH-RISK POOLS.—*

4 *The State shall eliminate or modify any State high-risk*
5 *pool to the extent necessary to carry out the reinsurance*
6 *program established under this section. The State may co-*
7 *ordinate the State high-risk pool with such program to the*
8 *extent not inconsistent with the provisions of this section.*

9 **SEC. 1342. ESTABLISHMENT OF RISK CORRIDORS FOR**
10 **PLANS IN INDIVIDUAL AND SMALL GROUP**
11 **MARKETS.**

12 *(a) IN GENERAL.—The Secretary shall establish and*
13 *administer a program of risk corridors for calendar years*
14 *2014, 2015, and 2016 under which a qualified health plan*
15 *offered in the individual or small group market shall par-*
16 *ticipate in a payment adjustment system based on the ratio*
17 *of the allowable costs of the plan to the plan's aggregate*
18 *premiums. Such program shall be based on the program*
19 *for regional participating provider organizations under*
20 *part D of title XVIII of the Social Security Act.*

21 *(b) PAYMENT METHODOLOGY.—*

22 *(1) PAYMENTS OUT.—The Secretary shall pro-*
23 *vide under the program established under subsection*

24 *(a) that if—*

1 (A) a participating plan's allowable costs
2 for any plan year are more than 103 percent but
3 not more than 108 percent of the target amount,
4 the Secretary shall pay to the plan an amount
5 equal to 50 percent of the target amount in ex-
6 cess of 103 percent of the target amount; and

7 (B) a participating plan's allowable costs
8 for any plan year are more than 108 percent of
9 the target amount, the Secretary shall pay to the
10 plan an amount equal to the sum of 2.5 percent
11 of the target amount plus 80 percent of allowable
12 costs in excess of 108 percent of the target
13 amount.

14 (2) PAYMENTS IN.—The Secretary shall provide
15 under the program established under subsection (a)
16 that if—

17 (A) a participating plan's allowable costs
18 for any plan year are less than 97 percent but
19 not less than 92 percent of the target amount, the
20 plan shall pay to the Secretary an amount equal
21 to 50 percent of the excess of 97 percent of the
22 target amount over the allowable costs; and

23 (B) a participating plan's allowable costs
24 for any plan year are less than 92 percent of the
25 target amount, the plan shall pay to the Sec-

1 retary an amount equal to the sum of 2.5 per-
2 cent of the target amount plus 80 percent of the
3 excess of 92 percent of the target amount over the
4 allowable costs.

5 (c) *DEFINITIONS.*—*In this section:*

6 (1) *ALLOWABLE COSTS.*—

7 (A) *IN GENERAL.*—*The amount of allowable*
8 *costs of a plan for any year is an amount equal*
9 *to the total costs (other than administrative*
10 *costs) of the plan in providing benefits covered*
11 *by the plan.*

12 (B) *REDUCTION FOR RISK ADJUSTMENT*
13 *AND REINSURANCE PAYMENTS.*—*Allowable costs*
14 *shall reduced by any risk adjustment and rein-*
15 *surance payments received under section 1341*
16 *and 1343.*

17 (2) *TARGET AMOUNT.*—*The target amount of a*
18 *plan for any year is an amount equal to the total*
19 *premiums (including any premium subsidies under*
20 *any governmental program), reduced by the adminis-*
21 *trative costs of the plan.*

22 **SEC. 1343. RISK ADJUSTMENT.**

23 (a) *IN GENERAL.*—

24 (1) *LOW ACTUARIAL RISK PLANS.*—*Using the cri-*
25 *teria and methods developed under subsection (b),*

1 *each State shall assess a charge on health plans and*
2 *health insurance issuers (with respect to health insur-*
3 *ance coverage) described in subsection (c) if the actu-*
4 *arial risk of the enrollees of such plans or coverage for*
5 *a year is less than the average actuarial risk of all*
6 *enrollees in all plans or coverage in such State for*
7 *such year that are not self-insured group health plans*
8 *(which are subject to the provisions of the Employee*
9 *Retirement Income Security Act of 1974).*

10 (2) *HIGH ACTUARIAL RISK PLANS.—Using the*
11 *criteria and methods developed under subsection (b),*
12 *each State shall provide a payment to health plans*
13 *and health insurance issuers (with respect to health*
14 *insurance coverage) described in subsection (c) if the*
15 *actuarial risk of the enrollees of such plans or cov-*
16 *erage for a year is greater than the average actuarial*
17 *risk of all enrollees in all plans and coverage in such*
18 *State for such year that are not self-insured group*
19 *health plans (which are subject to the provisions of*
20 *the Employee Retirement Income Security Act of*
21 *1974).*

22 (b) *CRITERIA AND METHODS.—The Secretary, in con-*
23 *sultation with States, shall establish criteria and methods*
24 *to be used in carrying out the risk adjustment activities*
25 *under this section. The Secretary may utilize criteria and*

1 *methods similar to the criteria and methods utilized under*
 2 *part C or D of title XVIII of the Social Security Act. Such*
 3 *criteria and methods shall be included in the standards and*
 4 *requirements the Secretary prescribes under section 1321.*

5 *(c) SCOPE.—A health plan or a health insurance issuer*
 6 *is described in this subsection if such health plan or health*
 7 *insurance issuer provides coverage in the individual or*
 8 *small group market within the State. This subsection shall*
 9 *not apply to a grandfathered health plan or the issuer of*
 10 *a grandfathered health plan with respect to that plan.*

11 ***Subtitle E—Affordable Coverage***
 12 ***Choices for All Americans***

13 ***PART I—PREMIUM TAX CREDITS AND COST-***
 14 ***SHARING REDUCTIONS***

15 ***Subpart A—Premium Tax Credits and Cost-sharing***
 16 ***Reductions***

17 ***SEC. 1401. REFUNDABLE TAX CREDIT PROVIDING PREMIUM***
 18 ***ASSISTANCE FOR COVERAGE UNDER A QUALI-***
 19 ***FIED HEALTH PLAN.***

20 *(a) IN GENERAL.—Subpart C of part IV of subchapter*
 21 *A of chapter 1 of the Internal Revenue Code of 1986 (relat-*
 22 *ing to refundable credits) is amended by inserting after sec-*
 23 *tion 36A the following new section:*

1 **“SEC. 36B. REFUNDABLE CREDIT FOR COVERAGE UNDER A**
2 **QUALIFIED HEALTH PLAN.**

3 *“(a) IN GENERAL.—In the case of an applicable tax-*
4 *payer, there shall be allowed as a credit against the tax*
5 *imposed by this subtitle for any taxable year an amount*
6 *equal to the premium assistance credit amount of the tax-*
7 *payer for the taxable year.*

8 *“(b) PREMIUM ASSISTANCE CREDIT AMOUNT.—For*
9 *purposes of this section—*

10 *“(1) IN GENERAL.—The term ‘premium assist-*
11 *ance credit amount’ means, with respect to any tax-*
12 *able year, the sum of the premium assistance amounts*
13 *determined under paragraph (2) with respect to all*
14 *coverage months of the taxpayer occurring during the*
15 *taxable year.*

16 *“(2) PREMIUM ASSISTANCE AMOUNT.—The pre-*
17 *mium assistance amount determined under this sub-*
18 *section with respect to any coverage month is the*
19 *amount equal to the lesser of—*

20 *“(A) the monthly premiums for such month*
21 *for 1 or more qualified health plans offered in*
22 *the individual market within a State which*
23 *cover the taxpayer, the taxpayer’s spouse, or any*
24 *dependent (as defined in section 152) of the tax-*
25 *payer and which were enrolled in through an*
26 *Exchange established by the State under 1311 of*

1 *the Patient Protection and Affordable Care Act,*
2 *or*

3 “(B) *the excess (if any) of—*

4 “(i) *the adjusted monthly premium for*
5 *such month for the applicable second lowest*
6 *cost silver plan with respect to the taxpayer,*
7 *over*

8 “(ii) *an amount equal to 1/12 of the*
9 *product of the applicable percentage and the*
10 *taxpayer’s household income for the taxable*
11 *year.*

12 “(3) *OTHER TERMS AND RULES RELATING TO*
13 *PREMIUM ASSISTANCE AMOUNTS.—For purposes of*
14 *paragraph (2)—*

15 “(A) *APPLICABLE PERCENTAGE.—*

16 “(i) *IN GENERAL.—Except as provided*
17 *in clause (ii), the applicable percentage*
18 *with respect to any taxpayer for any tax-*
19 *able year is equal to 2.8 percent, increased*
20 *by the number of percentage points (not*
21 *greater than 7) which bears the same ratio*
22 *to 7 percentage points as—*

23 “(I) *the taxpayer’s household in-*
24 *come for the taxable year in excess of*

1 100 percent of the poverty line for a
2 family of the size involved, bears to

3 “(II) an amount equal to 200 per-
4 cent of the poverty line for a family of
5 the size involved.

6 “(ii) *SPECIAL RULE FOR TAXPAYERS*
7 *UNDER 133 PERCENT OF POVERTY LINE.—If*
8 *a taxpayer’s household income for the tax-*
9 *able year is in excess of 100 percent, but not*
10 *more than 133 percent, of the poverty line*
11 *for a family of the size involved, the tax-*
12 *payer’s applicable percentage shall be 2 per-*
13 *cent.*

14 “(iii) *INDEXING.—In the case of tax-*
15 *able years beginning in any calendar year*
16 *after 2014, the Secretary shall adjust the*
17 *initial and final applicable percentages*
18 *under clause (i), and the 2 percent under*
19 *clause (ii), for the calendar year to reflect*
20 *the excess of the rate of premium growth be-*
21 *tween the preceding calendar year and 2013*
22 *over the rate of income growth for such pe-*
23 *riod.*

24 “(B) *APPLICABLE SECOND LOWEST COST*
25 *SILVER PLAN.—The applicable second lowest cost*

1 *silver plan with respect to any applicable tax-*
2 *payer is the second lowest cost silver plan of the*
3 *individual market in the rating area in which*
4 *the taxpayer resides which—*

5 “(i) *is offered through the same Ex-*
6 *change through which the qualified health*
7 *plans taken into account under paragraph*
8 *(2)(A) were offered, and*

9 “(ii) *provides—*

10 “(I) *self-only coverage in the case*
11 *of an applicable taxpayer—*

12 “(aa) *whose tax for the tax-*
13 *able year is determined under sec-*
14 *tion 1(c) (relating to unmarried*
15 *individuals other than surviving*
16 *spouses and heads of households)*
17 *and who is not allowed a deduc-*
18 *tion under section 151 for the tax-*
19 *able year with respect to a de-*
20 *pendent, or*

21 “(bb) *who is not described in*
22 *item (aa) but who purchases only*
23 *self-only coverage, and*

24 “(II) *family coverage in the case*
25 *of any other applicable taxpayer.*

1 *If a taxpayer files a joint return and no credit*
2 *is allowed under this section with respect to 1 of*
3 *the spouses by reason of subsection (e), the tax-*
4 *payer shall be treated as described in clause*
5 *(ii)(I) unless a deduction is allowed under sec-*
6 *tion 151 for the taxable year with respect to a*
7 *dependent other than either spouse and sub-*
8 *section (e) does not apply to the dependent.*

9 *“(C) ADJUSTED MONTHLY PREMIUM.—The*
10 *adjusted monthly premium for an applicable sec-*
11 *ond lowest cost silver plan is the monthly pre-*
12 *mium which would have been charged (for the*
13 *rating area with respect to which the premiums*
14 *under paragraph (2)(A) were determined) for the*
15 *plan if each individual covered under a qualified*
16 *health plan taken into account under paragraph*
17 *(2)(A) were covered by such silver plan and the*
18 *premium was adjusted only for the age of each*
19 *such individual in the manner allowed under*
20 *section 2701 of the Public Health Service Act. In*
21 *the case of a State participating in the wellness*
22 *discount demonstration project under section*
23 *2705(d) of the Public Health Service Act, the ad-*
24 *justed monthly premium shall be determined*

1 *without regard to any premium discount or re-*
2 *bate under such project.*

3 “(D) *ADDITIONAL BENEFITS.—If—*

4 “(i) *a qualified health plan under sec-*
5 *tion 1302(b)(5) of the Patient Protection*
6 *and Affordable Care Act offers benefits in*
7 *addition to the essential health benefits re-*
8 *quired to be provided by the plan, or*

9 “(ii) *a State requires a qualified health*
10 *plan under section 1311(d)(3)(B) of such*
11 *Act to cover benefits in addition to the es-*
12 *sential health benefits required to be pro-*
13 *vided by the plan,*

14 *the portion of the premium for the plan properly*
15 *allocable (under rules prescribed by the Secretary*
16 *of Health and Human Services) to such addi-*
17 *tional benefits shall not be taken into account in*
18 *determining either the monthly premium or the*
19 *adjusted monthly premium under paragraph (2).*

20 “(E) *SPECIAL RULE FOR PEDIATRIC DEN-*
21 *TAL COVERAGE.—For purposes of determining*
22 *the amount of any monthly premium, if an indi-*
23 *vidual enrolls in both a qualified health plan*
24 *and a plan described in section*
25 *1311(d)(2)(B)(ii)(I) of the Patient Protection*

1 *and Affordable Care Act for any plan year, the*
2 *portion of the premium for the plan described in*
3 *such section that (under regulations prescribed*
4 *by the Secretary) is properly allocable to pedi-*
5 *atric dental benefits which are included in the*
6 *essential health benefits required to be provided*
7 *by a qualified health plan under section*
8 *1302(b)(1)(J) of such Act shall be treated as a*
9 *premium payable for a qualified health plan.*

10 “(c) *DEFINITION AND RULES RELATING TO APPLICA-*
11 *BLE TAXPAYERS, COVERAGE MONTHS, AND QUALIFIED*
12 *HEALTH PLAN.—For purposes of this section—*

13 “(1) *APPLICABLE TAXPAYER.—*

14 “(A) *IN GENERAL.—The term ‘applicable*
15 *taxpayer’ means, with respect to any taxable*
16 *year, a taxpayer whose household income for the*
17 *taxable year exceeds 100 percent but does not ex-*
18 *ceed 400 percent of an amount equal to the pov-*
19 *erty line for a family of the size involved.*

20 “(B) *SPECIAL RULE FOR CERTAIN INDIVID-*
21 *UALS LAWFULLY PRESENT IN THE UNITED*
22 *STATES.—If—*

23 “(i) *a taxpayer has a household income*
24 *which is not greater than 100 percent of an*

1 *amount equal to the poverty line for a fam-*
2 *ily of the size involved, and*

3 “(ii) *the taxpayer is an alien lawfully*
4 *present in the United States, but is not eli-*
5 *gible for the medicaid program under title*
6 *XIX of the Social Security Act by reason of*
7 *such alien status,*

8 *the taxpayer shall, for purposes of the credit*
9 *under this section, be treated as an applicable*
10 *taxpayer with a household income which is equal*
11 *to 100 percent of the poverty line for a family*
12 *of the size involved.*

13 “(C) *MARRIED COUPLES MUST FILE JOINT*
14 *RETURN.—If the taxpayer is married (within the*
15 *meaning of section 7703) at the close of the tax-*
16 *able year, the taxpayer shall be treated as an ap-*
17 *plicable taxpayer only if the taxpayer and the*
18 *taxpayer’s spouse file a joint return for the tax-*
19 *able year.*

20 “(D) *DENIAL OF CREDIT TO DEPEND-*
21 *ENTS.—No credit shall be allowed under this sec-*
22 *tion to any individual with respect to whom a*
23 *deduction under section 151 is allowable to an-*
24 *other taxpayer for a taxable year beginning in*

1 *the calendar year in which such individual's*
2 *taxable year begins.*

3 “(2) *COVERAGE MONTH.*—*For purposes of this*
4 *subsection—*

5 “(A) *IN GENERAL.*—*The term ‘coverage*
6 *month’ means, with respect to an applicable tax-*
7 *payer, any month if—*

8 “(i) *as of the first day of such month*
9 *the taxpayer, the taxpayer's spouse, or any*
10 *dependent of the taxpayer is covered by a*
11 *qualified health plan described in subsection*
12 *(b)(2)(A) that was enrolled in through an*
13 *Exchange established by the State under*
14 *section 1311 of the Patient Protection and*
15 *Affordable Care Act, and*

16 “(ii) *the premium for coverage under*
17 *such plan for such month is paid by the*
18 *taxpayer (or through advance payment of*
19 *the credit under subsection (a) under section*
20 *1412 of the Patient Protection and Afford-*
21 *able Care Act).*

22 “(B) *EXCEPTION FOR MINIMUM ESSENTIAL*
23 *COVERAGE.*—

24 “(i) *IN GENERAL.*—*The term ‘coverage*
25 *month’ shall not include any month with*

1 *respect to an individual if for such month*
2 *the individual is eligible for minimum es-*
3 *sential coverage other than eligibility for*
4 *coverage described in section 5000A(f)(1)(C)*
5 *(relating to coverage in the individual mar-*
6 *ket).*

7 “(i) *MINIMUM ESSENTIAL COV-*
8 *ERAGE.—The term ‘minimum essential cov-*
9 *erage’ has the meaning given such term by*
10 *section 5000A(f).*

11 “(C) *SPECIAL RULE FOR EMPLOYER-SPON-*
12 *SORED MINIMUM ESSENTIAL COVERAGE.—For*
13 *purposes of subparagraph (B)—*

14 “(i) *COVERAGE MUST BE AFFORD-*
15 *ABLE.—Except as provided in clause (iii),*
16 *an employee shall not be treated as eligible*
17 *for minimum essential coverage if such cov-*
18 *erage—*

19 “(I) *consists of an eligible em-*
20 *ployer-sponsored plan (as defined in*
21 *section 5000A(f)(2)), and*

22 “(II) *the employee’s required con-*
23 *tribution (within the meaning of sec-*
24 *tion 5000A(e)(1)(B)) with respect to*

1 the plan exceeds 9.8 percent of the ap-
2 plicable taxpayer's household income.

3 This clause shall also apply to an indi-
4 vidual who is eligible to enroll in the plan
5 by reason of a relationship the individual
6 bears to the employee.

7 “(ii) *COVERAGE MUST PROVIDE MIN-*
8 *IMUM VALUE.*—Except as provided in clause
9 (iii), an employee shall not be treated as el-
10 igible for minimum essential coverage if
11 such coverage consists of an eligible em-
12 ployer-sponsored plan (as defined in section
13 5000A(f)(2)) and the plan's share of the
14 total allowed costs of benefits provided
15 under the plan is less than 60 percent of
16 such costs.

17 “(iii) *EMPLOYEE OR FAMILY MUST NOT*
18 *BE COVERED UNDER EMPLOYER PLAN.*—
19 Clauses (i) and (ii) shall not apply if the
20 employee (or any individual described in
21 the last sentence of clause (i)) is covered
22 under the eligible employer-sponsored plan
23 or the grandfathered health plan.

24 “(iv) *INDEXING.*—In the case of plan
25 years beginning in any calendar year after

1 2014, the Secretary shall adjust the 9.8 per-
2 cent under clause (i)(II) in the same man-
3 ner as the percentages are adjusted under
4 subsection (b)(3)(A)(ii).

5 “(3) DEFINITIONS AND OTHER RULES.—

6 “(A) QUALIFIED HEALTH PLAN.—The term
7 ‘qualified health plan’ has the meaning given
8 such term by section 1301(a) of the Patient Pro-
9 tection and Affordable Care Act, except that such
10 term shall not include a qualified health plan
11 which is a catastrophic plan described in section
12 1302(e) of such Act.

13 “(B) GRANDFATHERED HEALTH PLAN.—
14 The term ‘grandfathered health plan’ has the
15 meaning given such term by section 1251 of the
16 Patient Protection and Affordable Care Act.

17 “(d) TERMS RELATING TO INCOME AND FAMILIES.—

18 For purposes of this section—

19 “(1) FAMILY SIZE.—The family size involved
20 with respect to any taxpayer shall be equal to the
21 number of individuals for whom the taxpayer is al-
22 lowed a deduction under section 151 (relating to al-
23 lowance of deduction for personal exemptions) for the
24 taxable year.

25 “(2) HOUSEHOLD INCOME.—

1 “(A) *HOUSEHOLD INCOME.*—*The term*
2 *‘household income’ means, with respect to any*
3 *taxpayer, an amount equal to the sum of—*

4 “(i) *the modified gross income of the*
5 *taxpayer, plus*

6 “(ii) *the aggregate modified gross in-*
7 *comes of all other individuals who—*

8 “(I) *were taken into account in*
9 *determining the taxpayer’s family size*
10 *under paragraph (1), and*

11 “(II) *were required to file a re-*
12 *turn of tax imposed by section 1 for*
13 *the taxable year.*

14 “(B) *MODIFIED GROSS INCOME.*—*The term*
15 *‘modified gross income’ means gross income—*

16 “(i) *decreased by the amount of any*
17 *deduction allowable under paragraph (1),*
18 *(3), (4), or (10) of section 62(a),*

19 “(ii) *increased by the amount of inter-*
20 *est received or accrued during the taxable*
21 *year which is exempt from tax imposed by*
22 *this chapter, and*

23 “(iii) *determined without regard to*
24 *sections 911, 931, and 933.*

25 “(3) *POVERTY LINE.*—

1 “(A) *IN GENERAL.*—The term ‘poverty line’
2 has the meaning given that term in section
3 2110(c)(5) of the Social Security Act (42 U.S.C.
4 1397jj(c)(5)).

5 “(B) *POVERTY LINE USED.*—In the case of
6 any qualified health plan offered through an Ex-
7 change for coverage during a taxable year begin-
8 ning in a calendar year, the poverty line used
9 shall be the most recently published poverty line
10 as of the 1st day of the regular enrollment period
11 for coverage during such calendar year.

12 “(e) *RULES FOR INDIVIDUALS NOT LAWFULLY*
13 *PRESENT.*—

14 “(1) *IN GENERAL.*—If 1 or more individuals for
15 whom a taxpayer is allowed a deduction under sec-
16 tion 151 (relating to allowance of deduction for per-
17 sonal exemptions) for the taxable year (including the
18 taxpayer or his spouse) are individuals who are not
19 lawfully present—

20 “(A) the aggregate amount of premiums
21 otherwise taken into account under clauses (i)
22 and (ii) of subsection (b)(2)(A) shall be reduced
23 by the portion (if any) of such premiums which
24 is attributable to such individuals, and

1 “(B) for purposes of applying this section,
2 the determination as to what percentage a tax-
3 payer’s household income bears to the poverty
4 level for a family of the size involved shall be
5 made under one of the following methods:

6 “(i) A method under which—

7 “(I) the taxpayer’s family size is
8 determined by not taking such individ-
9 uals into account, and

10 “(II) the taxpayer’s household in-
11 come is equal to the product of the tax-
12 payer’s household income (determined
13 without regard to this subsection) and
14 a fraction—

15 “(aa) the numerator of which
16 is the poverty line for the tax-
17 payer’s family size determined
18 after application of subclause (I),
19 and

20 “(bb) the denominator of
21 which is the poverty line for the
22 taxpayer’s family size determined
23 without regard to subclause (I).

1 “(ii) *A comparable method reaching*
2 *the same result as the method under clause*
3 *(i).*

4 “(2) *LAWFULLY PRESENT.*—*For purposes of this*
5 *section, an individual shall be treated as lawfully*
6 *present only if the individual is, and is reasonably*
7 *expected to be for the entire period of enrollment for*
8 *which the credit under this section is being claimed,*
9 *a citizen or national of the United States or an alien*
10 *lawfully present in the United States.*

11 “(3) *SECRETARIAL AUTHORITY.*—*The Secretary*
12 *of Health and Human Services, in consultation with*
13 *the Secretary, shall prescribe rules setting forth the*
14 *methods by which calculations of family size and*
15 *household income are made for purposes of this sub-*
16 *section. Such rules shall be designed to ensure that the*
17 *least burden is placed on individuals enrolling in*
18 *qualified health plans through an Exchange and tax-*
19 *payers eligible for the credit allowable under this sec-*
20 *tion.*

21 “(f) *RECONCILIATION OF CREDIT AND ADVANCE CRED-*
22 *IT.*—

23 “(1) *IN GENERAL.*—*The amount of the credit al-*
24 *lowed under this section for any taxable year shall be*
25 *reduced (but not below zero) by the amount of any*

1 *advance payment of such credit under section 1412 of*
2 *the Patient Protection and Affordable Care Act.*

3 “(2) *EXCESS ADVANCE PAYMENTS.*—

4 “(A) *IN GENERAL.*—*If the advance pay-*
5 *ments to a taxpayer under section 1412 of the*
6 *Patient Protection and Affordable Care Act for a*
7 *taxable year exceed the credit allowed by this sec-*
8 *tion (determined without regard to paragraph*
9 *(1)), the tax imposed by this chapter for the tax-*
10 *able year shall be increased by the amount of*
11 *such excess.*

12 “(B) *LIMITATION ON INCREASE WHERE IN-*
13 *COME LESS THAN 400 PERCENT OF POVERTY*
14 *LINE.*—

15 “(i) *IN GENERAL.*—*In the case of an*
16 *applicable taxpayer whose household income*
17 *is less than 400 percent of the poverty line*
18 *for the size of the family involved for the*
19 *taxable year, the amount of the increase*
20 *under subparagraph (A) shall in no event*
21 *exceed \$400 (\$250 in the case of a taxpayer*
22 *whose tax is determined under section 1(c)*
23 *for the taxable year).*

24 “(ii) *INDEXING OF AMOUNT.*—*In the*
25 *case of any calendar year beginning after*

1 2014, each of the dollar amounts under
2 clause (i) shall be increased by an amount
3 equal to—

4 “(I) such dollar amount, multi-
5 plied by

6 “(II) the cost-of-living adjustment
7 determined under section 1(f)(3) for
8 the calendar year, determined by sub-
9 stituting ‘calendar year 2013’ for ‘cal-
10 endar year 1992’ in subparagraph (B)
11 thereof.

12 If the amount of any increase under clause
13 (i) is not a multiple of \$50, such increase
14 shall be rounded to the next lowest multiple
15 of \$50.

16 “(g) REGULATIONS.—The Secretary shall prescribe
17 such regulations as may be necessary to carry out the provi-
18 sions of this section, including regulations which provide
19 for—

20 “(1) the coordination of the credit allowed under
21 this section with the program for advance payment of
22 the credit under section 1412 of the Patient Protec-
23 tion and Affordable Care Act, and

24 “(2) the application of subsection (f) where the
25 filing status of the taxpayer for a taxable year is dif-

1 ferent from such status used for determining the ad-
2 vance payment of the credit.”.

3 (b) *DISALLOWANCE OF DEDUCTION.*—Section 280C of
4 the Internal Revenue Code of 1986 is amended by adding
5 at the end the following new subsection:

6 “(g) *CREDIT FOR HEALTH INSURANCE PREMIUMS.*—
7 No deduction shall be allowed for the portion of the pre-
8 miums paid by the taxpayer for coverage of 1 or more indi-
9 viduals under a qualified health plan which is equal to the
10 amount of the credit determined for the taxable year under
11 section 36B(a) with respect to such premiums.”.

12 (c) *STUDY ON AFFORDABLE COVERAGE.*—

13 (1) *STUDY AND REPORT.*—

14 (A) *IN GENERAL.*—Not later than 5 years
15 after the date of the enactment of this Act, the
16 Comptroller General shall conduct a study on the
17 affordability of health insurance coverage, in-
18 cluding—

19 (i) the impact of the tax credit for
20 qualified health insurance coverage of indi-
21 viduals under section 36B of the Internal
22 Revenue Code of 1986 and the tax credit for
23 employee health insurance expenses of small
24 employers under section 45R of such Code

1 *on maintaining and expanding the health*
2 *insurance coverage of individuals;*

3 *(ii) the availability of affordable health*
4 *benefits plans, including a study of whether*
5 *the percentage of household income used for*
6 *purposes of section 36B(c)(2)(C) of the In-*
7 *ternal Revenue Code of 1986 (as added by*
8 *this section) is the appropriate level for de-*
9 *termining whether employer-provided cov-*
10 *erage is affordable for an employee and*
11 *whether such level may be lowered without*
12 *significantly increasing the costs to the Fed-*
13 *eral Government and reducing employer-*
14 *provided coverage; and*

15 *(iii) the ability of individuals to main-*
16 *tain essential health benefits coverage (as*
17 *defined in section 5000A(f) of the Internal*
18 *Revenue Code of 1986).*

19 *(B) REPORT.—The Comptroller General*
20 *shall submit to the appropriate committees of*
21 *Congress a report on the study conducted under*
22 *subparagraph (A), together with legislative rec-*
23 *ommendations relating to the matters studied*
24 *under such subparagraph.*

1 (2) *APPROPRIATE COMMITTEES OF CONGRESS.*—

2 *In this subsection, the term “appropriate committees*
3 *of Congress” means the Committee on Ways and*
4 *Means, the Committee on Education and Labor, and*
5 *the Committee on Energy and Commerce of the House*
6 *of Representatives and the Committee on Finance and*
7 *the Committee on Health, Education, Labor and Pen-*
8 *sions of the Senate.*

9 (d) *CONFORMING AMENDMENTS.*—

10 (1) *Paragraph (2) of section 1324(b) of title 31,*
11 *United States Code, is amended by inserting “36B,”*
12 *after “36A,”.*

13 (2) *The table of sections for subpart C of part IV*
14 *of subchapter A of chapter 1 of the Internal Revenue*
15 *Code of 1986 is amended by inserting after the item*
16 *relating to section 36A the following new item:*

 “*Sec. 36B. Refundable credit for coverage under a qualified health plan.*”.

17 (e) *EFFECTIVE DATE.*—*The amendments made by this*
18 *section shall apply to taxable years ending after December*
19 *31, 2013.*

20 **SEC. 1402. REDUCED COST-SHARING FOR INDIVIDUALS EN-**
21 **ROLLING IN QUALIFIED HEALTH PLANS.**

22 (a) *IN GENERAL.*—*In the case of an eligible insured*
23 *enrolled in a qualified health plan—*

24 (1) *the Secretary shall notify the issuer of the*
25 *plan of such eligibility; and*

1 (2) *the issuer shall reduce the cost-sharing under*
2 *the plan at the level and in the manner specified in*
3 *subsection (c).*

4 (b) *ELIGIBLE INSURED.—In this section, the term “eli-*
5 *gible insured” means an individual—*

6 (1) *who enrolls in a qualified health plan in the*
7 *silver level of coverage in the individual market of-*
8 *fered through an Exchange; and*

9 (2) *whose household income exceeds 100 percent*
10 *but does not exceed 400 percent of the poverty line for*
11 *a family of the size involved.*

12 *In the case of an individual described in section*
13 *36B(c)(1)(B) of the Internal Revenue Code of 1986, the in-*
14 *dividual shall be treated as having household income equal*
15 *to 100 percent for purposes of applying this section.*

16 (c) *DETERMINATION OF REDUCTION IN COST-SHAR-*
17 *ING.—*

18 (1) *REDUCTION IN OUT-OF-POCKET LIMIT.—*

19 (A) *IN GENERAL.—The reduction in cost-*
20 *sharing under this subsection shall first be*
21 *achieved by reducing the applicable out-of pocket*
22 *limit under section 1302(c)(1) in the case of—*

23 (i) *an eligible insured whose household*
24 *income is more than 100 percent but not*
25 *more than 200 percent of the poverty line*

1 for a family of the size involved, by two-
2 thirds;

3 (ii) an eligible insured whose household
4 income is more than 200 percent but not
5 more than 300 percent of the poverty line
6 for a family of the size involved, by one-
7 half; and

8 (iii) an eligible insured whose house-
9 hold income is more than 300 percent but
10 not more than 400 percent of the poverty
11 line for a family of the size involved, by
12 one-third.

13 (B) COORDINATION WITH ACTUARIAL VALUE
14 LIMITS.—

15 (i) IN GENERAL.—The Secretary shall
16 ensure the reduction under this paragraph
17 shall not result in an increase in the plan's
18 share of the total allowed costs of benefits
19 provided under the plan above—

20 (I) 90 percent in the case of an el-
21 igible insured described in paragraph
22 (2)(A);

23 (II) 80 percent in the case of an
24 eligible insured described in paragraph
25 (2)(B); and

1 (III) 70 percent in the case of an
2 eligible insured described in clause (ii)
3 or (iii) of subparagraph (A).

4 (ii) *ADJUSTMENT.*—The Secretary
5 shall adjust the out-of pocket limits under
6 paragraph (1) if necessary to ensure that
7 such limits do not cause the respective actu-
8 arial values to exceed the levels specified in
9 clause (i).

10 (2) *ADDITIONAL REDUCTION FOR LOWER INCOME*
11 *INSUREDS.*—The Secretary shall establish procedures
12 under which the issuer of a qualified health plan to
13 which this section applies shall further reduce cost-
14 sharing under the plan in a manner sufficient to—

15 (A) in the case of an eligible insured whose
16 household income is not less than 100 percent
17 but not more than 150 percent of the poverty
18 line for a family of the size involved, increase the
19 plan’s share of the total allowed costs of benefits
20 provided under the plan to 90 percent of such
21 costs; and

22 (B) in the case of an eligible insured whose
23 household income is more than 150 percent but
24 not more than 200 percent of the poverty line for
25 a family of the size involved, increase the plan’s

1 *share of the total allowed costs of benefits pro-*
2 *vided under the plan to 80 percent of such costs.*

3 (3) *METHODS FOR REDUCING COST-SHARING.*—

4 (A) *IN GENERAL.*—*An issuer of a qualified*
5 *health plan making reductions under this sub-*
6 *section shall notify the Secretary of such reduc-*
7 *tions and the Secretary shall make periodic and*
8 *timely payments to the issuer equal to the value*
9 *of the reductions.*

10 (B) *CAPITATED PAYMENTS.*—*The Secretary*
11 *may establish a capitated payment system to*
12 *carry out the payment of cost-sharing reductions*
13 *under this section. Any such system shall take*
14 *into account the value of the reductions and*
15 *make appropriate risk adjustments to such pay-*
16 *ments.*

17 (4) *ADDITIONAL BENEFITS.*—*If a qualified*
18 *health plan under section 1302(b)(5) offers benefits in*
19 *addition to the essential health benefits required to be*
20 *provided by the plan, or a State requires a qualified*
21 *health plan under section 1311(d)(3)(B) to cover ben-*
22 *efits in addition to the essential health benefits re-*
23 *quired to be provided by the plan, the reductions in*
24 *cost-sharing under this section shall not apply to such*
25 *additional benefits.*

1 (5) *SPECIAL RULE FOR PEDIATRIC DENTAL*
2 *PLANS.—If an individual enrolls in both a qualified*
3 *health plan and a plan described in section*
4 *1311(d)(2)(B)(ii)(I) for any plan year, subsection (a)*
5 *shall not apply to that portion of any reduction in*
6 *cost-sharing under subsection (c) that (under regula-*
7 *tions prescribed by the Secretary) is properly allo-*
8 *cable to pediatric dental benefits which are included*
9 *in the essential health benefits required to be provided*
10 *by a qualified health plan under section*
11 *1302(b)(1)(J).*

12 (d) *SPECIAL RULES FOR INDIANS.—*

13 (1) *INDIANS UNDER 300 PERCENT OF POVERTY.—*
14 *If an individual enrolled in any qualified health plan*
15 *in the individual market through an Exchange is an*
16 *Indian (as defined in section 4(d) of the Indian Self-*
17 *Determination and Education Assistance Act (25*
18 *U.S.C. 450b(d))) whose household income is not more*
19 *than 300 percent of the poverty line for a family of*
20 *the size involved, then, for purposes of this section—*

21 (A) *such individual shall be treated as an*
22 *eligible insured; and*

23 (B) *the issuer of the plan shall eliminate*
24 *any cost-sharing under the plan.*

1 (2) *ITEMS OR SERVICES FURNISHED THROUGH*
2 *INDIAN HEALTH PROVIDERS.*—*If an Indian (as so de-*
3 *defined) enrolled in a qualified health plan is furnished*
4 *an item or service directly by the Indian Health*
5 *Service, an Indian Tribe, Tribal Organization, or*
6 *Urban Indian Organization or through referral under*
7 *contract health services—*

8 (A) *no cost-sharing under the plan shall be*
9 *imposed under the plan for such item or service;*
10 *and*

11 (B) *the issuer of the plan shall not reduce*
12 *the payment to any such entity for such item or*
13 *service by the amount of any cost-sharing that*
14 *would be due from the Indian but for subpara-*
15 *graph (A).*

16 (3) *PAYMENT.*—*The Secretary shall pay to the*
17 *issuer of a qualified health plan the amount necessary*
18 *to reflect the increase in actuarial value of the plan*
19 *required by reason of this subsection.*

20 (e) *RULES FOR INDIVIDUALS NOT LAWFULLY*
21 *PRESENT.*—

22 (1) *IN GENERAL.*—*If an individual who is an el-*
23 *igible insured is not lawfully present—*

1 (A) no cost-sharing reduction under this
2 section shall apply with respect to the indi-
3 vidual; and

4 (B) for purposes of applying this section,
5 the determination as to what percentage a tax-
6 payer's household income bears to the poverty
7 level for a family of the size involved shall be
8 made under one of the following methods:

9 (i) A method under which—

10 (I) the taxpayer's family size is
11 determined by not taking such individ-
12 uals into account, and

13 (II) the taxpayer's household in-
14 come is equal to the product of the tax-
15 payer's household income (determined
16 without regard to this subsection) and
17 a fraction—

18 (aa) the numerator of which
19 is the poverty line for the tax-
20 payer's family size determined
21 after application of subclause (I),
22 and

23 (bb) the denominator of
24 which is the poverty line for the

1 taxpayer's family size determined
2 without regard to subclause (I).

3 (ii) A comparable method reaching the
4 same result as the method under clause (i).

5 (2) *LAWFULLY PRESENT.*—For purposes of this
6 section, an individual shall be treated as lawfully
7 present only if the individual is, and is reasonably
8 expected to be for the entire period of enrollment for
9 which the cost-sharing reduction under this section is
10 being claimed, a citizen or national of the United
11 States or an alien lawfully present in the United
12 States.

13 (3) *SECRETARIAL AUTHORITY.*—The Secretary,
14 in consultation with the Secretary of the Treasury,
15 shall prescribe rules setting forth the methods by
16 which calculations of family size and household in-
17 come are made for purposes of this subsection. Such
18 rules shall be designed to ensure that the least burden
19 is placed on individuals enrolling in qualified health
20 plans through an Exchange and taxpayers eligible for
21 the credit allowable under this section.

22 (f) *DEFINITIONS AND SPECIAL RULES.*—In this sec-
23 tion:

24 (1) *IN GENERAL.*—Any term used in this section
25 which is also used in section 36B of the Internal Rev-

1 *enue Code of 1986 shall have the meaning given such*
2 *term by such section.*

3 (2) *LIMITATIONS ON REDUCTION.*—*No cost-shar-*
4 *ing reduction shall be allowed under this section with*
5 *respect to coverage for any month unless the month is*
6 *a coverage month with respect to which a credit is al-*
7 *lowed to the insured (or an applicable taxpayer on*
8 *behalf of the insured) under section 36B of such Code.*

9 (3) *DATA USED FOR ELIGIBILITY.*—*Any deter-*
10 *mination under this section shall be made on the*
11 *basis of the taxable year for which the advance deter-*
12 *mination is made under section 1412 and not the tax-*
13 *able year for which the credit under section 36B of*
14 *such Code is allowed.*

15 ***Subpart B—Eligibility Determinations***

16 ***SEC. 1411. PROCEDURES FOR DETERMINING ELIGIBILITY***
17 ***FOR EXCHANGE PARTICIPATION, PREMIUM***
18 ***TAX CREDITS AND REDUCED COST-SHARING,***
19 ***AND INDIVIDUAL RESPONSIBILITY EXEMP-***
20 ***TIONS.***

21 (a) *ESTABLISHMENT OF PROGRAM.*—*The Secretary*
22 *shall establish a program meeting the requirements of this*
23 *section for determining—*

24 (1) *whether an individual who is to be covered*
25 *in the individual market by a qualified health plan*

1 *offered through an Exchange, or who is claiming a*
2 *premium tax credit or reduced cost-sharing, meets the*
3 *requirements of sections 1312(f)(3), 1402(e), and*
4 *1412(d) of this title and section 36B(e) of the Internal*
5 *Revenue Code of 1986 that the individual be a citizen*
6 *or national of the United States or an alien lawfully*
7 *present in the United States;*

8 *(2) in the case of an individual claiming a pre-*
9 *mium tax credit or reduced cost-sharing under section*
10 *36B of such Code or section 1402—*

11 *(A) whether the individual meets the income*
12 *and coverage requirements of such sections; and*

13 *(B) the amount of the tax credit or reduced*
14 *cost-sharing;*

15 *(3) whether an individual's coverage under an*
16 *employer-sponsored health benefits plan is treated as*
17 *unaffordable under sections 36B(c)(2)(C) and*
18 *5000A(e)(2); and*

19 *(4) whether to grant a certification under section*
20 *1311(d)(4)(H) attesting that, for purposes of the indi-*
21 *vidual responsibility requirement under section*
22 *5000A of the Internal Revenue Code of 1986, an indi-*
23 *vidual is entitled to an exemption from either the in-*
24 *dividual responsibility requirement or the penalty*
25 *imposed by such section.*

1 **(b) INFORMATION REQUIRED TO BE PROVIDED BY AP-**
2 *PLICANTS.—*

3 **(1) IN GENERAL.—***An applicant for enrollment*
4 *in a qualified health plan offered through an Ex-*
5 *change in the individual market shall provide—*

6 **(A)** *the name, address, and date of birth of*
7 *each individual who is to be covered by the plan*
8 *(in this subsection referred to as an “enrollee”);*
9 *and*

10 **(B)** *the information required by any of the*
11 *following paragraphs that is applicable to an en-*
12 *rollee.*

13 **(2) CITIZENSHIP OR IMMIGRATION STATUS.—***The*
14 *following information shall be provided with respect*
15 *to every enrollee:*

16 **(A)** *In the case of an enrollee whose eligi-*
17 *bility is based on an attestation of citizenship of*
18 *the enrollee, the enrollee’s social security number.*

19 **(B)** *In the case of an individual whose eligi-*
20 *bility is based on an attestation of the enrollee’s*
21 *immigration status, the enrollee’s social security*
22 *number (if applicable) and such identifying in-*
23 *formation with respect to the enrollee’s immigra-*
24 *tion status as the Secretary, after consultation*

1 with the Secretary of Homeland Security, deter-
2 mines appropriate.

3 (3) *ELIGIBILITY AND AMOUNT OF TAX CREDIT OR*
4 *REDUCED COST-SHARING.*—*In the case of an enrollee*
5 *with respect to whom a premium tax credit or re-*
6 *duced cost-sharing under section 36B of such Code or*
7 *section 1402 is being claimed, the following informa-*
8 *tion:*

9 (A) *INFORMATION REGARDING INCOME AND*
10 *FAMILY SIZE.*—*The information described in sec-*
11 *tion 6103(l)(21) for the taxable year ending with*
12 *or within the second calendar year preceding the*
13 *calendar year in which the plan year begins.*

14 (B) *CHANGES IN CIRCUMSTANCES.*—*The in-*
15 *formation described in section 1412(b)(2), in-*
16 *cluding information with respect to individuals*
17 *who were not required to file an income tax re-*
18 *turn for the taxable year described in subpara-*
19 *graph (A) or individuals who experienced*
20 *changes in marital status or family size or sig-*
21 *nificant reductions in income.*

22 (4) *EMPLOYER-SPONSORED COVERAGE.*—*In the*
23 *case of an enrollee with respect to whom eligibility for*
24 *a premium tax credit under section 36B of such Code*
25 *or cost-sharing reduction under section 1402 is being*

1 *established on the basis that the enrollee's (or related*
2 *individual's) employer is not treated under section*
3 *36B(c)(2)(C) of such Code as providing minimum es-*
4 *sential coverage or affordable minimum essential cov-*
5 *erage, the following information:*

6 *(A) The name, address, and employer iden-*
7 *tification number (if available) of the employer.*

8 *(B) Whether the enrollee or individual is a*
9 *full-time employee and whether the employer*
10 *provides such minimum essential coverage.*

11 *(C) If the employer provides such minimum*
12 *essential coverage, the lowest cost option for the*
13 *enrollee's or individual's enrollment status and*
14 *the enrollee's or individual's required contribu-*
15 *tion (within the meaning of section*
16 *5000A(e)(1)(B) of such Code) under the em-*
17 *ployer-sponsored plan.*

18 *(D) If an enrollee claims an employer's*
19 *minimum essential coverage is unaffordable, the*
20 *information described in paragraph (3).*

21 *If an enrollee changes employment or obtains addi-*
22 *tional employment while enrolled in a qualified*
23 *health plan for which such credit or reduction is al-*
24 *lowed, the enrollee shall notify the Exchange of such*
25 *change or additional employment and provide the in-*

1 *formation described in this paragraph with respect to*
2 *the new employer.*

3 (5) *EXEMPTIONS FROM INDIVIDUAL RESPONSIB-*
4 *BILITY REQUIREMENTS.—In the case of an individual*
5 *who is seeking an exemption certificate under section*
6 *1311(d)(4)(H) from any requirement or penalty im-*
7 *posed by section 5000A, the following information:*

8 (A) *In the case of an individual seeking ex-*
9 *emption based on the individual's status as a*
10 *member of an exempt religious sect or division,*
11 *as a member of a health care sharing ministry,*
12 *as an Indian, or as an individual eligible for a*
13 *hardship exemption, such information as the*
14 *Secretary shall prescribe.*

15 (B) *In the case of an individual seeking ex-*
16 *emption based on the lack of affordable coverage*
17 *or the individual's status as a taxpayer with*
18 *household income less than 100 percent of the*
19 *poverty line, the information described in para-*
20 *graphs (3) and (4), as applicable.*

21 (c) *VERIFICATION OF INFORMATION CONTAINED IN*
22 *RECORDS OF SPECIFIC FEDERAL OFFICIALS.—*

23 (1) *INFORMATION TRANSFERRED TO SEC-*
24 *RETARY.—An Exchange shall submit the information*
25 *provided by an applicant under subsection (b) to the*

1 *Secretary for verification in accordance with the re-*
2 *quirements of this subsection and subsection (d).*

3 (2) *CITIZENSHIP OR IMMIGRATION STATUS.—*

4 (A) *COMMISSIONER OF SOCIAL SECURITY.—*

5 *The Secretary shall submit to the Commissioner*
6 *of Social Security the following information for*
7 *a determination as to whether the information*
8 *provided is consistent with the information in*
9 *the records of the Commissioner:*

10 (i) *The name, date of birth, and social*
11 *security number of each individual for*
12 *whom such information was provided under*
13 *subsection (b)(2).*

14 (ii) *The attestation of an individual*
15 *that the individual is a citizen.*

16 (B) *SECRETARY OF HOMELAND SECUR-*
17 *RITY.—*

18 (i) *IN GENERAL.—In the case of an in-*
19 *dividual—*

20 (I) *who attests that the individual*
21 *is an alien lawfully present in the*
22 *United States; or*

23 (II) *who attests that the indi-*
24 *vidual is a citizen but with respect to*
25 *whom the Commissioner of Social Se-*

1 *curity has notified the Secretary under*
2 *subsection (e)(3) that the attestation is*
3 *inconsistent with information in the*
4 *records maintained by the Commis-*
5 *sioner;*

6 *the Secretary shall submit to the Secretary*
7 *of Homeland Security the information de-*
8 *scribed in clause (ii) for a determination as*
9 *to whether the information provided is con-*
10 *sistent with the information in the records*
11 *of the Secretary of Homeland Security.*

12 *(ii) INFORMATION.—The information*
13 *described in clause (ii) is the following:*

14 *(I) The name, date of birth, and*
15 *any identifying information with re-*
16 *spect to the individual's immigration*
17 *status provided under subsection*
18 *(b)(2).*

19 *(II) The attestation that the indi-*
20 *vidual is an alien lawfully present in*
21 *the United States or in the case of an*
22 *individual described in clause (i)(II),*
23 *the attestation that the individual is a*
24 *citizen.*

1 (3) *ELIGIBILITY FOR TAX CREDIT AND COST-*
2 *SHARING REDUCTION.*—*The Secretary shall submit*
3 *the information described in subsection (b)(3)(A) pro-*
4 *vided under paragraph (3), (4), or (5) of subsection*
5 *(b) to the Secretary of the Treasury for verification*
6 *of household income and family size for purposes of*
7 *eligibility.*

8 (4) *METHODS.*—

9 (A) *IN GENERAL.*—*The Secretary, in con-*
10 *sultation with the Secretary of the Treasury, the*
11 *Secretary of Homeland Security, and the Com-*
12 *missioner of Social Security, shall provide that*
13 *verifications and determinations under this sub-*
14 *section shall be done—*

15 (i) *through use of an on-line system or*
16 *otherwise for the electronic submission of,*
17 *and response to, the information submitted*
18 *under this subsection with respect to an ap-*
19 *plicant; or*

20 (ii) *by determining the consistency of*
21 *the information submitted with the infor-*
22 *mation maintained in the records of the*
23 *Secretary of the Treasury, the Secretary of*
24 *Homeland Security, or the Commissioner of*

1 *Social Security through such other method*
2 *as is approved by the Secretary.*

3 (B) *FLEXIBILITY.*—*The Secretary may*
4 *modify the methods used under the program es-*
5 *tablished by this section for the Exchange and*
6 *verification of information if the Secretary deter-*
7 *mines such modifications would reduce the ad-*
8 *ministrative costs and burdens on the applicant,*
9 *including allowing an applicant to request the*
10 *Secretary of the Treasury to provide the infor-*
11 *mation described in paragraph (3) directly to*
12 *the Exchange or to the Secretary. The Secretary*
13 *shall not make any such modification unless the*
14 *Secretary determines that any applicable re-*
15 *quirements under this section and section 6103*
16 *of the Internal Revenue Code of 1986 with re-*
17 *spect to the confidentiality, disclosure, mainte-*
18 *nance, or use of information will be met.*

19 (d) *VERIFICATION BY SECRETARY.*—*In the case of in-*
20 *formation provided under subsection (b) that is not required*
21 *under subsection (c) to be submitted to another person for*
22 *verification, the Secretary shall verify the accuracy of such*
23 *information in such manner as the Secretary determines*
24 *appropriate, including delegating responsibility for*
25 *verification to the Exchange.*

1 (e) *ACTIONS RELATING TO VERIFICATION.*—

2 (1) *IN GENERAL.*—Each person to whom the Sec-
3 retary provided information under subsection (c)
4 shall report to the Secretary under the method estab-
5 lished under subsection (c)(4) the results of its
6 verification and the Secretary shall notify the Ex-
7 change of such results. Each person to whom the Sec-
8 retary provided information under subsection (d)
9 shall report to the Secretary in such manner as the
10 Secretary determines appropriate.

11 (2) *VERIFICATION.*—

12 (A) *ELIGIBILITY FOR ENROLLMENT AND*
13 *PREMIUM TAX CREDITS AND COST-SHARING RE-*
14 *DUCTIONS.*—If information provided by an ap-
15 plicant under paragraphs (1), (2), (3), and (4)
16 of subsection (b) is verified under subsections (c)
17 and (d)—

18 (i) the individual's eligibility to enroll
19 through the Exchange and to apply for pre-
20 mium tax credits and cost-sharing reduc-
21 tions shall be satisfied; and

22 (ii) the Secretary shall, if applicable,
23 notify the Secretary of the Treasury under
24 section 1412(c) of the amount of any ad-
25 vance payment to be made.

1 (B) *EXEMPTION FROM INDIVIDUAL RESPON-*
2 *SIBILITY.—If information provided by an appli-*
3 *cant under subsection (b)(5) is verified under*
4 *subsections (c) and (d), the Secretary shall issue*
5 *the certification of exemption described in section*
6 *1311(d)(4)(H).*

7 (3) *INCONSISTENCIES INVOLVING ATTESTATION*
8 *OF CITIZENSHIP OR LAWFUL PRESENCE.—If the infor-*
9 *mation provided by any applicant under subsection*
10 *(b)(2) is inconsistent with information in the records*
11 *maintained by the Commissioner of Social Security*
12 *or Secretary of Homeland Security, whichever is ap-*
13 *plicable, the applicant’s eligibility will be determined*
14 *in the same manner as an individual’s eligibility*
15 *under the medicaid program is determined under sec-*
16 *tion 1902(ee) of the Social Security Act (as in effect*
17 *on January 1, 2010).*

18 (4) *INCONSISTENCIES INVOLVING OTHER INFOR-*
19 *MATION.—*

20 (A) *IN GENERAL.—If the information pro-*
21 *vided by an applicant under subsection (b)*
22 *(other than subsection (b)(2)) is inconsistent*
23 *with information in the records maintained by*
24 *persons under subsection (c) or is not verified*
25 *under subsection (d), the Secretary shall notify*

1 the Exchange and the Exchange shall take the
2 following actions:

3 (i) *REASONABLE EFFORT.*—The Ex-
4 change shall make a reasonable effort to
5 identify and address the causes of such in-
6 consistency, including through typo-
7 graphical or other clerical errors, by con-
8 tacting the applicant to confirm the accu-
9 racy of the information, and by taking such
10 additional actions as the Secretary, through
11 regulation or other guidance, may identify.

12 (ii) *NOTICE AND OPPORTUNITY TO*
13 *CORRECT.*—In the case the inconsistency or
14 inability to verify is not resolved under sub-
15 paragraph (A), the Exchange shall—

16 (I) notify the applicant of such
17 fact;

18 (II) provide the applicant an op-
19 portunity to either present satisfactory
20 documentary evidence or resolve the in-
21 consistency with the person verifying
22 the information under subsection (c) or
23 (d) during the 90-day period beginning
24 the date on which the notice required

1 under subclause (I) is sent to the ap-
2 plicant.

3 The Secretary may extend the 90-day pe-
4 riod under subclause (II) for enrollments oc-
5 curring during 2014.

6 (B) SPECIFIC ACTIONS NOT INVOLVING CITI-
7 ZENSHIP OR LAWFUL PRESENCE.—

8 (i) IN GENERAL.—Except as provided
9 in paragraph (3), the Exchange shall, dur-
10 ing any period before the close of the period
11 under subparagraph (A)(ii)(II), make any
12 determination under paragraphs (2), (3),
13 and (4) of subsection (a) on the basis of the
14 information contained on the application.

15 (ii) ELIGIBILITY OR AMOUNT OF CRED-
16 IT OR REDUCTION.—If an inconsistency in-
17 volving the eligibility for, or amount of, any
18 premium tax credit or cost-sharing reduc-
19 tion is unresolved under this subsection as
20 of the close of the period under subpara-
21 graph (A)(ii)(II), the Exchange shall notify
22 the applicant of the amount (if any) of the
23 credit or reduction that is determined on
24 the basis of the records maintained by per-
25 sons under subsection (c).

1 (iii) *EMPLOYER AFFORDABILITY.*—If
2 the Secretary notifies an Exchange that an
3 enrollee is eligible for a premium tax credit
4 under section 36B of such Code or cost-shar-
5 ing reduction under section 1402 because
6 the enrollee’s (or related individual’s) em-
7 ployer does not provide minimum essential
8 coverage through an employer-sponsored
9 plan or that the employer does provide that
10 coverage but it is not affordable coverage,
11 the Exchange shall notify the employer of
12 such fact and that the employer may be lia-
13 ble for the payment assessed under section
14 4980H of such Code.

15 (iv) *EXEMPTION.*—In any case where
16 the inconsistency involving, or inability to
17 verify, information provided under sub-
18 section (b)(5) is not resolved as of the close
19 of the period under subparagraph
20 (A)(ii)(II), the Exchange shall notify an ap-
21 plicant that no certification of exemption
22 from any requirement or payment under
23 section 5000A of such Code will be issued.

24 (C) *APPEALS PROCESS.*—The Exchange
25 shall also notify each person receiving notice

1 *under this paragraph of the appeals processes es-*
2 *tablished under subsection (f).*

3 *(f) APPEALS AND REDETERMINATIONS.—*

4 *(1) IN GENERAL.—The Secretary, in consultation*
5 *with the Secretary of the Treasury, the Secretary of*
6 *Homeland Security, and the Commissioner of Social*
7 *Security, shall establish procedures by which the Sec-*
8 *retary or one of such other Federal officers—*

9 *(A) hears and makes decisions with respect*
10 *to appeals of any determination under subsection*
11 *(e); and*

12 *(B) redetermines eligibility on a periodic*
13 *basis in appropriate circumstances.*

14 *(2) EMPLOYER LIABILITY.—*

15 *(A) IN GENERAL.—The Secretary shall es-*
16 *tablish a separate appeals process for employers*
17 *who are notified under subsection (e)(4)(C) that*
18 *the employer may be liable for a tax imposed by*
19 *section 4980H of the Internal Revenue Code of*
20 *1986 with respect to an employee because of a*
21 *determination that the employer does not provide*
22 *minimum essential coverage through an em-*
23 *ployer-sponsored plan or that the employer does*
24 *provide that coverage but it is not affordable cov-*

1 *erage with respect to an employee. Such process*
2 *shall provide an employer the opportunity to—*

3 *(i) present information to the Ex-*
4 *change for review of the determination ei-*
5 *ther by the Exchange or the person making*
6 *the determination, including evidence of the*
7 *employer-sponsored plan and employer con-*
8 *tributions to the plan; and*

9 *(ii) have access to the data used to*
10 *make the determination to the extent allow-*
11 *able by law.*

12 *Such process shall be in addition to any rights*
13 *of appeal the employer may have under subtitle*
14 *F of such Code.*

15 *(B) CONFIDENTIALITY.—Notwithstanding*
16 *any provision of this title (or the amendments*
17 *made by this title) or section 6103 of the Inter-*
18 *nal Revenue Code of 1986, an employer shall not*
19 *be entitled to any taxpayer return information*
20 *with respect to an employee for purposes of de-*
21 *termining whether the employer is subject to the*
22 *penalty under section 4980H of such Code with*
23 *respect to the employee, except that—*

24 *(i) the employer may be notified as to*
25 *the name of an employee and whether or*

1 not the employee's income is above or below
2 the threshold by which the affordability of
3 an employer's health insurance coverage is
4 measured; and

5 (ii) this subparagraph shall not apply
6 to an employee who provides a waiver (at
7 such time and in such manner as the Sec-
8 retary may prescribe) authorizing an em-
9 ployer to have access to the employee's tax-
10 payer return information.

11 (g) *CONFIDENTIALITY OF APPLICANT INFORMATION.*—

12 (1) *IN GENERAL.*—An applicant for insurance
13 coverage or for a premium tax credit or cost-sharing
14 reduction shall be required to provide only the infor-
15 mation strictly necessary to authenticate identity, de-
16 termine eligibility, and determine the amount of the
17 credit or reduction.

18 (2) *RECEIPT OF INFORMATION.*—Any person who
19 receives information provided by an applicant under
20 subsection (b) (whether directly or by another person
21 at the request of the applicant), or receives informa-
22 tion from a Federal agency under subsection (c), (d),
23 or (e), shall—

24 (A) use the information only for the pur-
25 poses of, and to the extent necessary in, ensuring

1 *the efficient operation of the Exchange, including*
2 *verifying the eligibility of an individual to enroll*
3 *through an Exchange or to claim a premium tax*
4 *credit or cost-sharing reduction or the amount of*
5 *the credit or reduction; and*

6 *(B) not disclose the information to any*
7 *other person except as provided in this section.*

8 *(h) PENALTIES.—*

9 *(1) FALSE OR FRAUDULENT INFORMATION.—*

10 *(A) CIVIL PENALTY.—*

11 *(i) IN GENERAL.—If—*

12 *(I) any person fails to provides*
13 *correct information under subsection*
14 *(b); and*

15 *(II) such failure is attributable to*
16 *negligence or disregard of any rules or*
17 *regulations of the Secretary,*
18 *such person shall be subject, in addition to*
19 *any other penalties that may be prescribed*
20 *by law, to a civil penalty of not more than*
21 *\$25,000 with respect to any failures involv-*
22 *ing an application for a plan year. For*
23 *purposes of this subparagraph, the terms*
24 *“negligence” and “disregard” shall have the*

1 *same meanings as when used in section*
2 *6662 of the Internal Revenue Code of 1986.*

3 *(ii) REASONABLE CAUSE EXCEPTION.—*

4 *No penalty shall be imposed under clause*
5 *(i) if the Secretary determines that there*
6 *was a reasonable cause for the failure and*
7 *that the person acted in good faith.*

8 *(B) KNOWING AND WILLFUL VIOLATIONS.—*

9 *Any person who knowingly and willfully pro-*
10 *vides false or fraudulent information under sub-*
11 *section (b) shall be subject, in addition to any*
12 *other penalties that may be prescribed by law, to*
13 *a civil penalty of not more than \$250,000.*

14 *(2) IMPROPER USE OR DISCLOSURE OF INFORMA-*

15 *TION.—Any person who knowingly and willfully uses*
16 *or discloses information in violation of subsection (g)*
17 *shall be subject, in addition to any other penalties*
18 *that may be prescribed by law, to a civil penalty of*
19 *not more than \$25,000.*

20 *(3) LIMITATIONS ON LIENS AND LEVIES.—The*

21 *Secretary (or, if applicable, the Attorney General of*
22 *the United States) shall not—*

23 *(A) file notice of lien with respect to any*
24 *property of a person by reason of any failure to*
25 *pay the penalty imposed by this subsection; or*

1 (B) levy on any such property with respect
2 to such failure.

3 (i) *STUDY OF ADMINISTRATION OF EMPLOYER RE-*
4 *SPONSIBILITY.—*

5 (1) *IN GENERAL.—The Secretary of Health and*
6 *Human Services shall, in consultation with the Sec-*
7 *retary of the Treasury, conduct a study of the proce-*
8 *dures that are necessary to ensure that in the admin-*
9 *istration of this title and section 4980H of the Inter-*
10 *nal Revenue Code of 1986 (as added by section 1513)*
11 *that the following rights are protected:*

12 (A) *The rights of employees to preserve their*
13 *right to confidentiality of their taxpayer return*
14 *information and their right to enroll in a quali-*
15 *fied health plan through an Exchange if an em-*
16 *ployer does not provide affordable coverage.*

17 (B) *The rights of employers to adequate due*
18 *process and access to information necessary to*
19 *accurately determine any payment assessed on*
20 *employers.*

21 (2) *REPORT.—Not later than January 1, 2013,*
22 *the Secretary of Health and Human Services shall re-*
23 *port the results of the study conducted under para-*
24 *graph (1), including any recommendations for legisla-*
25 *tive changes, to the Committees on Finance and*

1 *Health, Education, Labor and Pensions of the Senate*
2 *and the Committees of Education and Labor and*
3 *Ways and Means of the House of Representatives.*

4 **SEC. 1412. ADVANCE DETERMINATION AND PAYMENT OF**
5 **PREMIUM TAX CREDITS AND COST-SHARING**
6 **REDUCTIONS.**

7 *(a) IN GENERAL.—The Secretary, in consultation with*
8 *the Secretary of the Treasury, shall establish a program*
9 *under which—*

10 *(1) upon request of an Exchange, advance deter-*
11 *minations are made under section 1411 with respect*
12 *to the income eligibility of individuals enrolling in a*
13 *qualified health plan in the individual market*
14 *through the Exchange for the premium tax credit al-*
15 *lowable under section 36B of the Internal Revenue*
16 *Code of 1986 and the cost-sharing reductions under*
17 *section 1402;*

18 *(2) the Secretary notifies—*

19 *(A) the Exchange and the Secretary of the*
20 *Treasury of the advance determinations; and*

21 *(B) the Secretary of the Treasury of the*
22 *name and employer identification number of*
23 *each employer with respect to whom 1 or more*
24 *employee of the employer were determined to be*
25 *eligible for the premium tax credit under section*

1 *36B of the Internal Revenue Code of 1986 and*
2 *the cost-sharing reductions under section 1402*
3 *because—*

4 *(i) the employer did not provide min-*
5 *imum essential coverage; or*

6 *(ii) the employer provided such min-*
7 *imum essential coverage but it was deter-*
8 *mined under section 36B(c)(2)(C) of such*
9 *Code to either be unaffordable to the em-*
10 *ployee or not provide the required min-*
11 *imum actuarial value; and*

12 *(3) the Secretary of the Treasury makes advance*
13 *payments of such credit or reductions to the issuers*
14 *of the qualified health plans in order to reduce the*
15 *premiums payable by individuals eligible for such*
16 *credit.*

17 ***(b) ADVANCE DETERMINATIONS.—***

18 ***(1) IN GENERAL.—****The Secretary shall provide*
19 *under the program established under subsection (a)*
20 *that advance determination of eligibility with respect*
21 *to any individual shall be made—*

22 ***(A) during the annual open enrollment pe-***
23 ***riod applicable to the individual (or such other***
24 ***enrollment period as may be specified by the***
25 ***Secretary); and***

1 (B) on the basis of the individual's house-
2 hold income for the most recent taxable year for
3 which the Secretary, after consultation with the
4 Secretary of the Treasury, determines informa-
5 tion is available.

6 (2) *CHANGES IN CIRCUMSTANCES.*—The Sec-
7 retary shall provide procedures for making advance
8 determinations on the basis of information other than
9 that described in paragraph (1)(B) in cases where in-
10 formation included with an application form dem-
11 onstrates substantial changes in income, changes in
12 family size or other household circumstances, change
13 in filing status, the filing of an application for unem-
14 ployment benefits, or other significant changes affect-
15 ing eligibility, including—

16 (A) allowing an individual claiming a de-
17 crease of 20 percent or more in income, or filing
18 an application for unemployment benefits, to
19 have eligibility for the credit determined on the
20 basis of household income for a later period or
21 on the basis of the individual's estimate of such
22 income for the taxable year; and

23 (B) the determination of household income
24 in cases where the taxpayer was not required to

1 *file a return of tax imposed by this chapter for*
2 *the second preceding taxable year.*

3 (c) *PAYMENT OF PREMIUM TAX CREDITS AND COST-*
4 *SHARING REDUCTIONS.—*

5 (1) *IN GENERAL.—The Secretary shall notify the*
6 *Secretary of the Treasury and the Exchange through*
7 *which the individual is enrolling of the advance deter-*
8 *mination under section 1411.*

9 (2) *PREMIUM TAX CREDIT.—*

10 (A) *IN GENERAL.—The Secretary of the*
11 *Treasury shall make the advance payment under*
12 *this section of any premium tax credit allowed*
13 *under section 36B of the Internal Revenue Code*
14 *of 1986 to the issuer of a qualified health plan*
15 *on a monthly basis (or such other periodic basis*
16 *as the Secretary may provide).*

17 (B) *ISSUER RESPONSIBILITIES.—An issuer*
18 *of a qualified health plan receiving an advance*
19 *payment with respect to an individual enrolled*
20 *in the plan shall—*

21 (i) *reduce the premium charged the in-*
22 *sured for any period by the amount of the*
23 *advance payment for the period;*

24 (ii) *notify the Exchange and the Sec-*
25 *retary of such reduction;*

1 (iii) include with each billing state-
2 ment the amount by which the premium for
3 the plan has been reduced by reason of the
4 advance payment; and

5 (iv) in the case of any nonpayment of
6 premiums by the insured—

7 (I) notify the Secretary of such
8 nonpayment; and

9 (II) allow a 3-month grace period
10 for nonpayment of premiums before
11 discontinuing coverage.

12 (3) *COST-SHARING REDUCTIONS.*—The Secretary
13 shall also notify the Secretary of the Treasury and the
14 Exchange under paragraph (1) if an advance pay-
15 ment of the cost-sharing reductions under section
16 1402 is to be made to the issuer of any qualified
17 health plan with respect to any individual enrolled in
18 the plan. The Secretary of the Treasury shall make
19 such advance payment at such time and in such
20 amount as the Secretary specifies in the notice.

21 (d) *NO FEDERAL PAYMENTS FOR INDIVIDUALS NOT*
22 *LAWFULLY PRESENT.*—Nothing in this subtitle or the
23 amendments made by this subtitle allows Federal payments,
24 credits, or cost-sharing reductions for individuals who are
25 not lawfully present in the United States.

1 (e) *STATE FLEXIBILITY.*—Nothing in this subtitle or
2 the amendments made by this subtitle shall be construed
3 to prohibit a State from making payments to or on behalf
4 of an individual for coverage under a qualified health plan
5 offered through an Exchange that are in addition to any
6 credits or cost-sharing reductions allowable to the indi-
7 vidual under this subtitle and such amendments.

8 **SEC. 1413. STREAMLINING OF PROCEDURES FOR ENROLL-**
9 **MENT THROUGH AN EXCHANGE AND STATE**
10 **MEDICAID, CHIP, AND HEALTH SUBSIDY PRO-**
11 **GRAMS.**

12 (a) *IN GENERAL.*—The Secretary shall establish a sys-
13 tem meeting the requirements of this section under which
14 residents of each State may apply for enrollment in, receive
15 a determination of eligibility for participation in, and con-
16 tinue participation in, applicable State health subsidy pro-
17 grams. Such system shall ensure that if an individual ap-
18 plying to an Exchange is found through screening to be eli-
19 gible for medical assistance under the State medicaid plan
20 under title XIX, or eligible for enrollment under a State
21 children’s health insurance program (CHIP) under title
22 XXI of such Act, the individual is enrolled for assistance
23 under such plan or program.

24 (b) *REQUIREMENTS RELATING TO FORMS AND NO-*
25 *TICE.*—

1 (1) *REQUIREMENTS RELATING TO FORMS.*—

2 (A) *IN GENERAL.*—*The Secretary shall de-*
3 *velop and provide to each State a single, stream-*
4 *lined form that—*

5 (i) *may be used to apply for all appli-*
6 *cable State health subsidy programs within*
7 *the State;*

8 (ii) *may be filed online, in person, by*
9 *mail, or by telephone;*

10 (iii) *may be filed with an Exchange or*
11 *with State officials operating one of the*
12 *other applicable State health subsidy pro-*
13 *grams; and*

14 (iv) *is structured to maximize an ap-*
15 *plicant's ability to complete the form satis-*
16 *factorily, taking into account the character-*
17 *istics of individuals who qualify for appli-*
18 *cable State health subsidy programs.*

19 (B) *STATE AUTHORITY TO ESTABLISH*
20 *FORM.*—*A State may develop and use its own*
21 *single, streamlined form as an alternative to the*
22 *form developed under subparagraph (A) if the al-*
23 *ternative form is consistent with standards pro-*
24 *mulgated by the Secretary under this section.*

1 (C) *SUPPLEMENTAL ELIGIBILITY FORMS.*—

2 *The Secretary may allow a State to use a sup-*
3 *plemental or alternative form in the case of indi-*
4 *viduals who apply for eligibility that is not de-*
5 *termined on the basis of the household income (as*
6 *defined in section 36B of the Internal Revenue*
7 *Code of 1986).*

8 (2) *NOTICE.*—*The Secretary shall provide that*
9 *an applicant filing a form under paragraph (1) shall*
10 *receive notice of eligibility for an applicable State*
11 *health subsidy program without any need to provide*
12 *additional information or paperwork unless such in-*
13 *formation or paperwork is specifically required by*
14 *law when information provided on the form is incon-*
15 *sistent with data used for the electronic verification*
16 *under paragraph (3) or is otherwise insufficient to*
17 *determine eligibility.*

18 (c) *REQUIREMENTS RELATING TO ELIGIBILITY BASED*
19 *ON DATA EXCHANGES.*—

20 (1) *DEVELOPMENT OF SECURE INTERFACES.*—
21 *Each State shall develop for all applicable State*
22 *health subsidy programs a secure, electronic interface*
23 *allowing an exchange of data (including information*
24 *contained in the application forms described in sub-*
25 *section (b)) that allows a determination of eligibility*

1 *for all such programs based on a single application.*
2 *Such interface shall be compatible with the method es-*
3 *tablished for data verification under section*
4 *1411(c)(4).*

5 (2) *DATA MATCHING PROGRAM.—Each applica-*
6 *ble State health subsidy program shall participate in*
7 *a data matching arrangement for determining eligi-*
8 *bility for participation in the program under para-*
9 *graph (3) that—*

10 (A) *provides access to data described in*
11 *paragraph (3);*

12 (B) *applies only to individuals who—*

13 (i) *receive assistance from an applica-*
14 *ble State health subsidy program; or*

15 (ii) *apply for such assistance—*

16 (I) *by filing a form described in*
17 *subsection (b); or*

18 (II) *by requesting a determination*
19 *of eligibility and authorizing disclosure*
20 *of the information described in para-*
21 *graph (3) to applicable State health*
22 *coverage subsidy programs for purposes*
23 *of determining and establishing eligi-*
24 *bility; and*

1 (C) consistent with standards promulgated
2 by the Secretary, including the privacy and data
3 security safeguards described in section 1942 of
4 the Social Security Act or that are otherwise ap-
5 plicable to such programs.

6 (3) DETERMINATION OF ELIGIBILITY.—

7 (A) IN GENERAL.—Each applicable State
8 health subsidy program shall, to the maximum
9 extent practicable—

10 (i) establish, verify, and update eligi-
11 bility for participation in the program
12 using the data matching arrangement under
13 paragraph (2); and

14 (ii) determine such eligibility on the
15 basis of reliable, third party data, including
16 information described in sections 1137,
17 453(i), and 1942(a) of the Social Security
18 Act, obtained through such arrangement.

19 (B) EXCEPTION.—This paragraph shall not
20 apply in circumstances with respect to which the
21 Secretary determines that the administrative
22 and other costs of use of the data matching ar-
23 rangement under paragraph (2) outweigh its ex-
24 pected gains in accuracy, efficiency, and pro-
25 gram participation.

1 (4) *SECRETARIAL STANDARDS.*—*The Secretary*
2 *shall, after consultation with persons in possession of*
3 *the data to be matched and representatives of applica-*
4 *ble State health subsidy programs, promulgate stand-*
5 *ards governing the timing, contents, and procedures*
6 *for data matching described in this subsection. Such*
7 *standards shall take into account administrative and*
8 *other costs and the value of data matching to the es-*
9 *tablishment, verification, and updating of eligibility*
10 *for applicable State health subsidy programs.*

11 (d) *ADMINISTRATIVE AUTHORITY.*—

12 (1) *AGREEMENTS.*—*Subject to section 1411 and*
13 *section 6103(l)(21) of the Internal Revenue Code of*
14 *1986 and any other requirement providing safeguards*
15 *of privacy and data integrity, the Secretary may es-*
16 *tablish model agreements, and enter into agreements,*
17 *for the sharing of data under this section.*

18 (2) *AUTHORITY OF EXCHANGE TO CONTRACT*
19 *OUT.*—*Nothing in this section shall be construed to—*

20 (A) *prohibit contractual arrangements*
21 *through which a State medicaid agency deter-*
22 *mines eligibility for all applicable State health*
23 *subsidy programs, but only if such agency com-*
24 *plies with the Secretary's requirements ensuring*

1 *reduced administrative costs, eligibility errors,*
2 *and disruptions in coverage; or*

3 *(B) change any requirement under title XIX*
4 *that eligibility for participation in a State’s*
5 *medicaid program must be determined by a pub-*
6 *lic agency.*

7 *(e) APPLICABLE STATE HEALTH SUBSIDY PRO-*
8 *GRAM.—In this section, the term “applicable State health*
9 *subsidy program” means—*

10 *(1) the program under this title for the enroll-*
11 *ment in qualified health plans offered through an Ex-*
12 *change, including the premium tax credits under sec-*
13 *tion 36B of the Internal Revenue Code of 1986 and*
14 *cost-sharing reductions under section 1402;*

15 *(2) a State medicaid program under title XIX of*
16 *the Social Security Act;*

17 *(3) a State children’s health insurance program*
18 *(CHIP) under title XXI of such Act; and*

19 *(4) a State program under section 1331 estab-*
20 *lishing qualified basic health plans.*

21 **SEC. 1414. DISCLOSURES TO CARRY OUT ELIGIBILITY RE-**
22 **QUIREMENTS FOR CERTAIN PROGRAMS.**

23 *(a) DISCLOSURE OF TAXPAYER RETURN INFORMATION*
24 *AND SOCIAL SECURITY NUMBERS.—*

1 (1) *TAXPAYER RETURN INFORMATION.*—Sub-
2 *section (l) of section 6103 of the Internal Revenue*
3 *Code of 1986 is amended by adding at the end the fol-*
4 *lowing new paragraph:*

5 “(21) *DISCLOSURE OF RETURN INFORMATION TO*
6 *CARRY OUT ELIGIBILITY REQUIREMENTS FOR CERTAIN*
7 *PROGRAMS.*—

8 “(A) *IN GENERAL.*—*The Secretary, upon*
9 *written request from the Secretary of Health and*
10 *Human Services, shall disclose to officers, em-*
11 *ployees, and contractors of the Department of*
12 *Health and Human Services return information*
13 *of any taxpayer whose income is relevant in de-*
14 *termining any premium tax credit under section*
15 *36B or any cost-sharing reduction under section*
16 *1402 of the Patient Protection and Affordable*
17 *Care Act or eligibility for participation in a*
18 *State medicaid program under title XIX of the*
19 *Social Security Act, a State’s children’s health*
20 *insurance program under title XXI of the Social*
21 *Security Act, or a basic health program under*
22 *section 1331 of Patient Protection and Affordable*
23 *Care Act. Such return information shall be lim-*
24 *ited to—*

1 “(i) taxpayer identity information
2 with respect to such taxpayer,

3 “(ii) the filing status of such taxpayer,

4 “(iii) the number of individuals for
5 whom a deduction is allowed under section
6 151 with respect to the taxpayer (including
7 the taxpayer and the taxpayer’s spouse),

8 “(iv) the modified gross income (as de-
9 fined in section 36B) of such taxpayer and
10 each of the other individuals included under
11 clause (iii) who are required to file a return
12 of tax imposed by chapter 1 for the taxable
13 year,

14 “(v) such other information as is pre-
15 scribed by the Secretary by regulation as
16 might indicate whether the taxpayer is eli-
17 gible for such credit or reduction (and the
18 amount thereof), and

19 “(vi) the taxable year with respect to
20 which the preceding information relates or,
21 if applicable, the fact that such information
22 is not available.

23 “(B) INFORMATION TO EXCHANGE AND
24 STATE AGENCIES.—The Secretary of Health and
25 Human Services may disclose to an Exchange

1 *established under the Patient Protection and Af-*
2 *fordable Care Act or its contractors, or to a State*
3 *agency administering a State program described*
4 *in subparagraph (A) or its contractors, any in-*
5 *consistency between the information provided by*
6 *the Exchange or State agency to the Secretary*
7 *and the information provided to the Secretary*
8 *under subparagraph (A).*

9 “(C) *RESTRICTION ON USE OF DISCLOSED*
10 *INFORMATION.—Return information disclosed*
11 *under subparagraph (A) or (B) may be used by*
12 *officers, employees, and contractors of the De-*
13 *partment of Health and Human Services, an*
14 *Exchange, or a State agency only for the pur-*
15 *poses of, and to the extent necessary in—*

16 “(i) *establishing eligibility for partici-*
17 *ipation in the Exchange, and verifying the*
18 *appropriate amount of, any credit or reduc-*
19 *tion described in subparagraph (A),*

20 “(ii) *determining eligibility for par-*
21 *ticipation in the State programs described*
22 *in subparagraph (A).”.*

23 (2) *SOCIAL SECURITY NUMBERS.—Section*
24 *205(c)(2)(C) of the Social Security Act is amended by*
25 *adding at the end the following new clause:*

1 “(x) *The Secretary of Health and*
2 *Human Services, and the Exchanges estab-*
3 *lished under section 1311 of the Patient*
4 *Protection and Affordable Care Act, are au-*
5 *thorized to collect and use the names and*
6 *social security account numbers of individ-*
7 *uals as required to administer the provi-*
8 *sions of, and the amendments made by, the*
9 *such Act.”.*

10 (b) *CONFIDENTIALITY AND DISCLOSURE.—Paragraph*
11 *(3) of section 6103(a) of such Code is amended by striking*
12 *“or (20)” and inserting “(20), or (21)”.*

13 (c) *PROCEDURES AND RECORDKEEPING RELATED TO*
14 *DISCLOSURES.—Paragraph (4) of section 6103(p) of such*
15 *Code is amended—*

16 (1) *by inserting “, or any entity described in*
17 *subsection (l)(21),” after “or (20)” in the matter pre-*
18 *ceding subparagraph (A),*

19 (2) *by inserting “or any entity described in sub-*
20 *section (l)(21),” after “or (o)(1)(A)” in subparagraph*
21 *(F)(ii), and*

22 (3) *by inserting “or any entity described in sub-*
23 *section (l)(21),” after “or (20)” both places it appears*
24 *in the matter after subparagraph (F).*

1 (d) *UNAUTHORIZED DISCLOSURE OR INSPECTION.*—
2 *Paragraph (2) of section 7213(a) of such Code is amended*
3 *by striking “or (20)” and inserting “(20), or (21)”.*

4 **SEC. 1415. PREMIUM TAX CREDIT AND COST-SHARING RE-**
5 **DUCTION PAYMENTS DISREGARDED FOR FED-**
6 **ERAL AND FEDERALLY-ASSISTED PROGRAMS.**

7 *For purposes of determining the eligibility of any indi-*
8 *vidual for benefits or assistance, or the amount or extent*
9 *of benefits or assistance, under any Federal program or*
10 *under any State or local program financed in whole or in*
11 *part with Federal funds—*

12 (1) *any credit or refund allowed or made to any*
13 *individual by reason of section 36B of the Internal*
14 *Revenue Code of 1986 (as added by section 1401)*
15 *shall not be taken into account as income and shall*
16 *not be taken into account as resources for the month*
17 *of receipt and the following 2 months; and*

18 (2) *any cost-sharing reduction payment or ad-*
19 *vance payment of the credit allowed under such sec-*
20 *tion 36B that is made under section 1402 or 1412*
21 *shall be treated as made to the qualified health plan*
22 *in which an individual is enrolled and not to that in-*
23 *dividual.*

1 **PART II—SMALL BUSINESS TAX CREDIT**

2 **SEC. 1421. CREDIT FOR EMPLOYEE HEALTH INSURANCE EX-**
3 **PENSES OF SMALL BUSINESSES.**

4 (a) *IN GENERAL.*—Subpart D of part IV of subchapter
5 *A* of chapter 1 of the Internal Revenue Code of 1986 (relat-
6 *ing to business-related credits*) is amended by inserting
7 *after section 45Q the following:*

8 **“SEC. 45R. EMPLOYEE HEALTH INSURANCE EXPENSES OF**
9 **SMALL EMPLOYERS.**

10 “(a) *GENERAL RULE.*—For purposes of section 38, in
11 *the case of an eligible small employer, the small employer*
12 *health insurance credit determined under this section for*
13 *any taxable year in the credit period is the amount deter-*
14 *mined under subsection (b).*

15 “(b) *HEALTH INSURANCE CREDIT AMOUNT.*—Subject
16 *to subsection (c), the amount determined under this sub-*
17 *section with respect to any eligible small employer is equal*
18 *to 50 percent (35 percent in the case of a tax-exempt eligible*
19 *small employer) of the lesser of—*

20 “(1) *the aggregate amount of nonelective con-*
21 *tributions the employer made on behalf of its employ-*
22 *ees during the taxable year under the arrangement de-*
23 *scribed in subsection (d)(4) for premiums for quali-*
24 *fied health plans offered by the employer to its em-*
25 *ployees through an Exchange, or*

1 “(2) *the aggregate amount of nonelective con-*
2 *tributions which the employer would have made dur-*
3 *ing the taxable year under the arrangement if each*
4 *employee taken into account under paragraph (1) had*
5 *enrolled in a qualified health plan which had a pre-*
6 *mium equal to the average premium (as determined*
7 *by the Secretary of Health and Human Services) for*
8 *the small group market in the rating area in which*
9 *the employee enrolls for coverage.*

10 “(c) *PHASEOUT OF CREDIT AMOUNT BASED ON NUM-*
11 *BER OF EMPLOYEES AND AVERAGE WAGES.—The amount*
12 *of the credit determined under subsection (b) without regard*
13 *to this subsection shall be reduced (but not below zero) by*
14 *the sum of the following amounts:*

15 “(1) *Such amount multiplied by a fraction the*
16 *numerator of which is the total number of full-time*
17 *equivalent employees of the employer in excess of 10*
18 *and the denominator of which is 15.*

19 “(2) *Such amount multiplied by a fraction the*
20 *numerator of which is the average annual wages of*
21 *the employer in excess of the dollar amount in effect*
22 *under subsection (d)(3)(B) and the denominator of*
23 *which is such dollar amount.*

24 “(d) *ELIGIBLE SMALL EMPLOYER.—For purposes of*
25 *this section—*

1 “(1) *IN GENERAL.*—*The term ‘eligible small em-*
2 *ployer’ means, with respect to any taxable year, an*
3 *employer—*

4 “(A) *which has no more than 25 full-time*
5 *equivalent employees for the taxable year,*

6 “(B) *the average annual wages of which do*
7 *not exceed an amount equal to twice the dollar*
8 *amount in effect under paragraph (3)(B) for the*
9 *taxable year, and*

10 “(C) *which has in effect an arrangement de-*
11 *scribed in paragraph (4).*

12 “(2) *FULL-TIME EQUIVALENT EMPLOYEES.*—

13 “(A) *IN GENERAL.*—*The term ‘full-time*
14 *equivalent employees’ means a number of em-*
15 *ployees equal to the number determined by divid-*
16 *ing—*

17 “(i) *the total number of hours of serv-*
18 *ice for which wages were paid by the em-*
19 *ployer to employees during the taxable year,*
20 *by*

21 “(ii) *2,080.*

22 *Such number shall be rounded to the next lowest*
23 *whole number if not otherwise a whole number.*

24 “(B) *EXCESS HOURS NOT COUNTED.*—*If an*
25 *employee works in excess of 2,080 hours of serv-*

1 *ice during any taxable year, such excess shall not*
2 *be taken into account under subparagraph (A).*

3 “(C) *HOURS OF SERVICE.*—*The Secretary,*
4 *in consultation with the Secretary of Labor,*
5 *shall prescribe such regulations, rules, and guid-*
6 *ance as may be necessary to determine the hours*
7 *of service of an employee, including rules for the*
8 *application of this paragraph to employees who*
9 *are not compensated on an hourly basis.*

10 “(3) *AVERAGE ANNUAL WAGES.*—

11 “(A) *IN GENERAL.*—*The average annual*
12 *wages of an eligible small employer for any tax-*
13 *able year is the amount determined by divid-*
14 *ing—*

15 “(i) *the aggregate amount of wages*
16 *which were paid by the employer to employ-*
17 *ees during the taxable year, by*

18 “(ii) *the number of full-time equivalent*
19 *employees of the employee determined under*
20 *paragraph (2) for the taxable year.*

21 *Such amount shall be rounded to the next lowest*
22 *multiple of \$1,000 if not otherwise such a mul-*
23 *tiple.*

24 “(B) *DOLLAR AMOUNT.*—*For purposes of*
25 *paragraph (1)(B)—*

1 “(i) 2011, 2012, AND 2013.—The dollar
2 amount in effect under this paragraph for
3 taxable years beginning in 2011, 2012, or
4 2013 is \$20,000.

5 “(ii) SUBSEQUENT YEARS.—In the
6 case of a taxable year beginning in a cal-
7 endar year after 2013, the dollar amount in
8 effect under this paragraph shall be equal to
9 \$20,000, multiplied by the cost-of-living ad-
10 justment determined under section 1(f)(3)
11 for the calendar year, determined by sub-
12 stituting ‘calendar year 2012’ for ‘calendar
13 year 1992’ in subparagraph (B) thereof.

14 “(4) CONTRIBUTION ARRANGEMENT.—An ar-
15 rangement is described in this paragraph if it re-
16 quires an eligible small employer to make a nonelec-
17 tive contribution on behalf of each employee who en-
18 rolls in a qualified health plan offered to employees
19 by the employer through an exchange in an amount
20 equal to a uniform percentage (not less than 50 per-
21 cent) of the premium cost of the qualified health plan.

22 “(5) SEASONAL WORKER HOURS AND WAGES NOT
23 COUNTED.—For purposes of this subsection—

24 “(A) IN GENERAL.—The number of hours of
25 service worked by, and wages paid to, a seasonal

1 *worker of an employer shall not be taken into ac-*
2 *count in determining the full-time equivalent*
3 *employees and average annual wages of the em-*
4 *ployer unless the worker works for the employer*
5 *on more than 120 days during the taxable year.*

6 “(B) *DEFINITION OF SEASONAL WORKER.—*

7 *The term ‘seasonal worker’ means a worker who*
8 *performs labor or services on a seasonal basis as*
9 *defined by the Secretary of Labor, including*
10 *workers covered by section 500.20(s)(1) of title*
11 *29, Code of Federal Regulations and retail work-*
12 *ers employed exclusively during holiday seasons.*

13 “(e) *OTHER RULES AND DEFINITIONS.—For purposes*
14 *of this section—*

15 “(1) *EMPLOYEE.—*

16 “(A) *CERTAIN EMPLOYEES EXCLUDED.—*

17 *The term ‘employee’ shall not include—*

18 “(i) *an employee within the meaning*
19 *of section 401(c)(1),*

20 “(ii) *any 2-percent shareholder (as de-*
21 *defined in section 1372(b)) of an eligible small*
22 *business which is an S corporation,*

23 “(iii) *any 5-percent owner (as defined*
24 *in section 416(i)(1)(B)(i)) of an eligible*
25 *small business, or*

1 “(iv) any individual who bears any of
2 the relationships described in subpara-
3 graphs (A) through (G) of section 152(d)(2)
4 to, or is a dependent described in section
5 152(d)(2)(H) of, an individual described in
6 clause (i), (ii), or (iii).

7 “(B) LEASED EMPLOYEES.—The term ‘em-
8 ployee’ shall include a leased employee within
9 the meaning of section 414(n).

10 “(2) CREDIT PERIOD.—The term ‘credit period’
11 means, with respect to any eligible small employer,
12 the 2-consecutive-taxable year period beginning with
13 the 1st taxable year in which the employer (or any
14 predecessor) offers 1 or more qualified health plans to
15 its employees through an Exchange.

16 “(3) NONELECTIVE CONTRIBUTION.—The term
17 ‘nonelective contribution’ means an employer con-
18 tribution other than an employer contribution pursu-
19 ant to a salary reduction arrangement.

20 “(4) WAGES.—The term ‘wages’ has the meaning
21 given such term by section 3121(a) (determined with-
22 out regard to any dollar limitation contained in such
23 section).

24 “(5) AGGREGATION AND OTHER RULES MADE AP-
25 PLICABLE.—

1 “(A) *AGGREGATION RULES.*—All employers
2 *treated as a single employer under subsection*
3 *(b), (c), (m), or (o) of section 414 shall be treated*
4 *as a single employer for purposes of this section.*

5 “(B) *OTHER RULES.*—Rules similar to the
6 *rules of subsections (c), (d), and (e) of section 52*
7 *shall apply.*

8 “(f) *CREDIT MADE AVAILABLE TO TAX-EXEMPT ELIGI-*
9 *BLE SMALL EMPLOYERS.*—

10 “(1) *IN GENERAL.*—In the case of a tax-exempt
11 *eligible small employer, there shall be treated as a*
12 *credit allowable under subpart C (and not allowable*
13 *under this subpart) the lesser of—*

14 “(A) *the amount of the credit determined*
15 *under this section with respect to such employer,*
16 *or*

17 “(B) *the amount of the payroll taxes of the*
18 *employer during the calendar year in which the*
19 *taxable year begins.*

20 “(2) *TAX-EXEMPT ELIGIBLE SMALL EM-*
21 *PLOYER.*—For purposes of this section, the term ‘tax-
22 *exempt eligible small employer’ means an eligible*
23 *small employer which is any organization described*
24 *in section 501(c) which is exempt from taxation*
25 *under section 501(a).*

1 “(3) *PAYROLL TAXES.*—*For purposes of this sub-*
2 *section—*

3 “(A) *IN GENERAL.*—*The term ‘payroll taxes’*
4 *means—*

5 “(i) *amounts required to be withheld*
6 *from the employees of the tax-exempt eligi-*
7 *ble small employer under section 3401(a),*

8 “(ii) *amounts required to be withheld*
9 *from such employees under section 3101(b),*
10 *and*

11 “(iii) *amounts of the taxes imposed on*
12 *the tax-exempt eligible small employer*
13 *under section 3111(b).*

14 “(B) *SPECIAL RULE.*—*A rule similar to the*
15 *rule of section 24(d)(2)(C) shall apply for pur-*
16 *poses of subparagraph (A).*

17 “(g) *APPLICATION OF SECTION FOR CALENDAR YEARS*
18 *2011, 2012, AND 2013.*—*In the case of any taxable year*
19 *beginning in 2011, 2012, or 2013, the following modifica-*
20 *tions to this section shall apply in determining the amount*
21 *of the credit under subsection (a):*

22 “(1) *NO CREDIT PERIOD REQUIRED.*—*The credit*
23 *shall be determined without regard to whether the tax-*
24 *able year is in a credit period and for purposes of ap-*
25 *plying this section to taxable years beginning after*

1 2013, no credit period shall be treated as beginning
2 with a taxable year beginning before 2014.

3 “(2) *AMOUNT OF CREDIT.*—The amount of the
4 credit determined under subsection (b) shall be deter-
5 mined—

6 “(A) by substituting ‘35 percent (25 percent
7 in the case of a tax-exempt eligible small em-
8 ployer)’ for ‘50 percent (35 percent in the case
9 of a tax-exempt eligible small employer)’,

10 “(B) by reference to an eligible small em-
11 ployer’s nonelective contributions for premiums
12 paid for health insurance coverage (within the
13 meaning of section 9832(b)(1)) of an employee,
14 and

15 “(C) by substituting for the average pre-
16 mium determined under subsection (b)(2) the
17 amount the Secretary of Health and Human
18 Services determines is the average premium for
19 the small group market in the State in which the
20 employer is offering health insurance coverage
21 (or for such area within the State as is specified
22 by the Secretary).

23 “(3) *CONTRIBUTION ARRANGEMENT.*—An ar-
24 rangement shall not fail to meet the requirements of

1 *subsection (d)(4) solely because it provides for the of-*
2 *fering of insurance outside of an Exchange.*

3 *“(h) INSURANCE DEFINITIONS.—Any term used in this*
4 *section which is also used in the Public Health Service Act*
5 *or subtitle A of title I of the Patient Protection and Afford-*
6 *able Care Act shall have the meaning given such term by*
7 *such Act or subtitle.*

8 *“(i) REGULATIONS.—The Secretary shall prescribe*
9 *such regulations as may be necessary to carry out the provi-*
10 *sions of this section, including regulations to prevent the*
11 *avoidance of the 2-year limit on the credit period through*
12 *the use of successor entities and the avoidance of the limita-*
13 *tions under subsection (c) through the use of multiple enti-*
14 *ties.”.*

15 *(b) CREDIT TO BE PART OF GENERAL BUSINESS*
16 *CREDIT.—Section 38(b) of the Internal Revenue Code of*
17 *1986 (relating to current year business credit) is amended*
18 *by striking “plus” at the end of paragraph (34), by striking*
19 *the period at the end of paragraph (35) and inserting “,*
20 *plus”, and by inserting after paragraph (35) the following:*

21 *“(36) the small employer health insurance credit*
22 *determined under section 45R.”.*

23 *(c) CREDIT ALLOWED AGAINST ALTERNATIVE MIN-*
24 *IMUM TAX.—Section 38(c)(4)(B) of the Internal Revenue*
25 *Code of 1986 (defining specified credits) is amended by re-*

1 *designating clauses (vi), (vii), and (viii) as clauses (vii),*
 2 *(viii), and (ix), respectively, and by inserting after clause*
 3 *(v) the following new clause:*

4 *“(vi) the credit determined under sec-*
 5 *tion 45R.”.*

6 *(d) DISALLOWANCE OF DEDUCTION FOR CERTAIN EX-*
 7 *PENSES FOR WHICH CREDIT ALLOWED.—*

8 *(1) IN GENERAL.—Section 280C of the Internal*
 9 *Revenue Code of 1986 (relating to disallowance of de-*
 10 *duction for certain expenses for which credit allowed),*
 11 *as amended by section 1401(b), is amended by adding*
 12 *at the end the following new subsection:*

13 *“(h) CREDIT FOR EMPLOYEE HEALTH INSURANCE EX-*
 14 *PENSES OF SMALL EMPLOYERS.—No deduction shall be al-*
 15 *lowed for that portion of the premiums for qualified health*
 16 *plans (as defined in section 1301(a) of the Patient Protec-*
 17 *tion and Affordable Care Act), or for health insurance cov-*
 18 *erage in the case of taxable years beginning in 2011, 2012,*
 19 *or 2013, paid by an employer which is equal to the amount*
 20 *of the credit determined under section 45R(a) with respect*
 21 *to the premiums.”.*

22 *(2) DEDUCTION FOR EXPIRING CREDITS.—Sec-*
 23 *tion 196(c) of such Code is amended by striking*
 24 *“and” at the end of paragraph (12), by striking the*
 25 *period at the end of paragraph (13) and inserting “,*

1 *and*”, and by adding at the end the following new
2 *paragraph*:

3 “(14) *the small employer health insurance credit*
4 *determined under section 45R(a).*”.

5 (e) *CLERICAL AMENDMENT.*—*The table of sections for*
6 *subpart D of part IV of subchapter A of chapter 1 of the*
7 *Internal Revenue Code of 1986 is amended by adding at*
8 *the end the following:*

“*Sec. 45R. Employee health insurance expenses of small employers.*”.

9 (f) *EFFECTIVE DATES.*—

10 (1) *IN GENERAL.*—*The amendments made by*
11 *this section shall apply to amounts paid or incurred*
12 *in taxable years beginning after December 31, 2010.*

13 (2) *MINIMUM TAX.*—*The amendments made by*
14 *subsection (c) shall apply to credits determined under*
15 *section 45R of the Internal Revenue Code of 1986 in*
16 *taxable years beginning after December 31, 2010, and*
17 *to carrybacks of such credits.*

18 ***Subtitle F—Shared Responsibility***
19 ***for Health Care***

20 ***PART I—INDIVIDUAL RESPONSIBILITY***

21 ***SEC. 1501. REQUIREMENT TO MAINTAIN MINIMUM ESSEN-***
22 ***TIAL COVERAGE.***

23 (a) *FINDINGS.*—*Congress makes the following findings:*

24 (1) *IN GENERAL.*—*The individual responsibility*
25 *requirement provided for in this section (in this sub-*

1 *section referred to as the “requirement”) is commer-*
2 *cial and economic in nature, and substantially affects*
3 *interstate commerce, as a result of the effects described*
4 *in paragraph (2).*

5 (2) *EFFECTS ON THE NATIONAL ECONOMY AND*
6 *INTERSTATE COMMERCE.—The effects described in*
7 *this paragraph are the following:*

8 (A) *The requirement regulates activity that*
9 *is commercial and economic in nature: economic*
10 *and financial decisions about how and when*
11 *health care is paid for, and when health insur-*
12 *ance is purchased.*

13 (B) *Health insurance and health care serv-*
14 *ices are a significant part of the national econ-*
15 *omy. National health spending is projected to in-*
16 *crease from \$2,500,000,000,000, or 17.6 percent*
17 *of the economy, in 2009 to \$4,700,000,000,000 in*
18 *2019. Private health insurance spending is pro-*
19 *jected to be \$854,000,000,000 in 2009, and pays*
20 *for medical supplies, drugs, and equipment that*
21 *are shipped in interstate commerce. Since most*
22 *health insurance is sold by national or regional*
23 *health insurance companies, health insurance is*
24 *sold in interstate commerce and claims pay-*
25 *ments flow through interstate commerce.*

1 (C) *The requirement, together with the other*
2 *provisions of this Act, will add millions of new*
3 *consumers to the health insurance market, in-*
4 *creasing the supply of, and demand for, health*
5 *care services. According to the Congressional*
6 *Budget Office, the requirement will increase the*
7 *number and share of Americans who are insured.*

8 (D) *The requirement achieves near-uni-*
9 *versal coverage by building upon and strength-*
10 *ening the private employer-based health insur-*
11 *ance system, which covers 176,000,000 Ameri-*
12 *cans nationwide. In Massachusetts, a similar re-*
13 *quirement has strengthened private employer-*
14 *based coverage: despite the economic downturn,*
15 *the number of workers offered employer-based*
16 *coverage has actually increased.*

17 (E) *Half of all personal bankruptcies are*
18 *caused in part by medical expenses. By signifi-*
19 *cantly increasing health insurance coverage, the*
20 *requirement, together with the other provisions of*
21 *this Act, will improve financial security for fam-*
22 *ilies.*

23 (F) *Under the Employee Retirement Income*
24 *Security Act of 1974 (29 U.S.C. 1001 et seq.),*
25 *the Public Health Service Act (42 U.S.C. 201 et*

1 *seq.), and this Act, the Federal Government has*
2 *a significant role in regulating health insurance*
3 *which is in interstate commerce.*

4 *(G) Under sections 2704 and 2705 of the*
5 *Public Health Service Act (as added by section*
6 *1201 of this Act), if there were no requirement,*
7 *many individuals would wait to purchase health*
8 *insurance until they needed care. By signifi-*
9 *cantly increasing health insurance coverage, the*
10 *requirement, together with the other provisions of*
11 *this Act, will minimize this adverse selection and*
12 *broaden the health insurance risk pool to include*
13 *healthy individuals, which will lower health in-*
14 *surance premiums. The requirement is essential*
15 *to creating effective health insurance markets in*
16 *which improved health insurance products that*
17 *are guaranteed issue and do not exclude coverage*
18 *of pre-existing conditions can be sold.*

19 *(H) Administrative costs for private health*
20 *insurance, which were \$90,000,000,000 in 2006,*
21 *are 26 to 30 percent of premiums in the current*
22 *individual and small group markets. By signifi-*
23 *cantly increasing health insurance coverage and*
24 *the size of purchasing pools, which will increase*
25 *economies of scale, the requirement, together with*

1 *the other provisions of this Act, will significantly*
2 *reduce administrative costs and lower health in-*
3 *surance premiums. The requirement is essential*
4 *to creating effective health insurance markets*
5 *that do not require underwriting and eliminate*
6 *its associated administrative costs.*

7 (3) *SUPREME COURT RULING.—In United States*
8 *v. South-Eastern Underwriters Association (322 U.S.*
9 *533 (1944)), the Supreme Court of the United States*
10 *ruled that insurance is interstate commerce subject to*
11 *Federal regulation.*

12 (b) *IN GENERAL.—Subtitle D of the Internal Revenue*
13 *Code of 1986 is amended by adding at the end the following*
14 *new chapter:*

15 **“CHAPTER 48—MAINTENANCE OF**
16 **MINIMUM ESSENTIAL COVERAGE**

“Sec. 5000A. Requirement to maintain minimum essential coverage.

17 **“SEC. 5000A. REQUIREMENT TO MAINTAIN MINIMUM ESSEN-**
18 **TIAL COVERAGE.**

19 **“(a) REQUIREMENT TO MAINTAIN MINIMUM ESSEN-**
20 **TIAL COVERAGE.—An applicable individual shall for each**
21 *month beginning after 2013 ensure that the individual, and*
22 *any dependent of the individual who is an applicable indi-*
23 *vidual, is covered under minimum essential coverage for*
24 *such month.*

1 “(b) *SHARED RESPONSIBILITY PAYMENT.*—

2 “(1) *IN GENERAL.*—*If an applicable individual*
3 *fails to meet the requirement of subsection (a) for 1*
4 *or more months during any calendar year beginning*
5 *after 2013, then, except as provided in subsection (d),*
6 *there is hereby imposed a penalty with respect to the*
7 *individual in the amount determined under sub-*
8 *section (c).*

9 “(2) *INCLUSION WITH RETURN.*—*Any penalty*
10 *imposed by this section with respect to any month*
11 *shall be included with a taxpayer’s return under*
12 *chapter 1 for the taxable year which includes such*
13 *month.*

14 “(3) *PAYMENT OF PENALTY.*—*If an individual*
15 *with respect to whom a penalty is imposed by this*
16 *section for any month—*

17 “(A) *is a dependent (as defined in section*
18 *152) of another taxpayer for the other taxpayer’s*
19 *taxable year including such month, such other*
20 *taxpayer shall be liable for such penalty, or*

21 “(B) *files a joint return for the taxable year*
22 *including such month, such individual and the*
23 *spouse of such individual shall be jointly liable*
24 *for such penalty.*

25 “(c) *AMOUNT OF PENALTY.*—

1 “(1) *IN GENERAL.*—*The penalty determined*
2 *under this subsection for any month with respect to*
3 *any individual is an amount equal to $\frac{1}{12}$ of the ap-*
4 *licable dollar amount for the calendar year.*

5 “(2) *DOLLAR LIMITATION.*—*The amount of the*
6 *penalty imposed by this section on any taxpayer for*
7 *any taxable year with respect to all individuals for*
8 *whom the taxpayer is liable under subsection (b)(3)*
9 *shall not exceed an amount equal to 300 percent the*
10 *applicable dollar amount (determined without regard*
11 *to paragraph (3)(C)) for the calendar year with or*
12 *within which the taxable year ends.*

13 “(3) *APPLICABLE DOLLAR AMOUNT.*—*For pur-*
14 *poses of paragraph (1)—*

15 “(A) *IN GENERAL.*—*Except as provided in*
16 *subparagraphs (B) and (C), the applicable dollar*
17 *amount is \$750.*

18 “(B) *PHASE IN.*—*The applicable dollar*
19 *amount is \$95 for 2014 and \$350 for 2015.*

20 “(C) *SPECIAL RULE FOR INDIVIDUALS*
21 *UNDER AGE 18.*—*If an applicable individual has*
22 *not attained the age of 18 as of the beginning of*
23 *a month, the applicable dollar amount with re-*
24 *spect to such individual for the month shall be*

1 *equal to one-half of the applicable dollar amount*
2 *for the calendar year in which the month occurs.*

3 “(D) *INDEXING OF AMOUNT.*—*In the case of*
4 *any calendar year beginning after 2016, the ap-*
5 *licable dollar amount shall be equal to \$750, in-*
6 *creased by an amount equal to—*

7 “(i) *\$750, multiplied by*

8 “(ii) *the cost-of-living adjustment de-*
9 *termined under section 1(f)(3) for the cal-*
10 *endar year, determined by substituting ‘cal-*
11 *endar year 2015’ for ‘calendar year 1992’*
12 *in subparagraph (B) thereof.*

13 *If the amount of any increase under clause (i)*
14 *is not a multiple of \$50, such increase shall be*
15 *rounded to the next lowest multiple of \$50.*

16 “(4) *TERMS RELATING TO INCOME AND FAMI-*
17 *LIES.*—*For purposes of this section—*

18 “(A) *FAMILY SIZE.*—*The family size in-*
19 *volved with respect to any taxpayer shall be*
20 *equal to the number of individuals for whom the*
21 *taxpayer is allowed a deduction under section*
22 *151 (relating to allowance of deduction for per-*
23 *sonal exemptions) for the taxable year.*

24 “(B) *HOUSEHOLD INCOME.*—*The term*
25 *‘household income’ means, with respect to any*

1 taxpayer for any taxable year, an amount equal
2 to the sum of—

3 “(i) the modified gross income of the
4 taxpayer, plus

5 “(ii) the aggregate modified gross in-
6 comes of all other individuals who—

7 “(I) were taken into account in
8 determining the taxpayer’s family size
9 under paragraph (1), and

10 “(II) were required to file a re-
11 turn of tax imposed by section 1 for
12 the taxable year.

13 “(C) *MODIFIED GROSS INCOME.*—The term
14 ‘modified gross income’ means gross income—

15 “(i) decreased by the amount of any
16 deduction allowable under paragraph (1),
17 (3), (4), or (10) of section 62(a),

18 “(ii) increased by the amount of inter-
19 est received or accrued during the taxable
20 year which is exempt from tax imposed by
21 this chapter, and

22 “(iii) determined without regard to
23 sections 911, 931, and 933.

24 “(D) *POVERTY LINE.*—

1 “(i) *IN GENERAL.*—*The term ‘poverty*
2 *line’ has the meaning given that term in*
3 *section 2110(c)(5) of the Social Security Act*
4 *(42 U.S.C. 1397jj(c)(5)).*

5 “(ii) *POVERTY LINE USED.*—*In the*
6 *case of any taxable year ending with or*
7 *within a calendar year, the poverty line*
8 *used shall be the most recently published*
9 *poverty line as of the 1st day of such cal-*
10 *endar year.*

11 “(d) *APPLICABLE INDIVIDUAL.*—*For purposes of this*
12 *section—*

13 “(1) *IN GENERAL.*—*The term ‘applicable indi-*
14 *vidual’ means, with respect to any month, an indi-*
15 *vidual other than an individual described in para-*
16 *graph (2), (3), or (4).*

17 “(2) *RELIGIOUS EXEMPTIONS.*—

18 “(A) *RELIGIOUS CONSCIENCE EXEMP-*
19 *TION.*—*Such term shall not include any indi-*
20 *vidual for any month if such individual has in*
21 *effect an exemption under section 1311(d)(4)(H)*
22 *of the Patient Protection and Affordable Care*
23 *Act which certifies that such individual is a*
24 *member of a recognized religious sect or division*
25 *thereof described in section 1402(g)(1) and an*

1 *adherent of established tenets or teachings of such*
2 *sect or division as described in such section.*

3 “(B) *HEALTH CARE SHARING MINISTRY.*—

4 “(i) *IN GENERAL.*—*Such term shall*
5 *not include any individual for any month*
6 *if such individual is a member of a health*
7 *care sharing ministry for the month.*

8 “(ii) *HEALTH CARE SHARING MIN-*
9 *ISTRY.*—*The term ‘health care sharing min-*
10 *istry’ means an organization—*

11 “(I) *which is described in section*
12 *501(c)(3) and is exempt from taxation*
13 *under section 501(a),*

14 “(II) *members of which share a*
15 *common set of ethical or religious be-*
16 *liefs and share medical expenses among*
17 *members in accordance with those be-*
18 *liefs and without regard to the State in*
19 *which a member resides or is em-*
20 *ployed,*

21 “(III) *members of which retain*
22 *membership even after they develop a*
23 *medical condition,*

24 “(IV) *which (or a predecessor of*
25 *which) has been in existence at all*

1 *times since December 31, 1999, and*
2 *medical expenses of its members have*
3 *been shared continuously and without*
4 *interruption since at least December*
5 *31, 1999, and*

6 *“(V) which conducts an annual*
7 *audit which is performed by an inde-*
8 *pendent certified public accounting*
9 *firm in accordance with generally ac-*
10 *cepted accounting principles and*
11 *which is made available to the public*
12 *upon request.*

13 *“(3) INDIVIDUALS NOT LAWFULLY PRESENT.—*
14 *Such term shall not include an individual for any*
15 *month if for the month the individual is not a citizen*
16 *or national of the United States or an alien lawfully*
17 *present in the United States.*

18 *“(4) INCARCERATED INDIVIDUALS.—Such term*
19 *shall not include an individual for any month if for*
20 *the month the individual is incarcerated, other than*
21 *incarceration pending the disposition of charges.*

22 *“(e) EXEMPTIONS.—No penalty shall be imposed*
23 *under subsection (a) with respect to—*

24 *“(1) INDIVIDUALS WHO CANNOT AFFORD COV-*
25 *ERAGE.—*

1 “(A) *IN GENERAL.*—Any applicable indi-
2 vidual for any month if the applicable individ-
3 ual’s required contribution (determined on an
4 annual basis) for coverage for the month exceeds
5 8 percent of such individual’s household income
6 for the taxable year described in section
7 1412(b)(1)(B) of the Patient Protection and Af-
8 fordable Care Act. For purposes of applying this
9 subparagraph, the taxpayer’s household income
10 shall be increased by any exclusion from gross
11 income for any portion of the required contribu-
12 tion made through a salary reduction arrange-
13 ment.

14 “(B) *REQUIRED CONTRIBUTION.*—For pur-
15 poses of this paragraph, the term ‘required con-
16 tribution’ means—

17 “(i) *in the case of an individual eligi-*
18 *ble to purchase minimum essential coverage*
19 *consisting of coverage through an eligible-*
20 *employer-sponsored plan, the portion of the*
21 *annual premium which would be paid by*
22 *the individual (without regard to whether*
23 *paid through salary reduction or otherwise)*
24 *for self-only coverage, or*

1 “(ii) in the case of an individual eligi-
2 ble only to purchase minimum essential
3 coverage described in subsection (f)(1)(C),
4 the annual premium for the lowest cost
5 bronze plan available in the individual
6 market through the Exchange in the State
7 in the rating area in which the individual
8 resides (without regard to whether the indi-
9 vidual purchased a qualified health plan
10 through the Exchange), reduced by the
11 amount of the credit allowable under section
12 36B for the taxable year (determined as if
13 the individual was covered by a qualified
14 health plan offered through the Exchange for
15 the entire taxable year).

16 “(C) SPECIAL RULES FOR INDIVIDUALS RE-
17 LATED TO EMPLOYEES.—For purposes of sub-
18 paragraph (B)(i), if an applicable individual is
19 eligible for minimum essential coverage through
20 an employer by reason of a relationship to an
21 employee, the determination shall be made by
22 reference to the affordability of the coverage to
23 the employee.

24 “(D) INDEXING.—In the case of plan years
25 beginning in any calendar year after 2014, sub-

1 *paragraph (A) shall be applied by substituting*
2 *for ‘8 percent’ the percentage the Secretary of*
3 *Health and Human Services determines reflects*
4 *the excess of the rate of premium growth between*
5 *the preceding calendar year and 2013 over the*
6 *rate of income growth for such period.*

7 “(2) *TAXPAYERS WITH INCOME UNDER 100 PER-*
8 *CENT OF POVERTY LINE.—Any applicable individual*
9 *for any month during a calendar year if the individ-*
10 *ual’s household income for the taxable year described*
11 *in section 1412(b)(1)(B) of the Patient Protection and*
12 *Affordable Care Act is less than 100 percent of the*
13 *poverty line for the size of the family involved (deter-*
14 *mined in the same manner as under subsection*
15 *(b)(4)).*

16 “(3) *MEMBERS OF INDIAN TRIBES.—Any appli-*
17 *cable individual for any month during which the in-*
18 *dividual is a member of an Indian tribe (as defined*
19 *in section 45A(c)(6)).*

20 “(4) *MONTHS DURING SHORT COVERAGE GAPS.—*

21 “(A) *IN GENERAL.—Any month the last day*
22 *of which occurred during a period in which the*
23 *applicable individual was not covered by min-*
24 *imum essential coverage for a continuous period*
25 *of less than 3 months.*

1 “(B) *SPECIAL RULES.*—*For purposes of ap-*
2 *plying this paragraph—*

3 “*(i) the length of a continuous period*
4 *shall be determined without regard to the*
5 *calendar years in which months in such pe-*
6 *riod occur,*

7 “*(ii) if a continuous period is greater*
8 *than the period allowed under subpara-*
9 *graph (A), no exception shall be provided*
10 *under this paragraph for any month in the*
11 *period, and*

12 “*(iii) if there is more than 1 contin-*
13 *uous period described in subparagraph (A)*
14 *covering months in a calendar year, the ex-*
15 *ception provided by this paragraph shall*
16 *only apply to months in the first of such pe-*
17 *riods.*

18 *The Secretary shall prescribe rules for the collec-*
19 *tion of the penalty imposed by this section in*
20 *cases where continuous periods include months*
21 *in more than 1 taxable year.*

22 “(5) *HARDSHIPS.*—*Any applicable individual*
23 *who for any month is determined by the Secretary of*
24 *Health and Human Services under section*
25 *1311(d)(4)(H) to have suffered a hardship with re-*

1 *spect to the capability to obtain coverage under a*
2 *qualified health plan.*

3 “(f) *MINIMUM ESSENTIAL COVERAGE.*—*For purposes*
4 *of this section—*

5 “(1) *IN GENERAL.*—*The term ‘minimum essen-*
6 *tial coverage’ means any of the following:*

7 “(A) *GOVERNMENT SPONSORED PRO-*
8 *GRAMS.*—*Coverage under—*

9 “(i) *the Medicare program under part*
10 *A of title XVIII of the Social Security Act,*

11 “(ii) *the Medicaid program under title*
12 *XIX of the Social Security Act,*

13 “(iii) *the CHIP program under title*
14 *XXI of the Social Security Act,*

15 “(iv) *the TRICARE for Life program,*

16 “(v) *the veteran’s health care program*
17 *under chapter 17 of title 38, United States*
18 *Code, or*

19 “(vi) *a health plan under section*
20 *2504(e) of title 22, United States Code (re-*
21 *lating to Peace Corps volunteers).*

22 “(B) *EMPLOYER-SPONSORED PLAN.*—*Cov-*
23 *erage under an eligible employer-sponsored plan.*

1 “(C) *PLANS IN THE INDIVIDUAL MARKET.*—
2 *Coverage under a health plan offered in the indi-*
3 *vidual market within a State.*

4 “(D) *GRANDFATHERED HEALTH PLAN.*—
5 *Coverage under a grandfathered health plan.*

6 “(E) *OTHER COVERAGE.*—*Such other health*
7 *benefits coverage, such as a State health benefits*
8 *risk pool, as the Secretary of Health and Human*
9 *Services, in coordination with the Secretary, rec-*
10 *ognizes for purposes of this subsection.*

11 “(2) *ELIGIBLE EMPLOYER-SPONSORED PLAN.*—
12 *The term ‘eligible employer-sponsored plan’ means,*
13 *with respect to any employee, a group health plan or*
14 *group health insurance coverage offered by an em-*
15 *ployer to the employee which is—*

16 “(A) *a governmental plan (within the*
17 *meaning of section 2791(d)(8) of the Public*
18 *Health Service Act), or*

19 “(B) *any other plan or coverage offered in*
20 *the small or large group market within a State.*
21 *Such term shall include a grandfathered health plan*
22 *described in paragraph (1)(D) offered in a group*
23 *market.*

24 “(3) *EXCEPTED BENEFITS NOT TREATED AS MIN-*
25 *IMUM ESSENTIAL COVERAGE.*—*The term ‘minimum*

1 *essential coverage' shall not include health insurance*
2 *coverage which consists of coverage of excepted bene-*
3 *fits—*

4 “(A) *described in paragraph (1) of sub-*
5 *section (c) of section 2791 of the Public Health*
6 *Service Act; or*

7 “(B) *described in paragraph (2), (3), or (4)*
8 *of such subsection if the benefits are provided*
9 *under a separate policy, certificate, or contract*
10 *of insurance.*

11 “(4) *INDIVIDUALS RESIDING OUTSIDE UNITED*
12 *STATES OR RESIDENTS OF TERRITORIES.—Any appli-*
13 *cable individual shall be treated as having minimum*
14 *essential coverage for any month—*

15 “(A) *if such month occurs during any pe-*
16 *riod described in subparagraph (A) or (B) of sec-*
17 *tion 911(d)(1) which is applicable to the indi-*
18 *vidual, or*

19 “(B) *if such individual is a bona fide resi-*
20 *dent of any possession of the United States (as*
21 *determined under section 937(a)) for such*
22 *month.*

23 “(5) *INSURANCE-RELATED TERMS.—Any term*
24 *used in this section which is also used in title I of*

1 *the Patient Protection and Affordable Care Act shall*
2 *have the same meaning as when used in such title.*

3 “(g) *ADMINISTRATION AND PROCEDURE.*—

4 “(1) *IN GENERAL.*—*The penalty provided by this*
5 *section shall be paid upon notice and demand by the*
6 *Secretary, and except as provided in paragraph (2),*
7 *shall be assessed and collected in the same manner as*
8 *an assessable penalty under subchapter B of chapter*
9 *68.*

10 “(2) *SPECIAL RULES.*—*Notwithstanding any*
11 *other provision of law—*

12 “(A) *WAIVER OF CRIMINAL PENALTIES.*—*In*
13 *the case of any failure by a taxpayer to timely*
14 *pay any penalty imposed by this section, such*
15 *taxpayer shall not be subject to any criminal*
16 *prosecution or penalty with respect to such fail-*
17 *ure.*

18 “(B) *LIMITATIONS ON LIENS AND LEVIES.*—
19 *The Secretary shall not—*

20 “(i) *file notice of lien with respect to*
21 *any property of a taxpayer by reason of*
22 *any failure to pay the penalty imposed by*
23 *this section, or*

24 “(ii) *levy on any such property with*
25 *respect to such failure.”.*

1 (c) *CLERICAL AMENDMENT.*—*The table of chapters for*
 2 *subtitle D of the Internal Revenue Code of 1986 is amended*
 3 *by inserting after the item relating to chapter 47 the fol-*
 4 *lowing new item:*

 “CHAPTER 48—MAINTENANCE OF MINIMUM ESSENTIAL COVERAGE.”.

5 (d) *EFFECTIVE DATE.*—*The amendments made by this*
 6 *section shall apply to taxable years ending after December*
 7 *31, 2013.*

8 **SEC. 1502. REPORTING OF HEALTH INSURANCE COVERAGE.**

9 (a) *IN GENERAL.*—*Part III of subchapter A of chapter*
 10 *61 of the Internal Revenue Code of 1986 is amended by*
 11 *inserting after subpart C the following new subpart:*

12 **“Subpart D—Information Regarding Health**
 13 **Insurance Coverage**

 “Sec. 6055. Reporting of health insurance coverage.

14 **“SEC. 6055. REPORTING OF HEALTH INSURANCE COV-**
 15 **ERAGE.**

16 “(a) *IN GENERAL.*—*Every person who provides min-*
 17 *imum essential coverage to an individual during a calendar*
 18 *year shall, at such time as the Secretary may prescribe,*
 19 *make a return described in subsection (b).*

20 “(b) *FORM AND MANNER OF RETURN.*—

21 “(1) *IN GENERAL.*—*A return is described in this*
 22 *subsection if such return—*

23 “(A) *is in such form as the Secretary may*
 24 *prescribe, and*

1 “(B) contains—

2 “(i) the name, address and TIN of the
3 primary insured and the name and TIN of
4 each other individual obtaining coverage
5 under the policy,

6 “(ii) the dates during which such indi-
7 vidual was covered under minimum essen-
8 tial coverage during the calendar year,

9 “(iii) in the case of minimum essential
10 coverage which consists of health insurance
11 coverage, information concerning—

12 “(I) whether or not the coverage is
13 a qualified health plan offered through
14 an Exchange established under section
15 1311 of the Patient Protection and Af-
16 fordable Care Act, and

17 “(II) in the case of a qualified
18 health plan, the amount (if any) of
19 any advance payment under section
20 1412 of the Patient Protection and Af-
21 fordable Care Act of any cost-sharing
22 reduction under section 1402 of such
23 Act or of any premium tax credit
24 under section 36B with respect to such
25 coverage, and

1 “(iv) such other information as the
2 Secretary may require.

3 “(2) INFORMATION RELATING TO EMPLOYER-PRO-
4 VIDED COVERAGE.—If minimum essential coverage
5 provided to an individual under subsection (a) con-
6 sists of health insurance coverage of a health insur-
7 ance issuer provided through a group health plan of
8 an employer, a return described in this subsection
9 shall include—

10 “(A) the name, address, and employer iden-
11 tification number of the employer maintaining
12 the plan,

13 “(B) the portion of the premium (if any)
14 required to be paid by the employer, and

15 “(C) if the health insurance coverage is a
16 qualified health plan in the small group market
17 offered through an Exchange, such other infor-
18 mation as the Secretary may require for admin-
19 istration of the credit under section 45R (relat-
20 ing to credit for employee health insurance ex-
21 penses of small employers).

22 “(c) STATEMENTS TO BE FURNISHED TO INDIVIDUALS
23 WITH RESPECT TO WHOM INFORMATION IS REPORTED.—

24 “(1) IN GENERAL.—Every person required to
25 make a return under subsection (a) shall furnish to

1 *each individual whose name is required to be set forth*
2 *in such return a written statement showing—*

3 “(A) *the name and address of the person re-*
4 *quired to make such return and the phone num-*
5 *ber of the information contact for such person,*
6 *and*

7 “(B) *the information required to be shown*
8 *on the return with respect to such individual.*

9 “(2) *TIME FOR FURNISHING STATEMENTS.—The*
10 *written statement required under paragraph (1) shall*
11 *be furnished on or before January 31 of the year fol-*
12 *lowing the calendar year for which the return under*
13 *subsection (a) was required to be made.*

14 “(d) *COVERAGE PROVIDED BY GOVERNMENTAL*
15 *UNITS.—In the case of coverage provided by any govern-*
16 *mental unit or any agency or instrumentality thereof, the*
17 *officer or employee who enters into the agreement to provide*
18 *such coverage (or the person appropriately designated for*
19 *purposes of this section) shall make the returns and state-*
20 *ments required by this section.*

21 “(e) *MINIMUM ESSENTIAL COVERAGE.—For purposes*
22 *of this section, the term ‘minimum essential coverage’ has*
23 *the meaning given such term by section 5000A(f).”.*

24 “(b) *ASSESSABLE PENALTIES.—*

1 (1) *Subparagraph (B) of section 6724(d)(1) of*
2 *the Internal Revenue Code of 1986 (relating to defini-*
3 *tions) is amended by striking “or” at the end of*
4 *clause (xxii), by striking “and” at the end of clause*
5 *(xxiii) and inserting “or”, and by inserting after*
6 *clause (xxiii) the following new clause:*

7 “(xxiv) *section 6055 (relating to re-*
8 *turns relating to information regarding*
9 *health insurance coverage), and”.*

10 (2) *Paragraph (2) of section 6724(d) of such*
11 *Code is amended by striking “or” at the end of sub-*
12 *paragraph (EE), by striking the period at the end of*
13 *subparagraph (FF) and inserting “, or” and by in-*
14 *serting after subparagraph (FF) the following new*
15 *subparagraph:*

16 “(GG) *section 6055(c) (relating to state-*
17 *ments relating to information regarding health*
18 *insurance coverage).”.*

19 (c) *NOTIFICATION OF NONENROLLMENT.—Not later*
20 *than June 30 of each year, the Secretary of the Treasury,*
21 *acting through the Internal Revenue Service and in con-*
22 *sultation with the Secretary of Health and Human Serv-*
23 *ices, shall send a notification to each individual who files*
24 *an individual income tax return and who is not enrolled*
25 *in minimum essential coverage (as defined in section 5000A*

1 of the Internal Revenue Code of 1986). Such notification
 2 shall contain information on the services available through
 3 the Exchange operating in the State in which such indi-
 4 vidual resides.

5 (d) *CONFORMING AMENDMENT.*—The table of subparts
 6 for part III of subchapter A of chapter 61 of such Code
 7 is amended by inserting after the item relating to subpart
 8 C the following new item:

“SUBPART D—INFORMATION REGARDING HEALTH INSURANCE COVERAGE”.

9 (e) *EFFECTIVE DATE.*—The amendments made by this
 10 section shall apply to calendar years beginning after 2013.

11 **PART II—EMPLOYER RESPONSIBILITIES**

12 **SEC. 1511. AUTOMATIC ENROLLMENT FOR EMPLOYEES OF**
 13 **LARGE EMPLOYERS.**

14 The Fair Labor Standards Act of 1938 is amended by
 15 inserting after section 18 (29 U.S.C. 218) the following:

16 **“SEC. 18A. AUTOMATIC ENROLLMENT FOR EMPLOYEES OF**
 17 **LARGE EMPLOYERS.**

18 “In accordance with regulations promulgated by the
 19 Secretary, an employer to which this Act applies that has
 20 more than 200 full-time employees and that offers employees
 21 enrollment in 1 or more health benefits plans shall auto-
 22 matically enroll new full-time employees in one of the plans
 23 offered (subject to any waiting period authorized by law)
 24 and to continue the enrollment of current employees in a
 25 health benefits plan offered through the employer. Any auto-

1 *matic enrollment program shall include adequate notice*
2 *and the opportunity for an employee to opt out of any cov-*
3 *erage the individual or employee were automatically en-*
4 *rolled in. Nothing in this section shall be construed to super-*
5 *sede any State law which establishes, implements, or con-*
6 *tinues in effect any standard or requirement relating to em-*
7 *ployers in connection with payroll except to the extent that*
8 *such standard or requirement prevents an employer from*
9 *instituting the automatic enrollment program under this*
10 *section.”.*

11 **SEC. 1512. EMPLOYER REQUIREMENT TO INFORM EMPLOY-**
12 **EES OF COVERAGE OPTIONS.**

13 *The Fair Labor Standards Act of 1938 is amended by*
14 *inserting after section 18A (as added by section 1513) the*
15 *following:*

16 **“SEC. 18B. NOTICE TO EMPLOYEES.**

17 *“(a) IN GENERAL.—In accordance with regulations*
18 *promulgated by the Secretary, an employer to which this*
19 *Act applies, shall provide to each employee at the time of*
20 *hiring (or with respect to current employees, not later than*
21 *March 1, 2013), written notice—*

22 *“(1) informing the employee of the existence of*
23 *an Exchange, including a description of the services*
24 *provided by such Exchange, and the manner in which*

1 *the employee may contact the Exchange to request as-*
2 *sistance;*

3 *“(2) if the employer plan’s share of the total al-*
4 *lowed costs of benefits provided under the plan is less*
5 *than 60 percent of such costs, that the employee may*
6 *be eligible for a premium tax credit under section*
7 *36B of the Internal Revenue Code of 1986 and a cost*
8 *sharing reduction under section 1402 of the Patient*
9 *Protection and Affordable Care Act if the employee*
10 *purchases a qualified health plan through the Ex-*
11 *change; and*

12 *“(3) if the employee purchases a qualified health*
13 *plan through the Exchange, the employee will lose the*
14 *employer contribution (if any) to any health benefits*
15 *plan offered by the employer and that all or a portion*
16 *of such contribution may be excludable from income*
17 *for Federal income tax purposes.*

18 *“(b) EFFECTIVE DATE.—Subsection (a) shall take ef-*
19 *fect with respect to employers in a State beginning on*
20 *March 1, 2013.”.*

21 **SEC. 1513. SHARED RESPONSIBILITY FOR EMPLOYERS.**

22 *(a) IN GENERAL.—Chapter 43 of the Internal Revenue*
23 *Code of 1986 is amended by adding at the end the following:*

1 **“SEC. 4980H. SHARED RESPONSIBILITY FOR EMPLOYERS**
2 **REGARDING HEALTH COVERAGE.**

3 *“(a) LARGE EMPLOYERS NOT OFFERING HEALTH*
4 *COVERAGE.—If—*

5 *“(1) any applicable large employer fails to offer*
6 *to its full-time employees (and their dependents) the*
7 *opportunity to enroll in minimum essential coverage*
8 *under an eligible employer-sponsored plan (as defined*
9 *in section 5000A(f)(2)) for any month, and*

10 *“(2) at least one full-time employee of the appli-*
11 *cable large employer has been certified to the em-*
12 *ployer under section 1411 of the Patient Protection*
13 *and Affordable Care Act as having enrolled for such*
14 *month in a qualified health plan with respect to*
15 *which an applicable premium tax credit or cost-shar-*
16 *ing reduction is allowed or paid with respect to the*
17 *employee,*

18 *then there is hereby imposed on the employer an assessable*
19 *payment equal to the product of the applicable payment*
20 *amount and the number of individuals employed by the em-*
21 *ployer as full-time employees during such month.*

22 *“(b) LARGE EMPLOYERS WITH WAITING PERIODS EX-*
23 *CEEDING 30 DAYS.—*

24 *“(1) IN GENERAL.—In the case of any applicable*
25 *large employer which requires an extended waiting*
26 *period to enroll in any minimum essential coverage*

1 *under an employer-sponsored plan (as defined in sec-*
2 *tion 5000A(f)(2)), there is hereby imposed on the em-*
3 *ployer an assessable payment, in the amount specified*
4 *in paragraph (2), for each full-time employee of the*
5 *employer to whom the extended waiting period ap-*
6 *plies.*

7 *“(2) AMOUNT.—For purposes of paragraph (1),*
8 *the amount specified in this paragraph for a full-time*
9 *employee is—*

10 *“(A) in the case of an extended waiting pe-*
11 *riod which exceeds 30 days but does not exceed*
12 *60 days, \$400, and*

13 *“(B) in the case of an extended waiting pe-*
14 *riod which exceeds 60 days, \$600.*

15 *“(3) EXTENDED WAITING PERIOD.—The term*
16 *‘extended waiting period’ means any waiting period*
17 *(as defined in section 2701(b)(4) of the Public Health*
18 *Service Act) which exceeds 30 days.*

19 *“(c) LARGE EMPLOYERS OFFERING COVERAGE WITH*
20 *EMPLOYEES WHO QUALIFY FOR PREMIUM TAX CREDITS*
21 *OR COST-SHARING REDUCTIONS.—*

22 *“(1) IN GENERAL.—If—*

23 *“(A) an applicable large employer offers to*
24 *its full-time employees (and their dependents) the*
25 *opportunity to enroll in minimum essential cov-*

1 *erage under an eligible employer-sponsored plan*
2 *(as defined in section 5000A(f)(2)) for any*
3 *month, and*

4 *“(B) 1 or more full-time employees of the*
5 *applicable large employer has been certified to*
6 *the employer under section 1411 of the Patient*
7 *Protection and Affordable Care Act as having en-*
8 *rolled for such month in a qualified health plan*
9 *with respect to which an applicable premium tax*
10 *credit or cost-sharing reduction is allowed or*
11 *paid with respect to the employee,*

12 *then there is hereby imposed on the employer an as-*
13 *sessable payment equal to the product of the number*
14 *of full-time employees of the applicable large employer*
15 *described in subparagraph (B) for such month and*
16 *400 percent of the applicable payment amount.*

17 *“(2) OVERALL LIMITATION.—The aggregate*
18 *amount of tax determined under paragraph (1) with*
19 *respect to all employees of an applicable large em-*
20 *ployer for any month shall not exceed the product of*
21 *the applicable payment amount and the number of*
22 *individuals employed by the employer as full-time*
23 *employees during such month.*

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

1 “(1) *APPLICABLE PAYMENT AMOUNT.*—*The term*
2 *‘applicable payment amount’ means, with respect to*
3 *any month, $\frac{1}{12}$ of \$750.*

4 “(2) *APPLICABLE LARGE EMPLOYER.*—

5 “(A) *IN GENERAL.*—*The term ‘applicable*
6 *large employer’ means, with respect to a cal-*
7 *endar year, an employer who employed an aver-*
8 *age of at least 50 full-time employees on business*
9 *days during the preceding calendar year.*

10 “(B) *EXEMPTION FOR CERTAIN EMPLOY-*
11 *ERS.*—

12 “(i) *IN GENERAL.*—*An employer shall*
13 *not be considered to employ more than 50*
14 *full-time employees if—*

15 “(I) *the employer’s workforce ex-*
16 *ceeds 50 full-time employees for 120*
17 *days or fewer during the calendar*
18 *year, and*

19 “(II) *the employees in excess of 50*
20 *employed during such 120-day period*
21 *were seasonal workers.*

22 “(ii) *DEFINITION OF SEASONAL WORK-*
23 *ERS.*—*The term ‘seasonal worker’ means a*
24 *worker who performs labor or services on a*
25 *seasonal basis as defined by the Secretary of*

1 *Labor, including workers covered by section*
2 *500.20(s)(1) of title 29, Code of Federal*
3 *Regulations and retail workers employed ex-*
4 *clusively during holiday seasons.*

5 “(C) *RULES FOR DETERMINING EMPLOYER*
6 *SIZE.—For purposes of this paragraph—*

7 “(i) *APPLICATION OF AGGREGATION*
8 *RULE FOR EMPLOYERS.—All persons treated*
9 *as a single employer under subsection (b),*
10 *(c), (m), or (o) of section 414 of the Internal*
11 *Revenue Code of 1986 shall be treated as 1*
12 *employer.*

13 “(ii) *EMPLOYERS NOT IN EXISTENCE*
14 *IN PRECEDING YEAR.—In the case of an em-*
15 *ployer which was not in existence through-*
16 *out the preceding calendar year, the deter-*
17 *mination of whether such employer is an*
18 *applicable large employer shall be based on*
19 *the average number of employees that it is*
20 *reasonably expected such employer will em-*
21 *ploy on business days in the current cal-*
22 *endar year.*

23 “(iii) *PREDECESSORS.—Any reference*
24 *in this subsection to an employer shall in-*

1 *clude a reference to any predecessor of such*
2 *employer.*

3 “(3) *APPLICABLE PREMIUM TAX CREDIT AND*
4 *COST-SHARING REDUCTION.*—*The term ‘applicable*
5 *premium tax credit and cost-sharing reduction’*
6 *means—*

7 “(A) *any premium tax credit allowed under*
8 *section 36B,*

9 “(B) *any cost-sharing reduction under sec-*
10 *tion 1402 of the Patient Protection and Afford-*
11 *able Care Act, and*

12 “(C) *any advance payment of such credit or*
13 *reduction under section 1412 of such Act.*

14 “(4) *FULL-TIME EMPLOYEE.*—

15 “(A) *IN GENERAL.*—*The term ‘full-time em-*
16 *ployee’ means an employee who is employed on*
17 *average at least 30 hours of service per week.*

18 “(B) *HOURS OF SERVICE.*—*The Secretary,*
19 *in consultation with the Secretary of Labor,*
20 *shall prescribe such regulations, rules, and guid-*
21 *ance as may be necessary to determine the hours*
22 *of service of an employee, including rules for the*
23 *application of this paragraph to employees who*
24 *are not compensated on an hourly basis.*

25 “(5) *INFLATION ADJUSTMENT.*—

1 “(A) *IN GENERAL.*—*In the case of any cal-*
2 *endar year after 2014, each of the dollar*
3 *amounts in subsection (b)(2) and (d)(1) shall be*
4 *increased by an amount equal to the product*
5 *of—*

6 “(i) *such dollar amount, and*

7 “(ii) *the premium adjustment percent-*
8 *age (as defined in section 1302(c)(4) of the*
9 *Patient Protection and Affordable Care Act)*
10 *for the calendar year.*

11 “(B) *ROUNDING.*—*If the amount of any in-*
12 *crease under subparagraph (A) is not a multiple*
13 *of \$10, such increase shall be rounded to the next*
14 *lowest multiple of \$10.*

15 “(6) *OTHER DEFINITIONS.*—*Any term used in*
16 *this section which is also used in the Patient Protec-*
17 *tion and Affordable Care Act shall have the same*
18 *meaning as when used in such Act.*

19 “(7) *TAX NONDEDUCTIBLE.*—*For denial of de-*
20 *duction for the tax imposed by this section, see section*
21 *275(a)(6).*

22 “(e) *ADMINISTRATION AND PROCEDURE.*—

23 “(1) *IN GENERAL.*—*Any assessable payment pro-*
24 *vided by this section shall be paid upon notice and*
25 *demand by the Secretary, and shall be assessed and*

1 *collected in the same manner as an assessable penalty*
2 *under subchapter B of chapter 68.*

3 “(2) *TIME FOR PAYMENT.*—*The Secretary may*
4 *provide for the payment of any assessable payment*
5 *provided by this section on an annual, monthly, or*
6 *other periodic basis as the Secretary may prescribe.*

7 “(3) *COORDINATION WITH CREDITS, ETC..*—*The*
8 *Secretary shall prescribe rules, regulations, or guid-*
9 *ance for the repayment of any assessable payment*
10 *(including interest) if such payment is based on the*
11 *allowance or payment of an applicable premium tax*
12 *credit or cost-sharing reduction with respect to an*
13 *employee, such allowance or payment is subsequently*
14 *disallowed, and the assessable payment would not*
15 *have been required to be made but for such allowance*
16 *or payment.”.*

17 “(b) *CLERICAL AMENDMENT.*—*The table of sections for*
18 *chapter 43 of such Code is amended by adding at the end*
19 *the following new item:*

 “*Sec. 4980H. Shared responsibility for employers regarding health coverage.*”.

20 “(c) *STUDY AND REPORT OF EFFECT OF TAX ON WORK-*
21 *ERS’ WAGES.*—

22 “(1) *IN GENERAL.*—*The Secretary of Labor shall*
23 *conduct a study to determine whether employees’*
24 *wages are reduced by reason of the application of the*
25 *assessable payments under section 4980H of the Inter-*

1 *nal Revenue Code of 1986 (as added by the amend-*
2 *ments made by this section). The Secretary shall*
3 *make such determination on the basis of the National*
4 *Compensation Survey published by the Bureau of*
5 *Labor Statistics.*

6 (2) *REPORT.*—*The Secretary shall report the re-*
7 *sults of the study under paragraph (1) to the Com-*
8 *mittee on Ways and Means of the House of Represent-*
9 *atives and to the Committee on Finance of the Senate.*

10 (d) *EFFECTIVE DATE.*—*The amendments made by this*
11 *section shall apply to months beginning after December 31,*
12 *2013.*

13 **SEC. 1514. REPORTING OF EMPLOYER HEALTH INSURANCE**
14 **COVERAGE.**

15 (a) *IN GENERAL.*—*Subpart D of part III of subchapter*
16 *A of chapter 61 of the Internal Revenue Code of 1986, as*
17 *added by section 1502, is amended by inserting after section*
18 *6055 the following new section:*

19 **“SEC. 6056. LARGE EMPLOYERS REQUIRED TO REPORT ON**
20 **HEALTH INSURANCE COVERAGE.**

21 *“(a) IN GENERAL.—Every applicable large employer*
22 *required to meet the requirements of section 4980H with*
23 *respect to its full-time employees during a calendar year*
24 *shall, at such time as the Secretary may prescribe, make*
25 *a return described in subsection (b).*

1 “(b) *FORM AND MANNER OF RETURN.*—A return is de-
2 scribed in this subsection if such return—

3 “(1) is in such form as the Secretary may pre-
4 scribe, and

5 “(2) contains—

6 “(A) the name, date, and employer identi-
7 fication number of the employer,

8 “(B) a certification as to whether the em-
9 ployer offers to its full-time employees (and their
10 dependents) the opportunity to enroll in min-
11 imum essential coverage under an eligible em-
12 ployer-sponsored plan (as defined in section
13 5000A(f)(2)),

14 “(C) if the employer certifies that the em-
15 ployer did offer to its full-time employees (and
16 their dependents) the opportunity to so enroll—

17 “(i) the length of any waiting period
18 (as defined in section 2701(b)(4) of the Pub-
19 lic Health Service Act) with respect to such
20 coverage,

21 “(ii) the months during the calendar
22 year for which coverage under the plan was
23 available,

1 “(iii) the monthly premium for the
2 lowest cost option in each of the enrollment
3 categories under the plan, and

4 “(iv) the applicable large employer’s
5 share of the total allowed costs of benefits
6 provided under the plan,

7 “(D) the number of full-time employees for
8 each month during the calendar year,

9 “(E) the name, address, and TIN of each
10 full-time employee during the calendar year and
11 the months (if any) during which such employee
12 (and any dependents) were covered under any
13 such health benefits plans, and

14 “(F) such other information as the Sec-
15 retary may require.

16 “(c) STATEMENTS TO BE FURNISHED TO INDIVIDUALS
17 WITH RESPECT TO WHOM INFORMATION IS REPORTED.—

18 “(1) IN GENERAL.—Every person required to
19 make a return under subsection (a) shall furnish to
20 each full-time employee whose name is required to be
21 set forth in such return under subsection (b)(2)(E) a
22 written statement showing—

23 “(A) the name and address of the person re-
24 quired to make such return and the phone num-

1 *ber of the information contact for such person,*
2 *and*

3 “(B) *the information required to be shown*
4 *on the return with respect to such individual.*

5 “(2) *TIME FOR FURNISHING STATEMENTS.—The*
6 *written statement required under paragraph (1) shall*
7 *be furnished on or before January 31 of the year fol-*
8 *lowing the calendar year for which the return under*
9 *subsection (a) was required to be made.*

10 “(d) *COORDINATION WITH OTHER REQUIREMENTS.—*
11 *To the maximum extent feasible, the Secretary may provide*
12 *that—*

13 “(1) *any return or statement required to be pro-*
14 *vided under this section may be provided as part of*
15 *any return or statement required under section 6051*
16 *or 6055, and*

17 “(2) *in the case of an applicable large employer*
18 *offering health insurance coverage of a health insur-*
19 *ance issuer, the employer may enter into an agree-*
20 *ment with the issuer to include information required*
21 *under this section with the return and statement re-*
22 *quired to be provided by the issuer under section*
23 *6055.*

24 “(e) *COVERAGE PROVIDED BY GOVERNMENTAL*
25 *UNITS.—In the case of any applicable large employer which*

1 *is a governmental unit or any agency or instrumentality*
2 *thereof, the person appropriately designated for purposes of*
3 *this section shall make the returns and statements required*
4 *by this section.*

5 “(f) *DEFINITIONS.—For purposes of this section, any*
6 *term used in this section which is also used in section*
7 *4980H shall have the meaning given such term by section*
8 *4980H.*”.

9 (b) *ASSESSABLE PENALTIES.—*

10 (1) *Subparagraph (B) of section 6724(d)(1) of*
11 *the Internal Revenue Code of 1986 (relating to defini-*
12 *tions), as amended by section 1502, is amended by*
13 *striking “or” at the end of clause (xxiii), by striking*
14 *“and” at the end of clause (xxiv) and inserting “or”,*
15 *and by inserting after clause (xxiv) the following new*
16 *clause:*

17 “(xxv) *section 6056 (relating to returns*
18 *relating to large employers required to re-*
19 *port on health insurance coverage), and”.*

20 (2) *Paragraph (2) of section 6724(d) of such*
21 *Code, as so amended, is amended by striking “or” at*
22 *the end of subparagraph (FF), by striking the period*
23 *at the end of subparagraph (GG) and inserting “, or”*
24 *and by inserting after subparagraph (GG) the fol-*
25 *lowing new subparagraph:*

1 “(HH) section 6056(c) (relating to state-
2 ments relating to large employers required to re-
3 port on health insurance coverage).”.

4 (c) *CONFORMING AMENDMENT.*—The table of sections
5 for subpart D of part III of subchapter A of chapter 61
6 of such Code, as added by section 1502, is amended by add-
7 ing at the end the following new item:

 “Sec. 6056. Large employers required to report on health insurance coverage.”.

8 (d) *EFFECTIVE DATE.*—The amendments made by this
9 section shall apply to periods beginning after December 31,
10 2013.

11 **SEC. 1515. OFFERING OF EXCHANGE-PARTICIPATING QUALI-**
12 **FIED HEALTH PLANS THROUGH CAFETERIA**
13 **PLANS.**

14 (a) *IN GENERAL.*—Subsection (f) of section 125 of the
15 Internal Revenue Code of 1986 is amended by adding at
16 the end the following new paragraph:

17 “(3) *CERTAIN EXCHANGE-PARTICIPATING QUALI-*
18 *FIED HEALTH PLANS NOT QUALIFIED.*—

19 “(A) *IN GENERAL.*—The term ‘qualified
20 benefit’ shall not include any qualified health
21 plan (as defined in section 1301(a) of the Pa-
22 tient Protection and Affordable Care Act) offered
23 through an Exchange established under section
24 1311 of such Act.

1 “(B) *EXCEPTION FOR EXCHANGE-ELIGIBLE*
 2 *EMPLOYERS.*—Subparagraph (A) shall not apply
 3 with respect to any employee if such employee’s
 4 employer is a qualified employer (as defined in
 5 section 1312(f)(2) of the Patient Protection and
 6 Affordable Care Act) offering the employee the
 7 opportunity to enroll through such an Exchange
 8 in a qualified health plan in a group market.”.

9 (b) *CONFORMING AMENDMENTS.*—Subsection (f) of sec-
 10 tion 125 of such Code is amended—

11 (1) by striking “For purposes of this section, the
 12 term” and inserting “For purposes of this section—
 13 “(1) *IN GENERAL.*—The term”, and

14 (2) by striking “Such term shall not include”
 15 and inserting the following:

16 “(2) *LONG-TERM CARE INSURANCE NOT QUALI-*
 17 *FIED.*—The term ‘qualified benefit’ shall not include”.

18 (c) *EFFECTIVE DATE.*—The amendments made by this
 19 section shall apply to taxable years beginning after Decem-
 20 ber 31, 2013.

21 **Subtitle G—Miscellaneous** 22 **Provisions**

23 **SEC. 1551. DEFINITIONS.**

24 Unless specifically provided for otherwise, the defini-
 25 tions contained in section 2791 of the Public Health Service

1 *Act (42 U.S.C. 300gg–91) shall apply with respect to this*
2 *title.*

3 **SEC. 1552. TRANSPARENCY IN GOVERNMENT.**

4 *Not later than 30 days after the date of enactment of*
5 *this Act, the Secretary of Health and Human Services shall*
6 *publish on the Internet website of the Department of Health*
7 *and Human Services, a list of all of the authorities pro-*
8 *vided to the Secretary under this Act (and the amendments*
9 *made by this Act).*

10 **SEC. 1553. PROHIBITION AGAINST DISCRIMINATION ON AS-**
11 **SISTED SUICIDE.**

12 *(a) IN GENERAL.—The Federal Government, and any*
13 *State or local government or health care provider that re-*
14 *ceives Federal financial assistance under this Act (or under*
15 *an amendment made by this Act) or any health plan cre-*
16 *ated under this Act (or under an amendment made by this*
17 *Act), may not subject an individual or institutional health*
18 *care entity to discrimination on the basis that the entity*
19 *does not provide any health care item or service furnished*
20 *for the purpose of causing, or for the purpose of assisting*
21 *in causing, the death of any individual, such as by assisted*
22 *suicide, euthanasia, or mercy killing.*

23 *(b) DEFINITION.—In this section, the term “health care*
24 *entity” includes an individual physician or other health*
25 *care professional, a hospital, a provider-sponsored organi-*

1 zation, a health maintenance organization, a health insur-
2 ance plan, or any other kind of health care facility, organi-
3 zation, or plan.

4 (c) *CONSTRUCTION AND TREATMENT OF CERTAIN*
5 *SERVICES.*—Nothing in subsection (a) shall be construed to
6 apply to, or to affect, any limitation relating to—

7 (1) the withholding or withdrawing of medical
8 treatment or medical care;

9 (2) the withholding or withdrawing of nutrition
10 or hydration;

11 (3) abortion; or

12 (4) the use of an item, good, benefit, or service
13 furnished for the purpose of alleviating pain or dis-
14 comfort, even if such use may increase the risk of
15 death, so long as such item, good, benefit, or service
16 is not also furnished for the purpose of causing, or the
17 purpose of assisting in causing, death, for any reason.

18 (d) *ADMINISTRATION.*—The Office for Civil Rights of
19 the Department of Health and Human Services is des-
20 ignated to receive complaints of discrimination based on
21 this section.

22 **SEC. 1554. ACCESS TO THERAPIES.**

23 Notwithstanding any other provision of this Act, the
24 Secretary of Health and Human Services shall not promul-
25 gate any regulation that—

1 (1) *creates any unreasonable barriers to the abil-*
2 *ity of individuals to obtain appropriate medical care;*

3 (2) *impedes timely access to health care services;*

4 (3) *interferes with communications regarding a*
5 *full range of treatment options between the patient*
6 *and the provider;*

7 (4) *restricts the ability of health care providers*
8 *to provide full disclosure of all relevant information*
9 *to patients making health care decisions;*

10 (5) *violates the principles of informed consent*
11 *and the ethical standards of health care professionals;*

12 *or*

13 (6) *limits the availability of health care treat-*
14 *ment for the full duration of a patient's medical*
15 *needs.*

16 **SEC. 1555. FREEDOM NOT TO PARTICIPATE IN FEDERAL**
17 **HEALTH INSURANCE PROGRAMS.**

18 *No individual, company, business, nonprofit entity, or*
19 *health insurance issuer offering group or individual health*
20 *insurance coverage shall be required to participate in any*
21 *Federal health insurance program created under this Act*
22 *(or any amendments made by this Act), or in any Federal*
23 *health insurance program expanded by this Act (or any*
24 *such amendments), and there shall be no penalty or fine*

1 *imposed upon any such issuer for choosing not to partici-*
2 *pate in such programs.*

3 **SEC. 1556. EQUITY FOR CERTAIN ELIGIBLE SURVIVORS.**

4 (a) *REBUTTABLE PRESUMPTION.*—Section 411(c)(4)
5 *of the Black Lung Benefits Act (30 U.S.C. 921(c)(4)) is*
6 *amended by striking the last sentence.*

7 (b) *CONTINUATION OF BENEFITS.*—Section 422(l) of
8 *the Black Lung Benefits Act (30 U.S.C. 932(l)) is amended*
9 *by striking “, except with respect to a claim filed under*
10 *this part on or after the effective date of the Black Lung*
11 *Benefits Amendments of 1981”.*

12 (c) *EFFECTIVE DATE.*—The amendments made by this
13 *section shall apply with respect to claims filed under part*
14 *B or part C of the Black Lung Benefits Act (30 U.S.C.*
15 *921 et seq., 931 et seq.) after January 1, 2005, that are*
16 *pending on or after the date of enactment of this Act.*

17 **SEC. 1557. NONDISCRIMINATION.**

18 (a) *IN GENERAL.*—Except as otherwise provided for
19 *in this title (or an amendment made by this title), an indi-*
20 *vidual shall not, on the ground prohibited under title VI*
21 *of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.),*
22 *title IX of the Education Amendments of 1972 (20 U.S.C.*
23 *1681 et seq.), the Age Discrimination Act of 1975 (42*
24 *U.S.C. 6101 et seq.), or section 504 of the Rehabilitation*
25 *Act of 1973 (29 U.S.C. 794), be excluded from participation*

1 *in, be denied the benefits of, or be subjected to discrimina-*
2 *tion under, any health program or activity, any part of*
3 *which is receiving Federal financial assistance, including*
4 *credits, subsidies, or contracts of insurance, or under any*
5 *program or activity that is administered by an Executive*
6 *Agency or any entity established under this title (or amend-*
7 *ments). The enforcement mechanisms provided for and*
8 *available under such title VI, title IX, section 504, or such*
9 *Age Discrimination Act shall apply for purposes of viola-*
10 *tions of this subsection.*

11 **(b) CONTINUED APPLICATION OF LAWS.**—*Nothing in*
12 *this title (or an amendment made by this title) shall be*
13 *construed to invalidate or limit the rights, remedies, proce-*
14 *dures, or legal standards available to individuals aggrieved*
15 *under title VI of the Civil Rights Act of 1964 (42 U.S.C.*
16 *2000d et seq.), title VII of the Civil Rights Act of 1964 (42*
17 *U.S.C. 2000e et seq.), title IX of the Education Amendments*
18 *of 1972 (20 U.S.C. 1681 et seq.), section 504 of the Rehabili-*
19 *tation Act of 1973 (29 U.S.C. 794), or the Age Discrimina-*
20 *tion Act of 1975 (42 U.S.C. 611 et seq.), or to supersede*
21 *State laws that provide additional protections against dis-*
22 *crimination on any basis described in subsection (a).*

23 **(c) REGULATIONS.**—*The Secretary may promulgate*
24 *regulations to implement this section.*

1 **SEC. 1558. PROTECTIONS FOR EMPLOYEES.**

2 *The Fair Labor Standards Act of 1938 is amended by*
3 *inserting after section 18B (as added by section 1512) the*
4 *following:*

5 **“SEC. 18C. PROTECTIONS FOR EMPLOYEES.**

6 *“(a) PROHIBITION.—No employer shall discharge or in*
7 *any manner discriminate against any employee with re-*
8 *spect to his or her compensation, terms, conditions, or other*
9 *privileges of employment because the employee (or an indi-*
10 *vidual acting at the request of the employee) has—*

11 *“(1) received a credit under section 36B of the*
12 *Internal Revenue Code of 1986 or a subsidy under*
13 *section 1402 of this Act;*

14 *“(2) provided, caused to be provided, or is about*
15 *to provide or cause to be provided to the employer, the*
16 *Federal Government, or the attorney general of a*
17 *State information relating to any violation of, or any*
18 *act or omission the employee reasonably believes to be*
19 *a violation of, any provision of this title (or an*
20 *amendment made by this title);*

21 *“(3) testified or is about to testify in a pro-*
22 *ceeding concerning such violation;*

23 *“(4) assisted or participated, or is about to assist*
24 *or participate, in such a proceeding; or*

25 *“(5) objected to, or refused to participate in, any*
26 *activity, policy, practice, or assigned task that the*

1 *employee (or other such person) reasonably believed to*
2 *be in violation of any provision of this title (or*
3 *amendment), or any order, rule, regulation, standard,*
4 *or ban under this title (or amendment).*

5 “(b) *COMPLAINT PROCEDURE.*—

6 “(1) *IN GENERAL.*—*An employee who believes*
7 *that he or she has been discharged or otherwise dis-*
8 *criminated against by any employer in violation of*
9 *this section may seek relief in accordance with the*
10 *procedures, notifications, burdens of proof, remedies,*
11 *and statutes of limitation set forth in section 2087(b)*
12 *of title 15, United States Code.*

13 “(2) *NO LIMITATION ON RIGHTS.*—*Nothing in*
14 *this section shall be deemed to diminish the rights,*
15 *privileges, or remedies of any employee under any*
16 *Federal or State law or under any collective bar-*
17 *gaining agreement. The rights and remedies in this*
18 *section may not be waived by any agreement, policy,*
19 *form, or condition of employment.”.*

20 **SEC. 1559. OVERSIGHT.**

21 *The Inspector General of the Department of Health*
22 *and Human Services shall have oversight authority with*
23 *respect to the administration and implementation of this*
24 *title as it relates to such Department.*

1 **SEC. 1560. RULES OF CONSTRUCTION.**

2 (a) *NO EFFECT ON ANTITRUST LAWS.*—Nothing in
3 this title (or an amendment made by this title) shall be
4 construed to modify, impair, or supersede the operation of
5 any of the antitrust laws. For the purposes of this section,
6 the term “antitrust laws” has the meaning given such term
7 in subsection (a) of the first section of the Clayton Act, ex-
8 cept that such term includes section 5 of the Federal Trade
9 Commission Act to the extent that such section 5 applies
10 to unfair methods of competition.

11 (b) *RULE OF CONSTRUCTION REGARDING HAWAII’S*
12 *PREPAID HEALTH CARE ACT.*—Nothing in this title (or an
13 amendment made by this title) shall be construed to modify
14 or limit the application of the exemption for Hawaii’s Pre-
15 paid Health Care Act (Haw. Rev. Stat. §§ 393–1 et seq.)
16 as provided for under section 514(b)(5) of the Employee Re-
17 tirement Income Security Act of 1974 (29 U.S.C.
18 1144(b)(5)).

19 (c) *STUDENT HEALTH INSURANCE PLANS.*—Nothing
20 in this title (or an amendment made by this title) shall
21 be construed to prohibit an institution of higher education
22 (as such term is defined for purposes of the Higher Edu-
23 cation Act of 1965) from offering a student health insurance
24 plan, to the extent that such requirement is otherwise per-
25 mitted under applicable Federal, State or local law.

1 (d) *NO EFFECT ON EXISTING REQUIREMENTS.*—*Nothing*
 2 *in this title (or an amendment made by this title, unless*
 3 *specified by direct statutory reference) shall be construed*
 4 *to modify any existing Federal requirement concerning the*
 5 *State agency responsible for determining eligibility for pro-*
 6 *grams identified in section 1413.*

7 **SEC. 1561. HEALTH INFORMATION TECHNOLOGY ENROLL-**
 8 **MENT STANDARDS AND PROTOCOLS.**

9 *Title XXX of the Public Health Service Act (42 U.S.C.*
 10 *300jj et seq.) is amended by adding at the end the following:*

11 **“Subtitle C—Other Provisions**

12 **“SEC. 3021. HEALTH INFORMATION TECHNOLOGY ENROLL-**
 13 **MENT STANDARDS AND PROTOCOLS.**

14 “(a) *IN GENERAL.*—

15 “(1) *STANDARDS AND PROTOCOLS.*—*Not later*
 16 *than 180 days after the date of enactment of this title,*
 17 *the Secretary, in consultation with the HIT Policy*
 18 *Committee and the HIT Standards Committee, shall*
 19 *develop interoperable and secure standards and proto-*
 20 *cols that facilitate enrollment of individuals in Fed-*
 21 *eral and State health and human services programs,*
 22 *as determined by the Secretary.*

23 “(2) *METHODS.*—*The Secretary shall facilitate*
 24 *enrollment in such programs through methods deter-*
 25 *mined appropriate by the Secretary, which shall in-*

1 *clude providing individuals and third parties author-*
2 *ized by such individuals and their designees notifica-*
3 *tion of eligibility and verification of eligibility re-*
4 *quired under such programs.*

5 *“(b) CONTENT.—The standards and protocols for elec-*
6 *tronic enrollment in the Federal and State programs de-*
7 *scribed in subsection (a) shall allow for the following:*

8 *“(1) Electronic matching against existing Fed-*
9 *eral and State data, including vital records, employ-*
10 *ment history, enrollment systems, tax records, and*
11 *other data determined appropriate by the Secretary to*
12 *serve as evidence of eligibility and in lieu of paper-*
13 *based documentation.*

14 *“(2) Simplification and submission of electronic*
15 *documentation, digitization of documents, and sys-*
16 *tems verification of eligibility.*

17 *“(3) Reuse of stored eligibility information (in-*
18 *cluding documentation) to assist with retention of eli-*
19 *gible individuals.*

20 *“(4) Capability for individuals to apply, recer-*
21 *tify and manage their eligibility information online,*
22 *including at home, at points of service, and other*
23 *community-based locations.*

24 *“(5) Ability to expand the enrollment system to*
25 *integrate new programs, rules, and functionalities, to*

1 *operate at increased volume, and to apply stream-*
2 *lined verification and eligibility processes to other*
3 *Federal and State programs, as appropriate.*

4 “(6) *Notification of eligibility, recertification,*
5 *and other needed communication regarding eligi-*
6 *bility, which may include communication via email*
7 *and cellular phones.*

8 “(7) *Other functionalities necessary to provide*
9 *eligibles with streamlined enrollment process.*

10 “(c) *APPROVAL AND NOTIFICATION.—With respect to*
11 *any standard or protocol developed under subsection (a)*
12 *that has been approved by the HIT Policy Committee and*
13 *the HIT Standards Committee, the Secretary—*

14 “(1) *shall notify States of such standards or pro-*
15 *ocols; and*

16 “(2) *may require, as a condition of receiving*
17 *Federal funds for the health information technology*
18 *investments, that States or other entities incorporate*
19 *such standards and protocols into such investments.*

20 “(d) *GRANTS FOR IMPLEMENTATION OF APPROPRIATE*
21 *ENROLLMENT HIT.—*

22 “(1) *IN GENERAL.—The Secretary shall award*
23 *grant to eligible entities to develop new, and adapt*
24 *existing, technology systems to implement the HIT en-*
25 *rollment standards and protocols developed under*

1 *subsection (a) (referred to in this subsection as ‘ap-*
2 *propriate HIT technology’).*

3 *“(2) ELIGIBLE ENTITIES.—To be eligible for a*
4 *grant under this subsection, an entity shall—*

5 *“(A) be a State, political subdivision of a*
6 *State, or a local governmental entity; and*

7 *“(B) submit to the Secretary an application*
8 *at such time, in such manner, and containing—*

9 *“(i) a plan to adopt and implement*
10 *appropriate enrollment technology that in-*
11 *cludes—*

12 *“(I) proposed reduction in main-*
13 *tenance costs of technology systems;*

14 *“(II) elimination or updating of*
15 *legacy systems; and*

16 *“(III) demonstrated collaboration*
17 *with other entities that may receive a*
18 *grant under this section that are lo-*
19 *cated in the same State, political sub-*
20 *division, or locality;*

21 *“(ii) an assurance that the entity will*
22 *share such appropriate enrollment tech-*
23 *nology in accordance with paragraph (4);*
24 *and*

1 “(iii) such other information as the
2 Secretary may require.

3 “(3) *SHARING*.—

4 “(A) *IN GENERAL*.—The Secretary shall en-
5 sure that appropriate enrollment HIT adopted
6 under grants under this subsection is made
7 available to other qualified State, qualified polit-
8 ical subdivisions of a State, or other appropriate
9 qualified entities (as described in subparagraph
10 (B)) at no cost.

11 “(B) *QUALIFIED ENTITIES*.—The Secretary
12 shall determine what entities are qualified to re-
13 ceive enrollment HIT under subparagraph (A),
14 taking into consideration the recommendations
15 of the HIT Policy Committee and the HIT
16 Standards Committee.”.

17 **SEC. 1562. CONFORMING AMENDMENTS.**

18 (a) *APPLICABILITY*.—Section 2735 of the Public
19 Health Service Act (42 U.S.C. 300gg–21), as so redesi-
20 gnated by section 1001(4), is amended—

21 (1) by striking subsection (a);

22 (2) in subsection (b)—

23 (A) in paragraph (1), by striking “1
24 through 3” and inserting “1 and 2”; and

25 (B) in paragraph (2)—

1 (i) in subparagraph (A), by striking
2 “subparagraph (D)” and inserting “sub-
3 paragraph (D) or (E)”;

4 (ii) by striking “1 through 3” and in-
5 serting “1 and 2”; and

6 (iii) by adding at the end the fol-
7 lowing:

8 “(E) *ELECTION NOT APPLICABLE.*—The
9 election described in subparagraph (A) shall not
10 be available with respect to the provisions of sub-
11 part 1.”;

12 (3) in subsection (c), by striking “1 through 3
13 shall not apply to any group” and inserting “1 and
14 2 shall not apply to any individual coverage or any
15 group”; and

16 (4) in subsection (d)—

17 (A) in paragraph (1), by striking “1
18 through 3 shall not apply to any group” and in-
19 serting “1 and 2 shall not apply to any indi-
20 vidual coverage or any group”;

21 (B) in paragraph (2)—

22 (i) in the matter preceding subpara-
23 graph (A), by striking “1 through 3 shall
24 not apply to any group” and inserting “1

1 and 2 shall not apply to any individual
2 coverage or any group”; and

3 (ii) in subparagraph (C), by inserting
4 “or, with respect to individual coverage,
5 under any health insurance coverage main-
6 tained by the same health insurance issuer”;
7 and

8 (C) in paragraph (3), by striking “any
9 group” and inserting “any individual coverage
10 or any group”.

11 (b) *DEFINITIONS.*—Section 2791(d) of the Public
12 *Health Service Act (42 U.S.C. 300gg–91(d)) is amended by*
13 *adding at the end the following:*

14 “(20) *QUALIFIED HEALTH PLAN.*—The term
15 ‘qualified health plan’ has the meaning given such
16 term in section 1301(a) of the Patient Protection and
17 Affordable Care Act.

18 “(21) *EXCHANGE.*—The term ‘Exchange’ means
19 an American Health Benefit Exchange established
20 under section 1311 of the Patient Protection and Af-
21 fordable Care Act.”.

22 (c) *TECHNICAL AND CONFORMING AMENDMENTS.*—
23 *Title XXVII of the Public Health Service Act (42 U.S.C.*
24 *300gg et seq.) is amended—*

1 (1) *in section 2704 (42 U.S.C. 300gg), as so re-*
2 *designated by section 1201(2)—*

3 (A) *in subsection (c)—*

4 (i) *in paragraph (2), by striking*
5 *“group health plan” each place that such*
6 *term appears and inserting “group or indi-*
7 *vidual health plan”; and*

8 (ii) *in paragraph (3)—*

9 (I) *by striking “group health in-*
10 *surance” each place that such term ap-*
11 *pears and inserting “group or indi-*
12 *vidual health insurance”; and*

13 (II) *in subparagraph (D), by*
14 *striking “small or large” and inserting*
15 *“individual or group”;*

16 (B) *in subsection (d), by striking “group*
17 *health insurance” each place that such term ap-*
18 *pears and inserting “group or individual health*
19 *insurance”; and*

20 (C) *in subsection (e)(1)(A), by striking*
21 *“group health insurance” and inserting “group*
22 *or individual health insurance”;*

23 (2) *by striking the second heading for subpart 2*
24 *of part A (relating to other requirements);*

1 (3) in section 2725 (42 U.S.C. 300gg-4), as so
2 redesignated by section 1001(2)—

3 (A) in subsection (a), by striking “health
4 insurance issuer offering group health insurance
5 coverage” and inserting “health insurance issuer
6 offering group or individual health insurance
7 coverage”;

8 (B) in subsection (b)—

9 (i) by striking “health insurance issuer
10 offering group health insurance coverage in
11 connection with a group health plan” in the
12 matter preceding paragraph (1) and insert-
13 ing “health insurance issuer offering group
14 or individual health insurance coverage”;
15 and

16 (ii) in paragraph (1), by striking
17 “plan” and inserting “plan or coverage”;

18 (C) in subsection (c)—

19 (i) in paragraph (2), by striking
20 “group health insurance coverage offered by
21 a health insurance issuer” and inserting
22 “health insurance issuer offering group or
23 individual health insurance coverage”; and

1 (ii) in paragraph (3), by striking
2 “issuer” and inserting “health insurance
3 issuer”; and

4 (D) in subsection (e), by striking “health
5 insurance issuer offering group health insurance
6 coverage” and inserting “health insurance issuer
7 offering group or individual health insurance
8 coverage”;

9 (4) in section 2726 (42 U.S.C. 300gg-5), as so
10 redesignated by section 1001(2)—

11 (A) in subsection (a), by striking “(or
12 health insurance coverage offered in connection
13 with such a plan)” each place that such term ap-
14 pears and inserting “or a health insurance
15 issuer offering group or individual health insur-
16 ance coverage”;

17 (B) in subsection (b), by striking “(or
18 health insurance coverage offered in connection
19 with such a plan)” each place that such term ap-
20 pears and inserting “or a health insurance
21 issuer offering group or individual health insur-
22 ance coverage”; and

23 (C) in subsection (c)—

24 (i) in paragraph (1), by striking “(and
25 group health insurance coverage offered in

1 *connection with a group health plan)*” and
2 *inserting “and a health insurance issuer of-*
3 *fering group or individual health insurance*
4 *coverage”;*

5 *(ii) in paragraph (2), by striking “(or*
6 *health insurance coverage offered in connec-*
7 *tion with such a plan)” each place that*
8 *such term appears and inserting “or a*
9 *health insurance issuer offering group or in-*
10 *dividual health insurance coverage”;*

11 *(5) in section 2727 (42 U.S.C. 300gg–6), as so*
12 *redesignated by section 1001(2), by striking “health*
13 *insurance issuers providing health insurance coverage*
14 *in connection with group health plans” and inserting*
15 *“and health insurance issuers offering group or indi-*
16 *vidual health insurance coverage”;*

17 *(6) in section 2728 (42 U.S.C. 300gg–7), as so*
18 *redesignated by section 1001(2)—*

19 *(A) in subsection (a), by striking “health*
20 *insurance coverage offered in connection with*
21 *such plan” and inserting “individual health in-*
22 *surance coverage”;*

23 *(B) in subsection (b)—*

24 *(i) in paragraph (1), by striking “or a*
25 *health insurance issuer that provides health*

1 *insurance coverage in connection with a*
2 *group health plan” and inserting “or a*
3 *health insurance issuer that offers group or*
4 *individual health insurance coverage”;*

5 *(ii) in paragraph (2), by striking*
6 *“health insurance coverage offered in con-*
7 *nection with the plan” and inserting “indi-*
8 *vidual health insurance coverage”; and*

9 *(iii) in paragraph (3), by striking*
10 *“health insurance coverage offered by an*
11 *issuer in connection with such plan” and*
12 *inserting “individual health insurance cov-*
13 *erage”;*

14 *(C) in subsection (c), by striking “health in-*
15 *surance issuer providing health insurance cov-*
16 *erage in connection with a group health plan”*
17 *and inserting “health insurance issuer that offers*
18 *group or individual health insurance coverage”;*
19 *and*

20 *(D) in subsection (e)(1), by striking “health*
21 *insurance coverage offered in connection with*
22 *such a plan” and inserting “individual health*
23 *insurance coverage”;*

24 *(7) by striking the heading for subpart 3;*

1 (8) *in section 2731 (42 U.S.C. 300gg–11), as so*
2 *redesignated by section 1001(3)—*

3 (A) *by striking the section heading and all*
4 *that follows through subsection (b);*

5 (B) *in subsection (c)—*

6 (i) *in paragraph (1)—*

7 (I) *in the matter preceding sub-*
8 *paragraph (A), by striking “small*
9 *group” and inserting “group and indi-*
10 *vidual”; and*

11 (II) *in subparagraph (B)—*

12 (aa) *in the matter preceding*
13 *clause (i), by inserting “and indi-*
14 *viduals” after “employers”;*

15 (bb) *in clause (i), by insert-*
16 *ing “or any additional individ-*
17 *uals” after “additional groups”;*
18 *and*

19 (cc) *in clause (ii), by strik-*
20 *ing “without regard to the claims*
21 *experience of those employers and*
22 *their employees (and their de-*
23 *pendents) or any health status-re-*
24 *lated factor relating to such” and*
25 *inserting “and individuals with-*

1 *out regard to the claims experi-*
2 *ence of those individuals, employ-*
3 *ers and their employees (and their*
4 *dependents) or any health status-*
5 *related factor relating to such in-*
6 *dividuals”;* and

7 *(ii) in paragraph (2), by striking*
8 *“small group” and inserting “group or in-*
9 *dividual”;*

10 *(C) in subsection (d)—*

11 *(i) by striking “small group” each*
12 *place that such appears and inserting*
13 *“group or individual”;* and

14 *(ii) in paragraph (1)(B)—*

15 *(I) by striking “all employers”*
16 *and inserting “all employers and indi-*
17 *viduals”;*

18 *(II) by striking “those employers”*
19 *and inserting “those individuals, em-*
20 *ployers”;* and

21 *(III) by striking “such employees”*
22 *and inserting “such individuals, em-*
23 *ployees”;*

24 *(D) by striking subsection (e);*

25 *(E) by striking subsection (f); and*

1 (F) by transferring such section (as amend-
2 ed by this paragraph) to appear at the end of
3 section 2702 (as added by section 1001(4));

4 (9) in section 2732 (42 U.S.C. 300gg–12), as so
5 redesignated by section 1001(3)—

6 (A) by striking the section heading and all
7 that follows through subsection (a);

8 (B) in subsection (b)—

9 (i) in the matter preceding paragraph
10 (1), by striking “group health plan in the
11 small or large group market” and inserting
12 “health insurance coverage offered in the
13 group or individual market”;

14 (ii) in paragraph (1), by inserting “,
15 or individual, as applicable,” after “plan
16 sponsor”;

17 (iii) in paragraph (2), by inserting “,
18 or individual, as applicable,” after “plan
19 sponsor”; and

20 (iv) by striking paragraph (3) and in-
21 serting the following:

22 “(3) VIOLATION OF PARTICIPATION OR CON-
23 TRIBUTION RATES.—In the case of a group health
24 plan, the plan sponsor has failed to comply with a
25 material plan provision relating to employer con-

1 *tribution or group participation rules, pursuant to*
2 *applicable State law.”;*

3 *(C) in subsection (c)—*

4 *(i) in paragraph (1)—*

5 *(I) in the matter preceding sub-*
6 *paragraph (A), by striking “group*
7 *health insurance coverage offered in the*
8 *small or large group market” and in-*
9 *serting “group or individual health in-*
10 *surance coverage”;*

11 *(II) in subparagraph (A), by in-*
12 *serting “or individual, as applicable,”*
13 *after “plan sponsor”;*

14 *(III) in subparagraph (B)—*

15 *(aa) by inserting “or indi-*
16 *vidual, as applicable,” after “plan*
17 *sponsor”; and*

18 *(bb) by inserting “or indi-*
19 *vidual health insurance coverage”;*
20 *and*

21 *(IV) in subparagraph (C), by in-*
22 *serting “or individuals, as applicable,”*
23 *after “those sponsors”; and*

24 *(ii) in paragraph (2)(A)—*

1 (I) in the matter preceding clause
2 (i), by striking “small group market or
3 the large group market, or both mar-
4 kets,” and inserting “individual or
5 group market, or all markets,”; and

6 (II) in clause (i), by inserting “or
7 individual, as applicable,” after “plan
8 sponsor”; and

9 (D) by transferring such section (as amend-
10 ed by this paragraph) to appear at the end of
11 section 2703 (as added by section 1001(4));

12 (10) in section 2733 (42 U.S.C. 300gg-13), as so
13 redesignated by section 1001(4)—

14 (A) in subsection (a)—

15 (i) in the matter preceding paragraph
16 (1), by striking “small employer” and in-
17 serting “small employer or an individual”;

18 (ii) in paragraph (1), by inserting “,
19 or individual, as applicable,” after “em-
20 ployer” each place that such appears; and

21 (iii) in paragraph (2), by striking
22 “small employer” and inserting “employer,
23 or individual, as applicable,”;

24 (B) in subsection (b)—

25 (i) in paragraph (1)—

1 (I) in the matter preceding sub-
2 paragraph (A), by striking “small em-
3 ployer” and inserting “employer, or
4 individual, as applicable,”;

5 (II) in subparagraph (A), by add-
6 ing “and” at the end;

7 (III) by striking subparagraphs
8 (B) and (C); and

9 (IV) in subparagraph (D)—

10 (aa) by inserting “, or indi-
11 vidual, as applicable,” after “em-
12 ployer”; and

13 (bb) by redesignating such
14 subparagraph as subparagraph
15 (B);

16 (ii) in paragraph (2)—

17 (I) by striking “small employers”
18 each place that such term appears and
19 inserting “employers, or individuals,
20 as applicable,”; and

21 (II) by striking “small employer”
22 and inserting “employer, or indi-
23 vidual, as applicable,”; and

24 (C) by redesignating such section (as
25 amended by this paragraph) as section 2709 and

1 *transferring such section to appear after section*
2 *2708 (as added by section 1001(5));*
3 *(11) by redesignating subpart 4 as subpart 2;*
4 *(12) in section 2735 (42 U.S.C. 300gg–21), as so*
5 *redesignated by section 1001(4)—*

6 *(A) by striking subsection (a);*

7 *(B) by striking “subparts 1 through 3” each*
8 *place that such appears and inserting “subpart*
9 *1”;*

10 *(C) by redesignating subsections (b) through*
11 *(e) as subsections (a) through (d), respectively;*
12 *and*

13 *(D) by redesignating such section (as*
14 *amended by this paragraph) as section 2722;*

15 *(13) in section 2736 (42 U.S.C. 300gg–22), as so*
16 *redesignated by section 1001(4)—*

17 *(A) in subsection (a)—*

18 *(i) in paragraph (1), by striking*
19 *“small or large group markets” and insert-*
20 *ing “individual or group market”; and*

21 *(ii) in paragraph (2), by inserting “or*
22 *individual health insurance coverage” after*
23 *“group health plans”;*

1 (B) in subsection (b)(1)(B), by inserting
2 “individual health insurance coverage or” after
3 “respect to”; and

4 (C) by redesignating such section (as
5 amended by this paragraph) as section 2723;

6 (14) in section 2737(a)(1) (42 U.S.C. 300gg-23),
7 as so redesignated by section 1001(4)—

8 (A) by inserting “individual or” before
9 “group health insurance”; and

10 (B) by redesignating such section (as amend-
11 ed by this paragraph) as section 2724;

12 (15) in section 2762 (42 U.S.C. 300gg-62)—

13 (A) in the section heading by inserting
14 “**AND APPLICATION**” before the period; and

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

16 “(c) *APPLICATION OF PART A PROVISIONS.*—

17 “(1) *IN GENERAL.*—The provisions of part A
18 shall apply to health insurance issuers providing
19 health insurance coverage in the individual market in
20 a State as provided for in such part.

21 “(2) *CLARIFICATION.*—To the extent that any
22 provision of this part conflicts with a provision of
23 part A with respect to health insurance issuers pro-
24 viding health insurance coverage in the individual

1 *market in a State, the provisions of such part A shall*
2 *apply.”; and*

3 (16) *in section 2791(e) (42 U.S.C. 300gg–*
4 *91(e))—*

5 (A) *in paragraph (2), by striking “51” and*
6 *inserting “101”; and*

7 (B) *in paragraph (4)—*

8 (i) *by striking “at least 2” each place*
9 *that such appears and inserting “at least*
10 *1”; and*

11 (ii) *by striking “50” and inserting*
12 *“100”.*

13 (d) *APPLICATION.—Notwithstanding any other provi-*
14 *sion of the Patient Protection and Affordable Care Act,*
15 *nothing in such Act (or an amendment made by such Act)*
16 *shall be construed to—*

17 (1) *prohibit (or authorize the Secretary of*
18 *Health and Human Services to promulgate regula-*
19 *tions that prohibit) a group health plan or health in-*
20 *surance issuer from carrying out utilization manage-*
21 *ment techniques that are commonly used as of the*
22 *date of enactment of this Act; or*

23 (2) *restrict the application of the amendments*
24 *made by this subtitle.*

1 (e) *TECHNICAL AMENDMENT TO THE EMPLOYEE RE-*
2 *TIREMENT INCOME SECURITY ACT OF 1974.*—Subpart B of
3 *part 7 of subtitle A of title I of the Employee Retirement*
4 *Income Security Act of 1974 (29 U.S.C. 1181 et. seq.) is*
5 *amended, by adding at the end the following:*

6 **“SEC. 715. ADDITIONAL MARKET REFORMS.**

7 “(a) *GENERAL RULE.*—Except as provided in sub-
8 *section (b)*—

9 “(1) *the provisions of part A of title XXVII of*
10 *the Public Health Service Act (as amended by the Pa-*
11 *tient Protection and Affordable Care Act) shall apply*
12 *to group health plans, and health insurance issuers*
13 *providing health insurance coverage in connection*
14 *with group health plans, as if included in this sub-*
15 *part; and*

16 “(2) *to the extent that any provision of this part*
17 *conflicts with a provision of such part A with respect*
18 *to group health plans, or health insurance issuers pro-*
19 *viding health insurance coverage in connection with*
20 *group health plans, the provisions of such part A*
21 *shall apply.*

22 “(b) *EXCEPTION.*—Notwithstanding subsection (a), the
23 *provisions of sections 2716 and 2718 of title XXVII of the*
24 *Public Health Service Act (as amended by the Patient Pro-*
25 *tection and Affordable Care Act) shall not apply with re-*

1 *spect to self-insured group health plans, and the provisions*
2 *of this part shall continue to apply to such plans as if such*
3 *sections of the Public Health Service Act (as so amended)*
4 *had not been enacted.”.*

5 *(f) TECHNICAL AMENDMENT TO THE INTERNAL REV-*
6 *ENUE CODE OF 1986.—Subchapter B of chapter 100 of the*
7 *Internal Revenue Code of 1986 is amended by adding at*
8 *the end the following:*

9 **“SEC. 9815. ADDITIONAL MARKET REFORMS.**

10 *“(a) GENERAL RULE.—Except as provided in sub-*
11 *section (b)—*

12 *“(1) the provisions of part A of title XXVII of*
13 *the Public Health Service Act (as amended by the Pa-*
14 *tient Protection and Affordable Care Act) shall apply*
15 *to group health plans, and health insurance issuers*
16 *providing health insurance coverage in connection*
17 *with group health plans, as if included in this sub-*
18 *chapter; and*

19 *“(2) to the extent that any provision of this sub-*
20 *chapter conflicts with a provision of such part A with*
21 *respect to group health plans, or health insurance*
22 *issuers providing health insurance coverage in connec-*
23 *tion with group health plans, the provisions of such*
24 *part A shall apply.*

1 “(b) *EXCEPTION.*—Notwithstanding subsection (a), the
2 *provisions of sections 2716 and 2718 of title XXVII of the*
3 *Public Health Service Act (as amended by the Patient Pro-*
4 *tection and Affordable Care Act) shall not apply with re-*
5 *spect to self-insured group health plans, and the provisions*
6 *of this subchapter shall continue to apply to such plans as*
7 *if such sections of the Public Health Service Act (as so*
8 *amended) had not been enacted.*”.

9 **SEC. 1563. SENSE OF THE SENATE PROMOTING FISCAL RE-**
10 **SPONSIBILITY.**

11 (a) *FINDINGS.*—The Senate makes the following find-
12 *ings:*

13 (1) *Based on Congressional Budget Office (CBO)*
14 *estimates, this Act will reduce the Federal deficit be-*
15 *tween 2010 and 2019.*

16 (2) *CBO projects this Act will continue to reduce*
17 *budget deficits after 2019.*

18 (3) *Based on CBO estimates, this Act will extend*
19 *the solvency of the Medicare HI Trust Fund.*

20 (4) *This Act will increase the surplus in the So-*
21 *cial Security Trust Fund, which should be reserved to*
22 *strengthen the finances of Social Security.*

23 (5) *The initial net savings generated by the*
24 *Community Living Assistance Services and Supports*

1 *(CLASS) program are necessary to ensure the long-*
 2 *term solvency of that program.*

3 *(b) SENSE OF THE SENATE.—It is the sense of the Sen-*
 4 *ate that—*

5 *(1) the additional surplus in the Social Security*
 6 *Trust Fund generated by this Act should be reserved*
 7 *for Social Security and not spent in this Act for other*
 8 *purposes; and*

9 *(2) the net savings generated by the CLASS pro-*
 10 *gram should be reserved for the CLASS program and*
 11 *not spent in this Act for other purposes.*

12 ***TITLE II—ROLE OF PUBLIC***
 13 ***PROGRAMS***

14 ***Subtitle A—Improved Access to***
 15 ***Medicaid***

16 ***SEC. 2001. MEDICAID COVERAGE FOR THE LOWEST INCOME***
 17 ***POPULATIONS.***

18 *(a) COVERAGE FOR INDIVIDUALS WITH INCOME AT OR*
 19 *BELOW 133 PERCENT OF THE POVERTY LINE.—*

20 *(1) BEGINNING 2014.—Section 1902(a)(10)(A)(i)*
 21 *of the Social Security Act (42 U.S.C. 1396a) is*
 22 *amended—*

23 *(A) by striking “or” at the end of subclause*
 24 *(VI);*

1 (B) by adding “or” at the end of subclause
2 (VII); and

3 (C) by inserting after subclause (VII) the
4 following:

5 “(VIII) beginning January 1,
6 2014, who are under 65 years of age,
7 not pregnant, not entitled to, or en-
8 rolled for, benefits under part A of title
9 XVIII, or enrolled for benefits under
10 part B of title XVIII, and are not de-
11 scribed in a previous subclause of this
12 clause, and whose income (as deter-
13 mined under subsection (e)(14)) does
14 not exceed 133 percent of the poverty
15 line (as defined in section 2110(c)(5))
16 applicable to a family of the size in-
17 volved, subject to subsection (k);”.

18 (2) *PROVISION OF AT LEAST MINIMUM ESSEN-*
19 *TIAL COVERAGE.—*

20 (A) *IN GENERAL.—*Section 1902 of such Act
21 (42 U.S.C. 1396a) is amended by inserting after
22 subsection (j) the following:

23 “(k)(1) *The medical assistance provided to an indi-*
24 *vidual described in subclause (VIII) of subsection*
25 *(a)(10)(A)(i) shall consist of benchmark coverage described*

1 *in section 1937(b)(1) or benchmark equivalent coverage de-*
2 *scribed in section 1937(b)(2). Such medical assistance shall*
3 *be provided subject to the requirements of section 1937,*
4 *without regard to whether a State otherwise has elected the*
5 *option to provide medical assistance through coverage under*
6 *that section, unless an individual described in subclause*
7 *(VIII) of subsection (a)(10)(A)(i) is also an individual for*
8 *whom, under subparagraph (B) of section 1937(a)(2), the*
9 *State may not require enrollment in benchmark coverage*
10 *described in subsection (b)(1) of section 1937 or benchmark*
11 *equivalent coverage described in subsection (b)(2) of that*
12 *section.”.*

13 *(B) CONFORMING AMENDMENT.—Section*
14 *1903(i) of the Social Security Act, as amended*
15 *by section 6402(c), is amended—*

16 *(i) in paragraph (24), by striking “or”*
17 *at the end;*

18 *(ii) in paragraph (25), by striking the*
19 *period and inserting “; or”; and*

20 *(iii) by adding at the end the fol-*
21 *lowing:*

22 *“(26) with respect to any amounts expended for*
23 *medical assistance for individuals described in sub-*
24 *clause (VIII) of subsection (a)(10)(A)(i) other than*
25 *medical assistance provided through benchmark cov-*

1 *erage described in section 1937(b)(1) or benchmark*
2 *equivalent coverage described in section 1937(b)(2).”.*

3 *(3) FEDERAL FUNDING FOR COST OF COVERING*
4 *NEWLY ELIGIBLE INDIVIDUALS.—Section 1905 of the*
5 *Social Security Act (42 U.S.C. 1396d), is amended—*

6 *(A) in subsection (b), in the first sentence,*
7 *by inserting “subsection (y) and” before “section*
8 *1933(d)”;* and

9 *(B) by adding at the end the following new*
10 *subsection:*

11 *“(y) INCREASED FMAP FOR MEDICAL ASSISTANCE*
12 *FOR NEWLY ELIGIBLE MANDATORY INDIVIDUALS.—*

13 *“(1) AMOUNT OF INCREASE.—*

14 *“(A) 100 PERCENT FMAP.—During the pe-*
15 *riod that begins on January 1, 2014, and ends*
16 *on December 31, 2016, notwithstanding sub-*
17 *section (b), the Federal medical assistance per-*
18 *centage determined for a State that is one of the*
19 *50 States or the District of Columbia for each*
20 *fiscal year occurring during that period with re-*
21 *spect to amounts expended for medical assistance*
22 *for newly eligible individuals described in sub-*
23 *clause (VIII) of section 1902(a)(10)(A)(i) shall*
24 *be equal to 100 percent.*

25 *“(B) 2017 AND 2018.—*

1 “(i) *IN GENERAL.*—During the period
 2 that begins on January 1, 2017, and ends
 3 on December 31, 2018, notwithstanding sub-
 4 section (b) and subject to subparagraph (D),
 5 the Federal medical assistance percentage
 6 determined for a State that is one of the 50
 7 States or the District of Columbia for each
 8 fiscal year occurring during that period
 9 with respect to amounts expended for med-
 10 ical assistance for newly eligible individuals
 11 described in subclause (VIII) of section
 12 1902(a)(10)(A)(i), shall be increased by the
 13 applicable percentage point increase speci-
 14 fied in clause (ii) for the quarter and the
 15 State.

16 “(ii) *APPLICABLE PERCENTAGE POINT*
 17 *INCREASE.*—

18 “(I) *IN GENERAL.*—For purposes
 19 of clause (i), the applicable percentage
 20 point increase for a quarter is the fol-
 21 lowing:

“For any fiscal year quarter occurring in the calendar year:	If the State is an ex- pansion State, the applicable percent- age point increase is:	If the State is not an expansion State, the applicable percent- age point increase is:
2017	30.3	34.3
2018	31.3	33.3

1 “(II) *EXPANSION STATE DE-*
2 *FINED.*—For purposes of the table in
3 subclause (I), a State is an expansion
4 State if, on the date of the enactment
5 of the Patient Protection and Afford-
6 able Care Act, the State offers health
7 benefits coverage statewide to parents
8 and nonpregnant, childless adults
9 whose income is at least 100 percent of
10 the poverty line, that is not dependent
11 on access to employer coverage, em-
12 ployer contribution, or employment
13 and is not limited to premium assist-
14 ance, hospital-only benefits, a high de-
15 ductible health plan, or alternative
16 benefits under a demonstration pro-
17 gram authorized under section 1938. A
18 State that offers health benefits cov-
19 erage to only parents or only nonpreg-
20 nant childless adults described in the
21 preceding sentence shall not be consid-
22 ered to be an expansion State.

23 “(C) *2019 AND SUCCEEDING YEARS.*—Be-
24 ginning January 1, 2019, notwithstanding sub-
25 section (b) but subject to subparagraph (D), the

1 *Federal medical assistance percentage deter-*
2 *mined for a State that is one of the 50 States or*
3 *the District of Columbia for each fiscal year*
4 *quarter occurring during that period with re-*
5 *spect to amounts expended for medical assistance*
6 *for newly eligible individuals described in sub-*
7 *clause (VIII) of section 1902(a)(10)(A)(i), shall*
8 *be increased by 32.3 percentage points.*

9 “(D) *LIMITATION.*—*The Federal medical as-*
10 *istance percentage determined for a State under*
11 *subparagraph (B) or (C) shall in no case be*
12 *more than 95 percent.*

13 “(2) *DEFINITIONS.*—*In this subsection:*

14 “(A) *NEWLY ELIGIBLE.*—*The term ‘newly*
15 *eligible’ means, with respect to an individual de-*
16 *scribed in subclause (VIII) of section*
17 *1902(a)(10)(A)(i), an individual who is not*
18 *under 19 years of age (or such higher age as the*
19 *State may have elected) and who, on the date of*
20 *enactment of the Patient Protection and Afford-*
21 *able Care Act, is not eligible under the State*
22 *plan or under a waiver of the plan for full bene-*
23 *fits or for benchmark coverage described in sub-*
24 *paragraph (A), (B), or (C) of section 1937(b)(1)*
25 *or benchmark equivalent coverage described in*

1 *section 1937(b)(2) that has an aggregate actu-*
2 *arial value that is at least actuarially equivalent*
3 *to benchmark coverage described in subpara-*
4 *graph (A), (B), or (C) of section 1937(b)(1), or*
5 *is eligible but not enrolled (or is on a waiting*
6 *list) for such benefits or coverage through a*
7 *waiver under the plan that has a capped or lim-*
8 *ited enrollment that is full.*

9 “(B) *FULL BENEFITS.*—*The term ‘full bene-*
10 *fits’ means, with respect to an individual, med-*
11 *ical assistance for all services covered under the*
12 *State plan under this title that is not less in*
13 *amount, duration, or scope, or is determined by*
14 *the Secretary to be substantially equivalent, to*
15 *the medical assistance available for an indi-*
16 *vidual described in section 1902(a)(10)(A)(i).”.*

17 (4) *STATE OPTIONS TO OFFER COVERAGE EAR-*
18 *LIER AND PRESUMPTIVE ELIGIBILITY; CHILDREN RE-*
19 *QUIRED TO HAVE COVERAGE FOR PARENTS TO BE EL-*
20 *IGIBLE.*—

21 (A) *IN GENERAL.*—*Subsection (k) of section*
22 *1902 of the Social Security Act (as added by*
23 *paragraph (2)), is amended by inserting after*
24 *paragraph (1) the following:*

1 “(2) *Beginning with the first day of any fiscal year*
2 *quarter that begins on or after January 1, 2011, and before*
3 *January 1, 2014, a State may elect through a State plan*
4 *amendment to provide medical assistance to individuals*
5 *who would be described in subclause (VIII) of subsection*
6 *(a)(10)(A)(i) if that subclause were effective before January*
7 *1, 2014. A State may elect to phase-in the extension of eligi-*
8 *bility for medical assistance to such individuals based on*
9 *income, so long as the State does not extend such eligibility*
10 *to individuals described in such subclause with higher in-*
11 *come before making individuals described in such subclause*
12 *with lower income eligible for medical assistance.*

13 “(3) *If an individual described in subclause (VIII) of*
14 *subsection (a)(10)(A)(i) is the parent of a child who is*
15 *under 19 years of age (or such higher age as the State may*
16 *have elected) who is eligible for medical assistance under*
17 *the State plan or under a waiver of such plan (under that*
18 *subclause or under a State plan amendment under para-*
19 *graph (2), the individual may not be enrolled under the*
20 *State plan unless the individual’s child is enrolled under*
21 *the State plan or under a waiver of the plan or is enrolled*
22 *in other health insurance coverage. For purposes of the pre-*
23 *ceding sentence, the term ‘parent’ includes an individual*
24 *treated as a caretaker relative for purposes of carrying out*
25 *section 1931.’.*

1 (B) *PRESUMPTIVE ELIGIBILITY.*—Section
2 1920 of the Social Security Act (42 U.S.C.
3 1396r-1) is amended by adding at the end the
4 following:

5 “(e) If the State has elected the option to provide a
6 presumptive eligibility period under this section or section
7 1920A, the State may elect to provide a presumptive eligi-
8 bility period (as defined in subsection (b)(1)) for individ-
9 uals who are eligible for medical assistance under clause
10 (i)(VIII) of subsection (a)(10)(A) or section 1931 in the
11 same manner as the State provides for such a period under
12 this section or section 1920A, subject to such guidance as
13 the Secretary shall establish.”.

14 (5) *CONFORMING AMENDMENTS.*—

15 (A) Section 1902(a)(10) of such Act (42
16 U.S.C. 1396a(a)(10)) is amended in the matter
17 following subparagraph (G), by striking “and
18 (XIV)” and inserting “(XIV)” and by inserting
19 “and (XV) the medical assistance made available
20 to an individual described in subparagraph
21 (A)(i)(VIII) shall be limited to medical assist-
22 ance described in subsection (k)(1)” before the
23 semicolon.

1 (B) Section 1902(l)(2)(C) of such Act (42
2 U.S.C. 1396a(l)(2)(C)) is amended by striking
3 “100” and inserting “133”.

4 (C) Section 1905(a) of such Act (42 U.S.C.
5 1396d(a)) is amended in the matter preceding
6 paragraph (1)—

7 (i) by striking “or” at the end of clause
8 (xii);

9 (ii) by inserting “or” at the end of
10 clause (xiii); and

11 (iii) by inserting after clause (xiii) the
12 following:

13 “(xiv) individuals described in section
14 1902(a)(10)(A)(i)(VIII),”.

15 (D) Section 1903(f)(4) of such Act (42
16 U.S.C. 1396b(f)(4)) is amended by inserting
17 “1902(a)(10)(A)(i)(VIII),” after
18 “1902(a)(10)(A)(i)(VII),”.

19 (E) Section 1937(a)(1)(B) of such Act (42
20 U.S.C. 1396u–7(a)(1)(B)) is amended by insert-
21 ing “subclause (VIII) of section
22 1902(a)(10)(A)(i) or under” after “eligible
23 under”.

1 (b) *MAINTENANCE OF MEDICAID INCOME ELIGI-*
2 *BILITY.*—*Section 1902 of the Social Security Act (42 U.S.C.*
3 *1396a) is amended—*

4 (1) *in subsection (a)—*

5 (A) *by striking “and” at the end of para-*
6 *graph (72);*

7 (B) *by striking the period at the end of*
8 *paragraph (73) and inserting “; and”; and*

9 (C) *by inserting after paragraph (73) the*
10 *following new paragraph:*

11 “(74) *provide for maintenance of effort under the*
12 *State plan or under any waiver of the plan in ac-*
13 *cordance with subsection (gg).”;* and

14 (2) *by adding at the end the following new sub-*
15 *section:*

16 “(gg) *MAINTENANCE OF EFFORT.*—

17 “(1) *GENERAL REQUIREMENT TO MAINTAIN ELI-*
18 *GIBILITY STANDARDS UNTIL STATE EXCHANGE IS*
19 *FULLY OPERATIONAL.*—*Subject to the succeeding*
20 *paragraphs of this subsection, during the period that*
21 *begins on the date of enactment of the Patient Protec-*
22 *tion and Affordable Care Act and ends on the date on*
23 *which the Secretary determines that an Exchange es-*
24 *tablished by the State under section 1311 of the Pa-*
25 *tient Protection and Affordable Care Act is fully oper-*

1 *ational, as a condition for receiving any Federal pay-*
2 *ments under section 1903(a) for calendar quarters oc-*
3 *curing during such period, a State shall not have in*
4 *effect eligibility standards, methodologies, or proce-*
5 *dures under the State plan under this title or under*
6 *any waiver of such plan that is in effect during that*
7 *period, that are more restrictive than the eligibility*
8 *standards, methodologies, or procedures, respectively,*
9 *under the plan or waiver that are in effect on the date*
10 *of enactment of the Patient Protection and Affordable*
11 *Care Act.*

12 *“(2) CONTINUATION OF ELIGIBILITY STANDARDS*
13 *FOR CHILDREN UNTIL OCTOBER 1, 2019.—The require-*
14 *ment under paragraph (1) shall continue to apply to*
15 *a State through September 30, 2019, with respect to*
16 *the eligibility standards, methodologies, and proce-*
17 *dures under the State plan under this title or under*
18 *any waiver of such plan that are applicable to deter-*
19 *mining the eligibility for medical assistance of any*
20 *child who is under 19 years of age (or such higher age*
21 *as the State may have elected).*

22 *“(3) NONAPPLICATION.—During the period that*
23 *begins on January 1, 2011, and ends on December 31,*
24 *2013, the requirement under paragraph (1) shall not*
25 *apply to a State with respect to nonpregnant, non-*

1 *disabled adults who are eligible for medical assistance*
2 *under the State plan or under a waiver of the plan*
3 *at the option of the State and whose income exceeds*
4 *133 percent of the poverty line (as defined in section*
5 *2110(c)(5)) applicable to a family of the size involved*
6 *if, on or after December 31, 2010, the State certifies*
7 *to the Secretary that, with respect to the State fiscal*
8 *year during which the certification is made, the State*
9 *has a budget deficit, or with respect to the succeeding*
10 *State fiscal year, the State is projected to have a*
11 *budget deficit. Upon submission of such a certifi-*
12 *cation to the Secretary, the requirement under para-*
13 *graph (1) shall not apply to the State with respect to*
14 *any remaining portion of the period described in the*
15 *preceding sentence.*

16 *“(4) DETERMINATION OF COMPLIANCE.—*

17 *“(A) STATES SHALL APPLY MODIFIED*
18 *GROSS INCOME.—A State’s determination of in-*
19 *come in accordance with subsection (e)(14) shall*
20 *not be considered to be eligibility standards,*
21 *methodologies, or procedures that are more re-*
22 *strictive than the standards, methodologies, or*
23 *procedures in effect under the State plan or*
24 *under a waiver of the plan on the date of enact-*
25 *ment of the Patient Protection and Affordable*

1 *Care Act for purposes of determining compliance*
2 *with the requirements of paragraph (1), (2), or*
3 *(3).*

4 “(B) STATES MAY EXPAND ELIGIBILITY OR
5 MOVE WAIVERED POPULATIONS INTO COVERAGE
6 UNDER THE STATE PLAN.—*With respect to any*
7 *period applicable under paragraph (1), (2), or*
8 *(3), a State that applies eligibility standards,*
9 *methodologies, or procedures under the State*
10 *plan under this title or under any waiver of the*
11 *plan that are less restrictive than the eligibility*
12 *standards, methodologies, or procedures, applied*
13 *under the State plan or under a waiver of the*
14 *plan on the date of enactment of the Patient Pro-*
15 *tection and Affordable Care Act, or that makes*
16 *individuals who, on such date of enactment, are*
17 *eligible for medical assistance under a waiver of*
18 *the State plan, after such date of enactment eli-*
19 *gible for medical assistance through a State plan*
20 *amendment with an income eligibility level that*
21 *is not less than the income eligibility level that*
22 *applied under the waiver, or as a result of the*
23 *application of subclause (VIII) of section*
24 *1902(a)(10)(A)(i), shall not be considered to have*
25 *in effect eligibility standards, methodologies, or*

1 *procedures that are more restrictive than the*
 2 *standards, methodologies, or procedures in effect*
 3 *under the State plan or under a waiver of the*
 4 *plan on the date of enactment of the Patient Pro-*
 5 *tection and Affordable Care Act for purposes of*
 6 *determining compliance with the requirements of*
 7 *paragraph (1), (2), or (3).”.*

8 *(c) MEDICAID BENCHMARK BENEFITS MUST CONSIST*
 9 *OF AT LEAST MINIMUM ESSENTIAL COVERAGE.—Section*
 10 *1937(b) of such Act (42 U.S.C. 1396u–7(b)) is amended—*

11 *(1) in paragraph (1), in the matter preceding*
 12 *subparagraph (A), by inserting “subject to para-*
 13 *graphs (5) and (6),” before “each”;*

14 *(2) in paragraph (2)—*

15 *(A) in the matter preceding subparagraph*
 16 *(A), by inserting “subject to paragraphs (5) and*
 17 *(6)” after “subsection (a)(1),”;*

18 *(B) in subparagraph (A)—*

19 *(i) by redesignating clauses (iv) and*
 20 *(v) as clauses (vi) and (vii), respectively;*
 21 *and*

22 *(ii) by inserting after clause (iii), the*
 23 *following:*

24 *“(iv) Coverage of prescription drugs.*

25 *“(v) Mental health services.”; and*

1 (C) in subparagraph (C)—
2 (i) by striking clauses (i) and (ii); and
3 (ii) by redesignating clauses (iii) and
4 (iv) as clauses (i) and (ii), respectively; and
5 (3) by adding at the end the following new para-
6 graphs:

7 “(5) *MINIMUM STANDARDS.—Effective January*
8 *1, 2014, any benchmark benefit package under para-*
9 *graph (1) or benchmark equivalent coverage under*
10 *paragraph (2) must provide at least essential health*
11 *benefits as described in section 1302(b) of the Patient*
12 *Protection and Affordable Care Act.*

13 “(6) *MENTAL HEALTH SERVICES PARITY.—*

14 “(A) *IN GENERAL.—In the case of any*
15 *benchmark benefit package under paragraph (1)*
16 *or benchmark equivalent coverage under para-*
17 *graph (2) that is offered by an entity that is not*
18 *a medicaid managed care organization and that*
19 *provides both medical and surgical benefits and*
20 *mental health or substance use disorder benefits,*
21 *the entity shall ensure that the financial require-*
22 *ments and treatment limitations applicable to*
23 *such mental health or substance use disorder ben-*
24 *efits comply with the requirements of section*
25 *2705(a) of the Public Health Service Act in the*

1 same manner as such requirements apply to a
2 group health plan.

3 “(B) *DEEMED COMPLIANCE*.—Coverage pro-
4 vided with respect to an individual described in
5 section 1905(a)(4)(B) and covered under the
6 State plan under section 1902(a)(10)(A) of the
7 services described in section 1905(a)(4)(B) (relat-
8 ing to early and periodic screening, diagnostic,
9 and treatment services defined in section
10 1905(r)) and provided in accordance with sec-
11 tion 1902(a)(43), shall be deemed to satisfy the
12 requirements of subparagraph (A).”.

13 (d) *ANNUAL REPORTS ON MEDICAID ENROLLMENT*.—

14 (1) *STATE REPORTS*.—Section 1902(a) of the So-
15 cial Security Act (42 U.S.C. 1396a(a)), as amended
16 by subsection (b), is amended—

17 (A) by striking “and” at the end of para-
18 graph (73);

19 (B) by striking the period at the end of
20 paragraph (74) and inserting “; and”; and

21 (C) by inserting after paragraph (74) the
22 following new paragraph:

23 “(75) provide that, beginning January 2015,
24 and annually thereafter, the State shall submit a re-
25 port to the Secretary that contains—

1 “(A) the total number of enrolled and newly
2 enrolled individuals in the State plan or under
3 a waiver of the plan for the fiscal year ending
4 on September 30 of the preceding calendar year,
5 disaggregated by population, including children,
6 parents, nonpregnant childless adults, disabled
7 individuals, elderly individuals, and such other
8 categories or sub-categories of individuals eligible
9 for medical assistance under the State plan or
10 under a waiver of the plan as the Secretary may
11 require;

12 “(B) a description, which may be specified
13 by population, of the outreach and enrollment
14 processes used by the State during such fiscal
15 year; and

16 “(C) any other data reporting determined
17 necessary by the Secretary to monitor enrollment
18 and retention of individuals eligible for medical
19 assistance under the State plan or under a wai-
20 ver of the plan.”.

21 (2) *REPORTS TO CONGRESS.*—Beginning April
22 2015, and annually thereafter, the Secretary of
23 Health and Human Services shall submit a report to
24 the appropriate committees of Congress on the total
25 enrollment and new enrollment in Medicaid for the

1 *fiscal year ending on September 30 of the preceding*
2 *calendar year on a national and State-by-State basis,*
3 *and shall include in each such report such rec-*
4 *ommendations for administrative or legislative*
5 *changes to improve enrollment in the Medicaid pro-*
6 *gram as the Secretary determines appropriate.*

7 *(e) STATE OPTION FOR COVERAGE FOR INDIVIDUALS*
8 *WITH INCOME THAT EXCEEDS 133 PERCENT OF THE POV-*
9 *ERTY LINE.—*

10 *(1) COVERAGE AS OPTIONAL CATEGORICALLY*
11 *NEEDY GROUP.—Section 1902 of the Social Security*
12 *Act (42 U.S.C. 1396a) is amended—*

13 *(A) in subsection (a)(10)(A)(ii)—*

14 *(i) in subclause (XVIII), by striking*
15 *“or” at the end;*

16 *(ii) in subclause (XIX), by adding*
17 *“or” at the end; and*

18 *(iii) by adding at the end the following*
19 *new subclause:*

20 *“(XX) beginning January 1,*
21 *2014, who are under 65 years of age*
22 *and are not described in or enrolled*
23 *under a previous subclause of this*
24 *clause, and whose income (as deter-*
25 *mined under subsection (e)(14)) exceeds*

1 133 percent of the poverty line (as de-
2 fined in section 2110(c)(5)) applicable
3 to a family of the size involved but
4 does not exceed the highest income eli-
5 gibility level established under the
6 State plan or under a waiver of the
7 plan, subject to subsection (hh);” and

8 (B) by adding at the end the following new
9 subsection:

10 “(hh)(1) A State may elect to phase-in the extension
11 of eligibility for medical assistance to individuals described
12 in subclause (XX) of subsection (a)(10)(A)(ii) based on the
13 categorical group (including nonpregnant childless adults)
14 or income, so long as the State does not extend such eligi-
15 bility to individuals described in such subclause with higher
16 income before making individuals described in such sub-
17 clause with lower income eligible for medical assistance.

18 “(2) If an individual described in subclause (XX) of
19 subsection (a)(10)(A)(ii) is the parent of a child who is
20 under 19 years of age (or such higher age as the State may
21 have elected) who is eligible for medical assistance under
22 the State plan or under a waiver of such plan, the indi-
23 vidual may not be enrolled under the State plan unless the
24 individual’s child is enrolled under the State plan or under
25 a waiver of the plan or is enrolled in other health insurance

1 coverage. For purposes of the preceding sentence, the term
2 ‘parent’ includes an individual treated as a caretaker rel-
3 ative for purposes of carrying out section 1931.”

4 (2) CONFORMING AMENDMENTS.—

5 (A) Section 1905(a) of such Act (42 U.S.C.
6 1396d(a)), as amended by subsection (a)(5)(C),
7 is amended in the matter preceding paragraph
8 (1)—

9 (i) by striking “or” at the end of clause
10 (xiii);

11 (ii) by inserting “or” at the end of
12 clause (xiv); and

13 (iii) by inserting after clause (xiv) the
14 following:

15 “(xv) individuals described in section
16 1902(a)(10)(A)(ii)(XX),”

17 (B) Section 1903(f)(4) of such Act (42
18 U.S.C. 1396b(f)(4)) is amended by inserting
19 “1902(a)(10)(A)(ii)(XX),” after
20 “1902(a)(10)(A)(ii)(XIX),”

21 (C) Section 1920(e) of such Act (42 U.S.C.
22 1396r-1(e)), as added by subsection (a)(4)(B), is
23 amended by inserting “or clause (ii)(XX)” after
24 “clause (i)(VIII)”.

1 **SEC. 2002. INCOME ELIGIBILITY FOR NONELDERLY DETER-**
2 **MINED USING MODIFIED GROSS INCOME.**

3 (a) *IN GENERAL.*—Section 1902(e) of the Social Secu-
4 rity Act (42 U.S.C. 1396a(e)) is amended by adding at the
5 end the following:

6 “(14) *INCOME DETERMINED USING MODIFIED*
7 *GROSS INCOME.*—

8 “(A) *IN GENERAL.*—Notwithstanding sub-
9 section (r) or any other provision of this title, ex-
10 cept as provided in subparagraph (D), for pur-
11 poses of determining income eligibility for med-
12 ical assistance under the State plan or under
13 any waiver of such plan and for any other pur-
14 pose applicable under the plan or waiver for
15 which a determination of income is required, in-
16 cluding with respect to the imposition of pre-
17 miums and cost-sharing, a State shall use the
18 modified gross income of an individual and, in
19 the case of an individual in a family greater
20 than 1, the household income of such family. A
21 State shall establish income eligibility thresholds
22 for populations to be eligible for medical assist-
23 ance under the State plan or a waiver of the
24 plan using modified gross income and household
25 income that are not less than the effective income
26 eligibility levels that applied under the State

1 *plan or waiver on the date of enactment of the*
2 *Patient Protection and Affordable Care Act. For*
3 *purposes of complying with the maintenance of*
4 *effort requirements under subsection (gg) during*
5 *the transition to modified gross income and*
6 *household income, a State shall, working with*
7 *the Secretary, establish an equivalent income test*
8 *that ensures individuals eligible for medical as-*
9 *sistance under the State plan or under a waiver*
10 *of the plan on the date of enactment of the Pa-*
11 *tient Protection and Affordable Care Act, do not*
12 *lose coverage under the State plan or under a*
13 *waiver of the plan. The Secretary may waive*
14 *such provisions of this title and title XXI as are*
15 *necessary to ensure that States establish income*
16 *and eligibility determination systems that pro-*
17 *tect beneficiaries.*

18 “(B) NO INCOME OR EXPENSE DIS-
19 REGARDS.—No type of expense, block, or other
20 income disregard shall be applied by a State to
21 determine income eligibility for medical assist-
22 ance under the State plan or under any waiver
23 of such plan or for any other purpose applicable
24 under the plan or waiver for which a determina-
25 tion of income is required.

1 “(C) *NO ASSETS TEST.*—A State shall not
2 *apply any assets or resources test for purposes of*
3 *determining eligibility for medical assistance*
4 *under the State plan or under a waiver of the*
5 *plan.*

6 “(D) *EXCEPTIONS.*—

7 “(i) *INDIVIDUALS ELIGIBLE BECAUSE*
8 *OF OTHER AID OR ASSISTANCE, ELDERLY*
9 *INDIVIDUALS, MEDICALLY NEEDY INDIVID-*
10 *UALS, AND INDIVIDUALS ELIGIBLE FOR*
11 *MEDICARE COST-SHARING.*—*Subparagraphs*
12 *(A), (B), and (C) shall not apply to the de-*
13 *termination of eligibility under the State*
14 *plan or under a waiver for medical assist-*
15 *ance for the following:*

16 “(I) *Individuals who are eligible*
17 *for medical assistance under the State*
18 *plan or under a waiver of the plan on*
19 *a basis that does not require a deter-*
20 *mination of income by the State agen-*
21 *cy administering the State plan or*
22 *waiver, including as a result of eligi-*
23 *bility for, or receipt of, other Federal*
24 *or State aid or assistance, individuals*
25 *who are eligible on the basis of receiv-*

1 *ing (or being treated as if receiving)*
2 *supplemental security income benefits*
3 *under title XVI, and individuals who*
4 *are eligible as a result of being or*
5 *being deemed to be a child in foster*
6 *care under the responsibility of the*
7 *State.*

8 *“(II) Individuals who have at-*
9 *tained age 65.*

10 *“(III) Individuals who qualify for*
11 *medical assistance under the State*
12 *plan or under any waiver of such plan*
13 *on the basis of being blind or disabled*
14 *(or being treated as being blind or dis-*
15 *abled) without regard to whether the*
16 *individual is eligible for supplemental*
17 *security income benefits under title*
18 *XVI on the basis of being blind or dis-*
19 *abled and including an individual who*
20 *is eligible for medical assistance on the*
21 *basis of section 1902(e)(3).*

22 *“(IV) Individuals described in*
23 *subsection (a)(10)(C).*

24 *“(V) Individuals described in any*
25 *clause of subsection (a)(10)(E).*

1 “(i) *EXPRESS LANE AGENCY FIND-*
2 *INGS.—In the case of a State that elects the*
3 *Express Lane option under paragraph (13),*
4 *notwithstanding subparagraphs (A), (B),*
5 *and (C), the State may rely on a finding*
6 *made by an Express Lane agency in ac-*
7 *cordance with that paragraph relating to*
8 *the income of an individual for purposes of*
9 *determining the individual’s eligibility for*
10 *medical assistance under the State plan or*
11 *under a waiver of the plan.*

12 “(iii) *MEDICARE PRESCRIPTION DRUG*
13 *SUBSIDIES DETERMINATIONS.—Subpara-*
14 *graphs (A), (B), and (C) shall not apply to*
15 *any determinations of eligibility for pre-*
16 *mium and cost-sharing subsidies under and*
17 *in accordance with section 1860D–14 made*
18 *by the State pursuant to section 1935(a)(2).*

19 “(iv) *LONG-TERM CARE.—Subpara-*
20 *graphs (A), (B), and (C) shall not apply to*
21 *any determinations of eligibility of individ-*
22 *uals for purposes of medical assistance for*
23 *nursing facility services, a level of care in*
24 *any institution equivalent to that of nurs-*
25 *ing facility services, home or community-*

1 *based services furnished under a waiver or*
2 *State plan amendment under section 1915*
3 *or a waiver under section 1115, and serv-*
4 *ices described in section 1917(c)(1)(C)(ii).*

5 “(v) *GRANDFATHER OF CURRENT EN-*
6 *ROLLEES UNTIL DATE OF NEXT REGULAR*
7 *REDETERMINATION.—An individual who,*
8 *on January 1, 2014, is enrolled in the State*
9 *plan or under a waiver of the plan and who*
10 *would be determined ineligible for medical*
11 *assistance solely because of the application*
12 *of the modified gross income or household*
13 *income standard described in subparagraph*
14 *(A), shall remain eligible for medical assist-*
15 *ance under the State plan or waiver (and*
16 *subject to the same premiums and cost-shar-*
17 *ing as applied to the individual on that*
18 *date) through March 31, 2014, or the date*
19 *on which the individual’s next regularly*
20 *scheduled redetermination of eligibility is to*
21 *occur, whichever is later.*

22 “(E) *TRANSITION PLANNING AND OVER-*
23 *SIGHT.—Each State shall submit to the Sec-*
24 *retary for the Secretary’s approval the income*
25 *eligibility thresholds proposed to be established*

1 *using modified gross income and household in-*
2 *come, the methodologies and procedures to be*
3 *used to determine income eligibility using modi-*
4 *fied gross income and household income and, if*
5 *applicable, a State plan amendment establishing*
6 *an optional eligibility category under subsection*
7 *(a)(10)(A)(ii)(XX). To the extent practicable, the*
8 *State shall use the same methodologies and pro-*
9 *cedures for purposes of making such determina-*
10 *tions as the State used on the date of enactment*
11 *of the Patient Protection and Affordable Care*
12 *Act. The Secretary shall ensure that the income*
13 *eligibility thresholds proposed to be established*
14 *using modified gross income and household in-*
15 *come, including under the eligibility category es-*
16 *tablished under subsection (a)(10)(A)(ii)(XX),*
17 *and the methodologies and procedures proposed*
18 *to be used to determine income eligibility, will*
19 *not result in children who would have been eligi-*
20 *ble for medical assistance under the State plan*
21 *or under a waiver of the plan on the date of en-*
22 *actment of the Patient Protection and Affordable*
23 *Care Act no longer being eligible for such assist-*
24 *ance.*

1 “(F) *LIMITATION ON SECRETARIAL AU-*
2 *THORITY.—The Secretary shall not waive com-*
3 *pliance with the requirements of this paragraph*
4 *except to the extent necessary to permit a State*
5 *to coordinate eligibility requirements for dual el-*
6 *igible individuals (as defined in section*
7 *1915(h)(2)(B)) under the State plan or under a*
8 *waiver of the plan and under title XVIII and in-*
9 *dividuals who require the level of care provided*
10 *in a hospital, a nursing facility, or an inter-*
11 *mediate care facility for the mentally retarded.*

12 “(G) *DEFINITIONS OF MODIFIED GROSS IN-*
13 *COME AND HOUSEHOLD INCOME.—In this para-*
14 *graph, the terms ‘modified gross income’ and*
15 *‘household income’ have the meanings given such*
16 *terms in section 36B(d)(2) of the Internal Rev-*
17 *enue Code of 1986.*

18 “(H) *CONTINUED APPLICATION OF MED-*
19 *ICAID RULES REGARDING POINT-IN-TIME INCOME*
20 *AND SOURCES OF INCOME.—The requirement*
21 *under this paragraph for States to use modified*
22 *gross income and household income to determine*
23 *income eligibility for medical assistance under*
24 *the State plan or under any waiver of such plan*
25 *and for any other purpose applicable under the*

1 *plan or waiver for which a determination of in-*
2 *come is required shall not be construed as affect-*
3 *ing or limiting the application of—*

4 *“(i) the requirement under this title*
5 *and under the State plan or a waiver of the*
6 *plan to determine an individual’s income as*
7 *of the point in time at which an applica-*
8 *tion for medical assistance under the State*
9 *plan or a waiver of the plan is processed;*
10 *or*

11 *“(ii) any rules established under this*
12 *title or under the State plan or a waiver of*
13 *the plan regarding sources of countable in-*
14 *come.”.*

15 *(b) CONFORMING AMENDMENT.—Section 1902(a)(17)*
16 *of such Act (42 U.S.C. 1396a(a)(17)) is amended by insert-*
17 *ing “(e)(14),” before “(l)(3)”.*

18 *(c) EFFECTIVE DATE.—The amendments made by sub-*
19 *sections (a) and (b) take effect on January 1, 2014.*

20 **SEC. 2003. REQUIREMENT TO OFFER PREMIUM ASSISTANCE**
21 **FOR EMPLOYER-SPONSORED INSURANCE.**

22 *(a) IN GENERAL.—Section 1906A of such Act (42*
23 *U.S.C. 1396e–1) is amended—*

24 *(1) in subsection (a)—*

1 (A) by striking “may elect to” and insert-
2 ing “shall”;

3 (B) by striking “under age 19”; and

4 (C) by inserting “, in the case of an indi-
5 vidual under age 19,” after “(and”;

6 (2) in subsection (c), in the first sentence, by
7 striking “under age 19”; and

8 (3) in subsection (d)—

9 (A) in paragraph (2)—

10 (i) in the first sentence, by striking
11 “under age 19”; and

12 (ii) by striking the third sentence and
13 inserting “A State may not require, as a
14 condition of an individual (or the individ-
15 ual’s parent) being or remaining eligible for
16 medical assistance under this title, that the
17 individual (or the individual’s parent)
18 apply for enrollment in qualified employer-
19 sponsored coverage under this section.”; and

20 (B) in paragraph (3), by striking “the par-
21 ent of an individual under age 19” and insert-
22 ing “an individual (or the parent of an indi-
23 vidual)”; and

24 (4) in subsection (e), by striking “under age 19”
25 each place it appears.

1 (b) *CONFORMING AMENDMENT.*—*The heading for sec-*
2 *tion 1906A of such Act (42 U.S.C. 1396e–1) is amended*
3 *by striking “OPTION FOR CHILDREN”.*

4 (c) *EFFECTIVE DATE.*—*The amendments made by this*
5 *section take effect on January 1, 2014.*

6 **SEC. 2004. MEDICAID COVERAGE FOR FORMER FOSTER**
7 **CARE CHILDREN.**

8 (a) *IN GENERAL.*—*Section 1902(a)(10)(A)(i) of the*
9 *Social Security Act (42 U.S.C. 1396a), as amended by sec-*
10 *tion 2001(a)(1), is amended—*

11 (1) *by striking “or” at the end of subclause*
12 *(VII);*

13 (2) *by adding “or” at the end of subclause*
14 *(VIII); and*

15 (3) *by inserting after subclause (VIII) the fol-*
16 *lowing:*

17 *“(IX) who were in foster care*
18 *under the responsibility of a State for*
19 *more than 6 months (whether or not*
20 *consecutive) but are no longer in such*
21 *care, who are not described in any of*
22 *subclauses (I) through (VII) of this*
23 *clause, and who are under 25 years of*
24 *age;”.*

1 (b) *OPTION TO PROVIDE PRESUMPTIVE ELIGI-*
2 *BILITY.*—Section 1920(e) of such Act (42 U.S.C. 1396r–
3 1(e)), as added by section 2001(a)(4)(B) and amended by
4 section 2001(e)(2)(C), is amended by inserting “, clause
5 (i)(IX),” after “clause (i)(VIII)”.

6 (c) *CONFORMING AMENDMENTS.*—

7 (1) Section 1903(f)(4) of such Act (42 U.S.C.
8 1396b(f)(4)), as amended by section 2001(a)(5)(D), is
9 amended by inserting “1902(a)(10)(A)(i)(IX),” after
10 “1902(a)(10)(A)(i)(VIII),”.

11 (2) Section 1937(a)(2)(B)(viii) of such Act (42
12 U.S.C. 1396u–7(a)(2)(B)(viii)) is amended by insert-
13 ing “, or the individual qualifies for medical assist-
14 ance on the basis of section 1902(a)(10)(A)(i)(IX)”
15 before the period.

16 (d) *EFFECTIVE DATE.*—The amendments made by this
17 section take effect on January 1, 2019.

18 **SEC. 2005. PAYMENTS TO TERRITORIES.**

19 (a) *INCREASE IN LIMIT ON PAYMENTS.*—Section
20 1108(g) of the Social Security Act (42 U.S.C. 1308(g)) is
21 amended—

22 (1) in paragraph (2), in the matter preceding
23 subparagraph (A), by striking “paragraph (3)” and
24 inserting “paragraphs (3) and (5)”;

1 (2) in paragraph (4), by striking “and (3)” and
2 inserting “(3), and (4)”; and

3 (3) by adding at the end the following para-
4 graph:

5 “(5) FISCAL YEAR 2011 AND THEREAFTER.—The
6 amounts otherwise determined under this subsection
7 for Puerto Rico, the Virgin Islands, Guam, the North-
8 ern Mariana Islands, and American Samoa for the
9 second, third, and fourth quarters of fiscal year 2011,
10 and for each fiscal year after fiscal year 2011 (after
11 the application of subsection (f) and the preceding
12 paragraphs of this subsection), shall be increased by
13 30 percent.”.

14 (b) DISREGARD OF PAYMENTS FOR MANDATORY EX-
15 PANDED ENROLLMENT.—Section 1108(g)(4) of such Act (42
16 U.S.C. 1308(g)(4)) is amended—

17 (1) by striking “to fiscal years beginning” and
18 inserting “to—

19 “(A) fiscal years beginning”;

20 (2) by striking the period at the end and insert-
21 ing “; and”; and

22 (3) by adding at the end the following:

23 “(B) fiscal years beginning with fiscal year
24 2014, payments made to Puerto Rico, the Virgin
25 Islands, Guam, the Northern Mariana Islands,

1 or American Samoa with respect to amounts ex-
2 pended for medical assistance for newly eligible
3 (as defined in section 1905(y)(2)) nonpregnant
4 childless adults who are eligible under subclause
5 (VIII) of section 1902(a)(10)(A)(i) and whose in-
6 come (as determined under section 1902(e)(14))
7 does not exceed (in the case of each such com-
8 monwealth and territory respectively) the income
9 eligibility level in effect for that population
10 under title XIX or under a waiver on the date
11 of enactment of the Patient Protection and Af-
12 fordable Care Act, shall not be taken into ac-
13 count in applying subsection (f) (as increased in
14 accordance with paragraphs (1), (2), (3), and
15 (5) of this subsection) to such commonwealth or
16 territory for such fiscal year.”.

17 (c) *INCREASED FMAP.*—

18 (1) *IN GENERAL.*—The first sentence of section
19 1905(b) of the Social Security Act (42 U.S.C.
20 1396d(b)) is amended by striking “shall be 50 per
21 centum” and inserting “shall be 55 percent”.

22 (2) *EFFECTIVE DATE.*—The amendment made by
23 paragraph (1) takes effect on January 1, 2011.

1 **SEC. 2006. SPECIAL ADJUSTMENT TO FMAP DETERMINA-**
2 **TION FOR CERTAIN STATES RECOVERING**
3 **FROM A MAJOR DISASTER.**

4 *Section 1905 of the Social Security Act (42 U.S.C.*
5 *1396d), as amended by sections 2001(a)(3) and 2001(b)(2),*
6 *is amended—*

7 *(1) in subsection (b), in the first sentence, by*
8 *striking “subsection (y)” and inserting “subsections*
9 *(y) and (aa)”;* and

10 *(2) by adding at the end the following new sub-*
11 *section:*

12 *“(aa)(1) Notwithstanding subsection (b), beginning*
13 *January 1, 2011, the Federal medical assistance percentage*
14 *for a fiscal year for a disaster-recovery FMAP adjustment*
15 *State shall be equal to the following:*

16 *“(A) In the case of the first fiscal year (or part*
17 *of a fiscal year) for which this subsection applies to*
18 *the State, the Federal medical assistance percentage*
19 *determined for the fiscal year without regard to this*
20 *subsection and subsection (y), increased by 50 percent*
21 *of the number of percentage points by which the Fed-*
22 *eral medical assistance percentage determined for the*
23 *State for the fiscal year without regard to this sub-*
24 *section and subsection (y), is less than the Federal*
25 *medical assistance percentage determined for the*
26 *State for the preceding fiscal year after the applica-*

1 *tion of only subsection (a) of section 5001 of Public*
2 *Law 111–5 (if applicable to the preceding fiscal year)*
3 *and without regard to this subsection, subsection (y),*
4 *and subsections (b) and (c) of section 5001 of Public*
5 *Law 111–5.*

6 *“(B) In the case of the second or any succeeding*
7 *fiscal year for which this subsection applies to the*
8 *State, the Federal medical assistance percentage de-*
9 *termined for the preceding fiscal year under this sub-*
10 *section for the State, increased by 25 percent of the*
11 *number of percentage points by which the Federal*
12 *medical assistance percentage determined for the*
13 *State for the fiscal year without regard to this sub-*
14 *section and subsection (y), is less than the Federal*
15 *medical assistance percentage determined for the*
16 *State for the preceding fiscal year under this sub-*
17 *section.*

18 *“(2) In this subsection, the term ‘disaster-recovery*
19 *FMAP adjustment State’ means a State that is one of the*
20 *50 States or the District of Columbia, for which, at any*
21 *time during the preceding 7 fiscal years, the President has*
22 *declared a major disaster under section 401 of the Robert*
23 *T. Stafford Disaster Relief and Emergency Assistance Act*
24 *and determined as a result of such disaster that every coun-*
25 *ty or parish in the State warrant individual and public*

1 *assistance or public assistance from the Federal Govern-*
2 *ment under such Act and for which—*

3 “(A) *in the case of the first fiscal year (or part*
4 *of a fiscal year) for which this subsection applies to*
5 *the State, the Federal medical assistance percentage*
6 *determined for the State for the fiscal year without*
7 *regard to this subsection and subsection (y), is less*
8 *than the Federal medical assistance percentage deter-*
9 *mined for the State for the preceding fiscal year after*
10 *the application of only subsection (a) of section 5001*
11 *of Public Law 111–5 (if applicable to the preceding*
12 *fiscal year) and without regard to this subsection,*
13 *subsection (y), and subsections (b) and (c) of section*
14 *5001 of Public Law 111–5, by at least 3 percentage*
15 *points; and*

16 “(B) *in the case of the second or any succeeding*
17 *fiscal year for which this subsection applies to the*
18 *State, the Federal medical assistance percentage de-*
19 *termined for the State for the fiscal year without re-*
20 *gard to this subsection and subsection (y), is less than*
21 *the Federal medical assistance percentage determined*
22 *for the State for the preceding fiscal year under this*
23 *subsection by at least 3 percentage points.*

24 “(3) *The Federal medical assistance percentage deter-*
25 *mined for a disaster-recovery FMAP adjustment State*

1 *under paragraph (1) shall apply for purposes of this title*
2 *(other than with respect to disproportionate share hospital*
3 *payments described in section 1923 and payments under*
4 *this title that are based on the enhanced FMAP described*
5 *in 2105(b)) and shall not apply with respect to payments*
6 *under title IV (other than under part E of title IV) or pay-*
7 *ments under title XXI.”.*

8 **SEC. 2007. MEDICAID IMPROVEMENT FUND RESCISSION.**

9 *(a) RESCISSION.—Any amounts available to the Med-*
10 *icaid Improvement Fund established under section 1941 of*
11 *the Social Security Act (42 U.S.C. 1396w–1) for any of*
12 *fiscal years 2014 through 2018 that are available for ex-*
13 *penditure from the Fund and that are not so obligated as*
14 *of the date of the enactment of this Act are rescinded.*

15 *(b) CONFORMING AMENDMENTS.—Section 1941(b)(1)*
16 *of the Social Security Act (42 U.S.C. 1396w–1(b)(1)) is*
17 *amended—*

18 *(1) in subparagraph (A), by striking*
19 *“\$100,000,000” and inserting “\$0”; and*

20 *(2) in subparagraph (B), by striking*
21 *“\$150,000,000” and inserting “\$0”.*

1 ***Subtitle B—Enhanced Support for***
2 ***the Children’s Health Insurance***
3 ***Program***

4 **SEC. 2101. ADDITIONAL FEDERAL FINANCIAL PARTICIPA-**
5 **TION FOR CHIP.**

6 (a) *IN GENERAL.*—Section 2105(b) of the Social Secu-
7 rity Act (42 U.S.C. 1397ee(b)) is amended by adding at
8 the end the following: “Notwithstanding the preceding sen-
9 tence, during the period that begins on October 1, 2013, and
10 ends on September 30, 2019, the enhanced FMAP deter-
11 mined for a State for a fiscal year (or for any portion of
12 a fiscal year occurring during such period) shall be in-
13 creased by 23 percentage points, but in no case shall exceed
14 100 percent. The increase in the enhanced FMAP under the
15 preceding sentence shall not apply with respect to deter-
16 mining the payment to a State under subsection (a)(1) for
17 expenditures described in subparagraph (D)(iv), para-
18 graphs (8), (9), (11) of subsection (c), or clause (4) of the
19 first sentence of section 1905(b).”.

20 (b) *MAINTENANCE OF EFFORT.*—

21 (1) *IN GENERAL.*—Section 2105(d) of the Social
22 Security Act (42 U.S.C. 1397ee(d)) is amended by
23 adding at the end the following:

24 “(3) *CONTINUATION OF ELIGIBILITY STANDARDS*
25 *FOR CHILDREN UNTIL OCTOBER 1, 2019.*—

1 “(A) *IN GENERAL.*—During the period that
2 begins on the date of enactment of the Patient
3 Protection and Affordable Care Act and ends on
4 September 30, 2019, a State shall not have in ef-
5 fect eligibility standards, methodologies, or proce-
6 dures under its State child health plan (includ-
7 ing any waiver under such plan) for children
8 (including children provided medical assistance
9 for which payment is made under section
10 2105(a)(1)(A)) that are more restrictive than the
11 eligibility standards, methodologies, or proce-
12 dures, respectively, under such plan (or waiver)
13 as in effect on the date of enactment of that Act.
14 The preceding sentence shall not be construed as
15 preventing a State during such period from—

16 “(i) applying eligibility standards,
17 methodologies, or procedures for children
18 under the State child health plan or under
19 any waiver of the plan that are less restric-
20 tive than the eligibility standards, meth-
21 odologies, or procedures, respectively, for
22 children under the plan or waiver that are
23 in effect on the date of enactment of such
24 Act; or

1 “(ii) imposing a limitation described
2 in section 2112(b)(7) for a fiscal year in
3 order to limit expenditures under the State
4 child health plan to those for which Federal
5 financial participation is available under
6 this section for the fiscal year.

7 “(B) ASSURANCE OF EXCHANGE COVERAGE
8 FOR TARGETED LOW-INCOME CHILDREN UNABLE
9 TO BE PROVIDED CHILD HEALTH ASSISTANCE AS
10 A RESULT OF FUNDING SHORTFALLS.—In the
11 event that allotments provided under section
12 2104 are insufficient to provide coverage to all
13 children who are eligible to be targeted low-in-
14 come children under the State child health plan
15 under this title, a State shall establish proce-
16 dures to ensure that such children are provided
17 coverage through an Exchange established by the
18 State under section 1311 of the Patient Protec-
19 tion and Affordable Care Act.”.

20 (2) CONFORMING AMENDMENT TO TITLE XXI
21 MEDICAID MAINTENANCE OF EFFORT.—Section
22 2105(d)(1) of the Social Security Act (42 U.S.C.
23 1397ee(d)(1)) is amended by adding before the period
24 “; except as required under section 1902(e)(14)”.

1 (c) *NO ENROLLMENT BONUS PAYMENTS FOR CHIL-*
2 *DREN ENROLLED AFTER FISCAL YEAR 2013.*—Section
3 *2105(a)(3)(F)(iii) of the Social Security Act (42 U.S.C.*
4 *1397ee(a)(3)(F)(iii)) is amended by inserting “or any chil-*
5 *dren enrolled on or after October 1, 2013” before the period.*

6 (d) *INCOME ELIGIBILITY DETERMINED USING MODI-*
7 *FIED GROSS INCOME.*—

8 (1) *STATE PLAN REQUIREMENT.*—Section
9 *2102(b)(1)(B) of the Social Security Act (42 U.S.C.*
10 *1397bb(b)(1)(B)) is amended—*

11 (A) *in clause (iii), by striking “and” after*
12 *the semicolon;*

13 (B) *in clause (iv), by striking the period*
14 *and inserting “; and”; and*

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

16 *“(v) shall, beginning January 1, 2014,*
17 *use modified gross income and household in-*
18 *come (as defined in section 36B(d)(2) of the*
19 *Internal Revenue Code of 1986) to deter-*
20 *mine eligibility for child health assistance*
21 *under the State child health plan or under*
22 *any waiver of such plan and for any other*
23 *purpose applicable under the plan or wai-*
24 *ver for which a determination of income is*
25 *required, including with respect to the im-*

1 *position of premiums and cost-sharing, con-*
2 *sistent with section 1902(e)(14).”.*

3 (2) *CONFORMING AMENDMENT.—Section*
4 *2107(e)(1) of the Social Security Act (42 U.S.C.*
5 *1397gg(e)(1)) is amended—*

6 (A) *by redesignating subparagraphs (E)*
7 *through (L) as subparagraphs (F) through (M),*
8 *respectively; and*

9 (B) *by inserting after subparagraph (D),*
10 *the following:*

11 “(E) *Section 1902(e)(14) (relating to in-*
12 *come determined using modified gross income*
13 *and household income).”.*

14 (e) *APPLICATION OF STREAMLINED ENROLLMENT SYS-*
15 *TEM.—Section 2107(e)(1) of the Social Security Act (42*
16 *U.S.C. 1397gg(e)(1)), as amended by subsection (d)(2), is*
17 *amended by adding at the end the following:*

18 “(N) *Section 1943(b) (relating to coordina-*
19 *tion with State Exchanges and the State Med-*
20 *icaid agency).”.*

21 (f) *CHIP ELIGIBILITY FOR CHILDREN INELIGIBLE*
22 *FOR MEDICAID AS A RESULT OF ELIMINATION OF DIS-*
23 *REGARDS.—Notwithstanding any other provision of law, a*
24 *State shall treat any child who is determined to be ineligible*
25 *for medical assistance under the State Medicaid plan or*

1 *under a waiver of the plan as a result of the elimination*
2 *of the application of an income disregard based on expense*
3 *or type of income, as required under section 1902(e)(14)*
4 *of the Social Security Act (as added by this Act), as a tar-*
5 *geted low-income child under section 2110(b) (unless the*
6 *child is excluded under paragraph (2) of that section) and*
7 *shall provide child health assistance to the child under the*
8 *State child health plan (whether implemented under title*
9 *XIX or XXI, or both, of the Social Security Act).*

10 **SEC. 2102. TECHNICAL CORRECTIONS.**

11 *(a) CHIPRA.—Effective as if included in the enact-*
12 *ment of the Children’s Health Insurance Program Reau-*
13 *thorization Act of 2009 (Public Law 111–3) (in this section*
14 *referred to as “CHIPRA”):*

15 *(1) Section 2104(m) of the Social Security Act,*
16 *as added by section 102 of CHIPRA, is amended—*

17 *(A) by redesignating paragraph (7) as*
18 *paragraph (8); and*

19 *(B) by inserting after paragraph (6), the*
20 *following:*

21 *“(7) ADJUSTMENT OF FISCAL YEAR 2010 ALLOT-*
22 *MENTS TO ACCOUNT FOR CHANGES IN PROJECTED*
23 *SPENDING FOR CERTAIN PREVIOUSLY APPROVED EX-*
24 *PANSION PROGRAMS.—For purposes of recalculating*
25 *the fiscal year 2010 allotment, in the case of one of*

1 *the 50 States or the District of Columbia that has an*
2 *approved State plan amendment effective January 1,*
3 *2006, to provide child health assistance through the*
4 *provision of benefits under the State plan under title*
5 *XIX for children from birth through age 5 whose fam-*
6 *ily income does not exceed 200 percent of the poverty*
7 *line, the Secretary shall increase the allotment by an*
8 *amount that would be equal to the Federal share of*
9 *expenditures that would have been claimed at the en-*
10 *hanced FMAP rate rather than the Federal medical*
11 *assistance percentage matching rate for such popu-*
12 *lation.”.*

13 *(2) Section 605 of CHIPRA is amended by strik-*
14 *ing “legal residents” and insert “lawfully residing in*
15 *the United States”.*

16 *(3) Subclauses (I) and (II) of paragraph*
17 *(3)(C)(i) of section 2105(a) of the Social Security Act*
18 *(42 U.S.C. 1397ee(a)(3)(ii)), as added by section 104*
19 *of CHIPRA, are each amended by striking “, respec-*
20 *tively”.*

21 *(4) Section 2105(a)(3)(E)(ii) of the Social Secu-*
22 *urity Act (42 U.S.C. 1397ee(a)(3)(E)(ii)), as added by*
23 *section 104 of CHIPRA, is amended by striking sub-*
24 *clause (IV).*

1 (5) *Section 2105(c)(9)(B) of the Social Security*
2 *Act (42 U.S.C. 1397e(c)(9)(B)), as added by section*
3 *211(c)(1) of CHIPRA, is amended by striking “sec-*
4 *tion 1903(a)(3)(F)” and inserting “section*
5 *1903(a)(3)(G)”.*

6 (6) *Section 2109(b)(2)(B) of the Social Security*
7 *Act (42 U.S.C. 1397ii(b)(2)(B)), as added by section*
8 *602 of CHIPRA, is amended by striking “the child*
9 *population growth factor under section*
10 *2104(m)(5)(B)” and inserting “a high-performing*
11 *State under section 2111(b)(3)(B)”.*

12 (7) *Section 2110(c)(9)(B)(v) of the Social Secu-*
13 *arity Act (42 U.S.C. 1397jj(c)(9)(B)(v)), as added by*
14 *section 505(b) of CHIPRA, is amended by striking*
15 *“school or school system” and inserting “local edu-*
16 *cational agency (as defined under section 9101 of the*
17 *Elementary and Secondary Education Act of 1965”.*

18 (8) *Section 211(a)(1)(B) of CHIPRA is amend-*
19 *ed—*

20 (A) *by striking “is amended” and all that*
21 *follows through “adding” and inserting “is*
22 *amended by adding”; and*

23 (B) *by redesignating the new subparagraph*
24 *to be added by such section to section 1903(a)(3)*

1 of the Social Security Act as a new subpara-
2 graph (H).

3 (b) *ARRA*.—Effective as if included in the enactment
4 of section 5006(a) of division B of the American Recovery
5 and Reinvestment Act of 2009 (Public Law 111–5), the sec-
6 ond sentence of section 1916A(a)(1) of the Social Security
7 Act (42 U.S.C. 1396o–1(a)(1)) is amended by striking “or
8 (i)” and inserting “, (i), or (j)”.

9 ***Subtitle C—Medicaid and CHIP***
10 ***Enrollment Simplification***

11 ***SEC. 2201. ENROLLMENT SIMPLIFICATION AND COORDINA-***
12 ***TION WITH STATE HEALTH INSURANCE EX-***
13 ***CHANGES.***

14 *Title XIX of the Social Security Act (42 U.S.C. 1397aa*
15 *et seq.) is amended by adding at the end the following:*

16 ***“SEC. 1943. ENROLLMENT SIMPLIFICATION AND COORDINA-***
17 ***TION WITH STATE HEALTH INSURANCE EX-***
18 ***CHANGES.***

19 ***“(a) CONDITION FOR PARTICIPATION IN MEDICAID.—***
20 *As a condition of the State plan under this title and receipt*
21 *of any Federal financial assistance under section 1903(a)*
22 *for calendar quarters beginning after January 1, 2014, a*
23 *State shall ensure that the requirements of subsection (b)*
24 *is met.*

1 “(b) *ENROLLMENT SIMPLIFICATION AND COORDINA-*
2 *TION WITH STATE HEALTH INSURANCE EXCHANGES AND*
3 *CHIP.*—

4 “(1) *IN GENERAL.*—*A State shall establish proce-*
5 *dures for—*

6 “(A) *enabling individuals, through an*
7 *Internet website that meets the requirements of*
8 *paragraph (4), to apply for medical assistance*
9 *under the State plan or under a waiver of the*
10 *plan, to be enrolled in the State plan or waiver,*
11 *to renew their enrollment in the plan or waiver,*
12 *and to consent to enrollment or reenrollment in*
13 *the State plan through electronic signature;*

14 “(B) *enrolling, without any further deter-*
15 *mination by the State and through such website,*
16 *individuals who are identified by an Exchange*
17 *established by the State under section 1311 of the*
18 *Patient Protection and Affordable Care Act as*
19 *being eligible for—*

20 “(i) *medical assistance under the State*
21 *plan or under a waiver of the plan; or*

22 “(ii) *child health assistance under the*
23 *State child health plan under title XXI;*

24 “(C) *ensuring that individuals who apply*
25 *for but are determined to be ineligible for med-*

1 *ical assistance under the State plan or a waiver*
2 *or ineligible for child health assistance under the*
3 *State child health plan under title XXI, are*
4 *screened for eligibility for enrollment in qualified*
5 *health plans offered through such an Exchange*
6 *and, if applicable, premium assistance for the*
7 *purchase of a qualified health plan under section*
8 *36B of the Internal Revenue Code of 1986 (and,*
9 *if applicable, advance payment of such assist-*
10 *ance under section 1412 of the Patient Protec-*
11 *tion and Affordable Care Act), and, if eligible,*
12 *enrolled in such a plan without having to submit*
13 *an additional or separate application, and that*
14 *such individuals receive information regarding*
15 *reduced cost-sharing for eligible individuals*
16 *under section 1402 of the Patient Protection and*
17 *Affordable Care Act, and any other assistance or*
18 *subsidies available for coverage obtained through*
19 *the Exchange;*

20 *“(D) ensuring that the State agency respon-*
21 *sible for administering the State plan under this*
22 *title (in this section referred to as the ‘State*
23 *Medicaid agency’), the State agency responsible*
24 *for administering the State child health plan*
25 *under title XXI (in this section referred to as the*

1 ‘State CHIP agency’) and an Exchange estab-
2 lished by the State under section 1311 of the Pa-
3 tient Protection and Affordable Care Act utilize
4 a secure electronic interface sufficient to allow
5 for a determination of an individual’s eligibility
6 for such medical assistance, child health assist-
7 ance, or premium assistance, and enrollment in
8 the State plan under this title, title XXI, or a
9 qualified health plan, as appropriate;

10 “(E) coordinating, for individuals who are
11 enrolled in the State plan or under a waiver of
12 the plan and who are also enrolled in a qualified
13 health plan offered through such an Exchange,
14 and for individuals who are enrolled in the State
15 child health plan under title XXI and who are
16 also enrolled in a qualified health plan, the pro-
17 vision of medical assistance or child health as-
18 sistance to such individuals with the coverage
19 provided under the qualified health plan in
20 which they are enrolled, including services de-
21 scribed in section 1905(a)(4)(B) (relating to
22 early and periodic screening, diagnostic, and
23 treatment services defined in section 1905(r))
24 and provided in accordance with the require-
25 ments of section 1902(a)(43); and

1 “(F) conducting outreach to and enrolling
2 vulnerable and underserved populations eligible
3 for medical assistance under this title XIX or for
4 child health assistance under title XXI, including
5 children, unaccompanied homeless youth, chil-
6 dren and youth with special health care needs,
7 pregnant women, racial and ethnic minorities,
8 rural populations, victims of abuse or trauma,
9 individuals with mental health or substance-re-
10 lated disorders, and individuals with HIV/AIDS.

11 “(2) *AGREEMENTS WITH STATE HEALTH INSUR-*
12 *ANCE EXCHANGES.*—*The State Medicaid agency and*
13 *the State CHIP agency may enter into an agreement*
14 *with an Exchange established by the State under sec-*
15 *tion 1311 of the Patient Protection and Affordable*
16 *Care Act under which the State Medicaid agency or*
17 *State CHIP agency may determine whether a State*
18 *resident is eligible for premium assistance for the*
19 *purchase of a qualified health plan under section 36B*
20 *of the Internal Revenue Code of 1986 (and, if appli-*
21 *cable, advance payment of such assistance under sec-*
22 *tion 1412 of the Patient Protection and Affordable*
23 *Care Act), so long as the agreement meets such condi-*
24 *tions and requirements as the Secretary of the Treas-*
25 *ury may prescribe to reduce administrative costs and*

1 *the likelihood of eligibility errors and disruptions in*
2 *coverage.*

3 “(3) *STREAMLINED ENROLLMENT SYSTEM.*—*The*
4 *State Medicaid agency and State CHIP agency shall*
5 *participate in and comply with the requirements for*
6 *the system established under section 1413 of the Pa-*
7 *tient Protection and Affordable Care Act (relating to*
8 *streamlined procedures for enrollment through an Ex-*
9 *change, Medicaid, and CHIP).*

10 “(4) *ENROLLMENT WEBSITE REQUIREMENTS.*—
11 *The procedures established by State under paragraph*
12 *(1) shall include establishing and having in oper-*
13 *ation, not later than January 1, 2014, an Internet*
14 *website that is linked to any website of an Exchange*
15 *established by the State under section 1311 of the Pa-*
16 *tient Protection and Affordable Care Act and to the*
17 *State CHIP agency (if different from the State Med-*
18 *icaid agency) and allows an individual who is eligi-*
19 *ble for medical assistance under the State plan or*
20 *under a waiver of the plan and who is eligible to re-*
21 *ceive premium credit assistance for the purchase of a*
22 *qualified health plan under section 36B of the Inter-*
23 *nal Revenue Code of 1986 to compare the benefits,*
24 *premiums, and cost-sharing applicable to the indi-*
25 *vidual under the State plan or waiver with the bene-*

1 *fits, premiums, and cost-sharing available to the indi-*
 2 *vidual under a qualified health plan offered through*
 3 *such an Exchange, including, in the case of a child,*
 4 *the coverage that would be provided for the child*
 5 *through the State plan or waiver with the coverage*
 6 *that would be provided to the child through enroll-*
 7 *ment in family coverage under that plan and as sup-*
 8 *plemental coverage by the State under the State plan*
 9 *or waiver.*

10 *“(5) CONTINUED NEED FOR ASSESSMENT FOR*
 11 *HOME AND COMMUNITY-BASED SERVICES.—Nothing*
 12 *in paragraph (1) shall limit or modify the require-*
 13 *ment that the State assess an individual for purposes*
 14 *of providing home and community-based services*
 15 *under the State plan or under any waiver of such*
 16 *plan for individuals described in subsection*
 17 *(a)(10)(A)(i)(VI).”.*

18 **SEC. 2202. PERMITTING HOSPITALS TO MAKE PRESUMPTIVE**
 19 **ELIGIBILITY DETERMINATIONS FOR ALL MED-**
 20 **ICAID ELIGIBLE POPULATIONS.**

21 *(a) IN GENERAL.—Section 1902(a)(47) of the Social*
 22 *Security Act (42 U.S.C. 1396a(a)(47)) is amended—*

23 *(1) by striking “at the option of the State, pro-*
 24 *vide” and inserting “provide—*

25 *“(A) at the option of the State,”;*

1 (2) by inserting “and” after the semicolon; and
2 (3) by adding at the end the following:

3 “(B) that any hospital that is a partici-
4 pating provider under the State plan may elect
5 to be a qualified entity for purposes of deter-
6 mining, on the basis of preliminary information,
7 whether any individual is eligible for medical as-
8 sistance under the State plan or under a waiver
9 of the plan for purposes of providing the indi-
10 vidual with medical assistance during a pre-
11 sumptive eligibility period, in the same manner,
12 and subject to the same requirements, as apply
13 to the State options with respect to populations
14 described in section 1920, 1920A, or 1920B (but
15 without regard to whether the State has elected
16 to provide for a presumptive eligibility period
17 under any such sections), subject to such guid-
18 ance as the Secretary shall establish;”.

19 (b) CONFORMING AMENDMENT.—Section
20 1903(u)(1)(D)(v) of such Act (42 U.S.C. 1396b(u)(1)(D)v))
21 is amended—

22 (1) by striking “or for” and inserting “for”; and
23 (2) by inserting before the period at the end the
24 following: “, or for medical assistance provided to an
25 individual during a presumptive eligibility period re-

1 *sulting from a determination of presumptive eligi-*
2 *bility made by a hospital that elects under section*
3 *1902(a)(47)(B) to be a qualified entity for such pur-*
4 *pose”.*

5 *(c) EFFECTIVE DATE.—The amendments made by this*
6 *section take effect on January 1, 2014, and apply to services*
7 *furnished on or after that date.*

8 ***Subtitle D—Improvements to***
9 ***Medicaid Services***

10 ***SEC. 2301. COVERAGE FOR FREESTANDING BIRTH CENTER***
11 ***SERVICES.***

12 *(a) IN GENERAL.—Section 1905 of the Social Security*
13 *Act (42 U.S.C. 1396d), is amended—*

14 *(1) in subsection (a)—*

15 *(A) in paragraph (27), by striking “and”*
16 *at the end;*

17 *(B) by redesignating paragraph (28) as*
18 *paragraph (29); and*

19 *(C) by inserting after paragraph (27) the*
20 *following new paragraph:*

21 *“(28) freestanding birth center services (as de-*
22 *defined in subsection (l)(3)(A)) and other ambulatory*
23 *services that are offered by a freestanding birth center*
24 *(as defined in subsection (l)(3)(B)) and that are oth-*
25 *erwise included in the plan; and”;* and

1 (2) in subsection (1), by adding at the end the
2 following new paragraph:

3 “(3)(A) The term ‘freestanding birth center services’
4 means services furnished to an individual at a freestanding
5 birth center (as defined in subparagraph (B)) at such cen-
6 ter.

7 “(B) The term ‘freestanding birth center’ means a
8 health facility—

9 “(i) that is not a hospital;

10 “(ii) where childbirth is planned to occur away
11 from the pregnant woman’s residence;

12 “(iii) that is licensed or otherwise approved by
13 the State to provide prenatal labor and delivery or
14 postpartum care and other ambulatory services that
15 are included in the plan; and

16 “(iv) that complies with such other requirements
17 relating to the health and safety of individuals fur-
18 nished services by the facility as the State shall estab-
19 lish.

20 “(C) A State shall provide separate payments to pro-
21 viders administering prenatal labor and delivery or
22 postpartum care in a freestanding birth center (as defined
23 in subparagraph (B)), such as nurse midwives and other
24 providers of services such as birth attendants recognized
25 under State law, as determined appropriate by the Sec-

1 *retary. For purposes of the preceding sentence, the term*
2 *'birth attendant' means an individual who is recognized or*
3 *registered by the State involved to provide health care at*
4 *childbirth and who provides such care within the scope of*
5 *practice under which the individual is legally authorized*
6 *to perform such care under State law (or the State regu-*
7 *latory mechanism provided by State law), regardless of*
8 *whether the individual is under the supervision of, or asso-*
9 *ciated with, a physician or other health care provider. Noth-*
10 *ing in this subparagraph shall be construed as changing*
11 *State law requirements applicable to a birth attendant.”.*

12 (b) CONFORMING AMENDMENT.—Section
13 1902(a)(10)(A) of the Social Security Act (42 U.S.C.
14 1396a(a)(10)(A)), is amended in the matter preceding
15 clause (i) by striking “and (21)” and inserting “, (21), and
16 (28)”.

17 (c) EFFECTIVE DATE.—

18 (1) IN GENERAL.—Except as provided in para-
19 graph (2), the amendments made by this section shall
20 take effect on the date of the enactment of this Act
21 and shall apply to services furnished on or after such
22 date.

23 (2) EXCEPTION IF STATE LEGISLATION RE-
24 QUIRED.—In the case of a State plan for medical as-
25 sistance under title XIX of the Social Security Act

1 *which the Secretary of Health and Human Services*
2 *determines requires State legislation (other than legis-*
3 *lation appropriating funds) in order for the plan to*
4 *meet the additional requirement imposed by the*
5 *amendments made by this section, the State plan*
6 *shall not be regarded as failing to comply with the re-*
7 *quirements of such title solely on the basis of its fail-*
8 *ure to meet this additional requirement before the*
9 *first day of the first calendar quarter beginning after*
10 *the close of the first regular session of the State legis-*
11 *lature that begins after the date of the enactment of*
12 *this Act. For purposes of the previous sentence, in the*
13 *case of a State that has a 2-year legislative session,*
14 *each year of such session shall be deemed to be a sepa-*
15 *rate regular session of the State legislature.*

16 **SEC. 2302. CONCURRENT CARE FOR CHILDREN.**

17 *(a) IN GENERAL.—Section 1905(o)(1) of the Social Se-*
18 *curity Act (42 U.S.C. 1396d(o)(1)) is amended—*

19 *(1) in subparagraph (A), by striking “subpara-*
20 *graph (B)” and inserting “subparagraphs (B) and*
21 *(C)”;* and

22 *(2) by adding at the end the following new sub-*
23 *paragraph:*

24 *“(C) A voluntary election to have payment made for*
25 *hospice care for a child (as defined by the State) shall not*

1 *constitute a waiver of any rights of the child to be provided*
 2 *with, or to have payment made under this title for, services*
 3 *that are related to the treatment of the child's condition*
 4 *for which a diagnosis of terminal illness has been made.”.*

5 *(b) APPLICATION TO CHIP.—Section 2110(a)(23) of*
 6 *the Social Security Act (42 U.S.C. 1397jj(a)(23)) is amend-*
 7 *ed by inserting “(concurrent, in the case of an individual*
 8 *who is a child, with care related to the treatment of the*
 9 *child's condition with respect to which a diagnosis of ter-*
 10 *минаl illness has been made” after “hospice care”.*

11 **SEC. 2303. STATE ELIGIBILITY OPTION FOR FAMILY PLAN-**
 12 **NING SERVICES.**

13 *(a) COVERAGE AS OPTIONAL CATEGORICALLY NEEDY*
 14 *GROUP.—*

15 *(1) IN GENERAL.—Section 1902(a)(10)(A)(i) of*
 16 *the Social Security Act (42 U.S.C.*
 17 *1396a(a)(10)(A)(i)), as amended by section 2001(e),*
 18 *is amended—*

19 *(A) in subclause (XIX), by striking “or” at*
 20 *the end;*

21 *(B) in subclause (XX), by adding “or” at*
 22 *the end; and*

23 *(C) by adding at the end the following new*
 24 *subclause:*

1 “(XXI) who are described in sub-
2 section (ii) (relating to individuals
3 who meet certain income standards);”.

4 (2) *GROUP DESCRIBED.*—Section 1902 of such
5 Act (42 U.S.C. 1396a), as amended by section
6 2001(d), is amended by adding at the end the fol-
7 lowing new subsection:

8 “(ii)(1) Individuals described in this subsection are in-
9 dividuals—

10 “(A) whose income does not exceed an in-
11 come eligibility level established by the State that
12 does not exceed the highest income eligibility
13 level established under the State plan under this
14 title (or under its State child health plan under
15 title XXI) for pregnant women; and

16 “(B) who are not pregnant.

17 “(2) At the option of a State, individuals de-
18 scribed in this subsection may include individuals
19 who, had individuals applied on or before January 1,
20 2007, would have been made eligible pursuant to the
21 standards and processes imposed by that State for
22 benefits described in clause (XV) of the matter fol-
23 lowing subparagraph (G) of section subsection (a)(10)
24 pursuant to a waiver granted under section 1115.

1 “(3) *At the option of a State, for purposes of*
2 *subsection (a)(17)(B), in determining eligibility for*
3 *services under this subsection, the State may consider*
4 *only the income of the applicant or recipient.*”.

5 (3) *LIMITATION ON BENEFITS.*—Section
6 *1902(a)(10) of the Social Security Act (42 U.S.C.*
7 *1396a(a)(10)), as amended by section 2001(a)(5)(A),*
8 *is amended in the matter following subparagraph*
9 *(G)—*

10 (A) *by striking “and (XV)” and inserting*
11 *“(XV)”;* and

12 (B) *by inserting “, and (XVI) the medical*
13 *assistance made available to an individual de-*
14 *scribed in subsection (ii) shall be limited to fam-*
15 *ily planning services and supplies described in*
16 *section 1905(a)(4)(C) including medical diag-*
17 *nosis and treatment services that are provided*
18 *pursuant to a family planning service in a fam-*
19 *ily planning setting” before the semicolon.*

20 (4) *CONFORMING AMENDMENTS.*—

21 (A) *Section 1905(a) of the Social Security*
22 *Act (42 U.S.C. 1396d(a)), as amended by section*
23 *2001(e)(2)(A), is amended in the matter pre-*
24 *ceding paragraph (1)—*

1 (i) in clause (xiv), by striking “or” at
2 the end;

3 (ii) in clause (xv), by adding “or” at
4 the end; and

5 (iii) by inserting after clause (xv) the
6 following:

7 “(xvi) individuals described in section
8 1902(ii),”.

9 (B) Section 1903(f)(4) of such Act (42
10 U.S.C. 1396b(f)(4)), as amended by section
11 2001(e)(2)(B), is amended by inserting
12 “1902(a)(10)(A)(ii)(XXI),” after
13 “1902(a)(10)(A)(ii)(XX),”.

14 (b) *PRESUMPTIVE ELIGIBILITY*.—

15 (1) *IN GENERAL*.—*Title XIX of the Social Secu-*
16 *rity Act (42 U.S.C. 1396 et seq.) is amended by in-*
17 *serting after section 1920B the following:*

18 “*PRESUMPTIVE ELIGIBILITY FOR FAMILY PLANNING*
19 *SERVICES*

20 “*SEC. 1920C. (a) STATE OPTION*.—*State plan ap-*
21 *proved under section 1902 may provide for making medical*
22 *assistance available to an individual described in section*
23 *1902(ii) (relating to individuals who meet certain income*
24 *eligibility standard) during a presumptive eligibility pe-*
25 *riod. In the case of an individual described in section*
26 *1902(ii), such medical assistance shall be limited to family*

1 *planning services and supplies described in 1905(a)(4)(C)*
2 *and, at the State’s option, medical diagnosis and treatment*
3 *services that are provided in conjunction with a family*
4 *planning service in a family planning setting.*

5 “(b) *DEFINITIONS.—For purposes of this section:*

6 “(1) *PRESUMPTIVE ELIGIBILITY PERIOD.—The*
7 *term ‘presumptive eligibility period’ means, with re-*
8 *spect to an individual described in subsection (a), the*
9 *period that—*

10 “(A) *begins with the date on which a quali-*
11 *fied entity determines, on the basis of prelimi-*
12 *nary information, that the individual is de-*
13 *scribed in section 1902(ii); and*

14 “(B) *ends with (and includes) the earlier*
15 *of—*

16 “(i) *the day on which a determination*
17 *is made with respect to the eligibility of*
18 *such individual for services under the State*
19 *plan; or*

20 “(ii) *in the case of such an individual*
21 *who does not file an application by the last*
22 *day of the month following the month dur-*
23 *ing which the entity makes the determina-*
24 *tion referred to in subparagraph (A), such*
25 *last day.*

1 “(2) *QUALIFIED ENTITY.*—

2 “(A) *IN GENERAL.*—*Subject to subpara-*
3 *graph (B), the term ‘qualified entity’ means any*
4 *entity that—*

5 “(i) *is eligible for payments under a*
6 *State plan approved under this title; and*

7 “(ii) *is determined by the State agency*
8 *to be capable of making determinations of*
9 *the type described in paragraph (1)(A).*

10 “(B) *RULE OF CONSTRUCTION.*—*Nothing in*
11 *this paragraph shall be construed as preventing*
12 *a State from limiting the classes of entities that*
13 *may become qualified entities in order to prevent*
14 *fraud and abuse.*

15 “(c) *ADMINISTRATION.*—

16 “(1) *IN GENERAL.*—*The State agency shall pro-*
17 *vide qualified entities with—*

18 “(A) *such forms as are necessary for an ap-*
19 *plication to be made by an individual described*
20 *in subsection (a) for medical assistance under*
21 *the State plan; and*

22 “(B) *information on how to assist such in-*
23 *dividuals in completing and filing such forms.*

24 “(2) *NOTIFICATION REQUIREMENTS.*—*A quali-*
25 *fied entity that determines under subsection (b)(1)(A)*

1 *that an individual described in subsection (a) is pre-*
2 *sumptively eligible for medical assistance under a*
3 *State plan shall—*

4 “(A) *notify the State agency of the deter-*
5 *mination within 5 working days after the date*
6 *on which determination is made; and*

7 “(B) *inform such individual at the time the*
8 *determination is made that an application for*
9 *medical assistance is required to be made by not*
10 *later than the last day of the month following the*
11 *month during which the determination is made.*

12 “(3) *APPLICATION FOR MEDICAL ASSISTANCE.—*
13 *In the case of an individual described in subsection*
14 *(a) who is determined by a qualified entity to be pre-*
15 *sumptively eligible for medical assistance under a*
16 *State plan, the individual shall apply for medical as-*
17 *sistance by not later than the last day of the month*
18 *following the month during which the determination*
19 *is made.*

20 “(d) *PAYMENT.—Notwithstanding any other provision*
21 *of law, medical assistance that—*

22 “(1) *is furnished to an individual described in*
23 *subsection (a)—*

24 “(A) *during a presumptive eligibility pe-*
25 *riod; and*

1 “(B) by a entity that is eligible for pay-
2 ments under the State plan; and
3 “(2) is included in the care and services covered
4 by the State plan,
5 shall be treated as medical assistance provided by such plan
6 for purposes of clause (4) of the first sentence of section
7 1905(b).”.

8 (2) CONFORMING AMENDMENTS.—

9 (A) Section 1902(a)(47) of the Social Secu-
10 rity Act (42 U.S.C. 1396a(a)(47)), as amended
11 by section 2202(a), is amended—

12 (i) in subparagraph (A), by inserting
13 before the semicolon at the end the fol-
14 lowing: “and provide for making medical
15 assistance available to individuals described
16 in subsection (a) of section 1920C during a
17 presumptive eligibility period in accordance
18 with such section”; and

19 (ii) in subparagraph (B), by striking
20 “or 1920B” and inserting “1920B, or
21 1920C”.

22 (B) Section 1903(u)(1)(D)(v) of such Act
23 (42 U.S.C. 1396b(u)(1)(D)(v)), as amended by
24 section 2202(b), is amended by inserting “or for
25 medical assistance provided to an individual de-

1 *scribed in subsection (a) of section 1920C during*
2 *a presumptive eligibility period under such sec-*
3 *tion,” after “1920B during a presumptive eligi-*
4 *bility period under such section,”.*

5 *(c) CLARIFICATION OF COVERAGE OF FAMILY PLAN-*
6 *NING SERVICES AND SUPPLIES.—Section 1937(b) of the So-*
7 *cial Security Act (42 U.S.C. 1396u–7(b)), as amended by*
8 *section 2001(c), is amended by adding at the end the fol-*
9 *lowing:*

10 *“(7) COVERAGE OF FAMILY PLANNING SERVICES*
11 *AND SUPPLIES.—Notwithstanding the previous provi-*
12 *sions of this section, a State may not provide for*
13 *medical assistance through enrollment of an indi-*
14 *vidual with benchmark coverage or benchmark-equiva-*
15 *lent coverage under this section unless such coverage*
16 *includes for any individual described in section*
17 *1905(a)(4)(C), medical assistance for family planning*
18 *services and supplies in accordance with such sec-*
19 *tion.”.*

20 *(d) EFFECTIVE DATE.—The amendments made by this*
21 *section take effect on the date of the enactment of this Act*
22 *and shall apply to items and services furnished on or after*
23 *such date.*

1 **SEC. 2304. CLARIFICATION OF DEFINITION OF MEDICAL AS-**
2 **SISTANCE.**

3 *Section 1905(a) of the Social Security Act (42 U.S.C.*
4 *1396d(a)) is amended by inserting “or the care and services*
5 *themselves, or both” before “(if provided in or after”.*

6 **Subtitle E—New Options for States**
7 **to Provide Long-Term Services**
8 **and Supports**

9 **SEC. 2401. COMMUNITY FIRST CHOICE OPTION.**

10 *Section 1915 of the Social Security Act (42 U.S.C.*
11 *1396n) is amended by adding at the end the following:*

12 *“(k) STATE PLAN OPTION TO PROVIDE HOME AND*
13 *COMMUNITY-BASED ATTENDANT SERVICES AND SUP-*
14 *PORTS.—*

15 *“(1) IN GENERAL.—Subject to the succeeding*
16 *provisions of this subsection, beginning October 1,*
17 *2010, a State may provide through a State plan*
18 *amendment for the provision of medical assistance for*
19 *home and community-based attendant services and*
20 *supports for individuals who are eligible for medical*
21 *assistance under the State plan whose income does*
22 *not exceed 150 percent of the poverty line (as defined*
23 *in section 2110(c)(5)) or, if greater, the income level*
24 *applicable for an individual who has been determined*
25 *to require an institutional level of care to be eligible*
26 *for nursing facility services under the State plan and*

1 *with respect to whom there has been a determination*
2 *that, but for the provision of such services, the indi-*
3 *viduals would require the level of care provided in a*
4 *hospital, a nursing facility, an intermediate care fa-*
5 *cility for the mentally retarded, or an institution for*
6 *mental diseases, the cost of which could be reimbursed*
7 *under the State plan, but only if the individual*
8 *chooses to receive such home and community-based at-*
9 *endant services and supports, and only if the State*
10 *meets the following requirements:*

11 “(A) *AVAILABILITY.—The State shall make*
12 *available home and community-based attendant*
13 *services and supports to eligible individuals, as*
14 *needed, to assist in accomplishing activities of*
15 *daily living, instrumental activities of daily liv-*
16 *ing, and health-related tasks through hands-on*
17 *assistance, supervision, or cueing—*

18 “(i) *under a person-centered plan of*
19 *services and supports that is based on an*
20 *assessment of functional need and that is*
21 *agreed to in writing by the individual or,*
22 *as appropriate, the individual’s representa-*
23 *tive;*

24 “(ii) *in a home or community setting,*
25 *which does not include a nursing facility,*

1 *institution for mental diseases, or an inter-*
2 *mediate care facility for the mentally re-*
3 *tarded;*

4 *“(iii) under an agency-provider model*
5 *or other model (as defined in paragraph*
6 *(6)(C)); and*

7 *“(iv) the furnishing of which—*

8 *“(I) is selected, managed, and dis-*
9 *missed by the individual, or, as appro-*
10 *priate, with assistance from the indi-*
11 *vidual’s representative;*

12 *“(II) is controlled, to the max-*
13 *imum extent possible, by the indi-*
14 *vidual or where appropriate, the indi-*
15 *vidual’s representative, regardless of*
16 *who may act as the employer of record;*
17 *and*

18 *“(III) provided by an individual*
19 *who is qualified to provide such serv-*
20 *ices, including family members (as de-*
21 *finied by the Secretary).*

22 *“(B) INCLUDED SERVICES AND SUP-*
23 *PORTS.—In addition to assistance in accom-*
24 *plishing activities of daily living, instrumental*
25 *activities of daily living, and health related*

1 *tasks, the home and community-based attendant*
2 *services and supports made available include—*

3 “(i) *the acquisition, maintenance, and*
4 *enhancement of skills necessary for the indi-*
5 *vidual to accomplish activities of daily liv-*
6 *ing, instrumental activities of daily living,*
7 *and health related tasks;*

8 “(ii) *back-up systems or mechanisms*
9 *(such as the use of beepers or other elec-*
10 *tronic devices) to ensure continuity of serv-*
11 *ices and supports; and*

12 “(iii) *voluntary training on how to se-*
13 *lect, manage, and dismiss attendants.*

14 “(C) *EXCLUDED SERVICES AND SUP-*
15 *PORTS.—Subject to subparagraph (D), the home*
16 *and community-based attendant services and*
17 *supports made available do not include—*

18 “(i) *room and board costs for the indi-*
19 *vidual;*

20 “(ii) *special education and related*
21 *services provided under the Individuals*
22 *with Disabilities Education Act and voca-*
23 *tional rehabilitation services provided under*
24 *the Rehabilitation Act of 1973;*

1 “(iii) assistive technology devices and
2 assistive technology services other than those
3 under (1)(B)(ii);

4 “(iv) medical supplies and equipment;
5 or

6 “(v) home modifications.

7 “(D) *PERMISSIBLE SERVICES AND SUP-*
8 *PORTS.—The home and community-based attend-*
9 *ant services and supports may include—*

10 “(i) expenditures for transition costs
11 such as rent and utility deposits, first
12 month’s rent and utilities, bedding, basic
13 kitchen supplies, and other necessities re-
14 quired for an individual to make the transi-
15 tion from a nursing facility, institution for
16 mental diseases, or intermediate care facil-
17 ity for the mentally retarded to a commu-
18 nity-based home setting where the indi-
19 vidual resides; and

20 “(ii) expenditures relating to a need
21 identified in an individual’s person-cen-
22 tered plan of services that increase inde-
23 pendence or substitute for human assistance,
24 to the extent that expenditures would other-
25 wise be made for the human assistance.

1 “(2) *INCREASED FEDERAL FINANCIAL PARTICIPA-*
2 *TION.—For purposes of payments to a State under*
3 *section 1903(a)(1), with respect to amounts expended*
4 *by the State to provide medical assistance under the*
5 *State plan for home and community-based attendant*
6 *services and supports to eligible individuals in ac-*
7 *cordance with this subsection during a fiscal year*
8 *quarter occurring during the period described in*
9 *paragraph (1), the Federal medical assistance per-*
10 *centage applicable to the State (as determined under*
11 *section 1905(b)) shall be increased by 6 percentage*
12 *points.*

13 “(3) *STATE REQUIREMENTS.—In order for a*
14 *State plan amendment to be approved under this sub-*
15 *section, the State shall—*

16 “(A) *develop and implement such amend-*
17 *ment in collaboration with a Development and*
18 *Implementation Council established by the State*
19 *that includes a majority of members with dis-*
20 *abilities, elderly individuals, and their represent-*
21 *atives and consults and collaborates with such*
22 *individuals;*

23 “(B) *provide consumer controlled home and*
24 *community-based attendant services and sup-*
25 *ports to individuals on a statewide basis, in a*

1 *manner that provides such services and supports*
2 *in the most integrated setting appropriate to the*
3 *individual's needs, and without regard to the in-*
4 *dividual's age, type or nature of disability, se-*
5 *verity of disability, or the form of home and*
6 *community-based attendant services and sup-*
7 *ports that the individual requires in order to*
8 *lead an independent life;*

9 “(C) *with respect to expenditures during the*
10 *first full fiscal year in which the State plan*
11 *amendment is implemented, maintain or exceed*
12 *the level of State expenditures for medical assist-*
13 *ance that is provided under section 1905(a), sec-*
14 *tion 1915, section 1115, or otherwise to individ-*
15 *uals with disabilities or elderly individuals at-*
16 *tributable to the preceding fiscal year;*

17 “(D) *establish and maintain a comprehen-*
18 *sive, continuous quality assurance system with*
19 *respect to community- based attendant services*
20 *and supports that—*

21 “(i) *includes standards for agency-*
22 *based and other delivery models with respect*
23 *to training, appeals for denials and recon-*
24 *sideration procedures of an individual plan,*

1 *and other factors as determined by the Sec-*
2 *retary;*

3 “(ii) *incorporates feedback from con-*
4 *sumers and their representatives, disability*
5 *organizations, providers, families of dis-*
6 *abled or elderly individuals, members of the*
7 *community, and others and maximizes con-*
8 *sumer independence and consumer control;*

9 “(iii) *monitors the health and well-*
10 *being of each individual who receives home*
11 *and community-based attendant services*
12 *and supports, including a process for the*
13 *mandatory reporting, investigation, and*
14 *resolution of allegations of neglect, abuse, or*
15 *exploitation in connection with the provi-*
16 *sion of such services and supports; and*

17 “(iv) *provides information about the*
18 *provisions of the quality assurance required*
19 *under clauses (i) through (iii) to each indi-*
20 *vidual receiving such services; and*

21 “(E) *collect and report information, as de-*
22 *termined necessary by the Secretary, for the pur-*
23 *poses of approving the State plan amendment,*
24 *providing Federal oversight, and conducting an*
25 *evaluation under paragraph (5)(A), including*

1 data regarding how the State provides home and
2 community-based attendant services and sup-
3 ports and other home and community-based serv-
4 ices, the cost of such services and supports, and
5 how the State provides individuals with disabil-
6 ities who otherwise qualify for institutional care
7 under the State plan or under a waiver the
8 choice to instead receive home and community-
9 based services in lieu of institutional care.

10 “(4) COMPLIANCE WITH CERTAIN LAWS.—A
11 State shall ensure that, regardless of whether the State
12 uses an agency-provider model or other models to pro-
13 vide home and community-based attendant services
14 and supports under a State plan amendment under
15 this subsection, such services and supports are pro-
16 vided in accordance with the requirements of the Fair
17 Labor Standards Act of 1938 and applicable Federal
18 and State laws regarding—

19 “(A) withholding and payment of Federal
20 and State income and payroll taxes;

21 “(B) the provision of unemployment and
22 workers compensation insurance;

23 “(C) maintenance of general liability insur-
24 ance; and

25 “(D) occupational health and safety.

1 “(5) *EVALUATION, DATA COLLECTION, AND RE-*
2 *PORT TO CONGRESS.—*

3 “(A) *EVALUATION.—The Secretary shall*
4 *conduct an evaluation of the provision of home*
5 *and community-based attendant services and*
6 *supports under this subsection in order to deter-*
7 *mine the effectiveness of the provision of such*
8 *services and supports in allowing the individuals*
9 *receiving such services and supports to lead an*
10 *independent life to the maximum extent possible;*
11 *the impact on the physical and emotional health*
12 *of the individuals who receive such services; and*
13 *an comparative analysis of the costs of services*
14 *provided under the State plan amendment under*
15 *this subsection and those provided under institu-*
16 *tional care in a nursing facility, institution for*
17 *mental diseases, or an intermediate care facility*
18 *for the mentally retarded.*

19 “(B) *DATA COLLECTION.—The State shall*
20 *provide the Secretary with the following infor-*
21 *mation regarding the provision of home and*
22 *community-based attendant services and sup-*
23 *ports under this subsection for each fiscal year*
24 *for which such services and supports are pro-*
25 *vided:*

1 “(i) *The number of individuals who*
2 *are estimated to receive home and commu-*
3 *nity-based attendant services and supports*
4 *under this subsection during the fiscal year.*

5 “(ii) *The number of individuals that*
6 *received such services and supports during*
7 *the preceding fiscal year.*

8 “(iii) *The specific number of individ-*
9 *uals served by type of disability, age, gen-*
10 *der, education level, and employment status.*

11 “(iv) *Whether the specific individuals*
12 *have been previously served under any other*
13 *home and community based services pro-*
14 *gram under the State plan or under a*
15 *waiver.*

16 “(C) *REPORTS.—Not later than—*

17 “(i) *December 31, 2013, the Secretary*
18 *shall submit to Congress and make available*
19 *to the public an interim report on the find-*
20 *ings of the evaluation under subparagraph*
21 *(A); and*

22 “(ii) *December 31, 2015, the Secretary*
23 *shall submit to Congress and make available*
24 *to the public a final report on the findings*
25 *of the evaluation under subparagraph (A).*

1 “(6) *DEFINITIONS.*—*In this subsection:*

2 “(A) *ACTIVITIES OF DAILY LIVING.*—*The*
3 *term ‘activities of daily living’ includes tasks*
4 *such as eating, toileting, grooming, dressing,*
5 *bathing, and transferring.*

6 “(B) *CONSUMER CONTROLLED.*—*The term*
7 *‘consumer controlled’ means a method of select-*
8 *ing and providing services and supports that*
9 *allow the individual, or where appropriate, the*
10 *individual’s representative, maximum control of*
11 *the home and community-based attendant serv-*
12 *ices and supports, regardless of who acts as the*
13 *employer of record.*

14 “(C) *DELIVERY MODELS.*—

15 “(i) *AGENCY-PROVIDER MODEL.*—*The*
16 *term ‘agency-provider model’ means, with*
17 *respect to the provision of home and com-*
18 *munity-based attendant services and sup-*
19 *ports for an individual, subject to para-*
20 *graph (4), a method of providing consumer*
21 *controlled services and supports under*
22 *which entities contract for the provision of*
23 *such services and supports.*

24 “(ii) *OTHER MODELS.*—*The term*
25 *‘other models’ means, subject to paragraph*

1 (4), methods, other than an agency-provider
2 model, for the provision of consumer con-
3 trolled services and supports. Such models
4 may include the provision of vouchers, di-
5 rect cash payments, or use of a fiscal agent
6 to assist in obtaining services.

7 “(D) *HEALTH-RELATED TASKS*.—The term
8 ‘health-related tasks’ means specific tasks related
9 to the needs of an individual, which can be dele-
10 gated or assigned by licensed health-care profes-
11 sionals under State law to be performed by an
12 attendant.

13 “(E) *INDIVIDUAL’S REPRESENTATIVE*.—The
14 term ‘individual’s representative’ means a par-
15 ent, family member, guardian, advocate, or other
16 authorized representative of an individual

17 “(F) *INSTRUMENTAL ACTIVITIES OF DAILY*
18 *LIVING*.—The term ‘instrumental activities of
19 daily living’ includes (but is not limited to)
20 meal planning and preparation, managing fi-
21 nances, shopping for food, clothing, and other es-
22 sential items, performing essential household
23 chores, communicating by phone or other media,
24 and traveling around and participating in the
25 community.”.

1 **SEC. 2402. REMOVAL OF BARRIERS TO PROVIDING HOME**
2 **AND COMMUNITY-BASED SERVICES.**

3 (a) *OVERSIGHT AND ASSESSMENT OF THE ADMINIS-*
4 *TRATION OF HOME AND COMMUNITY-BASED SERVICES.—*

5 *The Secretary of Health and Human Services shall promul-*
6 *gate regulations to ensure that all States develop service sys-*
7 *tems that are designed to—*

8 (1) *allocate resources for services in a manner*
9 *that is responsive to the changing needs and choices*
10 *of beneficiaries receiving non-institutionally-based*
11 *long-term services and supports (including such serv-*
12 *ices and supports that are provided under programs*
13 *other the State Medicaid program), and that provides*
14 *strategies for beneficiaries receiving such services to*
15 *maximize their independence, including through the*
16 *use of client-employed providers;*

17 (2) *provide the support and coordination needed*
18 *for a beneficiary in need of such services (and their*
19 *family caregivers or representative, if applicable) to*
20 *design an individualized, self-directed, community-*
21 *supported life; and*

22 (3) *improve coordination among, and the regula-*
23 *tion of, all providers of such services under federally*
24 *and State-funded programs in order to—*

1 (A) achieve a more consistent administra-
2 tion of policies and procedures across programs
3 in relation to the provision of such services; and

4 (B) oversee and monitor all service system
5 functions to assure—

6 (i) coordination of, and effectiveness of,
7 eligibility determinations and individual
8 assessments;

9 (ii) development and service moni-
10 toring of a complaint system, a manage-
11 ment system, a system to qualify and moni-
12 tor providers, and systems for role-setting
13 and individual budget determinations; and

14 (iii) an adequate number of qualified
15 direct care workers to provide self-directed
16 personal assistance services.

17 (b) *ADDITIONAL STATE OPTIONS.*—Section 1915(i) of
18 the Social Security Act (42 U.S.C. 1396n(i)) is amended
19 by adding at the end the following new paragraphs:

20 “(6) *STATE OPTION TO PROVIDE HOME AND COM-*
21 *MUNITY-BASED SERVICES TO INDIVIDUALS ELIGIBLE*
22 *FOR SERVICES UNDER A WAIVER.*—

23 “(A) *IN GENERAL.*—A State that provides
24 home and community-based services in accord-
25 ance with this subsection to individuals who sat-

1 *isfy the needs-based criteria for the receipt of*
2 *such services established under paragraph (1)(A)*
3 *may, in addition to continuing to provide such*
4 *services to such individuals, elect to provide*
5 *home and community-based services in accord-*
6 *ance with the requirements of this paragraph to*
7 *individuals who are eligible for home and com-*
8 *munity-based services under a waiver approved*
9 *for the State under subsection (c), (d), or (e) or*
10 *under section 1115 to provide such services, but*
11 *only for those individuals whose income does not*
12 *exceed 300 percent of the supplemental security*
13 *income benefit rate established by section*
14 *1611(b)(1).*

15 *“(B) APPLICATION OF SAME REQUIREMENTS*
16 *FOR INDIVIDUALS SATISFYING NEEDS-BASED CRI-*
17 *TERIA.—Subject to subparagraph (C), a State*
18 *shall provide home and community-based serv-*
19 *ices to individuals under this paragraph in the*
20 *same manner and subject to the same require-*
21 *ments as apply under the other paragraphs of*
22 *this subsection to the provision of home and com-*
23 *munity-based services to individuals who satisfy*
24 *the needs-based criteria established under para-*
25 *graph (1)(A).*

1 “(C) *AUTHORITY TO OFFER DIFFERENT*
2 *TYPE, AMOUNT, DURATION, OR SCOPE OF HOME*
3 *AND COMMUNITY-BASED SERVICES.—A State*
4 *may offer home and community-based services to*
5 *individuals under this paragraph that differ in*
6 *type, amount, duration, or scope from the home*
7 *and community-based services offered for indi-*
8 *viduals who satisfy the needs-based criteria es-*
9 *tablished under paragraph (1)(A), so long as*
10 *such services are within the scope of services de-*
11 *scribed in paragraph (4)(B) of subsection (c) for*
12 *which the Secretary has the authority to approve*
13 *a waiver and do not include room or board.*

14 “(7) *STATE OPTION TO OFFER HOME AND COM-*
15 *MUNITY-BASED SERVICES TO SPECIFIC, TARGETED*
16 *POPULATIONS.—*

17 “(A) *IN GENERAL.—A State may elect in a*
18 *State plan amendment under this subsection to*
19 *target the provision of home and community-*
20 *based services under this subsection to specific*
21 *populations and to differ the type, amount, du-*
22 *ration, or scope of such services to such specific*
23 *populations.*

24 “(B) *5-YEAR TERM.—*

1 “(i) *IN GENERAL.*—An election by a
2 State under this paragraph shall be for a
3 period of 5 years.

4 “(ii) *PHASE-IN OF SERVICES AND ELI-*
5 *GIBILITY PERMITTED DURING INITIAL 5-*
6 *YEAR PERIOD.*—A State making an election
7 under this paragraph may, during the first
8 5-year period for which the election is
9 made, phase-in the enrollment of eligible in-
10 dividuals, or the provision of services to
11 such individuals, or both, so long as all eli-
12 gible individuals in the State for such serv-
13 ices are enrolled, and all such services are
14 provided, before the end of the initial 5-year
15 period.

16 “(C) *RENEWAL.*—An election by a State
17 under this paragraph may be renewed for addi-
18 tional 5-year terms if the Secretary determines,
19 prior to beginning of each such renewal period,
20 that the State has—

21 “(i) *adhered to the requirements of this*
22 *subsection and paragraph in providing*
23 *services under such an election; and*

1 “(i) met the State’s objectives with re-
2 spect to quality improvement and bene-
3 ficiary outcomes.”.

4 (c) *REMOVAL OF LIMITATION ON SCOPE OF SERV-*
5 *ICES.—Paragraph (1) of section 1915(i) of the Social Secu-*
6 *rity Act (42 U.S.C. 1396n(i)), as amended by subsection*
7 *(a), is amended by striking “or such other services requested*
8 *by the State as the Secretary may approve”.*

9 (d) *OPTIONAL ELIGIBILITY CATEGORY TO PROVIDE*
10 *FULL MEDICAID BENEFITS TO INDIVIDUALS RECEIVING*
11 *HOME AND COMMUNITY-BASED SERVICES UNDER A STATE*
12 *PLAN AMENDMENT.—*

13 (1) *IN GENERAL.—Section 1902(a)(10)(A)(ii) of*
14 *the Social Security Act (42 U.S.C.*
15 *1396a(a)(10)(A)(ii)), as amended by section*
16 *2304(a)(1), is amended—*

17 (A) *in subclause (XX), by striking “or” at*
18 *the end;*

19 (B) *in subclause (XXI), by adding “or” at*
20 *the end; and*

21 (C) *by inserting after subclause (XXI), the*
22 *following new subclause:*

23 “(XXII) *who are eligible for home*
24 *and community-based services under*
25 *needs-based criteria established under*

1 paragraph (1)(A) of section 1915(i), or
 2 who are eligible for home and commu-
 3 nity-based services under paragraph
 4 (6) of such section, and who will re-
 5 ceive home and community-based serv-
 6 ices pursuant to a State plan amend-
 7 ment under such subsection;”.

8 (2) CONFORMING AMENDMENTS.—

9 (A) Section 1903(f)(4) of the Social Secu-
 10 rity Act (42 U.S.C. 1396b(f)(4)), as amended by
 11 section 2304(a)(4)(B), is amended in the matter
 12 preceding subparagraph (A), by inserting
 13 “1902(a)(10)(A)(ii)(XXII),” after
 14 “1902(a)(10)(A)(ii)(XXI),”.

15 (B) Section 1905(a) of the Social Security
 16 Act (42 U.S.C. 1396d(a)), as so amended, is
 17 amended in the matter preceding paragraph
 18 (1)—

19 (i) in clause (xv), by striking “or” at
 20 the end;

21 (ii) in clause (xvi), by adding “or” at
 22 the end; and

23 (iii) by inserting after clause (xvi) the
 24 following new clause:

1 “(xvii) individuals who are eligible for home and
2 community-based services under needs-based criteria
3 established under paragraph (1)(A) of section 1915(i),
4 or who are eligible for home and community-based
5 services under paragraph (6) of such section, and who
6 will receive home and community-based services pur-
7 suant to a State plan amendment under such sub-
8 section,”.

9 (e) *ELIMINATION OF OPTION TO LIMIT NUMBER OF*
10 *ELIGIBLE INDIVIDUALS OR LENGTH OF PERIOD FOR*
11 *GRANDFATHERED INDIVIDUALS IF ELIGIBILITY CRITERIA*
12 *IS MODIFIED.—Paragraph (1) of section 1915(i) of such*
13 *Act (42 U.S.C. 1396n(i)) is amended—*

14 (1) *by striking subparagraph (C) and inserting*
15 *the following:*

16 “(C) *PROJECTION OF NUMBER OF INDIVID-*
17 *UALS TO BE PROVIDED HOME AND COMMUNITY-*
18 *BASED SERVICES.—The State submits to the Sec-*
19 *retary, in such form and manner, and upon such*
20 *frequency as the Secretary shall specify, the pro-*
21 *jected number of individuals to be provided home*
22 *and community-based services.”; and*

23 (2) *in subclause (II) of subparagraph (D)(ii), by*
24 *striking “to be eligible for such services for a period*
25 *of at least 12 months beginning on the date the indi-*

1 *vidual first received medical assistance for such serv-*
2 *ices” and inserting “to continue to be eligible for such*
3 *services after the effective date of the modification and*
4 *until such time as the individual no longer meets the*
5 *standard for receipt of such services under such pre-*
6 *modified criteria”.*

7 (f) *ELIMINATION OF OPTION TO WAIVE*
8 *STATEWIDENESS; ADDITION OF OPTION TO WAIVE COM-*
9 *PARABILITY.—Paragraph (3) of section 1915(i) of such Act*
10 *(42 U.S.C. 1396n(3)) is amended by striking “1902(a)(1)*
11 *(relating to statewideness)” and inserting “1902(a)(10)(B)*
12 *(relating to comparability)”.*

13 (g) *EFFECTIVE DATE.—The amendments made by sub-*
14 *sections (b) through (f) take effect on the first day of the*
15 *first fiscal year quarter that begins after the date of enact-*
16 *ment of this Act.*

17 **SEC. 2403. MONEY FOLLOWS THE PERSON REBALANCING**
18 **DEMONSTRATION.**

19 (a) *EXTENSION OF DEMONSTRATION.—*

20 (1) *IN GENERAL.—Section 6071(h) of the Deficit*
21 *Reduction Act of 2005 (42 U.S.C. 1396a note) is*
22 *amended—*

23 (A) *in paragraph (1)(E), by striking “fiscal*
24 *year 2011” and inserting “each of fiscal years*
25 *2011 through 2016”; and*

1 (B) in paragraph (2), by striking “2011”
2 and inserting “2016”.

3 (2) *EVALUATION*.—Paragraphs (2) and (3) of
4 section 6071(g) of such Act is amended are each
5 amended by striking “2011” and inserting “2016”.

6 (b) *REDUCTION OF INSTITUTIONAL RESIDENCY PE-*
7 *RIOD*.—

8 (1) *IN GENERAL*.—Section 6071(b)(2) of the Def-
9 icit Reduction Act of 2005 (42 U.S.C. 1396a note) is
10 amended—

11 (A) in subparagraph (A)(i), by striking “,
12 for a period of not less than 6 months or for such
13 longer minimum period, not to exceed 2 years, as
14 may be specified by the State” and inserting “for
15 a period of not less than 90 consecutive days”;
16 and

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

18 “Any days that an individual resides in an institu-
19 tion on the basis of having been admitted solely for
20 purposes of receiving short-term rehabilitative services
21 for a period for which payment for such services is
22 limited under title XVIII shall not be taken into ac-
23 count for purposes of determining the 90-day period
24 required under subparagraph (A)(i).”.

1 (2) *EFFECTIVE DATE.*—*The amendments made*
2 *by this subsection take effect 30 days after the date of*
3 *enactment of this Act.*

4 **SEC. 2404. PROTECTION FOR RECIPIENTS OF HOME AND**
5 **COMMUNITY-BASED SERVICES AGAINST**
6 **SPOUSAL IMPOVERISHMENT.**

7 *During the 5-year period that begins on January 1,*
8 *2014, section 1924(h)(1)(A) of the Social Security Act (42*
9 *U.S.C. 1396r–5(h)(1)(A)) shall be applied as though “is eli-*
10 *gible for medical assistance for home and community-based*
11 *services provided under subsection (c), (d), or (i) of section*
12 *1915, under a waiver approved under section 1115, or who*
13 *is eligible for such medical assistance by reason of being*
14 *determined eligible under section 1902(a)(10)(C) or by rea-*
15 *son of section 1902(f) or otherwise on the basis of a reduc-*
16 *tion of income based on costs incurred for medical or other*
17 *remedial care, or who is eligible for medical assistance for*
18 *home and community-based attendant services and sup-*
19 *ports under section 1915(k)” were substituted in such sec-*
20 *tion for “(at the option of the State) is described in section*
21 *1902(a)(10)(A)(i)(VI)”.*

22 **SEC. 2405. FUNDING TO EXPAND STATE AGING AND DIS-**
23 **ABILITY RESOURCE CENTERS.**

24 *Out of any funds in the Treasury not otherwise appro-*
25 *priated, there is appropriated to the Secretary of Health*

1 *and Human Services, acting through the Assistant Sec-*
2 *retary for Aging, \$10,000,000 for each of fiscal years 2010*
3 *through 2014, to carry out subsections (a)(20)(B)(iii) and*
4 *(b)(8) of section 202 of the Older Americans Act of 1965*
5 *(42 U.S.C. 3012).*

6 **SEC. 2406. SENSE OF THE SENATE REGARDING LONG-TERM**
7 **CARE.**

8 *(a) FINDINGS.—The Senate makes the following find-*
9 *ings:*

10 *(1) Nearly 2 decades have passed since Congress*
11 *seriously considered long-term care reform. The*
12 *United States Bipartisan Commission on Comprehen-*
13 *sive Health Care, also know as the “Pepper Commis-*
14 *sion”, released its “Call for Action” blueprint for*
15 *health reform in September 1990. In the 20 years*
16 *since those recommendations were made, Congress has*
17 *never acted on the report.*

18 *(2) In 1999, under the United States Supreme*
19 *Court’s decision in *Olmstead v. L.C.*, 527 U.S. 581*
20 *(1999), individuals with disabilities have the right to*
21 *choose to receive their long-term services and supports*
22 *in the community, rather than in an institutional*
23 *setting.*

24 *(3) Despite the Pepper Commission and*
25 *Olmstead decision, the long-term care provided to our*

1 *Nation's elderly and disabled has not improved. In*
2 *fact, for many, it has gotten far worse.*

3 *(4) In 2007, 69 percent of Medicaid long-term*
4 *care spending for elderly individuals and adults with*
5 *physical disabilities paid for institutional services.*
6 *Only 6 states spent 50 percent or more of their Med-*
7 *icaid long-term care dollars on home and community-*
8 *based services for elderly individuals and adults with*
9 *physical disabilities while 1/2 of the States spent less*
10 *than 25 percent. This disparity continues even*
11 *though, on average, it is estimated that Medicaid dol-*
12 *lars can support nearly 3 elderly individuals and*
13 *adults with physical disabilities in home and commu-*
14 *nity-based services for every individual in a nursing*
15 *home. Although every State has chosen to provide cer-*
16 *tain services under home and community-based waiv-*
17 *ers, these services are unevenly available within and*
18 *across States, and reach a small percentage of eligible*
19 *individuals.*

20 *(b) SENSE OF THE SENATE.—It is the sense of the Sen-*
21 *ate that—*

22 *(1) during the 111th session of Congress, Con-*
23 *gress should address long-term services and supports*
24 *in a comprehensive way that guarantees elderly and*
25 *disabled individuals the care they need; and*

1 (2) long term services and supports should be
2 made available in the community in addition to in
3 institutions.

4 ***Subtitle F—Medicaid Prescription***
5 ***Drug Coverage***

6 ***SEC. 2501. PRESCRIPTION DRUG REBATES.***

7 (a) *INCREASE IN MINIMUM REBATE PERCENTAGE FOR*
8 *SINGLE SOURCE DRUGS AND INNOVATOR MULTIPLE*
9 *SOURCE DRUGS.—*

10 (1) *IN GENERAL.—Section 1927(c)(1)(B) of the*
11 *Social Security Act (42 U.S.C. 1396r–8(c)(1)(B)) is*
12 *amended—*

13 (A) *in clause (i)—*

14 (i) *in subclause (IV), by striking*
15 *“and” at the end;*

16 (ii) *in subclause (V)—*

17 (I) *by inserting “and before Janu-*
18 *ary 1, 2010” after “December 31,*
19 *1995,”; and*

20 (II) *by striking the period at the*
21 *end and inserting “; and”; and*

22 (iii) *by adding at the end the following*
23 *new subclause:*

1 “(VI) *except as provided in clause*
2 *(iii), after December 31, 2009, 23.1*
3 *percent.*”; and

4 (B) *by adding at the end the following new*
5 *clause:*

6 “(iii) *MINIMUM REBATE PERCENTAGE*
7 *FOR CERTAIN DRUGS.—*

8 “(I) *IN GENERAL.—In the case of*
9 *a single source drug or an innovator*
10 *multiple source drug described in sub-*
11 *clause (II), the minimum rebate per-*
12 *centage for rebate periods specified in*
13 *clause (i)(VI) is 17.1 percent.*

14 “(II) *DRUG DESCRIBED.—For*
15 *purposes of subclause (I), a single*
16 *source drug or an innovator multiple*
17 *source drug described in this subclause*
18 *is any of the following drugs:*

19 “(aa) *A clotting factor for*
20 *which a separate furnishing pay-*
21 *ment is made under section*
22 *1842(o)(5) and which is included*
23 *on a list of such factors specified*
24 *and updated regularly by the Sec-*
25 *retary.*

1 “(bb) A drug approved by the
2 *Food and Drug Administration*
3 *exclusively for pediatric indica-*
4 *tions.*”.

5 (2) *RECAPTURE OF TOTAL SAVINGS DUE TO IN-*
6 *CREASE.—Section 1927(b)(1) of such Act (42 U.S.C.*
7 *1396r-8(b)(1)) is amended by adding at the end the*
8 *following new subparagraph:*

9 “(C) *SPECIAL RULE FOR INCREASED MIN-*
10 *IMUM REBATE PERCENTAGE.—*

11 “(i) *IN GENERAL.—In addition to the*
12 *amounts applied as a reduction under sub-*
13 *paragraph (B), for rebate periods beginning*
14 *on or after January 1, 2010, during a fiscal*
15 *year, the Secretary shall reduce payments to*
16 *a State under section 1903(a) in the man-*
17 *ner specified in clause (ii), in an amount*
18 *equal to the product of—*

19 “(I) *100 percent minus the Fed-*
20 *eral medical assistance percentage ap-*
21 *plicable to the rebate period for the*
22 *State; and*

23 “(II) *the amounts received by the*
24 *State under such subparagraph that*
25 *are attributable (as estimated by the*

1 *Secretary based on utilization and*
2 *other data) to the increase in the min-*
3 *imum rebate percentage effected by the*
4 *amendments made by subsections*
5 *(a)(1), (b), and (d) of section 2501 of*
6 *the Patient Protection and Affordable*
7 *Care Act, taking into account the addi-*
8 *tional drugs included under the*
9 *amendments made by subsection (c) of*
10 *section 2501 of such Act.*

11 *The Secretary shall adjust such payment re-*
12 *duction for a calendar quarter to the extent*
13 *the Secretary determines, based upon subse-*
14 *quent utilization and other data, that the*
15 *reduction for such quarter was greater or*
16 *less than the amount of payment reduction*
17 *that should have been made.*

18 *“(i) MANNER OF PAYMENT REDUC-*
19 *TION.—The amount of the payment reduc-*
20 *tion under clause (i) for a State for a quar-*
21 *ter shall be deemed an overpayment to the*
22 *State under this title to be disallowed*
23 *against the State’s regular quarterly draw*
24 *for all Medicaid spending under section*
25 *1903(d)(2). Such a disallowance is not sub-*

1 *ject to a reconsideration under section*
2 *1116(d).”.*

3 *(b) INCREASE IN REBATE FOR OTHER DRUGS.—Sec-*
4 *tion 1927(c)(3)(B) of such Act (42 U.S.C. 1396r-*
5 *8(c)(3)(B)) is amended—*

6 *(1) in clause (i), by striking “and” at the end;*

7 *(2) in clause (ii)—*

8 *(A) by inserting “and before January 1,*
9 *2010,” after “December 31, 1993,”; and*

10 *(B) by striking the period and inserting “;*
11 *and”; and*

12 *(3) by adding at the end the following new*
13 *clause:*

14 *“(iii) after December 31, 2009, is 13*
15 *percent.”.*

16 *(c) EXTENSION OF PRESCRIPTION DRUG DISCOUNTS*
17 *TO ENROLLEES OF MEDICAID MANAGED CARE ORGANIZA-*
18 *TIONS.—*

19 *(1) IN GENERAL.—Section 1903(m)(2)(A) of such*
20 *Act (42 U.S.C. 1396b(m)(2)(A)) is amended—*

21 *(A) in clause (xi), by striking “and” at the*
22 *end;*

23 *(B) in clause (xii), by striking the period at*
24 *the end and inserting “; and”; and*

25 *(C) by adding at the end the following:*

1 “(xiii) such contract provides that (I)
2 covered outpatient drugs dispensed to indi-
3 viduals eligible for medical assistance who
4 are enrolled with the entity shall be subject
5 to the same rebate required by the agree-
6 ment entered into under section 1927 as the
7 State is subject to and that the State shall
8 collect such rebates from manufacturers, (II)
9 capitation rates paid to the entity shall be
10 based on actual cost experience related to re-
11 bates and subject to the Federal regulations
12 requiring actuarially sound rates, and (III)
13 the entity shall report to the State, on such
14 timely and periodic basis as specified by the
15 Secretary in order to include in the infor-
16 mation submitted by the State to a manu-
17 facturer and the Secretary under section
18 1927(b)(2)(A), information on the total
19 number of units of each dosage form and
20 strength and package size by National Drug
21 Code of each covered outpatient drug dis-
22 pensed to individuals eligible for medical
23 assistance who are enrolled with the entity
24 and for which the entity is responsible for
25 coverage of such drug under this subsection

1 *(other than covered outpatient drugs that*
2 *under subsection (j)(1) of section 1927 are*
3 *not subject to the requirements of that sec-*
4 *tion) and such other data as the Secretary*
5 *determines necessary to carry out this sub-*
6 *section.”.*

7 (2) *CONFORMING AMENDMENTS.—Section 1927*
8 *(42 U.S.C. 1396r–8) is amended—*

9 (A) *in subsection (b)—*

10 (i) *in paragraph (1)(A), in the first*
11 *sentence, by inserting “, including such*
12 *drugs dispensed to individuals enrolled with*
13 *a medicaid managed care organization if*
14 *the organization is responsible for coverage*
15 *of such drugs” before the period; and*

16 (ii) *in paragraph (2)(A), by inserting*
17 *“including such information reported by*
18 *each medicaid managed care organization,”*
19 *after “for which payment was made under*
20 *the plan during the period,”; and*

21 (B) *in subsection (j), by striking paragraph*
22 *(1) and inserting the following:*

23 “(1) *Covered outpatient drugs are not subject to*
24 *the requirements of this section if such drugs are—*

1 “(A) dispensed by health maintenance orga-
2 nizations, including Medicaid managed care or-
3 ganizations that contract under section 1903(m);
4 and

5 “(B) subject to discounts under section
6 340B of the Public Health Service Act.”.

7 (d) *ADDITIONAL REBATE FOR NEW FORMULATIONS OF*
8 *EXISTING DRUGS.—*

9 (1) *IN GENERAL.—*Section 1927(c)(2) of the So-
10 cial Security Act (42 U.S.C. 1396r–8(c)(2)) is
11 amended by adding at the end the following new sub-
12 paragraph:

13 “(C) *TREATMENT OF NEW FORMULA-*
14 *TIONS.—*

15 “(i) *IN GENERAL.—*Except as provided
16 in clause (ii), in the case of a drug that is
17 a new formulation, such as an extended-re-
18 lease formulation, of a single source drug or
19 an innovator multiple source drug, the re-
20 bate obligation with respect to the drug
21 under this section shall be the amount com-
22 puted under this section for the new formu-
23 lation of the drug or, if greater, the product
24 of—

1 “(I) the average manufacturer
2 price for each dosage form and strength
3 of the new formulation of the single
4 source drug or innovator multiple
5 source drug;

6 “(II) the highest additional rebate
7 (calculated as a percentage of average
8 manufacturer price) under this section
9 for any strength of the original single
10 source drug or innovator multiple
11 source drug; and

12 “(III) the total number of units of
13 each dosage form and strength of the
14 new formulation paid for under the
15 State plan in the rebate period (as re-
16 ported by the State).

17 “(ii) *NO APPLICATION TO NEW FORMU-*
18 *LATIONS OF ORPHAN DRUGS.—*Clause (i)
19 shall not apply to a new formulation of a
20 covered outpatient drug that is or has been
21 designated under section 526 of the Federal
22 Food, Drug, and Cosmetic Act (21 U.S.C.
23 360bb) for a rare disease or condition, with-
24 out regard to whether the period of market
25 exclusivity for the drug under section 527 of

1 *such Act has expired or the specific indica-*
2 *tion for use of the drug.”.*

3 (2) *EFFECTIVE DATE.*—*The amendment made by*
4 *paragraph (1) shall apply to drugs that are paid for*
5 *by a State after December 31, 2009.*

6 (e) *MAXIMUM REBATE AMOUNT.*—*Section 1927(c)(2)*
7 *of such Act (42 U.S.C. 1396r–8(c)(2)), as amended by sub-*
8 *section (d), is amended by adding at the end the following*
9 *new subparagraph:*

10 “(D) *MAXIMUM REBATE AMOUNT.*—*In no*
11 *case shall the sum of the amounts applied under*
12 *paragraph (1)(A)(i) and this paragraph with*
13 *respect to each dosage form and strength of a*
14 *single source drug or an innovator multiple*
15 *source drug for a rebate period beginning after*
16 *December 31, 2009, exceed 100 percent of the av-*
17 *erage manufacturer price of the drug.”.*

18 (f) *CONFORMING AMENDMENTS.*—

19 (1) *IN GENERAL.*—*Section 340B of the Public*
20 *Health Service Act (42 U.S.C. 256b) is amended—*

21 (A) *in subsection (a)(2)(B)(i), by striking*
22 *“1927(c)(4)” and inserting “1927(c)(3)”;* and

23 (B) *by striking subsection (c); and*

24 (C) *redesignating subsection (d) as sub-*
25 *section (c).*

1 (2) *EFFECTIVE DATE.*—*The amendments made*
2 *by this subsection take effect on January 1, 2010.*

3 **SEC. 2502. ELIMINATION OF EXCLUSION OF COVERAGE OF**
4 **CERTAIN DRUGS.**

5 (a) *IN GENERAL.*—*Section 1927(d) of the Social Secu-*
6 *rity Act (42 U.S.C. 1397r-8(d)) is amended—*

7 (1) *in paragraph (2)—*

8 (A) *by striking subparagraphs (E), (I), and*
9 *(J), respectively; and*

10 (B) *by redesignating subparagraphs (F),*
11 *(G), (H), and (K) as subparagraphs (E), (F),*
12 *(G), and (H), respectively; and*

13 (2) *by adding at the end the following new para-*
14 *graph:*

15 “(7) *NON-EXCLUDABLE DRUGS.*—*The following*
16 *drugs or classes of drugs, or their medical uses, shall*
17 *not be excluded from coverage:*

18 “(A) *Agents when used to promote smoking*
19 *cessation, including agents approved by the Food*
20 *and Drug Administration under the over-the-*
21 *counter monograph process for purposes of pro-*
22 *moting, and when used to promote, tobacco ces-*
23 *sation.*

24 “(B) *Barbiturates.*

25 “(C) *Benzodiazepines.*”.

1 (b) *EFFECTIVE DATE.*—*The amendments made by this*
2 *section shall apply to services furnished on or after January*
3 *1, 2014.*

4 **SEC. 2503. PROVIDING ADEQUATE PHARMACY REIMBURSE-**
5 **MENT.**

6 (a) *PHARMACY REIMBURSEMENT LIMITS.*—

7 (1) *IN GENERAL.*—*Section 1927(e) of the Social*
8 *Security Act (42 U.S.C. 1396r–8(e)) is amended—*

9 (A) *in paragraph (4), by striking “(or, ef-*
10 *fective January 1, 2007, two or more)”*; and

11 (B) *by striking paragraph (5) and inserting*
12 *the following:*

13 “(5) *USE OF AMP IN UPPER PAYMENT LIMITS.*—

14 *The Secretary shall calculate the Federal upper reim-*
15 *bursement limit established under paragraph (4) as*
16 *no less than 175 percent of the weighted average (de-*
17 *termined on the basis of utilization) of the most re-*
18 *cently reported monthly average manufacturer prices*
19 *for pharmaceutically and therapeutically equivalent*
20 *multiple source drug products that are available for*
21 *purchase by retail community pharmacies on a na-*
22 *tionwide basis. The Secretary shall implement a*
23 *smoothing process for average manufacturer prices.*
24 *Such process shall be similar to the smoothing process*

1 *used in determining the average sales price of a drug*
2 *or biological under section 1847A.”.*

3 (2) *DEFINITION OF AMP.—Section 1927(k)(1) of*
4 *such Act (42 U.S.C. 1396r–8(k)(1)) is amended—*

5 (A) *in subparagraph (A), by striking “by”*
6 *and all that follows through the period and in-*
7 *serting “by—*

8 *“(i) wholesalers for drugs distributed to*
9 *retail community pharmacies; and*

10 *“(ii) retail community pharmacies*
11 *that purchase drugs directly from the man-*
12 *ufacturer.”; and*

13 (B) *by striking subparagraph (B) and in-*
14 *serting the following:*

15 *“(B) EXCLUSION OF CUSTOMARY PROMPT*
16 *PAY DISCOUNTS AND OTHER PAYMENTS.—*

17 *“(i) IN GENERAL.—The average manu-*
18 *facturer price for a covered outpatient drug*
19 *shall exclude—*

20 *“(I) customary prompt pay dis-*
21 *counts extended to wholesalers;*

22 *“(II) bona fide service fees paid*
23 *by manufacturers to wholesalers or re-*
24 *tail community pharmacies, including*
25 *(but not limited to) distribution service*

1 *fees, inventory management fees, prod-*
2 *uct stocking allowances, and fees asso-*
3 *ciated with administrative services*
4 *agreements and patient care programs*
5 *(such as medication compliance pro-*
6 *grams and patient education pro-*
7 *grams);*

8 *“(III) reimbursement by manu-*
9 *facturers for recalled, damaged, ex-*
10 *pired, or otherwise unsalable returned*
11 *goods, including (but not limited to)*
12 *reimbursement for the cost of the goods*
13 *and any reimbursement of costs associ-*
14 *ated with return goods handling and*
15 *processing, reverse logistics, and drug*
16 *destruction; and*

17 *“(IV) payments received from,*
18 *and rebates or discounts provided to,*
19 *pharmacy benefit managers, managed*
20 *care organizations, health maintenance*
21 *organizations, insurers, hospitals, clin-*
22 *ics, mail order pharmacies, long term*
23 *care providers, manufacturers, or any*
24 *other entity that does not conduct busi-*

1 *ness as a wholesaler or a retail com-*
2 *munity pharmacy.*

3 “(ii) *INCLUSION OF OTHER DISCOUNTS*
4 *AND PAYMENTS.—Notwithstanding clause*
5 *(i), any other discounts, rebates, payments,*
6 *or other financial transactions that are re-*
7 *ceived by, paid by, or passed through to, re-*
8 *tail community pharmacies shall be in-*
9 *cluded in the average manufacturer price*
10 *for a covered outpatient drug.”; and*

11 *(C) in subparagraph (C), by striking “the*
12 *retail pharmacy class of trade” and inserting*
13 *“retail community pharmacies”.*

14 (3) *DEFINITION OF MULTIPLE SOURCE DRUG.—*
15 *Section 1927(k)(7) of such Act (42 U.S.C. 1396r-*
16 *8(k)(7)) is amended—*

17 *(A) in subparagraph (A)(i)(III), by striking*
18 *“the State” and inserting “the United States”;*
19 *and*

20 *(B) in subparagraph (C)—*

21 *(i) in clause (i), by inserting “and”*
22 *after the semicolon;*

23 *(ii) in clause (ii), by striking “; and”*
24 *and inserting a period; and*

25 *(iii) by striking clause (iii).*

1 (4) *DEFINITIONS OF RETAIL COMMUNITY PHAR-*
2 *MACY; WHOLESALER.—Section 1927(k) of such Act*
3 *(42 U.S.C. 1396r–8(k)) is amended by adding at the*
4 *end the following new paragraphs:*

5 “(10) *RETAIL COMMUNITY PHARMACY.—The*
6 *term ‘retail community pharmacy’ means an inde-*
7 *pendent pharmacy, a chain pharmacy, a supermarket*
8 *pharmacy, or a mass merchandiser pharmacy that is*
9 *licensed as a pharmacy by the State and that dis-*
10 *pensates medications to the general public at retail*
11 *prices. Such term does not include a pharmacy that*
12 *dispenses prescription medications to patients pri-*
13 *marily through the mail, nursing home pharmacies,*
14 *long-term care facility pharmacies, hospital phar-*
15 *macies, clinics, charitable or not-for-profit phar-*
16 *macies, government pharmacies, or pharmacy benefit*
17 *managers.*

18 “(11) *WHOLESALER.—The term ‘wholesaler’*
19 *means a drug wholesaler that is engaged in wholesale*
20 *distribution of prescription drugs to retail community*
21 *pharmacies, including (but not limited to) manufac-*
22 *turers, repackers, distributors, own-label distributors,*
23 *private-label distributors, jobbers, brokers, warehouses*
24 *(including manufacturer’s and distributor’s ware-*
25 *houses, chain drug warehouses, and wholesale drug*

1 *warehouses) independent wholesale drug traders, and*
2 *retail community pharmacies that conduct wholesale*
3 *distributions.”.*

4 *(b) DISCLOSURE OF PRICE INFORMATION TO THE*
5 *PUBLIC.—Section 1927(b)(3) of such Act (42 U.S.C. 1396r–*
6 *8(b)(3)) is amended—*

7 *(1) in subparagraph (A)—*

8 *(A) in the first sentence, by inserting after*
9 *clause (iii) the following:*

10 *“(iv) not later than 30 days after the*
11 *last day of each month of a rebate period*
12 *under the agreement, on the manufacturer’s*
13 *total number of units that are used to cal-*
14 *culate the monthly average manufacturer*
15 *price for each covered outpatient drug;”;*
16 *and*

17 *(B) in the second sentence, by inserting*
18 *“(relating to the weighted average of the most re-*
19 *cently reported monthly average manufacturer*
20 *prices)” after “(D)(v); and*

21 *(2) in subparagraph (D)(v), by striking “average*
22 *manufacturer prices” and inserting “the weighted av-*
23 *erage of the most recently reported monthly average*
24 *manufacturer prices and the average retail survey*

1 *price determined for each multiple source drug in ac-*
 2 *cordance with subsection (f)”.*

3 *(c) CLARIFICATION OF APPLICATION OF SURVEY OF*
 4 *RETAIL PRICES.—Section 1927(f)(1) of such Act (42 U.S.C.*
 5 *1396r–8(b)(1)) is amended—*

6 *(1) in subparagraph (A)(i), by inserting “with*
 7 *respect to a retail community pharmacy,” before “the*
 8 *determination”;* and

9 *(2) in subparagraph (C)(ii), by striking “retail*
 10 *pharmacies” and inserting “retail community phar-*
 11 *macies”.*

12 *(d) EFFECTIVE DATE.—The amendments made by this*
 13 *section shall take effect on the first day of the first calendar*
 14 *year quarter that begins at least 180 days after the date*
 15 *of enactment of this Act, without regard to whether or not*
 16 *final regulations to carry out such amendments have been*
 17 *promulgated by such date.*

18 ***Subtitle G—Medicaid Dispropor-***
 19 ***tionate Share Hospital (DSH)***
 20 ***Payments***

21 ***SEC. 2551. DISPROPORTIONATE SHARE HOSPITAL PAY-***
 22 ***MENTS.***

23 *(a) IN GENERAL.—Section 1923(f) of the Social Secu-*
 24 *rity Act (42 U.S.C. 1396r–4(f)) is amended—*

1 (1) in paragraph (1), by striking “and (3)” and
2 inserting “, (3), and (7)”;

3 (2) in paragraph (3)(A), by striking “paragraph
4 (6)” and inserting “paragraphs (6) and (7)”;

5 (3) by redesignating paragraph (7) as para-
6 graph (8); and

7 (4) by inserting after paragraph (6) the fol-
8 lowing new paragraph:

9 “(7) *REDUCTION OF STATE DSH ALLOTMENTS*
10 *ONCE REDUCTION IN UNINSURED THRESHOLD*
11 *REACHED.—*

12 “(A) *IN GENERAL.—Subject to subpara-*
13 *graph (E), the DSH allotment for a State for fis-*
14 *cal years beginning with the fiscal year described*
15 *in subparagraph (C) (with respect to the State),*
16 *is equal to—*

17 “(i) *in the case of the first fiscal year*
18 *described in subparagraph (C) with respect*
19 *to a State, the DSH allotment that would*
20 *be determined under this subsection for the*
21 *State for the fiscal year without application*
22 *of this paragraph (but after the application*
23 *of subparagraph (D)), reduced by the appli-*
24 *cable percentage determined for the State*

1 for the fiscal year under subparagraph
2 (B)(i); and

3 “(ii) in the case of any subsequent fis-
4 cal year with respect to the State, the DSH
5 allotment determined under this paragraph
6 for the State for the preceding fiscal year,
7 reduced by the applicable percentage deter-
8 mined for the State for the fiscal year under
9 subparagraph (B)(ii).

10 “(B) *APPLICABLE PERCENTAGE.*—For pur-
11 poses of subparagraph (A), the applicable per-
12 centage for a State for a fiscal year is the fol-
13 lowing:

14 “(i) *UNINSURED REDUCTION THRESH-*
15 *OLD FISCAL YEAR.*—In the case of the first
16 fiscal year described in subparagraph (C)
17 with respect to the State—

18 “(I) if the State is a low DSH
19 State described in paragraph (5)(B),
20 the applicable percentage is equal to 25
21 percent; and

22 “(II) if the State is any other
23 State, the applicable percentage is 50
24 percent.

1 “(i) *SUBSEQUENT FISCAL YEARS IN*
2 *WHICH THE PERCENTAGE OF UNINSURED*
3 *DECREASES.—In the case of any fiscal year*
4 *after the first fiscal year described in sub-*
5 *paragraph (C) with respect to a State, if*
6 *the Secretary determines on the basis of the*
7 *most recent American Community Survey*
8 *of the Bureau of the Census, that the per-*
9 *centage of uncovered individuals residing in*
10 *the State is less than the percentage of such*
11 *individuals determined for the State for the*
12 *preceding fiscal year—*

13 “(I) *if the State is a low DSH*
14 *State described in paragraph (5)(B),*
15 *the applicable percentage is equal to*
16 *the product of the percentage reduction*
17 *in uncovered individuals for the fiscal*
18 *year from the preceding fiscal year and*
19 *25 percent; and*

20 “(II) *if the State is any other*
21 *State, the applicable percentage is*
22 *equal to the product of the percentage*
23 *reduction in uncovered individuals for*
24 *the fiscal year from the preceding fiscal*
25 *year and 50 percent.*

1 “(C) *FISCAL YEAR DESCRIBED.*—For pur-
2 poses of subparagraph (A), the fiscal year de-
3 scribed in this subparagraph with respect to a
4 State is the first fiscal year that occurs after fis-
5 cal year 2012 for which the Secretary deter-
6 mines, on the basis of the most recent American
7 Community Survey of the Bureau of the Census,
8 that the percentage of uncovered individuals re-
9 siding in the State is at least 45 percent less
10 than the percentage of such individuals deter-
11 mined for the State for fiscal year 2009.

12 “(D) *EXCLUSION OF PORTIONS DIVERTED*
13 *FOR COVERAGE EXPANSIONS.*—For purposes of
14 applying the applicable percentage reduction
15 under subparagraph (A) to the DSH allotment
16 for a State for a fiscal year, the DSH allotment
17 for a State that would be determined under this
18 subsection for the State for the fiscal year with-
19 out the application of this paragraph (and prior
20 to any such reduction) shall not include any
21 portion of the allotment for which the Secretary
22 has approved the State’s diversion to the costs of
23 providing medical assistance or other health ben-
24 efits coverage under a waiver that is in effect on
25 July 2009.

1 “(E) *MINIMUM ALLOTMENT.*—*In no event*
2 *shall the DSH allotment determined for a State*
3 *in accordance with this paragraph for fiscal year*
4 *2013 or any succeeding fiscal year be less than*
5 *the amount equal to 35 percent of the DSH allot-*
6 *ment determined for the State for fiscal year*
7 *2012 under this subsection (and after the appli-*
8 *cation of this paragraph, if applicable), in-*
9 *creased by the percentage change in the consumer*
10 *price index for all urban consumers (all items,*
11 *U.S. city average) for each previous fiscal year*
12 *occurring before the fiscal year.*

13 “(F) *UNCOVERED INDIVIDUALS.*—*In this*
14 *paragraph, the term ‘uncovered individuals’*
15 *means individuals with no health insurance cov-*
16 *erage at any time during a year (as determined*
17 *by the Secretary based on the most recent data*
18 *available).”.*

19 (b) *EFFECTIVE DATE.*—*The amendments made by sub-*
20 *section (a) take effect on October 1, 2011.*

1 ***Subtitle H—Improved Coordination***
2 ***for Dual Eligible Beneficiaries***

3 ***SEC. 2601. 5-YEAR PERIOD FOR DEMONSTRATION***
4 ***PROJECTS.***

5 *(a) IN GENERAL.—Section 1915(h) of the Social Secu-*
6 *rity Act (42 U.S.C. 1396n(h)) is amended—*

7 *(1) by inserting “(1)” after “(h)”;*

8 *(2) by inserting “, or a waiver described in*
9 *paragraph (2)” after “(e)”;* and

10 *(3) by adding at the end the following new para-*
11 *graph:*

12 *“(2)(A) Notwithstanding subsections (c)(3) and (d)*
13 *(3), any waiver under subsection (b), (c), or (d), or a waiver*
14 *under section 1115, that provides medical assistance for*
15 *dual eligible individuals (including any such waivers under*
16 *which non dual eligible individuals may be enrolled in ad-*
17 *dition to dual eligible individuals) may be conducted for*
18 *a period of 5 years and, upon the request of the State, may*
19 *be extended for additional 5-year periods unless the Sec-*
20 *retary determines that for the previous waiver period the*
21 *conditions for the waiver have not been met or it would*
22 *no longer be cost-effective and efficient, or consistent with*
23 *the purposes of this title, to extend the waiver.*

24 *“(B) In this paragraph, the term ‘dual eligible indi-*
25 *vidual’ means an individual who is entitled to, or enrolled*

1 *for, benefits under part A of title XVIII, or enrolled for ben-*
2 *efits under part B of title XVIII, and is eligible for medical*
3 *assistance under the State plan under this title or under*
4 *a waiver of such plan.”.*

5 (b) *CONFORMING AMENDMENTS.—*

6 (1) *Section 1915 of such Act (42 U.S.C. 1396n)*
7 *is amended—*

8 (A) *in subsection (b), by adding at the end*
9 *the following new sentence: “Subsection (h)(2)*
10 *shall apply to a waiver under this subsection.”;*

11 (B) *in subsection (c)(3), in the second sen-*
12 *tence, by inserting “(other than a waiver de-*
13 *scribed in subsection (h)(2))” after “A waiver*
14 *under this subsection”;*

15 (C) *in subsection (d)(3), in the second sen-*
16 *tence, by inserting “(other than a waiver de-*
17 *scribed in subsection (h)(2))” after “A waiver*
18 *under this subsection”.*

19 (2) *Section 1115 of such Act (42 U.S.C. 1315) is*
20 *amended—*

21 (A) *in subsection (e)(2), by inserting “(5*
22 *years, in the case of a waiver described in sec-*
23 *tion 1915(h)(2))” after “3 years”; and*

1 (B) in subsection (f)(6), by inserting “(5
2 years, in the case of a waiver described in sec-
3 tion 1915(h)(2))” after “3 years”.

4 **SEC. 2602. PROVIDING FEDERAL COVERAGE AND PAYMENT**
5 **COORDINATION FOR DUAL ELIGIBLE BENE-**
6 **FICIARIES.**

7 (a) *ESTABLISHMENT OF FEDERAL COORDINATED*
8 *HEALTH CARE OFFICE.—*

9 (1) *IN GENERAL.—Not later than March 1, 2010,*
10 *the Secretary of Health and Human Services (in this*
11 *section referred to as the “Secretary”) shall establish*
12 *a Federal Coordinated Health Care Office.*

13 (2) *ESTABLISHMENT AND REPORTING TO CMS*
14 *ADMINISTRATOR.—The Federal Coordinated Health*
15 *Care Office—*

16 (A) *shall be established within the Centers*
17 *for Medicare & Medicaid Services; and*

18 (B) *have as the Office a Director who shall*
19 *be appointed by, and be in direct line of author-*
20 *ity to, the Administrator of the Centers for Medi-*
21 *care & Medicaid Services.*

22 (b) *PURPOSE.—The purpose of the Federal Coordi-*
23 *nated Health Care Office is to bring together officers and*
24 *employees of the Medicare and Medicaid programs at the*
25 *Centers for Medicare & Medicaid Services in order to—*

1 (1) *more effectively integrate benefits under the*
2 *Medicare program under title XVIII of the Social Se-*
3 *curity Act and the Medicaid program under title XIX*
4 *of such Act; and*

5 (2) *improve the coordination between the Federal*
6 *Government and States for individuals eligible for*
7 *benefits under both such programs in order to ensure*
8 *that such individuals get full access to the items and*
9 *services to which they are entitled under titles XVIII*
10 *and XIX of the Social Security Act.*

11 (c) *GOALS.—The goals of the Federal Coordinated*
12 *Health Care Office are as follows:*

13 (1) *Providing dual eligible individuals full ac-*
14 *cess to the benefits to which such individuals are enti-*
15 *tled under the Medicare and Medicaid programs.*

16 (2) *Simplifying the processes for dual eligible in-*
17 *dividuals to access the items and services they are en-*
18 *titled to under the Medicare and Medicaid programs.*

19 (3) *Improving the quality of health care and*
20 *long-term services for dual eligible individuals.*

21 (4) *Increasing dual eligible individuals' under-*
22 *standing of and satisfaction with coverage under the*
23 *Medicare and Medicaid programs.*

24 (5) *Eliminating regulatory conflicts between*
25 *rules under the Medicare and Medicaid programs.*

1 (6) *Improving care continuity and ensuring safe*
2 *and effective care transitions for dual eligible individ-*
3 *uals.*

4 (7) *Eliminating cost-shifting between the Medi-*
5 *care and Medicaid program and among related health*
6 *care providers.*

7 (8) *Improving the quality of performance of pro-*
8 *viders of services and suppliers under the Medicare*
9 *and Medicaid programs.*

10 (d) *SPECIFIC RESPONSIBILITIES.—The specific re-*
11 *sponsibilities of the Federal Coordinated Health Care Office*
12 *are as follows:*

13 (1) *Providing States, specialized MA plans for*
14 *special needs individuals (as defined in section*
15 *1859(b)(6) of the Social Security Act (42 U.S.C.*
16 *1395w–28(b)(6))), physicians and other relevant enti-*
17 *ties or individuals with the education and tools nec-*
18 *essary for developing programs that align benefits*
19 *under the Medicare and Medicaid programs for dual*
20 *eligible individuals.*

21 (2) *Supporting State efforts to coordinate and*
22 *align acute care and long-term care services for dual*
23 *eligible individuals with other items and services fur-*
24 *nished under the Medicare program.*

1 (3) *Providing support for coordination of con-*
2 *tracting and oversight by States and the Centers for*
3 *Medicare & Medicaid Services with respect to the in-*
4 *tegration of the Medicare and Medicaid programs in*
5 *a manner that is supportive of the goals described in*
6 *paragraph (3).*

7 (4) *To consult and coordinate with the Medicare*
8 *Payment Advisory Commission established under sec-*
9 *tion 1805 of the Social Security Act (42 U.S.C.*
10 *1395b–6) and the Medicaid and CHIP Payment and*
11 *Access Commission established under section 1900 of*
12 *such Act (42 U.S.C. 1396) with respect to policies re-*
13 *lating to the enrollment in, and provision of, benefits*
14 *to dual eligible individuals under the Medicare pro-*
15 *gram under title XVIII of the Social Security Act*
16 *and the Medicaid program under title XIX of such*
17 *Act.*

18 (5) *To study the provision of drug coverage for*
19 *new full-benefit dual eligible individuals (as defined*
20 *in section 1935(c)(6) of the Social Security Act (42*
21 *U.S.C. 1396u–5(c)(6)), as well as to monitor and re-*
22 *port annual total expenditures, health outcomes, and*
23 *access to benefits for all dual eligible individuals.*

24 (e) *REPORT.*—*The Secretary shall, as part of the budg-*
25 *et transmitted under section 1105(a) of title 31, United*

1 *States Code, submit to Congress an annual report con-*
 2 *taining recommendations for legislation that would im-*
 3 *prove care coordination and benefits for dual eligible indi-*
 4 *viduals.*

5 (f) *DUAL ELIGIBLE DEFINED.*—*In this section, the*
 6 *term “dual eligible individual” means an individual who*
 7 *is entitled to, or enrolled for, benefits under part A of title*
 8 *XVIII of the Social Security Act, or enrolled for benefits*
 9 *under part B of title XVIII of such Act, and is eligible for*
 10 *medical assistance under a State plan under title XIX of*
 11 *such Act or under a waiver of such plan.*

12 ***Subtitle I—Improving the Quality***
 13 ***of Medicaid for Patients and***
 14 ***Providers***

15 ***SEC. 2701. ADULT HEALTH QUALITY MEASURES.***

16 *Title XI of the Social Security Act (42 U.S.C. 1301*
 17 *et seq.), as amended by section 401 of the Children’s Health*
 18 *Insurance Program Reauthorization Act of 2009 (Public*
 19 *Law 111–3), is amended by inserting after section 1139A*
 20 *the following new section:*

21 ***“SEC. 1139B. ADULT HEALTH QUALITY MEASURES.***

22 ***“(a) DEVELOPMENT OF CORE SET OF HEALTH CARE***
 23 ***QUALITY MEASURES FOR ADULTS ELIGIBLE FOR BENEFITS***
 24 ***UNDER MEDICAID.***—*The Secretary shall identify and pub-*
 25 *lish a recommended core set of adult health quality meas-*

1 ures for Medicaid eligible adults in the same manner as
2 the Secretary identifies and publishes a core set of child
3 health quality measures under section 1139A, including
4 with respect to identifying and publishing existing adult
5 health quality measures that are in use under public and
6 privately sponsored health care coverage arrangements, or
7 that are part of reporting systems that measure both the
8 presence and duration of health insurance coverage over
9 time, that may be applicable to Medicaid eligible adults.

10 “(b) DEADLINES.—

11 “(1) RECOMMENDED MEASURES.—Not later than
12 January 1, 2011, the Secretary shall identify and
13 publish for comment a recommended core set of adult
14 health quality measures for Medicaid eligible adults.

15 “(2) DISSEMINATION.—Not later than January
16 1, 2012, the Secretary shall publish an initial core set
17 of adult health quality measures that are applicable
18 to Medicaid eligible adults.

19 “(3) STANDARDIZED REPORTING.—Not later
20 than January 1, 2013, the Secretary, in consultation
21 with States, shall develop a standardized format for
22 reporting information based on the initial core set of
23 adult health quality measures and create procedures
24 to encourage States to use such measures to volun-

1 *tarily report information regarding the quality of*
2 *health care for Medicaid eligible adults.*

3 “(4) *REPORTS TO CONGRESS.*—*Not later than*
4 *January 1, 2014, and every 3 years thereafter, the*
5 *Secretary shall include in the report to Congress re-*
6 *quired under section 1139A(a)(6) information similar*
7 *to the information required under that section with*
8 *respect to the measures established under this section.*

9 “(5) *ESTABLISHMENT OF MEDICAID QUALITY*
10 *MEASUREMENT PROGRAM.*—

11 “(A) *IN GENERAL.*—*Not later than 12*
12 *months after the release of the recommended core*
13 *set of adult health quality measures under para-*
14 *graph (1)), the Secretary shall establish a Med-*
15 *icaid Quality Measurement Program in the same*
16 *manner as the Secretary establishes the pediatric*
17 *quality measures program under section*
18 *1139A(b). The aggregate amount awarded by the*
19 *Secretary for grants and contracts for the devel-*
20 *opment, testing, and validation of emerging and*
21 *innovative evidence-based measures under such*
22 *program shall equal the aggregate amount*
23 *awarded by the Secretary for grants under sec-*
24 *tion 1139A(b)(4)(A)*

1 “(B) *REVISING, STRENGTHENING, AND IMPROVING INITIAL CORE MEASURES.*—Beginning
2 *not later than 24 months after the establishment*
3 *of the Medicaid Quality Measurement Program,*
4 *and annually thereafter, the Secretary shall pub-*
5 *lish recommended changes to the initial core set*
6 *of adult health quality measures that shall reflect*
7 *the results of the testing, validation, and con-*
8 *sensus process for the development of adult health*
9 *quality measures.*

11 “(c) *CONSTRUCTION.*—*Nothing in this section shall be*
12 *construed as supporting the restriction of coverage, under*
13 *title XIX or XXI or otherwise, to only those services that*
14 *are evidence-based, or in anyway limiting available serv-*
15 *ices.*

16 “(d) *ANNUAL STATE REPORTS REGARDING STATE-*
17 *SPECIFIC QUALITY OF CARE MEASURES APPLIED UNDER*
18 *MEDICAID.*—

19 “(1) *ANNUAL STATE REPORTS.*—*Each State with*
20 *a State plan or waiver approved under title XIX*
21 *shall annually report (separately or as part of the an-*
22 *annual report required under section 1139A(c)), to the*
23 *Secretary on the—*

24 “(A) *State-specific adult health quality*
25 *measures applied by the State under the such*

1 *plan, including measures described in subsection*
2 *(a)(5); and*

3 “(B) *State-specific information on the qual-*
4 *ity of health care furnished to Medicaid eligible*
5 *adults under such plan, including information*
6 *collected through external quality reviews of*
7 *managed care organizations under section 1932*
8 *and benchmark plans under section 1937.*

9 “(2) *PUBLICATION.*—*Not later than September*
10 *30, 2014, and annually thereafter, the Secretary shall*
11 *collect, analyze, and make publicly available the in-*
12 *formation reported by States under paragraph (1).*

13 “(e) *APPROPRIATION.*—*Out of any funds in the Treas-*
14 *ury not otherwise appropriated, there is appropriated for*
15 *each of fiscal years 2010 through 2014, \$60,000,000 for the*
16 *purpose of carrying out this section. Funds appropriated*
17 *under this subsection shall remain available until ex-*
18 *pended.”.*

19 **SEC. 2702. PAYMENT ADJUSTMENT FOR HEALTH CARE-AC-**
20 **QUIRED CONDITIONS.**

21 “(a) *IN GENERAL.*—*The Secretary of Health and*
22 *Human Services (in this subsection referred to as the “Sec-*
23 *retary”)* *shall identify current State practices that prohibit*
24 *payment for health care-acquired conditions and shall in-*
25 *corporate the practices identified, or elements of such prac-*

1 tices, which the Secretary determines appropriate for appli-
2 cation to the Medicaid program in regulations. Such regu-
3 lations shall be effective as of July 1, 2011, and shall pro-
4 hibit payments to States under section 1903 of the Social
5 Security Act for any amounts expended for providing med-
6 ical assistance for health care-acquired conditions specified
7 in the regulations. The regulations shall ensure that the pro-
8 hibition on payment for health care-acquired conditions
9 shall not result in a loss of access to care or services for
10 Medicaid beneficiaries.

11 (b) *HEALTH CARE-ACQUIRED CONDITION.*—In this
12 section, the term “health care-acquired condition” means a
13 medical condition for which an individual was diagnosed
14 that could be identified by a secondary diagnostic code de-
15 scribed in section 1886(d)(4)(D)(iv) of the Social Security
16 Act (42 U.S.C. 1395ww(d)(4)(D)(iv)).

17 (c) *MEDICARE PROVISIONS.*—In carrying out this sec-
18 tion, the Secretary shall apply to State plans (or waivers)
19 under title XIX of the Social Security Act the regulations
20 promulgated pursuant to section 1886(d)(4)(D) of such Act
21 (42 U.S.C. 1395ww(d)(4)(D)) relating to the prohibition of
22 payments based on the presence of a secondary diagnosis
23 code specified by the Secretary in such regulations, as ap-
24 propriate for the Medicaid program. The Secretary may ex-
25 clude certain conditions identified under title XVIII of the

1 *Social Security Act for non-payment under title XIX of*
2 *such Act when the Secretary finds the inclusion of such con-*
3 *ditions to be inapplicable to beneficiaries under title XIX.*

4 **SEC. 2703. STATE OPTION TO PROVIDE HEALTH HOMES FOR**
5 **ENROLLEES WITH CHRONIC CONDITIONS.**

6 (a) *STATE PLAN AMENDMENT.—Title XIX of the So-*
7 *cial Security Act (42 U.S.C. 1396a et seq.), as amended*
8 *by sections 2201 and 2305, is amended by adding at the*
9 *end the following new section:*

10 “*SEC. 1945. STATE OPTION TO PROVIDE COORDI-*
11 *NATED CARE THROUGH A HEALTH HOME FOR INDIVID-*
12 *UALS WITH CHRONIC CONDITIONS.—*

13 “(a) *IN GENERAL.—Notwithstanding section*
14 *1902(a)(1) (relating to statewideness), section*
15 *1902(a)(10)(B) (relating to comparability), and any other*
16 *provision of this title for which the Secretary determines*
17 *it is necessary to waive in order to implement this section,*
18 *beginning January 1, 2011, a State, at its option as a State*
19 *plan amendment, may provide for medical assistance under*
20 *this title to eligible individuals with chronic conditions who*
21 *select a designated provider (as described under subsection*
22 *(h)(5)), a team of health care professionals (as described*
23 *under subsection (h)(6)) operating with such a provider, or*
24 *a health team (as described under subsection (h)(7)) as the*

1 *individual's health home for purposes of providing the indi-*
2 *vidual with health home services.*

3 “(b) *HEALTH HOME QUALIFICATION STANDARDS.*—
4 *The Secretary shall establish standards for qualification as*
5 *a designated provider for the purpose of being eligible to*
6 *be a health home for purposes of this section.*

7 “(c) *PAYMENTS.*—

8 “(1) *IN GENERAL.*—*A State shall provide a des-*
9 *ignated provider, a team of health care professionals*
10 *operating with such a provider, or a health team with*
11 *payments for the provision of health home services to*
12 *each eligible individual with chronic conditions that*
13 *selects such provider, team of health care profes-*
14 *sionals, or health team as the individual's health*
15 *home. Payments made to a designated provider, a*
16 *team of health care professionals operating with such*
17 *a provider, or a health team for such services shall be*
18 *treated as medical assistance for purposes of section*
19 *1903(a), except that, during the first 8 fiscal year*
20 *quarters that the State plan amendment is in effect,*
21 *the Federal medical assistance percentage applicable*
22 *to such payments shall be equal to 90 percent.*

23 “(2) *METHODOLOGY.*—

24 “(A) *IN GENERAL.*—*The State shall specify*
25 *in the State plan amendment the methodology*

1 *the State will use for determining payment for*
2 *the provision of health home services. Such meth-*
3 *odology for determining payment—*

4 “(i) *may be tiered to reflect, with re-*
5 *spect to each eligible individual with chron-*
6 *ic conditions provided such services by a*
7 *designated provider, a team of health care*
8 *professionals operating with such a pro-*
9 *vider, or a health team, as well as the sever-*
10 *ity or number of each such individual’s*
11 *chronic conditions or the specific capabili-*
12 *ties of the provider, team of health care pro-*
13 *fessionals, or health team; and*

14 “(ii) *shall be established consistent*
15 *with section 1902(a)(30)(A).*

16 “(B) *ALTERNATE MODELS OF PAYMENT.—*
17 *The methodology for determining payment for*
18 *provision of health home services under this sec-*
19 *tion shall not be limited to a per-member per-*
20 *month basis and may provide (as proposed by*
21 *the State and subject to approval by the Sec-*
22 *retary) for alternate models of payment.*

23 “(3) *PLANNING GRANTS.—*

24 “(A) *IN GENERAL.—Beginning January 1,*
25 *2011, the Secretary may award planning grants*

1 to States for purposes of developing a State plan
2 amendment under this section. A planning grant
3 awarded to a State under this paragraph shall
4 remain available until expended.

5 “(B) STATE CONTRIBUTION.—A State
6 awarded a planning grant shall contribute an
7 amount equal to the State percentage determined
8 under section 1905(b) (without regard to section
9 5001 of Public Law 111–5) for each fiscal year
10 for which the grant is awarded.

11 “(C) LIMITATION.—The total amount of
12 payments made to States under this paragraph
13 shall not exceed \$25,000,000.

14 “(d) HOSPITAL REFERRALS.—A State shall include in
15 the State plan amendment a requirement for hospitals that
16 are participating providers under the State plan or a waiv-
17 er of such plan to establish procedures for referring any eli-
18 gible individuals with chronic conditions who seek or need
19 treatment in a hospital emergency department to des-
20 ignated providers.

21 “(e) COORDINATION.—A State shall consult and co-
22 ordinate, as appropriate, with the Substance Abuse and
23 Mental Health Services Administration in addressing issues
24 regarding the prevention and treatment of mental illness

1 *and substance abuse among eligible individuals with chron-*
2 *ic conditions.*

3 “(f) *MONITORING.*—*A State shall include in the State*
4 *plan amendment—*

5 “(1) *a methodology for tracking avoidable hos-*
6 *pital readmissions and calculating savings that result*
7 *from improved chronic care coordination and man-*
8 *agement under this section; and*

9 “(2) *a proposal for use of health information*
10 *technology in providing health home services under*
11 *this section and improving service delivery and co-*
12 *ordination across the care continuum (including the*
13 *use of wireless patient technology to improve coordi-*
14 *nation and management of care and patient adher-*
15 *ence to recommendations made by their provider).*

16 “(g) *REPORT ON QUALITY MEASURES.*—*As a condi-*
17 *tion for receiving payment for health home services provided*
18 *to an eligible individual with chronic conditions, a des-*
19 *ignated provider shall report to the State, in accordance*
20 *with such requirements as the Secretary shall specify, on*
21 *all applicable measures for determining the quality of such*
22 *services. When appropriate and feasible, a designated pro-*
23 *vider shall use health information technology in providing*
24 *the State with such information.*

25 “(h) *DEFINITIONS.*—*In this section:*

1 “(1) *ELIGIBLE INDIVIDUAL WITH CHRONIC CON-*
2 *DITIONS.—*

3 “(A) *IN GENERAL.—Subject to subpara-*
4 *graph (B), the term ‘eligible individual with*
5 *chronic conditions’ means an individual who—*

6 “(i) *is eligible for medical assistance*
7 *under the State plan or under a waiver of*
8 *such plan; and*

9 “(ii) *has at least—*

10 “(I) *2 chronic conditions;*

11 “(II) *1 chronic condition and is*
12 *at risk of having a second chronic con-*
13 *dition; or*

14 “(III) *1 serious and persistent*
15 *mental health condition.*

16 “(B) *RULE OF CONSTRUCTION.—Nothing in*
17 *this paragraph shall prevent the Secretary from*
18 *establishing higher levels as to the number or se-*
19 *verity of chronic or mental health conditions for*
20 *purposes of determining eligibility for receipt of*
21 *health home services under this section.*

22 “(2) *CHRONIC CONDITION.—The term ‘chronic*
23 *condition’ has the meaning given that term by the*
24 *Secretary and shall include, but is not limited to, the*
25 *following:*

1 “(A) *A mental health condition.*

2 “(B) *Substance use disorder.*

3 “(C) *Asthma.*

4 “(D) *Diabetes.*

5 “(E) *Heart disease.*

6 “(F) *Being overweight, as evidenced by hav-*
7 *ing a Body Mass Index (BMI) over 25.*

8 “(3) *HEALTH HOME.—The term ‘health home’*
9 *means a designated provider (including a provider*
10 *that operates in coordination with a team of health*
11 *care professionals) or a health team selected by an eli-*
12 *gible individual with chronic conditions to provide*
13 *health home services.*

14 “(4) *HEALTH HOME SERVICES.—*

15 “(A) *IN GENERAL.—The term ‘health home*
16 *services’ means comprehensive and timely high-*
17 *quality services described in subparagraph (B)*
18 *that are provided by a designated provider, a*
19 *team of health care professionals operating with*
20 *such a provider, or a health team.*

21 “(B) *SERVICES DESCRIBED.—The services*
22 *described in this subparagraph are—*

23 “(i) *comprehensive care management;*

24 “(ii) *care coordination and health pro-*
25 *motion;*

1 “(iii) comprehensive transitional care,
2 including appropriate follow-up, from inpa-
3 tient to other settings;

4 “(iv) patient and family support (in-
5 cluding authorized representatives);

6 “(v) referral to community and social
7 support services, if relevant; and

8 “(vi) use of health information tech-
9 nology to link services, as feasible and ap-
10 propriate.

11 “(5) *DESIGNATED PROVIDER*.—The term ‘des-
12 ignated provider’ means a physician, clinical practice
13 or clinical group practice, rural clinic, community
14 health center, community mental health center, home
15 health agency, or any other entity or provider (in-
16 cluding pediatricians, gynecologists, and obstetri-
17 cians) that is determined by the State and approved
18 by the Secretary to be qualified to be a health home
19 for eligible individuals with chronic conditions on the
20 basis of documentation evidencing that the physician,
21 practice, or clinic—

22 “(A) has the systems and infrastructure in
23 place to provide health home services; and

24 “(B) satisfies the qualification standards es-
25 tablished by the Secretary under subsection (b).

1 “(6) *TEAM OF HEALTH CARE PROFESSIONALS.*—
2 *The term ‘team of health care professionals’ means a*
3 *team of health professionals (as described in the State*
4 *plan amendment) that may—*

5 “(A) *include physicians and other profes-*
6 *sionals, such as a nurse care coordinator, nutri-*
7 *tionist, social worker, behavioral health profes-*
8 *sional, or any professionals deemed appropriate*
9 *by the State; and*

10 “(B) *be free standing, virtual, or based at*
11 *a hospital, community health center, community*
12 *mental health center, rural clinic, clinical prac-*
13 *tice or clinical group practice, academic health*
14 *center, or any entity deemed appropriate by the*
15 *State and approved by the Secretary.*

16 “(7) *HEALTH TEAM.*—*The term ‘health team’*
17 *has the meaning given such term for purposes of sec-*
18 *tion 3502 of the Patient Protection and Affordable*
19 *Care Act.”.*

20 (b) *EVALUATION.*—

21 (1) *INDEPENDENT EVALUATION.*—

22 (A) *IN GENERAL.*—*The Secretary shall enter*
23 *into a contract with an independent entity or*
24 *organization to conduct an evaluation and as-*
25 *essment of the States that have elected the op-*

1 *tion to provide coordinated care through a health*
2 *home for Medicaid beneficiaries with chronic*
3 *conditions under section 1945 of the Social Secu-*
4 *rity Act (as added by subsection (a)) for the pur-*
5 *pose of determining the effect of such option on*
6 *reducing hospital admissions, emergency room*
7 *visits, and admissions to skilled nursing facili-*
8 *ties.*

9 *(B) EVALUATION REPORT.—Not later than*
10 *January 1, 2017, the Secretary shall report to*
11 *Congress on the evaluation and assessment con-*
12 *ducted under subparagraph (A).*

13 *(2) SURVEY AND INTERIM REPORT.—*

14 *(A) IN GENERAL.—Not later than January*
15 *1, 2014, the Secretary of Health and Human*
16 *Services shall survey States that have elected the*
17 *option under section 1945 of the Social Security*
18 *Act (as added by subsection (a)) and report to*
19 *Congress on the nature, extent, and use of such*
20 *option, particularly as it pertains to—*

21 *(i) hospital admission rates;*

22 *(ii) chronic disease management;*

23 *(iii) coordination of care for individ-*
24 *uals with chronic conditions;*

1 (iv) assessment of program implemen-
2 tation;

3 (v) processes and lessons learned (as
4 described in subparagraph (B));

5 (vi) assessment of quality improve-
6 ments and clinical outcomes under such op-
7 tion; and

8 (vii) estimates of cost savings.

9 (B) **IMPLEMENTATION REPORTING.**—A
10 State that has elected the option under section
11 1945 of the Social Security Act (as added by
12 subsection (a)) shall report to the Secretary, as
13 necessary, on processes that have been developed
14 and lessons learned regarding provision of co-
15 ordinated care through a health home for Med-
16 icaid beneficiaries with chronic conditions under
17 such option.

18 **SEC. 2704. DEMONSTRATION PROJECT TO EVALUATE INTE-**
19 **GRATED CARE AROUND A HOSPITALIZATION.**

20 (a) **AUTHORITY TO CONDUCT PROJECT.**—

21 (1) **IN GENERAL.**—The Secretary of Health and
22 Human Services (in this section referred to as the
23 “Secretary”) shall establish a demonstration project
24 under title XIX of the Social Security Act to evaluate

1 *the use of bundled payments for the provision of inte-*
2 *grated care for a Medicaid beneficiary—*

3 *(A) with respect to an episode of care that*
4 *includes a hospitalization; and*

5 *(B) for concurrent physicians services pro-*
6 *vided during a hospitalization.*

7 *(2) DURATION.—The demonstration project shall*
8 *begin on January 1, 2012, and shall end on December*
9 *31, 2016.*

10 *(b) REQUIREMENTS.—The demonstration project shall*
11 *be conducted in accordance with the following:*

12 *(1) The demonstration project shall be conducted*
13 *in up to 8 States, determined by the Secretary based*
14 *on consideration of the potential to lower costs under*
15 *the Medicaid program while improving care for Med-*
16 *icaid beneficiaries. A State selected to participate in*
17 *the demonstration project may target the demonstra-*
18 *tion project to particular categories of beneficiaries,*
19 *beneficiaries with particular diagnoses, or particular*
20 *geographic regions of the State, but the Secretary*
21 *shall insure that, as a whole, the demonstration*
22 *project is, to the greatest extent possible, representa-*
23 *tive of the demographic and geographic composition*
24 *of Medicaid beneficiaries nationally.*

1 (2) *The demonstration project shall focus on con-*
2 *ditions where there is evidence of an opportunity for*
3 *providers of services and suppliers to improve the*
4 *quality of care furnished to Medicaid beneficiaries*
5 *while reducing total expenditures under the State*
6 *Medicaid programs selected to participate, as deter-*
7 *mined by the Secretary.*

8 (3) *A State selected to participate in the dem-*
9 *onstration project shall specify the 1 or more episodes*
10 *of care the State proposes to address in the project,*
11 *the services to be included in the bundled payments,*
12 *and the rationale for the selection of such episodes of*
13 *care and services. The Secretary may modify the epi-*
14 *sodes of care as well as the services to be included in*
15 *the bundled payments prior to or after approving the*
16 *project. The Secretary may also vary such factors*
17 *among the different States participating in the dem-*
18 *onstration project.*

19 (4) *The Secretary shall ensure that payments*
20 *made under the demonstration project are adjusted*
21 *for severity of illness and other characteristics of Med-*
22 *icaid beneficiaries within a category or having a di-*
23 *agnosis targeted as part of the demonstration project.*
24 *States shall ensure that Medicaid beneficiaries are not*
25 *liable for any additional cost sharing than if their*

1 *care had not been subject to payment under the dem-*
2 *onstration project.*

3 (5) *Hospitals participating in the demonstration*
4 *project shall have or establish robust discharge plan-*
5 *ning programs to ensure that Medicaid beneficiaries*
6 *requiring post-acute care are appropriately placed in,*
7 *or have ready access to, post-acute care settings.*

8 (6) *The Secretary and each State selected to par-*
9 *ticipate in the demonstration project shall ensure that*
10 *the demonstration project does not result in the Med-*
11 *icaid beneficiaries whose care is subject to payment*
12 *under the demonstration project being provided with*
13 *less items and services for which medical assistance is*
14 *provided under the State Medicaid program than the*
15 *items and services for which medical assistance would*
16 *have been provided to such beneficiaries under the*
17 *State Medicaid program in the absence of the dem-*
18 *onstration project.*

19 (c) *WAIVER OF PROVISIONS.—Notwithstanding section*
20 *1115(a) of the Social Security Act (42 U.S.C. 1315(a)), the*
21 *Secretary may waive such provisions of titles XIX, XVIII,*
22 *and XI of that Act as may be necessary to accomplish the*
23 *goals of the demonstration, ensure beneficiary access to*
24 *acute and post-acute care, and maintain quality of care.*

25 (d) *EVALUATION AND REPORT.—*

1 (1) *DATA.*—Each State selected to participate in
2 the demonstration project under this section shall pro-
3 vide to the Secretary, in such form and manner as the
4 Secretary shall specify, relevant data necessary to
5 monitor outcomes, costs, and quality, and evaluate the
6 rationales for selection of the episodes of care and
7 services specified by States under subsection (b)(3).

8 (2) *REPORT.*—Not later than 1 year after the
9 conclusion of the demonstration project, the Secretary
10 shall submit a report to Congress on the results of the
11 demonstration project.

12 **SEC. 2705. MEDICAID GLOBAL PAYMENT SYSTEM DEM-**
13 **ONSTRATION PROJECT.**

14 (a) *IN GENERAL.*—The Secretary of Health and
15 Human Services (referred to in this section as the “Sec-
16 retary”) shall, in coordination with the Center for Medicare
17 and Medicaid Innovation (as established under section
18 1115A of the Social Security Act, as added by section 3021
19 of this Act), establish the Medicaid Global Payment System
20 Demonstration Project under which a participating State
21 shall adjust the payments made to an eligible safety net
22 hospital system or network from a fee-for-service payment
23 structure to a global capitated payment model.

24 (b) *DURATION AND SCOPE.*—The demonstration
25 project conducted under this section shall operate during

1 *a period of fiscal years 2010 through 2012. The Secretary*
2 *shall select not more than 5 States to participate in the*
3 *demonstration project.*

4 (c) *ELIGIBLE SAFETY NET HOSPITAL SYSTEM OR*
5 *NETWORK.—For purposes of this section, the term “eligible*
6 *safety net hospital system or network” means a large, safety*
7 *net hospital system or network (as defined by the Secretary)*
8 *that operates within a State selected by the Secretary under*
9 *subsection (b).*

10 (d) *EVALUATION.—*

11 (1) *TESTING.—The Innovation Center shall test*
12 *and evaluate the demonstration project conducted*
13 *under this section to examine any changes in health*
14 *care quality outcomes and spending by the eligible*
15 *safety net hospital systems or networks.*

16 (2) *BUDGET NEUTRALITY.—During the testing*
17 *period under paragraph (1), any budget neutrality*
18 *requirements under section 1115A(b)(3) of the Social*
19 *Security Act (as so added) shall not be applicable.*

20 (3) *MODIFICATION.—During the testing period*
21 *under paragraph (1), the Secretary may, in the Sec-*
22 *retary’s discretion, modify or terminate the dem-*
23 *onstration project conducted under this section.*

24 (e) *REPORT.—Not later than 12 months after the date*
25 *of completion of the demonstration project under this sec-*

1 *tion, the Secretary shall submit to Congress a report con-*
2 *taining the results of the evaluation and testing conducted*
3 *under subsection (d), together with recommendations for*
4 *such legislation and administrative action as the Secretary*
5 *determines appropriate.*

6 *(f) AUTHORIZATION OF APPROPRIATIONS.—There are*
7 *authorized to be appropriated such sums as are necessary*
8 *to carry out this section.*

9 **SEC. 2706. PEDIATRIC ACCOUNTABLE CARE ORGANIZATION**

10 **DEMONSTRATION PROJECT.**

11 *(a) AUTHORITY TO CONDUCT DEMONSTRATION.—*

12 *(1) IN GENERAL.—The Secretary of Health and*
13 *Human Services (referred to in this section as the*
14 *“Secretary”) shall establish the Pediatric Accountable*
15 *Care Organization Demonstration Project to author-*
16 *ize a participating State to allow pediatric medical*
17 *providers that meet specified requirements to be recog-*
18 *nized as an accountable care organization for pur-*
19 *poses of receiving incentive payments (as described*
20 *under subsection (d)), in the same manner as an ac-*
21 *countable care organization is recognized and pro-*
22 *vided with incentive payments under section 1899 of*
23 *the Social Security Act (as added by section 3022).*

1 (2) *DURATION.*—*The demonstration project shall*
2 *begin on January 1, 2012, and shall end on December*
3 *31, 2016.*

4 (b) *APPLICATION.*—*A State that desires to participate*
5 *in the demonstration project under this section shall submit*
6 *to the Secretary an application at such time, in such man-*
7 *ner, and containing such information as the Secretary may*
8 *require.*

9 (c) *REQUIREMENTS.*—

10 (1) *PERFORMANCE GUIDELINES.*—*The Secretary,*
11 *in consultation with the States and pediatric pro-*
12 *viders, shall establish guidelines to ensure that the*
13 *quality of care delivered to individuals by a provider*
14 *recognized as an accountable care organization under*
15 *this section is not less than the quality of care that*
16 *would have otherwise been provided to such individ-*
17 *uals.*

18 (2) *SAVINGS REQUIREMENT.*—*A participating*
19 *State, in consultation with the Secretary, shall estab-*
20 *lish an annual minimal level of savings in expendi-*
21 *tures for items and services covered under the Med-*
22 *icaid program under title XIX of the Social Security*
23 *Act and the CHIP program under title XXI of such*
24 *Act that must be reached by an accountable care orga-*

1 nization in order for such organization to receive an
2 incentive payment under subsection (d).

3 (3) *MINIMUM PARTICIPATION PERIOD.*—A pro-
4 vider desiring to be recognized as an accountable care
5 organization under the demonstration project shall
6 enter into an agreement with the State to participate
7 in the project for not less than a 3-year period.

8 (d) *INCENTIVE PAYMENT.*—An accountable care orga-
9 nization that meets the performance guidelines established
10 by the Secretary under subsection (c)(1) and achieves sav-
11 ings greater than the annual minimal savings level estab-
12 lished by the State under subsection (c)(2) shall receive an
13 incentive payment for such year equal to a portion (as de-
14 termined appropriate by the Secretary) of the amount of
15 such excess savings. The Secretary may establish an annual
16 cap on incentive payments for an accountable care organi-
17 zation.

18 (e) *AUTHORIZATION OF APPROPRIATIONS.*—There are
19 authorized to be appropriated such sums as are necessary
20 to carry out this section.

21 **SEC. 2707. MEDICAID EMERGENCY PSYCHIATRIC DEM-**
22 **ONSTRATION PROJECT.**

23 (a) *AUTHORITY TO CONDUCT DEMONSTRATION*
24 *PROJECT.*—The Secretary of Health and Human Services
25 (in this section referred to as the “Secretary”) shall estab-

1 *lish a demonstration project under which an eligible State*
2 *(as described in subsection (c)) shall provide payment under*
3 *the State Medicaid plan under title XIX of the Social Secu-*
4 *rity Act to an institution for mental diseases that is not*
5 *publicly owned or operated and that is subject to the re-*
6 *quirements of section 1867 of the Social Security Act (42*
7 *U.S.C. 1395dd) for the provision of medical assistance*
8 *available under such plan to individuals who—*

9 *(1) have attained age 21, but have not attained*
10 *age 65;*

11 *(2) are eligible for medical assistance under such*
12 *plan; and*

13 *(3) require such medical assistance to stabilize*
14 *an emergency medical condition.*

15 *(b) STABILIZATION REVIEW.—A State shall specify in*
16 *its application described in subsection (c)(1) establish a*
17 *mechanism for how it will ensure that institutions partici-*
18 *pating in the demonstration will determine whether or not*
19 *such individuals have been stabilized (as defined in sub-*
20 *section (h)(5)). This mechanism shall commence before the*
21 *third day of the inpatient stay. States participating in the*
22 *demonstration project may manage the provision of services*
23 *for the stabilization of medical emergency conditions*
24 *through utilization review, authorization, or management*

1 *practices, or the application of medical necessity and ap-*
2 *propriateness criteria applicable to behavioral health.*

3 (c) *ELIGIBLE STATE DEFINED.*—

4 (1) *IN GENERAL.*—*An eligible State is a State*
5 *that has made an application and has been selected*
6 *pursuant to paragraphs (2) and (3).*

7 (2) *APPLICATION.*—*A State seeking to partici-*
8 *pate in the demonstration project under this section*
9 *shall submit to the Secretary, at such time and in*
10 *such format as the Secretary requires, an application*
11 *that includes such information, provisions, and assur-*
12 *ances, as the Secretary may require.*

13 (3) *SELECTION.*—*A State shall be determined el-*
14 *igible for the demonstration by the Secretary on a*
15 *competitive basis among States with applications*
16 *meeting the requirements of paragraph (1). In select-*
17 *ing State applications for the demonstration project,*
18 *the Secretary shall seek to achieve an appropriate na-*
19 *tional balance in the geographic distribution of such*
20 *projects.*

21 (d) *LENGTH OF DEMONSTRATION PROJECT.*—*The*
22 *demonstration project established under this section shall*
23 *be conducted for a period of 3 consecutive years.*

24 (e) *LIMITATIONS ON FEDERAL FUNDING.*—

25 (1) *APPROPRIATION.*—

1 (A) *IN GENERAL.*—*Out of any funds in the*
2 *Treasury not otherwise appropriated, there is*
3 *appropriated to carry out this section,*
4 *\$75,000,000 for fiscal year 2011.*

5 (B) *BUDGET AUTHORITY.*—*Subparagraph*
6 *(A) constitutes budget authority in advance of*
7 *appropriations Act and represents the obligation*
8 *of the Federal Government to provide for the*
9 *payment of the amounts appropriated under that*
10 *subparagraph.*

11 (2) *5-YEAR AVAILABILITY.*—*Funds appropriated*
12 *under paragraph (1) shall remain available for obli-*
13 *gation through December 31, 2015.*

14 (3) *LIMITATION ON PAYMENTS.*—*In no case*
15 *may—*

16 (A) *the aggregate amount of payments made*
17 *by the Secretary to eligible States under this sec-*
18 *tion exceed \$75,000,000; or*

19 (B) *payments be provided by the Secretary*
20 *under this section after December 31, 2015.*

21 (4) *FUNDS ALLOCATED TO STATES.*—*Funds shall*
22 *be allocated to eligible States on the basis of criteria,*
23 *including a State's application and the availability*
24 *of funds, as determined by the Secretary.*

1 (5) *PAYMENTS TO STATES.*—*The Secretary shall*
2 *pay to each eligible State, from its allocation under*
3 *paragraph (4), an amount each quarter equal to the*
4 *Federal medical assistance percentage of expenditures*
5 *in the quarter for medical assistance described in sub-*
6 *section (a). As a condition of receiving payment, a*
7 *State shall collect and report information, as deter-*
8 *mined necessary by the Secretary, for the purposes of*
9 *providing Federal oversight and conducting an eval-*
10 *uation under subsection (f)(1).*

11 *(f) EVALUATION AND REPORT TO CONGRESS.*—

12 (1) *EVALUATION.*—*The Secretary shall conduct*
13 *an evaluation of the demonstration project in order to*
14 *determine the impact on the functioning of the health*
15 *and mental health service system and on individuals*
16 *enrolled in the Medicaid program and shall include*
17 *the following:*

18 (A) *An assessment of access to inpatient*
19 *mental health services under the Medicaid pro-*
20 *gram; average lengths of inpatient stays; and*
21 *emergency room visits.*

22 (B) *An assessment of discharge planning by*
23 *participating hospitals.*

24 (C) *An assessment of the impact of the dem-*
25 *onstration project on the costs of the full range*

1 of mental health services (including inpatient,
2 emergency and ambulatory care).

3 (D) *An analysis of the percentage of con-*
4 *sumers with Medicaid coverage who are admitted*
5 *to inpatient facilities as a result of the dem-*
6 *onstration project as compared to those admitted*
7 *to these same facilities through other means.*

8 (E) *A recommendation regarding whether*
9 *the demonstration project should be continued*
10 *after December 31, 2013, and expanded on a na-*
11 *tional basis.*

12 (2) *REPORT.—Not later than December 31, 2013,*
13 *the Secretary shall submit to Congress and make*
14 *available to the public a report on the findings of the*
15 *evaluation under paragraph (1).*

16 (g) *WAIVER AUTHORITY.—*

17 (1) *IN GENERAL.—The Secretary shall waive the*
18 *limitation of subdivision (B) following paragraph*
19 *(28) of section 1905(a) of the Social Security Act (42*
20 *U.S.C. 1396d(a)) (relating to limitations on pay-*
21 *ments for care or services for individuals under 65*
22 *years of age who are patients in an institution for*
23 *mental diseases) for purposes of carrying out the dem-*
24 *onstration project under this section.*

1 (2) *LIMITED OTHER WAIVER AUTHORITY.*—*The*
2 *Secretary may waive other requirements of titles XI*
3 *and XIX of the Social Security Act (including the re-*
4 *quirements of sections 1902(a)(1) (relating to*
5 *statewideness) and 1902(1)(10)(B) (relating to com-*
6 *parability)) only to extent necessary to carry out the*
7 *demonstration project under this section.*

8 (h) *DEFINITIONS.*—*In this section:*

9 (1) *EMERGENCY MEDICAL CONDITION.*—*The term*
10 *“emergency medical condition” means, with respect to*
11 *an individual, an individual who expresses suicidal*
12 *or homicidal thoughts or gestures, if determined dan-*
13 *gerous to self or others.*

14 (2) *FEDERAL MEDICAL ASSISTANCE PERCENT-*
15 *AGE.*—*The term “Federal medical assistance percent-*
16 *age” has the meaning given that term with respect to*
17 *a State under section 1905(b) of the Social Security*
18 *Act (42 U.S.C. 1396d(b)).*

19 (3) *INSTITUTION FOR MENTAL DISEASES.*—*The*
20 *term “institution for mental diseases” has the mean-*
21 *ing given to that term in section 1905(i) of the Social*
22 *Security Act (42 U.S.C. 1396d(i)).*

23 (4) *MEDICAL ASSISTANCE.*—*The term “medical*
24 *assistance” has the meaning given that term in sec-*

1 *tion 1905(a) of the Social Security Act (42 U.S.C.*
2 *1396d(a)).*

3 (5) *STABILIZED.*—*The term “stabilized” means,*
4 *with respect to an individual, that the emergency*
5 *medical condition no longer exists with respect to the*
6 *individual and the individual is no longer dangerous*
7 *to self or others.*

8 (6) *STATE.*—*The term “State” has the meaning*
9 *given that term for purposes of title XIX of the Social*
10 *Security Act (42 U.S.C. 1396 et seq.).*

11 ***Subtitle J—Improvements to the***
12 ***Medicaid and CHIP Payment***
13 ***and Access Commission***
14 ***(MACPAC)***

15 ***SEC. 2801. MACPAC ASSESSMENT OF POLICIES AFFECTING***
16 ***ALL MEDICAID BENEFICIARIES.***

17 (a) *IN GENERAL.*—*Section 1900 of the Social Security*
18 *Act (42 U.S.C. 1396) is amended—*

19 (1) *in subsection (b)—*

20 (A) *in paragraph (1)—*

21 (i) *in the paragraph heading, by in-*
22 *serting “FOR ALL STATES” before “AND AN-*
23 *NUAL”; and*

24 (ii) *in subparagraph (A), by striking*
25 *“children’s”;*

1 (iii) in subparagraph (B), by inserting
2 “, the Secretary, and States” after “Con-
3 gress”;

4 (iv) in subparagraph (C), by striking
5 “March 1” and inserting “March 15”; and

6 (v) in subparagraph (D), by striking
7 “June 1” and inserting “June 15”;

8 (B) in paragraph (2)—

9 (i) in subparagraph (A)—

10 (I) in clause (i)—

11 (aa) by inserting “the effi-
12 cient provision of” after “expendi-
13 tures for”; and

14 (bb) by striking “hospital,
15 skilled nursing facility, physician,
16 Federally-qualified health center,
17 rural health center, and other
18 fees” and inserting “payments to
19 medical, dental, and health profes-
20 sionals, hospitals, residential and
21 long-term care providers, pro-
22 viders of home and community
23 based services, Federally-qualified
24 health centers and rural health
25 clinics, managed care entities,

1 and providers of other covered
2 items and services”; and

3 (II) in clause (iii), by inserting
4 “(including how such factors and
5 methodologies enable such beneficiaries
6 to obtain the services for which they
7 are eligible, affect provider supply, and
8 affect providers that serve a dispropor-
9 tionate share of low-income and other
10 vulnerable populations)” after “bene-
11 ficiaries”;

12 (ii) by redesignating subparagraphs
13 (B) and (C) as subparagraphs (F) and (H),
14 respectively;

15 (iii) by inserting after subparagraph
16 (A), the following:

17 “(B) *ELIGIBILITY POLICIES.—Medicaid and*
18 *CHIP eligibility policies, including a determina-*
19 *tion of the degree to which Federal and State*
20 *policies provide health care coverage to needy*
21 *populations.*

22 “(C) *ENROLLMENT AND RETENTION PROC-*
23 *ESSES.—Medicaid and CHIP enrollment and re-*
24 *tention processes, including a determination of*
25 *the degree to which Federal and State policies*

1 *encourage the enrollment of individuals who are*
2 *eligible for such programs and screen out indi-*
3 *viduals who are ineligible, while minimizing the*
4 *share of program expenses devoted to such proc-*
5 *esses.*

6 “(D) *COVERAGE POLICIES.—Medicaid and*
7 *CHIP benefit and coverage policies, including a*
8 *determination of the degree to which Federal and*
9 *State policies provide access to the services en-*
10 *rollees require to improve and maintain their*
11 *health and functional status.*

12 “(E) *QUALITY OF CARE.—Medicaid and*
13 *CHIP policies as they relate to the quality of*
14 *care provided under those programs, including a*
15 *determination of the degree to which Federal and*
16 *State policies achieve their stated goals and*
17 *interact with similar goals established by other*
18 *purchasers of health care services.”;*

19 *(iv) by inserting after subparagraph*
20 *(F) (as redesignated by clause (ii) of this*
21 *subparagraph), the following:*

22 “(G) *INTERACTIONS WITH MEDICARE AND*
23 *MEDICAID.—Consistent with paragraph (11), the*
24 *interaction of policies under Medicaid and the*
25 *Medicare program under title XVIII, including*

1 *with respect to how such interactions affect ac-*
2 *cess to services, payments, and dual eligible indi-*
3 *viduals.” and*

4 *(v) in subparagraph (H) (as so redes-*
5 *ignated), by inserting “and preventive,*
6 *acute, and long-term services and supports”*
7 *after “barriers”;*

8 *(C) by redesignating paragraphs (3)*
9 *through (9) as paragraphs (4) through (10), re-*
10 *spectively;*

11 *(D) by inserting after paragraph (2), the*
12 *following new paragraph:*

13 “(3) *RECOMMENDATIONS AND REPORTS OF*
14 *STATE-SPECIFIC DATA.—MACPAC shall—*

15 “(A) *review national and State-specific*
16 *Medicaid and CHIP data; and*

17 “(B) *submit reports and recommendations*
18 *to Congress, the Secretary, and States based on*
19 *such reviews.”;*

20 *(E) in paragraph (4), as redesignated by*
21 *subparagraph (C), by striking “or any other*
22 *problems” and all that follows through the period*
23 *and inserting “, as well as other factors that ad-*
24 *versely affect, or have the potential to adversely*
25 *affect, access to care by, or the health care status*

1 of, Medicaid and CHIP beneficiaries. MACPAC
2 shall include in the annual report required
3 under paragraph (1)(D) a description of all such
4 areas or problems identified with respect to the
5 period addressed in the report.”;

6 (F) in paragraph (5), as so redesignated,—

7 (i) in the paragraph heading, by in-
8 serting “AND REGULATIONS” after “RE-
9 PORTS”; and

10 (ii) by striking “If” and inserting the
11 following:

12 “(A) CERTAIN SECRETARIAL REPORTS.—
13 If”; and

14 (iii) in the second sentence, by insert-
15 ing “and the Secretary” after “appropriate
16 committees of Congress”; and

17 (iv) by adding at the end the following:

18 “(B) REGULATIONS.—MACPAC shall re-
19 view Medicaid and CHIP regulations and may
20 comment through submission of a report to the
21 appropriate committees of Congress and the Sec-
22 retary, on any such regulations that affect access,
23 quality, or efficiency of health care.”;

24 (G) in paragraph (10), as so redesignated,
25 by inserting “, and shall submit with any rec-

1 *ommendations, a report on the Federal and*
2 *State-specific budget consequences of the rec-*
3 *ommendations” before the period; and*

4 *(H) by adding at the end the following:*

5 “(11) *CONSULTATION AND COORDINATION WITH*
6 *MEDPAC.—*

7 “(A) *IN GENERAL.—MACPAC shall consult*
8 *with the Medicare Payment Advisory Commis-*
9 *sion (in this paragraph referred to as ‘MedPAC’)*
10 *established under section 1805 in carrying out*
11 *its duties under this section, as appropriate and*
12 *particularly with respect to the issues specified*
13 *in paragraph (2) as they relate to those Med-*
14 *icaid beneficiaries who are dually eligible for*
15 *Medicaid and the Medicare program under title*
16 *XVIII, adult Medicaid beneficiaries (who are not*
17 *dually eligible for Medicare), and beneficiaries*
18 *under Medicare. Responsibility for analysis of*
19 *and recommendations to change Medicare policy*
20 *regarding Medicare beneficiaries, including*
21 *Medicare beneficiaries who are dually eligible for*
22 *Medicare and Medicaid, shall rest with MedPAC.*

23 “(B) *INFORMATION SHARING.—MACPAC*
24 *and MedPAC shall have access to deliberations*

1 *and records of the other such entity, respectively,*
2 *upon the request of the other such entity.*

3 “(12) *CONSULTATION WITH STATES.*—MACPAC
4 *shall regularly consult with States in carrying out its*
5 *duties under this section, including with respect to*
6 *developing processes for carrying out such duties, and*
7 *shall ensure that input from States is taken into ac-*
8 *count and represented in MACPAC’s recommenda-*
9 *tions and reports.*

10 “(13) *COORDINATE AND CONSULT WITH THE*
11 *FEDERAL COORDINATED HEALTH CARE OFFICE.*—
12 *MACPAC shall coordinate and consult with the Fed-*
13 *eral Coordinated Health Care Office established under*
14 *section 2081 of the Patient Protection and Affordable*
15 *Care Act before making any recommendations regard-*
16 *ing dual eligible individuals.*

17 “(14) *PROGRAMMATIC OVERSIGHT VESTED IN*
18 *THE SECRETARY.*—MACPAC’s authority to make rec-
19 *ommendations in accordance with this section shall*
20 *not affect, or be considered to duplicate, the Sec-*
21 *retary’s authority to carry out Federal responsibil-*
22 *ities with respect to Medicaid and CHIP.”;*

23 (2) *in subsection (c)(2)*—

24 (A) *by striking subparagraphs (A) and (B)*
25 *and inserting the following:*

1 “(A) *IN GENERAL.*—*The membership of*
2 *MACPAC shall include individuals who have*
3 *had direct experience as enrollees or parents or*
4 *caregivers of enrollees in Medicaid or CHIP and*
5 *individuals with national recognition for their*
6 *expertise in Federal safety net health programs,*
7 *health finance and economics, actuarial science,*
8 *health plans and integrated delivery systems, re-*
9 *imbursement for health care, health information*
10 *technology, and other providers of health services,*
11 *public health, and other related fields, who pro-*
12 *vide a mix of different professions, broad geo-*
13 *graphic representation, and a balance between*
14 *urban and rural representation.*

15 “(B) *INCLUSION.*—*The membership of*
16 *MACPAC shall include (but not be limited to)*
17 *physicians, dentists, and other health profes-*
18 *sionals, employers, third-party payers, and indi-*
19 *viduals with expertise in the delivery of health*
20 *services. Such membership shall also include rep-*
21 *resentatives of children, pregnant women, the el-*
22 *derly, individuals with disabilities, caregivers,*
23 *and dual eligible individuals, current or former*
24 *representatives of State agencies responsible for*
25 *administering Medicaid, and current or former*

1 *representatives of State agencies responsible for*
2 *administering CHIP.”.*

3 (3) *in subsection (d)(2), by inserting “and*
4 *State” after “Federal”;*

5 (4) *in subsection (e)(1), in the first sentence, by*
6 *inserting “and, as a condition for receiving payments*
7 *under sections 1903(a) and 2105(a), from any State*
8 *agency responsible for administering Medicaid or*
9 *CHIP,” after “United States”; and*

10 (5) *in subsection (f)—*

11 (A) *in the subsection heading, by striking*
12 *“AUTHORIZATION OF APPROPRIATIONS” and in-*
13 *serting “FUNDING”;*

14 (B) *in paragraph (1), by inserting “(other*
15 *than for fiscal year 2010)” before “in the same*
16 *manner”; and*

17 (C) *by adding at the end the following:*

18 “(3) *FUNDING FOR FISCAL YEAR 2010.—*

19 (A) *IN GENERAL.—Out of any funds in the*
20 *Treasury not otherwise appropriated, there is*
21 *appropriated to MACPAC to carry out the pro-*
22 *visions of this section for fiscal year 2010,*
23 *\$9,000,000.*

24 (B) *TRANSFER OF FUNDS.—Notwith-*
25 *standing section 2104(a)(13), from the amounts*

1 *appropriated in such section for fiscal year*
2 *2010, \$2,000,000 is hereby transferred and made*
3 *available in such fiscal year to MACPAC to*
4 *carry out the provisions of this section.*

5 “(4) *AVAILABILITY.*—*Amounts made available*
6 *under paragraphs (2) and (3) to MACPAC to carry*
7 *out the provisions of this section shall remain avail-*
8 *able until expended.”.*

9 (b) *CONFORMING MEDPAC AMENDMENTS.*—*Section*
10 *1805(b) of the Social Security Act (42 U.S.C. 1395b–6(b)),*
11 *is amended—*

12 (1) *in paragraph (1)(C), by striking “March 1*
13 *of each year (beginning with 1998)” and inserting*
14 *“March 15”;*

15 (2) *in paragraph (1)(D), by inserting “, and (be-*
16 *ginning with 2012) containing an examination of the*
17 *topics described in paragraph (9), to the extent fea-*
18 *sible” before the period; and*

19 (3) *by adding at the end the following:*

20 “(9) *REVIEW AND ANNUAL REPORT ON MEDICAID*
21 *AND COMMERCIAL TRENDS.*—*The Commission shall*
22 *review and report on aggregate trends in spending,*
23 *utilization, and financial performance under the*
24 *Medicaid program under title XIX and the private*
25 *market for health care services with respect to pro-*

1 *viders for which, on an aggregate national basis, a*
2 *significant portion of revenue or services is associated*
3 *with the Medicaid program. Where appropriate, the*
4 *Commission shall conduct such review in consultation*
5 *with the Medicaid and CHIP Payment and Access*
6 *Commission established under section 1900 (in this*
7 *section referred to as ‘MACPAC’).*

8 *“(10) COORDINATE AND CONSULT WITH THE*
9 *FEDERAL COORDINATED HEALTH CARE OFFICE.—The*
10 *Commission shall coordinate and consult with the*
11 *Federal Coordinated Health Care Office established*
12 *under section 2081 of the Patient Protection and Af-*
13 *fordable Care Act before making any recommenda-*
14 *tions regarding dual eligible individuals.*

15 *“(11) INTERACTION OF MEDICAID AND MEDI-*
16 *CARE.—The Commission shall consult with MACPAC*
17 *in carrying out its duties under this section, as ap-*
18 *propriate. Responsibility for analysis of and rec-*
19 *ommendations to change Medicare policy regarding*
20 *Medicare beneficiaries, including Medicare bene-*
21 *ficiaries who are dually eligible for Medicare and*
22 *Medicaid, shall rest with the Commission. Responsi-*
23 *bility for analysis of and recommendations to change*
24 *Medicaid policy regarding Medicaid beneficiaries, in-*
25 *cluding Medicaid beneficiaries who are dually eligible*

1 for Medicare and Medicaid, shall rest with
2 MACPAC.”.

3 **Subtitle K—Protections for Amer-**
4 **ican Indians and Alaska Natives**

5 **SEC. 2901. SPECIAL RULES RELATING TO INDIANS.**

6 (a) *NO COST-SHARING FOR INDIANS WITH INCOME AT*
7 *OR BELOW 300 PERCENT OF POVERTY ENROLLED IN COV-*
8 *ERAGE THROUGH A STATE EXCHANGE.*—For provisions
9 prohibiting cost sharing for Indians enrolled in any quali-
10 fied health plan in the individual market through an Ex-
11 change, see section 1402(d) of the Patient Protection and
12 Affordable Care Act.

13 (b) *PAYER OF LAST RESORT.*—Health programs oper-
14 ated by the Indian Health Service, Indian tribes, tribal or-
15 ganizations, and Urban Indian organizations (as those
16 terms are defined in section 4 of the Indian Health Care
17 Improvement Act (25 U.S.C. 1603)) shall be the payer of
18 last resort for services provided by such Service, tribes, or
19 organizations to individuals eligible for services through
20 such programs, notwithstanding any Federal, State, or
21 local law to the contrary.

22 (c) *FACILITATING ENROLLMENT OF INDIANS UNDER*
23 *THE EXPRESS LANE OPTION.*—Section 1902(e)(13)(F)(ii)
24 of the Social Security Act (42 U.S.C. 1396a(e)(13)(F)(ii))
25 is amended—

1 (1) *in the clause heading, by inserting “AND IN-*
2 *DIAN TRIBES AND TRIBAL ORGANIZATIONS” after*
3 *“AGENCIES”; and*

4 (2) *by adding at the end the following:*

5 *“(IV) The Indian Health Service,*
6 *an Indian Tribe, Tribal Organization,*
7 *or Urban Indian Organization (as de-*
8 *fin ed in section 1139(c)).”.*

9 (d) *TECHNICAL CORRECTIONS.—Section 1139(c) of the*
10 *Social Security Act (42 U.S.C. 1320b–9(c)) is amended by*
11 *striking “In this section” and inserting “For purposes of*
12 *this section, title XIX, and title XXI”.*

13 **SEC. 2902. ELIMINATION OF SUNSET FOR REIMBURSEMENT**
14 **FOR ALL MEDICARE PART B SERVICES FUR-**
15 **NISHED BY CERTAIN INDIAN HOSPITALS AND**
16 **CLINICS.**

17 (a) *REIMBURSEMENT FOR ALL MEDICARE PART B*
18 *SERVICES FURNISHED BY CERTAIN INDIAN HOSPITALS*
19 *AND CLINICS.—Section 1880(e)(1)(A) of the Social Security*
20 *Act (42 U.S.C. 1395qq(e)(1)(A)) is amended by striking*
21 *“during the 5-year period beginning on” and inserting “on*
22 *or after”.*

23 (b) *EFFECTIVE DATE.—The amendments made by this*
24 *section shall apply to items or services furnished on or after*
25 *January 1, 2010.*

1 ***Subtitle L—Maternal and Child***
2 ***Health Services***

3 **SEC. 2951. MATERNAL, INFANT, AND EARLY CHILDHOOD**
4 **HOME VISITING PROGRAMS.**

5 *Title V of the Social Security Act (42 U.S.C. 701 et*
6 *seq.) is amended by adding at the end the following new*
7 *section:*

8 **“SEC. 511. MATERNAL, INFANT, AND EARLY CHILDHOOD**
9 **HOME VISITING PROGRAMS.**

10 “(a) *PURPOSES.—The purposes of this section are—*

11 “(1) *to strengthen and improve the programs*
12 *and activities carried out under this title;*

13 “(2) *to improve coordination of services for at*
14 *risk communities; and*

15 “(3) *to identify and provide comprehensive serv-*
16 *ices to improve outcomes for families who reside in at*
17 *risk communities.*

18 “(b) *REQUIREMENT FOR ALL STATES TO ASSESS*
19 *STATEWIDE NEEDS AND IDENTIFY AT RISK COMMU-*
20 *NITIES.—*

21 “(1) *IN GENERAL.—Not later than 6 months*
22 *after the date of enactment of this section, each State*
23 *shall, as a condition of receiving payments from an*
24 *allotment for the State under section 502 for fiscal*
25 *year 2011, conduct a statewide needs assessment*

1 *(which shall be separate from the statewide needs as-*
2 *essment required under section 505(a)) that identi-*
3 *fies—*

4 “(A) *communities with concentrations of—*

5 “(i) *premature birth, low-birth weight*
6 *infants, and infant mortality, including in-*
7 *fant death due to neglect, or other indica-*
8 *tors of at-risk prenatal, maternal, newborn,*
9 *or child health;*

10 “(ii) *poverty;*

11 “(iii) *crime;*

12 “(iv) *domestic violence;*

13 “(v) *high rates of high-school drop-*
14 *outs;*

15 “(vi) *substance abuse;*

16 “(vii) *unemployment; or*

17 “(viii) *child maltreatment;*

18 “(B) *the quality and capacity of existing*
19 *programs or initiatives for early childhood home*
20 *visitation in the State including—*

21 “(i) *the number and types of individ-*
22 *uals and families who are receiving services*
23 *under such programs or initiatives;*

24 “(ii) *the gaps in early childhood home*
25 *visitation in the State; and*

1 “(iii) the extent to which such pro-
2 grams or initiatives are meeting the needs
3 of eligible families described in subsection
4 (k)(2); and

5 “(C) the State’s capacity for providing sub-
6 stance abuse treatment and counseling services to
7 individuals and families in need of such treat-
8 ment or services.

9 “(2) COORDINATION WITH OTHER ASSESS-
10 MENTS.—In conducting the statewide needs assess-
11 ment required under paragraph (1), the State shall
12 coordinate with, and take into account, other appro-
13 priate needs assessments conducted by the State, as
14 determined by the Secretary, including the needs as-
15 sessment required under section 505(a) (both the most
16 recently completed assessment and any such assess-
17 ment in progress), the communitywide strategic plan-
18 ning and needs assessments conducted in accordance
19 with section 640(g)(1)(C) of the Head Start Act, and
20 the inventory of current unmet needs and current
21 community-based and prevention-focused programs
22 and activities to prevent child abuse and neglect, and
23 other family resource services operating in the State
24 required under section 205(3) of the Child Abuse Pre-
25 vention and Treatment Act.

1 “(3) *SUBMISSION TO THE SECRETARY.*—*Each*
2 *State shall submit to the Secretary, in such form and*
3 *manner as the Secretary shall require—*

4 “(A) *the results of the statewide needs as-*
5 *essment required under paragraph (1); and*

6 “(B) *a description of how the State intends*
7 *to address needs identified by the assessment,*
8 *particularly with respect to communities identi-*
9 *fied under paragraph (1)(A), which may include*
10 *applying for a grant to conduct an early child-*
11 *hood home visitation program in accordance*
12 *with the requirements of this section.*

13 “(c) *GRANTS FOR EARLY CHILDHOOD HOME VISITA-*
14 *TION PROGRAMS.*—

15 “(1) *AUTHORITY TO MAKE GRANTS.*—*In addition*
16 *to any other payments made under this title to a*
17 *State, the Secretary shall make grants to eligible enti-*
18 *ties to enable the entities to deliver services under*
19 *early childhood home visitation programs that satisfy*
20 *the requirements of subsection (d) to eligible families*
21 *in order to promote improvements in maternal and*
22 *prenatal health, infant health, child health and devel-*
23 *opment, parenting related to child development out-*
24 *comes, school readiness, and the socioeconomic status*

1 of such families, and reductions in child abuse, ne-
2 glect, and injuries.

3 “(2) *AUTHORITY TO USE INITIAL GRANT FUNDS*
4 *FOR PLANNING OR IMPLEMENTATION.*—An eligible en-
5 tity that receives a grant under paragraph (1) may
6 use a portion of the funds made available to the enti-
7 ty during the first 6 months of the period for which
8 the grant is made for planning or implementation ac-
9 tivities to assist with the establishment of early child-
10 hood home visitation programs that satisfy the re-
11 quirements of subsection (d).

12 “(3) *GRANT DURATION.*—The Secretary shall de-
13 termine the period of years for which a grant is made
14 to an eligible entity under paragraph (1).

15 “(4) *TECHNICAL ASSISTANCE.*—The Secretary
16 shall provide an eligible entity that receives a grant
17 under paragraph (1) with technical assistance in ad-
18 ministering programs or activities conducted in whole
19 or in part with grant funds.

20 “(d) *REQUIREMENTS.*—The requirements of this sub-
21 section for an early childhood home visitation program con-
22 ducted with a grant made under this section are as follows:

23 “(1) *QUANTIFIABLE, MEASURABLE IMPROVEMENT*
24 *IN BENCHMARK AREAS.*—

1 “(A) *IN GENERAL.*—*The eligible entity es-*
2 *tablishes, subject to the approval of the Secretary,*
3 *quantifiable, measurable 3- and 5-year bench-*
4 *marks for demonstrating that the program re-*
5 *sults in improvements for the eligible families*
6 *participating in the program in each of the fol-*
7 *lowing areas:*

8 “(i) *Improved maternal and newborn*
9 *health.*

10 “(ii) *Prevention of child injuries, child*
11 *abuse, neglect, or maltreatment, and reduc-*
12 *tion of emergency department visits.*

13 “(iii) *Improvement in school readiness*
14 *and achievement.*

15 “(iv) *Reduction in crime or domestic*
16 *violence.*

17 “(v) *Improvements in family economic*
18 *self-sufficiency.*

19 “(vi) *Improvements in the coordina-*
20 *tion and referrals for other community re-*
21 *sources and supports.*

22 “(B) *DEMONSTRATION OF IMPROVEMENTS*
23 *AFTER 3 YEARS.*—

24 “(i) *REPORT TO THE SECRETARY.*—
25 *Not later than 30 days after the end of the*

1 3rd year in which the eligible entity con-
2 ducts the program, the entity submits to the
3 Secretary a report demonstrating improve-
4 ment in at least 4 of the areas specified in
5 subparagraph (A).

6 “(ii) *CORRECTIVE ACTION PLAN.*—If
7 the report submitted by the eligible entity
8 under clause (i) fails to demonstrate im-
9 provement in at least 4 of the areas speci-
10 fied in subparagraph (A), the entity shall
11 develop and implement a plan to improve
12 outcomes in each of the areas specified in
13 subparagraph (A), subject to approval by
14 the Secretary. The plan shall include provi-
15 sions for the Secretary to monitor imple-
16 mentation of the plan and conduct contin-
17 ued oversight of the program, including
18 through submission by the entity of regular
19 reports to the Secretary.

20 “(iii) *TECHNICAL ASSISTANCE.*—

21 “(I) *IN GENERAL.*—The Secretary
22 shall provide an eligible entity re-
23 quired to develop and implement an
24 improvement plan under clause (ii)
25 with technical assistance to develop

1 *and implement the plan. The Secretary*
2 *may provide the technical assistance*
3 *directly or through grants, contracts,*
4 *or cooperative agreements.*

5 *“(II) ADVISORY PANEL.—The Sec-*
6 *retary shall establish an advisory*
7 *panel for purposes of obtaining rec-*
8 *ommendations regarding the technical*
9 *assistance provided to entities in ac-*
10 *cordance with subclause (I).*

11 *“(iv) NO IMPROVEMENT OR FAILURE*
12 *TO SUBMIT REPORT.—If the Secretary de-*
13 *termines after a period of time specified by*
14 *the Secretary that an eligible entity imple-*
15 *menting an improvement plan under clause*
16 *(ii) has failed to demonstrate any improve-*
17 *ment in the areas specified in subparagraph*
18 *(A), or if the Secretary determines that an*
19 *eligible entity has failed to submit the re-*
20 *port required under clause (i), the Secretary*
21 *shall terminate the entity’s grant and may*
22 *include any unexpended grant funds in*
23 *grants made to nonprofit organizations*
24 *under subsection (h)(2)(B).*

1 “(C) *FINAL REPORT.*—Not later than De-
2 cember 31, 2015, the eligible entity shall submit
3 a report to the Secretary demonstrating improve-
4 ments (if any) in each of the areas specified in
5 subparagraph (A).

6 “(2) *IMPROVEMENTS IN OUTCOMES FOR INDI-*
7 *VIDUAL FAMILIES.*—

8 “(A) *IN GENERAL.*—The program is de-
9 signed, with respect to an eligible family partici-
10 pating in the program, to result in the partici-
11 pant outcomes described in subparagraph (B)
12 that the eligible entity identifies on the basis of
13 an individualized assessment of the family, are
14 relevant for that family.

15 “(B) *PARTICIPANT OUTCOMES.*—The partici-
16 pant outcomes described in this subparagraph
17 are the following:

18 “(i) *Improvements in prenatal, mater-*
19 *nal, and newborn health, including im-*
20 *proved pregnancy outcomes*

21 “(ii) *Improvements in child health and*
22 *development, including the prevention of*
23 *child injuries and maltreatment and im-*
24 *provements in cognitive, language, social-*

1 *emotional, and physical developmental indi-*
2 *cators.*

3 “(iii) *Improvements in parenting*
4 *skills.*

5 “(iv) *Improvements in school readiness*
6 *and child academic achievement.*

7 “(v) *Reductions in crime or domestic*
8 *violence.*

9 “(vi) *Improvements in family eco-*
10 *nom ic self-sufficiency.*

11 “(vii) *Improvements in the coordina-*
12 *tion of referrals for, and the provision of,*
13 *other community resources and supports for*
14 *eligible families, consistent with State child*
15 *welfare agency training.*

16 “(3) *CORE COMPONENTS.—The program includes*
17 *the following core components:*

18 “(A) *SERVICE DELIVERY MODEL OR MOD-*
19 *ELS.—*

20 “(i) *IN GENERAL.—Subject to clause*
21 *(ii), the program is conducted using 1 or*
22 *more of the service delivery models described*
23 *in item (aa) or (bb) of subclause (I) or in*
24 *subclause (II) selected by the eligible entity:*

1 “(I) *The model conforms to a*
2 *clear consistent home visitation model*
3 *that has been in existence for at least*
4 *3 years and is research-based, ground-*
5 *ed in relevant empirically-based knowl-*
6 *edge, linked to program determined*
7 *outcomes, associated with a national*
8 *organization or institution of higher*
9 *education that has comprehensive home*
10 *visitation program standards that en-*
11 *sure high quality service delivery and*
12 *continuous program quality improve-*
13 *ment, and has demonstrated signifi-*
14 *cant, (and in the case of the service de-*
15 *livery model described in item (aa),*
16 *sustained) positive outcomes, as de-*
17 *scribed in the benchmark areas speci-*
18 *fied in paragraph (1)(A) and the par-*
19 *ticipant outcomes described in para-*
20 *graph (2)(B), when evaluated using*
21 *well-designed and rigorous—*

22 “(aa) *randomized controlled*
23 *research designs, and the evalua-*
24 *tion results have been published in*
25 *a peer-reviewed journal; or*

1 “(bb) *quasi-experimental re-*
2 *search designs.*

3 “(II) *The model conforms to a*
4 *promising and new approach to*
5 *achieving the benchmark areas speci-*
6 *fied in paragraph (1)(A) and the par-*
7 *ticipant outcomes described in para-*
8 *graph (2)(B), has been developed or*
9 *identified by a national organization*
10 *or institution of higher education, and*
11 *will be evaluated through well-designed*
12 *and rigorous process.*

13 “(ii) *MAJORITY OF GRANT FUNDS*
14 *USED FOR EVIDENCE-BASED MODELS.—An*
15 *eligible entity shall use not more than 25*
16 *percent of the amount of the grant paid to*
17 *the entity for a fiscal year for purposes of*
18 *conducting a program using the service de-*
19 *livery model described in clause (i)(II).*

20 “(iii) *CRITERIA FOR EVIDENCE OF EF-*
21 *ECTIVENESS OF MODELS.—The Secretary*
22 *shall establish criteria for evidence of effec-*
23 *tiveness of the service delivery models and*
24 *shall ensure that the process for establishing*

1 *the criteria is transparent and provides the*
2 *opportunity for public comment.*

3 “(B) *ADDITIONAL REQUIREMENTS.*—

4 “(i) *The program adheres to a clear,*
5 *consistent model that satisfies the require-*
6 *ments of being grounded in empirically-*
7 *based knowledge related to home visiting*
8 *and linked to the benchmark areas specified*
9 *in paragraph (1)(A) and the participant*
10 *outcomes described in paragraph (2)(B) re-*
11 *lated to the purposes of the program.*

12 “(ii) *The program employs well-*
13 *trained and competent staff, as dem-*
14 *onstrated by education or training, such as*
15 *nurses, social workers, educators, child de-*
16 *velopment specialists, or other well-trained*
17 *and competent staff, and provides ongoing*
18 *and specific training on the model being de-*
19 *livered.*

20 “(iii) *The program maintains high*
21 *quality supervision to establish home visitor*
22 *competencies.*

23 “(iv) *The program demonstrates strong*
24 *organizational capacity to implement the*
25 *activities involved.*

1 “(v) *The program establishes appro-*
2 *priate linkages and referral networks to*
3 *other community resources and supports for*
4 *eligible families.*

5 “(vi) *The program monitors the fidel-*
6 *ity of program implementation to ensure*
7 *that services are delivered pursuant to the*
8 *specified model.*

9 “(4) *PRIORITY FOR SERVING HIGH-RISK POPU-*
10 *LATIONS.—The eligible entity gives priority to pro-*
11 *viding services under the program to the following:*

12 “(A) *Eligible families who reside in commu-*
13 *nities in need of such services, as identified in*
14 *the statewide needs assessment required under*
15 *subsection (b)(1)(A).*

16 “(B) *Low-income eligible families.*

17 “(C) *Eligible families who are pregnant*
18 *women who have not attained age 21.*

19 “(D) *Eligible families that have a history of*
20 *child abuse or neglect or have had interactions*
21 *with child welfare services.*

22 “(E) *Eligible families that have a history of*
23 *substance abuse or need substance abuse treat-*
24 *ment.*

1 “(F) *Eligible families that have users of to-*
2 *bacco products in the home.*

3 “(G) *Eligible families that are or have chil-*
4 *dren with low student achievement.*

5 “(H) *Eligible families with children with*
6 *developmental delays or disabilities.*

7 “(I) *Eligible families who, or that include*
8 *individuals who, are serving or formerly served*
9 *in the Armed Forces, including such families*
10 *that have members of the Armed Forces who have*
11 *had multiple deployments outside of the United*
12 *States.*

13 “(e) *APPLICATION REQUIREMENTS.—An eligible entity*
14 *desiring a grant under this section shall submit an applica-*
15 *tion to the Secretary for approval, in such manner as the*
16 *Secretary may require, that includes the following:*

17 “(1) *A description of the populations to be served*
18 *by the entity, including specific information regard-*
19 *ing how the entity will serve high risk populations de-*
20 *scribed in subsection (d)(4).*

21 “(2) *An assurance that the entity will give pri-*
22 *ority to serving low-income eligible families and eligi-*
23 *ble families who reside in at risk communities identi-*
24 *fied in the statewide needs assessment required under*
25 *subsection (b)(1)(A).*

1 “(3) *The service delivery model or models de-*
2 *scribed in subsection (d)(3)(A) that the entity will use*
3 *under the program and the basis for the selection of*
4 *the model or models.*

5 “(4) *A statement identifying how the selection of*
6 *the populations to be served and the service delivery*
7 *model or models that the entity will use under the*
8 *program for such populations is consistent with the*
9 *results of the statewide needs assessment conducted*
10 *under subsection (b).*

11 “(5) *The quantifiable, measurable benchmarks es-*
12 *tablished by the State to demonstrate that the pro-*
13 *gram contributes to improvements in the areas speci-*
14 *fied in subsection (d)(1)(A).*

15 “(6) *An assurance that the entity will obtain*
16 *and submit documentation or other appropriate evi-*
17 *dence from the organization or entity that developed*
18 *the service delivery model or models used under the*
19 *program to verify that the program is implemented*
20 *and services are delivered according to the model spec-*
21 *ifications.*

22 “(7) *Assurances that the entity will establish*
23 *procedures to ensure that—*

24 “(A) *the participation of each eligible fam-*
25 *ily in the program is voluntary; and*

1 “(B) services are provided to an eligible
2 family in accordance with the individual assess-
3 ment for that family.

4 “(8) Assurances that the entity will—

5 “(A) submit annual reports to the Secretary
6 regarding the program and activities carried out
7 under the program that include such information
8 and data as the Secretary shall require; and

9 “(B) participate in, and cooperate with,
10 data and information collection necessary for the
11 evaluation required under subsection (g)(2) and
12 other research and evaluation activities carried
13 out under subsection (h)(3).

14 “(9) A description of other State programs that
15 include home visitation services, including, if appli-
16 cable to the State, other programs carried out under
17 this title with funds made available from allotments
18 under section 502(c), programs funded under title IV,
19 title II of the Child Abuse Prevention and Treatment
20 Act (relating to community-based grants for the pre-
21 vention of child abuse and neglect), and section 645A
22 of the Head Start Act (relating to Early Head Start
23 programs).

24 “(10) Other information as required by the Sec-
25 retary.

1 “(f) *MAINTENANCE OF EFFORT.*—*Funds provided to*
2 *an eligible entity receiving a grant under this section shall*
3 *supplement, and not supplant, funds from other sources for*
4 *early childhood home visitation programs or initiatives.*

5 “(g) *EVALUATION.*—

6 “(1) *INDEPENDENT, EXPERT ADVISORY PANEL.*—
7 *The Secretary, in accordance with subsection*
8 *(h)(1)(A), shall appoint an independent advisory*
9 *panel consisting of experts in program evaluation*
10 *and research, education, and early childhood develop-*
11 *ment—*

12 “(A) *to review, and make recommendations*
13 *on, the design and plan for the evaluation re-*
14 *quired under paragraph (2) within 1 year after*
15 *the date of enactment of this section;*

16 “(B) *to maintain and advise the Secretary*
17 *regarding the progress of the evaluation; and*

18 “(C) *to comment, if the panel so desires, on*
19 *the report submitted under paragraph (3).*

20 “(2) *AUTHORITY TO CONDUCT EVALUATION.*—*On*
21 *the basis of the recommendations of the advisory*
22 *panel under paragraph (1), the Secretary shall, by*
23 *grant, contract, or interagency agreement, conduct an*
24 *evaluation of the statewide needs assessments sub-*
25 *mitted under subsection (b) and the grants made*

1 *under subsections (c) and (h)(3)(B). The evaluation*
2 *shall include—*

3 *“(A) an analysis, on a State-by-State basis,*
4 *of the results of such assessments, including indi-*
5 *cators of maternal and prenatal health and in-*
6 *fant health and mortality, and State actions in*
7 *response to the assessments; and*

8 *“(B) an assessment of—*

9 *“(i) the effect of early childhood home*
10 *visitation programs on child and parent*
11 *outcomes, including with respect to each of*
12 *the benchmark areas specified in subsection*
13 *(d)(1)(A) and the participant outcomes de-*
14 *scribed in subsection (d)(2)(B);*

15 *“(ii) the effectiveness of such programs*
16 *on different populations, including the ex-*
17 *tent to which the ability of programs to im-*
18 *prove participant outcomes varies across*
19 *programs and populations; and*

20 *“(iii) the potential for the activities*
21 *conducted under such programs, if scaled*
22 *broadly, to improve health care practices,*
23 *eliminate health disparities, and improve*
24 *health care system quality, efficiencies, and*
25 *reduce costs.*

1 “(3) *REPORT.*—Not later than March 31, 2015,
2 the Secretary shall submit a report to Congress on the
3 results of the evaluation conducted under paragraph
4 (2) and shall make the report publicly available.

5 “(h) *OTHER PROVISIONS.*—

6 “(1) *INTRA-AGENCY COLLABORATION.*—The Sec-
7 retary shall ensure that the Maternal and Child
8 Health Bureau and the Administration for Children
9 and Families collaborate with respect to carrying out
10 this section, including with respect to—

11 “(A) reviewing and analyzing the statewide
12 needs assessments required under subsection (b),
13 the awarding and oversight of grants awarded
14 under this section, the establishment of the advi-
15 sory panels required under subsections
16 (d)(1)(B)(iii)(II) and (g)(1), and the evaluation
17 and report required under subsection (g); and

18 “(B) consulting with other Federal agencies
19 with responsibility for administering or evalu-
20 ating programs that serve eligible families to co-
21 ordinate and collaborate with respect to research
22 related to such programs and families, including
23 the Office of the Assistant Secretary for Planning
24 and Evaluation of the Department of Health and
25 Human Services, the Centers for Disease Control

1 *and Prevention, the National Institute of Child*
2 *Health and Human Development of the National*
3 *Institutes of Health, the Office of Juvenile Jus-*
4 *tice and Delinquency Prevention of the Depart-*
5 *ment of Justice, and the Institute of Education*
6 *Sciences of the Department of Education.*

7 “(2) *GRANTS TO ELIGIBLE ENTITIES THAT ARE*
8 *NOT STATES.—*

9 “(A) *INDIAN TRIBES, TRIBAL ORGANIZA-*
10 *TIONS, OR URBAN INDIAN ORGANIZATIONS.—The*
11 *Secretary shall specify requirements for eligible*
12 *entities that are Indian Tribes (or a consortium*
13 *of Indian Tribes), Tribal Organizations, or*
14 *Urban Indian Organizations to apply for and*
15 *conduct an early childhood home visitation pro-*
16 *gram with a grant under this section. Such re-*
17 *quirements shall, to the greatest extent prac-*
18 *ticable, be consistent with the requirements ap-*
19 *plicable to eligible entities that are States and*
20 *shall require an Indian Tribe (or consortium),*
21 *Tribal Organization, or Urban Indian Organi-*
22 *zation to—*

23 “(i) *conduct a needs assessment simi-*
24 *lar to the assessment required for all States*
25 *under subsection (b); and*

1 “(i) establish quantifiable, measurable
2 3- and 5-year benchmarks consistent with
3 subsection (d)(1)(A).

4 “(B) NONPROFIT ORGANIZATIONS.—If, as of
5 the beginning of fiscal year 2012, a State has not
6 applied or been approved for a grant under this
7 section, the Secretary may use amounts appro-
8 priated under paragraph (1) of subsection (j)
9 that are available for expenditure under para-
10 graph (3) of that subsection to make a grant to
11 an eligible entity that is a nonprofit organiza-
12 tion described in subsection (k)(1)(B) to conduct
13 an early childhood home visitation program in
14 the State. The Secretary shall specify the require-
15 ments for such an organization to apply for and
16 conduct the program which shall, to the greatest
17 extent practicable, be consistent with the require-
18 ments applicable to eligible entities that are
19 States and shall require the organization to—

20 “(i) carry out the program based on
21 the needs assessment conducted by the State
22 under subsection (b); and

23 “(ii) establish quantifiable, measurable
24 3- and 5-year benchmarks consistent with
25 subsection (d)(1)(A).

1 “(3) *RESEARCH AND OTHER EVALUATION ACTIVI-*
2 *TIES.*—

3 “(A) *IN GENERAL.*—*The Secretary shall*
4 *carry out a continuous program of research and*
5 *evaluation activities in order to increase knowl-*
6 *edge about the implementation and effectiveness*
7 *of home visiting programs, using random assign-*
8 *ment designs to the maximum extent feasible.*
9 *The Secretary may carry out such activities di-*
10 *rectly, or through grants, cooperative agreements,*
11 *or contracts.*

12 “(B) *REQUIREMENTS.*—*The Secretary shall*
13 *ensure that—*

14 “(i) *evaluation of a specific program*
15 *or project is conducted by persons or indi-*
16 *viduals not directly involved in the oper-*
17 *ation of such program or project; and*

18 “(ii) *the conduct of research and eval-*
19 *uation activities includes consultation with*
20 *independent researchers, State officials, and*
21 *developers and providers of home visiting*
22 *programs on topics including research de-*
23 *sign and administrative data matching.*

24 “(4) *REPORT AND RECOMMENDATION.*—*Not later*
25 *than December 31, 2015, the Secretary shall submit*

1 *a report to Congress regarding the programs con-*
2 *ducted with grants under this section. The report re-*
3 *quired under this paragraph shall include—*

4 *“(A) information regarding the extent to*
5 *which eligible entities receiving grants under this*
6 *section demonstrated improvements in each of*
7 *the areas specified in subsection (d)(1)(A);*

8 *“(B) information regarding any technical*
9 *assistance provided under subsection*
10 *(d)(1)(B)(iii)(I), including the type of any such*
11 *assistance provided; and*

12 *“(C) recommendations for such legislative*
13 *or administrative action as the Secretary deter-*
14 *mines appropriate.*

15 *“(i) APPLICATION OF OTHER PROVISIONS OF TITLE.—*

16 *“(1) IN GENERAL.—Except as provided in para-*
17 *graph (2), the other provisions of this title shall not*
18 *apply to a grant made under this section.*

19 *“(2) EXCEPTIONS.—The following provisions of*
20 *this title shall apply to a grant made under this sec-*
21 *tion to the same extent and in the same manner as*
22 *such provisions apply to allotments made under sec-*
23 *tion 502(e):*

1 “(A) Section 504(b)(6) (relating to prohibi-
2 tion on payments to excluded individuals and
3 entities).

4 “(B) Section 504(c) (relating to the use of
5 funds for the purchase of technical assistance).

6 “(C) Section 504(d) (relating to a limita-
7 tion on administrative expenditures).

8 “(D) Section 506 (relating to reports and
9 audits), but only to the extent determined by the
10 Secretary to be appropriate for grants made
11 under this section.

12 “(E) Section 507 (relating to penalties for
13 false statements).

14 “(F) Section 508 (relating to non-
15 discrimination).

16 “(G) Section 509(a) (relating to the admin-
17 istration of the grant program).

18 “(j) APPROPRIATIONS.—

19 “(1) IN GENERAL.—Out of any funds in the
20 Treasury not otherwise appropriated, there are ap-
21 propriated to the Secretary to carry out this section—

22 “(A) \$100,000,000 for fiscal year 2010;

23 “(B) \$250,000,000 for fiscal year 2011;

24 “(C) \$350,000,000 for fiscal year 2012;

25 “(D) \$400,000,000 for fiscal year 2013; and

1 “(E) \$400,000,000 for fiscal year 2014.

2 “(2) *RESERVATIONS.*—Of the amount appro-
3 priated under this subsection for a fiscal year, the
4 Secretary shall reserve—

5 “(A) 3 percent of such amount for purposes
6 of making grants to eligible entities that are In-
7 dian Tribes (or a consortium of Indian Tribes),
8 Tribal Organizations, or Urban Indian Organi-
9 zations; and

10 “(B) 3 percent of such amount for purposes
11 of carrying out subsections (d)(1)(B)(iii), (g),
12 and (h)(3).

13 “(3) *AVAILABILITY.*—Funds made available to
14 an eligible entity under this section for a fiscal year
15 shall remain available for expenditure by the eligible
16 entity through the end of the second succeeding fiscal
17 year after award. Any funds that are not expended by
18 the eligible entity during the period in which the
19 funds are available under the preceding sentence may
20 be used for grants to nonprofit organizations under
21 subsection (h)(2)(B).

22 “(k) *DEFINITIONS.*—In this section:

23 “(1) *ELIGIBLE ENTITY.*—

24 “(A) *IN GENERAL.*—The term ‘eligible enti-
25 ty’ means a State, an Indian Tribe, Tribal Or-

1 *ganization, or Urban Indian Organization,*
2 *Puerto Rico, Guam, the Virgin Islands, the*
3 *Northern Mariana Islands, and American*
4 *Samoa.*

5 “(B) *NONPROFIT ORGANIZATIONS.*—*Only*
6 *for purposes of awarding grants under subsection*
7 *(h)(2)(B), such term shall include a nonprofit*
8 *organization with an established record of pro-*
9 *viding early childhood home visitation programs*
10 *or initiatives in a State or several States.*

11 “(2) *ELIGIBLE FAMILY.*—*The term ‘eligible fam-*
12 *ily’ means—*

13 “(A) *a woman who is pregnant, and the fa-*
14 *ther of the child if the father is available; or*

15 “(B) *a parent or primary caregiver of a*
16 *child, including grandparents or other relatives*
17 *of the child, and foster parents, who are serving*
18 *as the child’s primary caregiver from birth to*
19 *kindergarten entry, and including a noncusto-*
20 *dial parent who has an ongoing relationship*
21 *with, and at times provides physical care for, the*
22 *child.*

23 “(3) *INDIAN TRIBE; TRIBAL ORGANIZATION.*—*The*
24 *terms ‘Indian Tribe’ and ‘Tribal Organization’, and*
25 *‘Urban Indian Organization’ have the meanings*

1 *given such terms in section 4 of the Indian Health*
2 *Care Improvement Act.”.*

3 **SEC. 2952. SUPPORT, EDUCATION, AND RESEARCH FOR**
4 **POSTPARTUM DEPRESSION.**

5 *(a) RESEARCH ON POSTPARTUM CONDITIONS.—*

6 *(1) EXPANSION AND INTENSIFICATION OF ACTIVI-*
7 *TIES.—The Secretary of Health and Human Services*
8 *(in this subsection and subsection (c) referred to as*
9 *the “Secretary”) is encouraged to continue activities*
10 *on postpartum depression or postpartum psychosis*
11 *(in this subsection and subsection (c) referred to as*
12 *“postpartum conditions”), including research to ex-*
13 *pend the understanding of the causes of, and treat-*
14 *ments for, postpartum conditions. Activities under*
15 *this paragraph shall include conducting and sup-*
16 *porting the following:*

17 *(A) Basic research concerning the etiology*
18 *and causes of the conditions.*

19 *(B) Epidemiological studies to address the*
20 *frequency and natural history of the conditions*
21 *and the differences among racial and ethnic*
22 *groups with respect to the conditions.*

23 *(C) The development of improved screening*
24 *and diagnostic techniques.*

1 (D) *Clinical research for the development*
2 *and evaluation of new treatments.*

3 (E) *Information and education programs*
4 *for health care professionals and the public,*
5 *which may include a coordinated national cam-*
6 *pany to increase the awareness and knowledge*
7 *of postpartum conditions. Activities under such*
8 *a national campaign may—*

9 (i) *include public service announce-*
10 *ments through television, radio, and other*
11 *means; and*

12 (ii) *focus on—*

13 (I) *raising awareness about*
14 *screening;*

15 (II) *educating new mothers and*
16 *their families about postpartum condi-*
17 *tions to promote earlier diagnosis and*
18 *treatment; and*

19 (III) *ensuring that such education*
20 *includes complete information con-*
21 *cerning postpartum conditions, includ-*
22 *ing its symptoms, methods of coping*
23 *with the illness, and treatment re-*
24 *sources.*

1 (2) *SENSE OF CONGRESS REGARDING LONGITU-*
2 *DINAL STUDY OF RELATIVE MENTAL HEALTH CON-*
3 *SEQUENCES FOR WOMEN OF RESOLVING A PREG-*
4 *NANCY.—*

5 (A) *SENSE OF CONGRESS.—It is the sense of*
6 *Congress that the Director of the National Insti-*
7 *tute of Mental Health may conduct a nationally*
8 *representative longitudinal study (during the pe-*
9 *riod of fiscal years 2010 through 2019) of the rel-*
10 *ative mental health consequences for women of*
11 *resolving a pregnancy (intended and unin-*
12 *tended) in various ways, including carrying the*
13 *pregnancy to term and parenting the child, car-*
14 *rying the pregnancy to term and placing the*
15 *child for adoption, miscarriage, and having an*
16 *abortion. This study may assess the incidence,*
17 *timing, magnitude, and duration of the imme-*
18 *diate and long-term mental health consequences*
19 *(positive or negative) of these pregnancy out-*
20 *comes.*

21 (B) *REPORT.—Subject to the completion of*
22 *the study under subsection (a), beginning not*
23 *later than 5 years after the date of the enactment*
24 *of this Act, and periodically thereafter for the*
25 *duration of the study, such Director may pre-*

1 *pare and submit to the Congress reports on the*
2 *findings of the study.*

3 **(b) GRANTS TO PROVIDE SERVICES TO INDIVIDUALS**
4 **WITH A POSTPARTUM CONDITION AND THEIR FAMILIES.—**
5 *Title V of the Social Security Act (42 U.S.C. 701 et seq.),*
6 *as amended by section 2951, is amended by adding at the*
7 *end the following new section:*

8 **“SEC. 512. SERVICES TO INDIVIDUALS WITH A POSTPARTUM**
9 **CONDITION AND THEIR FAMILIES.**

10 **“(a) IN GENERAL.—***In addition to any other pay-*
11 *ments made under this title to a State, the Secretary may*
12 *make grants to eligible entities for projects for the establish-*
13 *ment, operation, and coordination of effective and cost-effi-*
14 *cient systems for the delivery of essential services to individ-*
15 *uals with or at risk for postpartum conditions and their*
16 *families.*

17 **“(b) CERTAIN ACTIVITIES.—***To the extent practicable*
18 *and appropriate, the Secretary shall ensure that projects*
19 *funded under subsection (a) provide education and services*
20 *with respect to the diagnosis and management of*
21 *postpartum conditions for individuals with or at risk for*
22 *postpartum conditions and their families. The Secretary*
23 *may allow such projects to include the following:*

24 **“(1)** *Delivering or enhancing outpatient and*
25 *home-based health and support services, including*

1 *case management and comprehensive treatment serv-*
2 *ices.*

3 “(2) *Delivering or enhancing inpatient care*
4 *management services that ensure the well-being of the*
5 *mother and family and the future development of the*
6 *infant.*

7 “(3) *Improving the quality, availability, and or-*
8 *ganization of health care and support services (in-*
9 *cluding transportation services, attendant care, home-*
10 *maker services, day or respite care, and providing*
11 *counseling on financial assistance and insurance).*

12 “(4) *Providing education about postpartum con-*
13 *ditions to promote earlier diagnosis and treatment.*
14 *Such education may include—*

15 “(A) *providing complete information on*
16 *postpartum conditions, symptoms, methods of*
17 *copng with the illness, and treatment resources;*
18 *and*

19 “(B) *in the case of a grantee that is a State,*
20 *hospital, or birthing facility—*

21 “(i) *providing education to new moth-*
22 *ers and fathers, and other family members*
23 *as appropriate, concerning postpartum con-*
24 *ditions before new mothers leave the health*
25 *facility; and*

1 “(ii) ensuring that training programs
2 regarding such education are carried out at
3 the health facility.

4 “(c) *INTEGRATION WITH OTHER PROGRAMS.*—To the
5 extent practicable and appropriate, the Secretary may inte-
6 grate the grant program under this section with other grant
7 programs carried out by the Secretary, including the pro-
8 gram under section 330 of the Public Health Service Act.

9 “(d) *REQUIREMENTS.*—The Secretary shall establish
10 requirements for grants made under this section that in-
11 clude a limit on the amount of grants funds that may be
12 used for administration, accounting, reporting, or program
13 oversight functions and a requirement for each eligible enti-
14 ty that receives a grant to submit, for each grant period,
15 a report to the Secretary that describes how grant funds
16 were used during such period.

17 “(e) *TECHNICAL ASSISTANCE.*—The Secretary may
18 provide technical assistance to entities seeking a grant
19 under this section in order to assist such entities in com-
20 plying with the requirements of this section.

21 “(f) *APPLICATION OF OTHER PROVISIONS OF TITLE.*—

22 “(1) *IN GENERAL.*—Except as provided in para-
23 graph (2), the other provisions of this title shall not
24 apply to a grant made under this section.

1 “(2) *EXCEPTIONS.*—*The following provisions of*
2 *this title shall apply to a grant made under this sec-*
3 *tion to the same extent and in the same manner as*
4 *such provisions apply to allotments made under sec-*
5 *tion 502(c):*

6 “(A) *Section 504(b)(6) (relating to prohibi-*
7 *tion on payments to excluded individuals and*
8 *entities).*

9 “(B) *Section 504(c) (relating to the use of*
10 *funds for the purchase of technical assistance).*

11 “(C) *Section 504(d) (relating to a limita-*
12 *tion on administrative expenditures).*

13 “(D) *Section 506 (relating to reports and*
14 *audits), but only to the extent determined by the*
15 *Secretary to be appropriate for grants made*
16 *under this section.*

17 “(E) *Section 507 (relating to penalties for*
18 *false statements).*

19 “(F) *Section 508 (relating to non-*
20 *discrimination).*

21 “(G) *Section 509(a) (relating to the admin-*
22 *istration of the grant program).*

23 “(g) *DEFINITIONS.*—*In this section:*

24 “(1) *The term ‘eligible entity’—*

1 “(A) means a public or nonprofit private
2 entity; and

3 “(B) includes a State or local government,
4 public-private partnership, recipient of a grant
5 under section 330H of the Public Health Service
6 Act (relating to the Healthy Start Initiative),
7 public or nonprofit private hospital, community-
8 based organization, hospice, ambulatory care fa-
9 cility, community health center, migrant health
10 center, public housing primary care center, or
11 homeless health center.

12 “(2) The term ‘postpartum condition’ means
13 postpartum depression or postpartum psychosis.”.

14 (c) *GENERAL PROVISIONS.*—

15 (1) *AUTHORIZATION OF APPROPRIATIONS.*—To
16 carry out this section and the amendment made by
17 subsection (b), there are authorized to be appro-
18 priated, in addition to such other sums as may be
19 available for such purpose—

20 (A) \$3,000,000 for fiscal year 2010; and

21 (B) such sums as may be necessary for fis-
22 cal years 2011 and 2012.

23 (2) *REPORT BY THE SECRETARY.*—

1 (A) *STUDY.*—*The Secretary shall conduct a*
2 *study on the benefits of screening for postpartum*
3 *conditions.*

4 (B) *REPORT.*—*Not later than 2 years after*
5 *the date of the enactment of this Act, the Sec-*
6 *retary shall complete the study required by sub-*
7 *paragraph (A) and submit a report to the Con-*
8 *gress on the results of such study.*

9 **SEC. 2953. PERSONAL RESPONSIBILITY EDUCATION.**

10 *Title V of the Social Security Act (42 U.S.C. 701 et*
11 *seq.), as amended by sections 2951 and 2952(c), is amended*
12 *by adding at the end the following:*

13 **“SEC. 513. PERSONAL RESPONSIBILITY EDUCATION.**

14 **“(a) ALLOTMENTS TO STATES.—**

15 **“(1) AMOUNT.—**

16 **“(A) IN GENERAL.—***For the purpose de-*
17 *scribed in subsection (b), subject to the suc-*
18 *ceeding provisions of this section, for each of fis-*
19 *cal years 2010 through 2014, the Secretary shall*
20 *allot to each State an amount equal to the prod-*
21 *uct of—*

22 **“(i) the amount appropriated under**
23 *subsection (f) for the fiscal year and avail-*
24 *able for allotments to States after the appli-*
25 *cation of subsection (c); and*

1 “(i) *the State youth population per-*
2 *centage determined under paragraph (2).*”

3 “(B) *MINIMUM ALLOTMENT.—*

4 “(i) *IN GENERAL.—Each State allot-*
5 *ment under this paragraph for a fiscal year*
6 *shall be at least \$250,000.*”

7 “(ii) *PRO RATA ADJUSTMENTS.—The*
8 *Secretary shall adjust on a pro rata basis*
9 *the amount of the State allotments deter-*
10 *mined under this paragraph for a fiscal*
11 *year to the extent necessary to comply with*
12 *clause (i).*”

13 “(C) *APPLICATION REQUIRED TO ACCESS*
14 *ALLOTMENTS.—*

15 “(i) *IN GENERAL.—A State shall not*
16 *be paid from its allotment for a fiscal year*
17 *unless the State submits an application to*
18 *the Secretary for the fiscal year and the*
19 *Secretary approves the application (or re-*
20 *quires changes to the application that the*
21 *State satisfies) and meets such additional*
22 *requirements as the Secretary may specify.*”

23 “(ii) *REQUIREMENTS.—The State ap-*
24 *plication shall contain an assurance that*
25 *the State has complied with the require-*

1 *ments of this section in preparing and sub-*
2 *mitting the application and shall include*
3 *the following as well as such additional in-*
4 *formation as the Secretary may require:*

5 *“(I) Based on data from the Cen-*
6 *ters for Disease Control and Prevention*
7 *National Center for Health Statistics,*
8 *the most recent pregnancy rates for the*
9 *State for youth ages 10 to 14 and*
10 *youth ages 15 to 19 for which data are*
11 *available, the most recent birth rates*
12 *for such youth populations in the State*
13 *for which data are available, and*
14 *trends in those rates for the most re-*
15 *cently preceding 5-year period for*
16 *which such data are available.*

17 *“(II) State-established goals for*
18 *reducing the pregnancy rates and birth*
19 *rates for such youth populations.*

20 *“(III) A description of the State’s*
21 *plan for using the State allotments*
22 *provided under this section to achieve*
23 *such goals, especially among youth*
24 *populations that are the most high-risk*
25 *or vulnerable for pregnancies or other-*

1 *wise have special circumstances, in-*
2 *cluding youth in foster care, homeless*
3 *youth, youth with HIV/AIDS, preg-*
4 *nant youth who are under 21 years of*
5 *age, mothers who are under 21 years of*
6 *age, and youth residing in areas with*
7 *high birth rates for youth.*

8 “(2) *STATE YOUTH POPULATION PERCENTAGE.*—

9 “(A) *IN GENERAL.*—*For purposes of para-*
10 *graph (1)(A)(ii), the State youth population per-*
11 *centage is, with respect to a State, the proportion*
12 *(expressed as a percentage) of—*

13 “(i) *the number of individuals who*
14 *have attained age 10 but not attained age*
15 *20 in the State; to*

16 “(ii) *the number of such individuals in*
17 *all States.*

18 “(B) *DETERMINATION OF NUMBER OF*
19 *YOUTH.*—*The number of individuals described in*
20 *clauses (i) and (ii) of subparagraph (A) in a*
21 *State shall be determined on the basis of the most*
22 *recent Bureau of the Census data.*

23 “(3) *AVAILABILITY OF STATE ALLOTMENTS.*—
24 *Subject to paragraph (4)(A), amounts allotted to a*
25 *State pursuant to this subsection for a fiscal year*

1 *shall remain available for expenditure by the State*
2 *through the end of the second succeeding fiscal year.*

3 “(4) *AUTHORITY TO AWARD GRANTS FROM STATE*
4 *ALLOTMENTS TO LOCAL ORGANIZATIONS AND ENTI-*
5 *TIES IN NONPARTICIPATING STATES.—*

6 “(A) *GRANTS FROM UNEXPENDED ALLOT-*
7 *MENTS.—If a State does not submit an applica-*
8 *tion under this section for fiscal year 2010 or*
9 *2011, the State shall no longer be eligible to sub-*
10 *mit an application to receive funds from the*
11 *amounts allotted for the State for each of fiscal*
12 *years 2010 through 2014 and such amounts shall*
13 *be used by the Secretary to award grants under*
14 *this paragraph for each of fiscal years 2012*
15 *through 2014. The Secretary also shall use any*
16 *amounts from the allotments of States that sub-*
17 *mit applications under this section for a fiscal*
18 *year that remain unexpended as of the end of the*
19 *period in which the allotments are available for*
20 *expenditure under paragraph (3) for awarding*
21 *grants under this paragraph.*

22 “(B) *3-YEAR GRANTS.—*

23 “(i) *IN GENERAL.—The Secretary shall*
24 *solicit applications to award 3-year grants*
25 *in each of fiscal years 2012, 2013, and 2014*

1 to local organizations and entities to con-
2 duct, consistent with subsection (b), pro-
3 grams and activities in States that do not
4 submit an application for an allotment
5 under this section for fiscal year 2010 or
6 2011.

7 “(i) *FAITH-BASED ORGANIZATIONS OR*
8 *CONSORTIA.*—The Secretary may solicit and
9 award grants under this paragraph to
10 faith-based organizations or consortia.

11 “(C) *EVALUATION.*—An organization or en-
12 tity awarded a grant under this paragraph shall
13 agree to participate in a rigorous Federal eval-
14 uation.

15 “(5) *MAINTENANCE OF EFFORT.*—No payment
16 shall be made to a State from the allotment deter-
17 mined for the State under this subsection or to a local
18 organization or entity awarded a grant under para-
19 graph (4), if the expenditure of non-federal funds by
20 the State, organization, or entity for activities, pro-
21 grams, or initiatives for which amounts from allot-
22 ments and grants under this subsection may be ex-
23 pended is less than the amount expended by the State,
24 organization, or entity for such programs or initia-
25 tives for fiscal year 2009.

1 “(6) *DATA COLLECTION AND REPORTING.*—A
2 *State or local organization or entity receiving funds*
3 *under this section shall cooperate with such require-*
4 *ments relating to the collection of data and informa-*
5 *tion and reporting on outcomes regarding the pro-*
6 *grams and activities carried out with such funds, as*
7 *the Secretary shall specify.*

8 “(b) *PURPOSE.*—

9 “(1) *IN GENERAL.*—*The purpose of an allotment*
10 *under subsection (a)(1) to a State is to enable the*
11 *State (or, in the case of grants made under subsection*
12 *(a)(4)(B), to enable a local organization or entity) to*
13 *carry out personal responsibility education programs*
14 *consistent with this subsection.*

15 “(2) *PERSONAL RESPONSIBILITY EDUCATION*
16 *PROGRAMS.*—

17 “(A) *IN GENERAL.*—*In this section, the*
18 *term ‘personal responsibility education program’*
19 *means a program that is designed to educate*
20 *adolescents on—*

21 “(i) *both abstinence and contraception*
22 *for the prevention of pregnancy and sexu-*
23 *ally transmitted infections, including HIV/*
24 *AIDS, consistent with the requirements of*
25 *subparagraph (B); and*

1 “(ii) at least 3 of the adulthood prepa-
2 ration subjects described in subparagraph
3 (C).

4 “(B) REQUIREMENTS.—The requirements of
5 this subparagraph are the following:

6 “(i) The program replicates evidence-
7 based effective programs or substantially in-
8 corporates elements of effective programs
9 that have been proven on the basis of rig-
10 orous scientific research to change behavior,
11 which means delaying sexual activity, in-
12 creasing condom or contraceptive use for
13 sexually active youth, or reducing preg-
14 nancy among youth.

15 “(ii) The program is medically-accu-
16 rate and complete.

17 “(iii) The program includes activities
18 to educate youth who are sexually active re-
19 garding responsible sexual behavior with re-
20 spect to both abstinence and the use of con-
21 traception.

22 “(iv) The program places substantial
23 emphasis on both abstinence and contracep-
24 tion for the prevention of pregnancy among
25 youth and sexually transmitted infections.

1 “(v) *The program provides age-appro-*
2 *priate information and activities.*

3 “(vi) *The information and activities*
4 *carried out under the program are provided*
5 *in the cultural context that is most appro-*
6 *priate for individuals in the particular*
7 *population group to which they are di-*
8 *rected.*

9 “(C) *ADULTHOOD PREPARATION SUB-*
10 *JECTS.—The adulthood preparation subjects de-*
11 *scribed in this subparagraph are the following:*

12 “(i) *Healthy relationships, such as*
13 *positive self-esteem and relationship dynam-*
14 *ics, friendships, dating, romantic involve-*
15 *ment, marriage, and family interactions.*

16 “(ii) *Adolescent development, such as*
17 *the development of healthy attitudes and*
18 *values about adolescent growth and develop-*
19 *ment, body image, racial and ethnic diver-*
20 *sity, and other related subjects.*

21 “(iii) *Financial literacy.*

22 “(iv) *Parent-child communication.*

23 “(v) *Educational and career success,*
24 *such as developing skills for employment*
25 *preparation, job seeking, independent liv-*

1 *ing, financial self-sufficiency, and work-*
2 *place productivity.*

3 *“(vi) Healthy life skills, such as goal-*
4 *setting, decision making, negotiation, com-*
5 *munication and interpersonal skills, and*
6 *stress management.*

7 *“(c) RESERVATIONS OF FUNDS.—*

8 *“(1) GRANTS TO IMPLEMENT INNOVATIVE STRAT-*
9 *EGIES.—From the amount appropriated under sub-*
10 *section (f) for the fiscal year, the Secretary shall re-*
11 *serve \$10,000,000 of such amount for purposes of*
12 *awarding grants to entities to implement innovative*
13 *youth pregnancy prevention strategies and target*
14 *services to high-risk, vulnerable, and culturally under-*
15 *represented youth populations, including youth in fos-*
16 *ter care, homeless youth, youth with HIV/AIDS, preg-*
17 *nant women who are under 21 years of age and their*
18 *partners, mothers who are under 21 years of age and*
19 *their partners, and youth residing in areas with high*
20 *birth rates for youth. An entity awarded a grant*
21 *under this paragraph shall agree to participate in a*
22 *rigorous Federal evaluation of the activities carried*
23 *out with grant funds.*

24 *“(2) OTHER RESERVATIONS.—From the amount*
25 *appropriated under subsection (f) for the fiscal year*

1 that remains after the application of paragraph (1),
2 the Secretary shall reserve the following amounts:

3 “(A) *GRANTS FOR INDIAN TRIBES OR TRIB-*
4 *AL ORGANIZATIONS.—The Secretary shall reserve*
5 *5 percent of such remainder for purposes of*
6 *awarding grants to Indian tribes and tribal or-*
7 *ganizations in such manner, and subject to such*
8 *requirements, as the Secretary, in consultation*
9 *with Indian tribes and tribal organizations, de-*
10 *termines appropriate.*

11 “(B) *SECRETARIAL RESPONSIBILITIES.—*

12 “(i) *RESERVATION OF FUNDS.—The*
13 *Secretary shall reserve 10 percent of such*
14 *remainder for expenditures by the Secretary*
15 *for the activities described in clauses (ii)*
16 *and (iii).*

17 “(ii) *PROGRAM SUPPORT.—The Sec-*
18 *retary shall provide, directly or through a*
19 *competitive grant process, research, training*
20 *and technical assistance, including dissemi-*
21 *nation of research and information regard-*
22 *ing effective and promising practices, pro-*
23 *viding consultation and resources on a*
24 *broad array of teen pregnancy prevention*
25 *strategies, including abstinence and contra-*

1 *ception, and developing resources and mate-*
2 *rials to support the activities of recipients*
3 *of grants and other State, tribal, and com-*
4 *munity organizations working to reduce*
5 *teen pregnancy. In carrying out such func-*
6 *tions, the Secretary shall collaborate with a*
7 *variety of entities that have expertise in the*
8 *prevention of teen pregnancy, HIV and sex-*
9 *ually transmitted infections, healthy rela-*
10 *tionships, financial literacy, and other top-*
11 *ics addressed through the personal responsi-*
12 *bility education programs.*

13 *“(iii) EVALUATION.—The Secretary*
14 *shall evaluate the programs and activities*
15 *carried out with funds made available*
16 *through allotments or grants under this sec-*
17 *tion.*

18 *“(d) ADMINISTRATION.—*

19 *“(1) IN GENERAL.—The Secretary shall admin-*
20 *ister this section through the Assistant Secretary for*
21 *the Administration for Children and Families within*
22 *the Department of Health and Human Services.*

23 *“(2) APPLICATION OF OTHER PROVISIONS OF*
24 *TITLE.—*

1 “(A) *IN GENERAL.*—*Except as provided in*
2 *subparagraph (B), the other provisions of this*
3 *title shall not apply to allotments or grants*
4 *made under this section.*

5 “(B) *EXCEPTIONS.*—*The following provi-*
6 *sions of this title shall apply to allotments and*
7 *grants made under this section to the same ex-*
8 *tent and in the same manner as such provisions*
9 *apply to allotments made under section 502(c):*

10 “(i) *Section 504(b)(6) (relating to pro-*
11 *hibition on payments to excluded individ-*
12 *uals and entities).*

13 “(ii) *Section 504(c) (relating to the use*
14 *of funds for the purchase of technical assist-*
15 *ance).*

16 “(iii) *Section 504(d) (relating to a*
17 *limitation on administrative expenditures).*

18 “(iv) *Section 506 (relating to reports*
19 *and audits), but only to the extent deter-*
20 *mined by the Secretary to be appropriate*
21 *for grants made under this section.*

22 “(v) *Section 507 (relating to penalties*
23 *for false statements).*

24 “(vi) *Section 508 (relating to non-*
25 *discrimination).*

1 “(e) *DEFINITIONS.—In this section:*

2 “(1) *AGE-APPROPRIATE.—The term ‘age-appro-*
3 *prate’, with respect to the information in pregnancy*
4 *prevention, means topics, messages, and teaching*
5 *methods suitable to particular ages or age groups of*
6 *children and adolescents, based on developing cog-*
7 *nitive, emotional, and behavioral capacity typical for*
8 *the age or age group.*

9 “(2) *MEDICALLY ACCURATE AND COMPLETE.—*
10 *The term ‘medically accurate and complete’ means*
11 *verified or supported by the weight of research con-*
12 *ducted in compliance with accepted scientific methods*
13 *and—*

14 “(A) *published in peer-reviewed journals,*
15 *where applicable; or*

16 “(B) *comprising information that leading*
17 *professional organizations and agencies with rel-*
18 *evant expertise in the field recognize as accurate,*
19 *objective, and complete.*

20 “(3) *INDIAN TRIBES; TRIBAL ORGANIZATIONS.—*
21 *The terms ‘Indian tribe’ and ‘Tribal organization’*
22 *have the meanings given such terms in section 4 of*
23 *the Indian Health Care Improvement Act (25 U.S.C.*
24 *1603)).*

1 “(4) *YOUTH*.—The term ‘youth’ means an indi-
2 vidual who has attained age 10 but has not attained
3 age 20.

4 “(f) *APPROPRIATION*.—For the purpose of carrying out
5 this section, there is appropriated, out of any money in the
6 Treasury not otherwise appropriated, \$75,000,000 for each
7 of fiscal years 2010 through 2014. Amounts appropriated
8 under this subsection shall remain available until ex-
9 pended.”.

10 **SEC. 2954. RESTORATION OF FUNDING FOR ABSTINENCE**
11 **EDUCATION.**

12 Section 510 of the Social Security Act (42 U.S.C. 710)
13 is amended—

14 (1) in subsection (a), by striking “fiscal year
15 1998 and each subsequent fiscal year” and inserting
16 “each of fiscal years 2010 through 2014”; and

17 (2) in subsection (d)—

18 (A) in the first sentence, by striking “1998
19 through 2003” and inserting “2010 through
20 2014”; and

21 (B) in the second sentence, by inserting
22 “(except that such appropriation shall be made
23 on the date of enactment of the Patient Protec-
24 tion and Affordable Care Act in the case of fiscal
25 year 2010)” before the period.

1 **SEC. 2955. INCLUSION OF INFORMATION ABOUT THE IM-**
2 **PORTANCE OF HAVING A HEALTH CARE**
3 **POWER OF ATTORNEY IN TRANSITION PLAN-**
4 **NING FOR CHILDREN AGING OUT OF FOSTER**
5 **CARE AND INDEPENDENT LIVING PROGRAMS.**

6 (a) *TRANSITION PLANNING.*—Section 475(5)(H) of the
7 *Social Security Act (42 U.S.C. 675(5)(H))* is amended by
8 inserting “includes information about the importance of
9 designating another individual to make health care treat-
10 ment decisions on behalf of the child if the child becomes
11 unable to participate in such decisions and the child does
12 not have, or does not want, a relative who would otherwise
13 be authorized under State law to make such decisions, and
14 provides the child with the option to execute a health care
15 power of attorney, health care proxy, or other similar docu-
16 ment recognized under State law,” after “employment serv-
17 ices,”.

18 (b) *INDEPENDENT LIVING EDUCATION.*—Section
19 477(b)(3) of such Act (42 U.S.C. 677(b)(3)) is amended by
20 adding at the end the following:

21 “(K) A certification by the chief executive
22 officer of the State that the State will ensure that
23 an adolescent participating in the program
24 under this section are provided with education
25 about the importance of designating another in-
26 dividual to make health care treatment decisions

1 *on behalf of the adolescent if the adolescent be-*
2 *comes unable to participate in such decisions*
3 *and the adolescent does not have, or does not*
4 *want, a relative who would otherwise be author-*
5 *ized under State law to make such decisions,*
6 *whether a health care power of attorney, health*
7 *care proxy, or other similar document is recog-*
8 *nized under State law, and how to execute such*
9 *a document if the adolescent wants to do so.”.*

10 *(c) HEALTH OVERSIGHT AND COORDINATION PLAN.—*

11 *Section 422(b)(15)(A) of such Act (42 U.S.C.*
12 *622(b)(15)(A)) is amended—*

13 *(1) in clause (v), by striking “and” at the end;*

14 *and*

15 *(2) by adding at the end the following:*

16 *“(vii) steps to ensure that the compo-*
17 *nents of the transition plan development*
18 *process required under section 475(5)(H)*
19 *that relate to the health care needs of chil-*
20 *dren aging out of foster care, including the*
21 *requirements to include options for health*
22 *insurance, information about a health care*
23 *power of attorney, health care proxy, or*
24 *other similar document recognized under*
25 *State law, and to provide the child with the*

1 option to execute such a document, are met;
2 and”.

3 (d) *EFFECTIVE DATE.*—*The amendments made by this*
4 *section take effect on October 1, 2010.*

5 **TITLE III—IMPROVING THE**
6 **QUALITY AND EFFICIENCY OF**
7 **HEALTH CARE**

8 **Subtitle A—Transforming the**
9 **Health Care Delivery System**

10 **PART I—LINKING PAYMENT TO QUALITY**

11 **OUTCOMES UNDER THE MEDICARE PROGRAM**

12 **SEC. 3001. HOSPITAL VALUE-BASED PURCHASING PRO-**
13 **GRAM.**

14 (a) *PROGRAM.*—

15 (1) *IN GENERAL.*—*Section 1886 of the Social Se-*
16 *curity Act (42 U.S.C. 1395ww), as amended by sec-*
17 *tion 4102(a) of the HITECH Act (Public Law 111-*
18 *5), is amended by adding at the end the following*
19 *new subsection:*

20 “(o) *HOSPITAL VALUE-BASED PURCHASING PRO-*
21 *GRAM.*—

22 “(1) *ESTABLISHMENT.*—

23 “(A) *IN GENERAL.*—*Subject to the suc-*
24 *ceeding provisions of this subsection, the Sec-*
25 *retary shall establish a hospital value-based pur-*

1 *chasing program (in this subsection referred to*
2 *as the ‘Program’) under which value-based in-*
3 *centive payments are made in a fiscal year to*
4 *hospitals that meet the performance standards*
5 *under paragraph (3) for the performance period*
6 *for such fiscal year (as established under para-*
7 *graph (4)).*

8 *“(B) PROGRAM TO BEGIN IN FISCAL YEAR*
9 *2013.—The Program shall apply to payments for*
10 *discharges occurring on or after October 1, 2012.*

11 *“(C) APPLICABILITY OF PROGRAM TO HOS-*
12 *PITALS.—*

13 *“(i) IN GENERAL.—For purposes of*
14 *this subsection, subject to clause (ii), the*
15 *term ‘hospital’ means a subsection (d) hos-*
16 *pital (as defined in subsection (d)(1)(B)).*

17 *“(ii) EXCLUSIONS.—The term ‘hos-*
18 *pital’ shall not include, with respect to a*
19 *fiscal year, a hospital—*

20 *“(I) that is subject to the payment*
21 *reduction under subsection*
22 *(b)(3)(B)(viii)(I) for such fiscal year;*

23 *“(II) for which, during the per-*
24 *formance period for such fiscal year,*
25 *the Secretary has cited deficiencies that*

1 *pose immediate jeopardy to the health*
2 *or safety of patients;*

3 *“(III) for which there are not a*
4 *minimum number (as determined by*
5 *the Secretary) of measures that apply*
6 *to the hospital for the performance pe-*
7 *riod for such fiscal year; or*

8 *“(IV) for which there are not a*
9 *minimum number (as determined by*
10 *the Secretary) of cases for the measures*
11 *that apply to the hospital for the per-*
12 *formance period for such fiscal year.*

13 *“(iii) INDEPENDENT ANALYSIS.—For*
14 *purposes of determining the minimum*
15 *numbers under subclauses (III) and (IV) of*
16 *clause (ii), the Secretary shall have con-*
17 *ducted an independent analysis of what*
18 *numbers are appropriate.*

19 *“(iv) EXEMPTION.—In the case of a*
20 *hospital that is paid under section*
21 *1814(b)(3), the Secretary may exempt such*
22 *hospital from the application of this sub-*
23 *section if the State which is paid under*
24 *such section submits an annual report to*
25 *the Secretary describing how a similar pro-*

1 *gram in the State for a participating hos-*
2 *pital or hospitals achieves or surpasses the*
3 *measured results in terms of patient health*
4 *outcomes and cost savings established under*
5 *this subsection.*

6 “(2) *MEASURES.*—

7 “(A) *IN GENERAL.*—*The Secretary shall se-*
8 *lect measures for purposes of the Program. Such*
9 *measures shall be selected from the measures*
10 *specified under subsection (b)(3)(B)(viii).*

11 “(B) *REQUIREMENTS.*—

12 “(i) *FOR FISCAL YEAR 2013.*—*For*
13 *value-based incentive payments made with*
14 *respect to discharges occurring during fiscal*
15 *year 2013, the Secretary shall ensure the*
16 *following:*

17 “(I) *CONDITIONS OR PROCE-*
18 *DURES.*—*Measures are selected under*
19 *subparagraph (A) that cover at least*
20 *the following 5 specific conditions or*
21 *procedures:*

22 “(aa) *Acute myocardial in-*
23 *farction (AMI).*

24 “(bb) *Heart failure.*

25 “(cc) *Pneumonia.*

1 “(dd) Surgeries, as measured
2 by the Surgical Care Improve-
3 ment Project (formerly referred to
4 as ‘Surgical Infection Prevention’
5 for discharges occurring before
6 July 2006).

7 “(ee) Healthcare-associated
8 infections, as measured by the
9 prevention metrics and targets es-
10 tablished in the HHS Action Plan
11 to Prevent Healthcare-Associated
12 Infections (or any successor plan)
13 of the Department of Health and
14 Human Services.

15 “(II) HCAHPS.—Measures se-
16 lected under subparagraph (A) shall be
17 related to the Hospital Consumer As-
18 sessment of Healthcare Providers and
19 Systems survey (HCAHPS).

20 “(ii) INCLUSION OF EFFICIENCY MEAS-
21 URES.—For value-based incentive payments
22 made with respect to discharges occurring
23 during fiscal year 2014 or a subsequent fis-
24 cal year, the Secretary shall ensure that
25 measures selected under subparagraph (A)

1 include efficiency measures, including meas-
2 ures of ‘Medicare spending per beneficiary’.
3 Such measures shall be adjusted for factors
4 such as age, sex, race, severity of illness,
5 and other factors that the Secretary deter-
6 mines appropriate.

7 “(C) LIMITATIONS.—

8 “(i) TIME REQUIREMENT FOR PRIOR
9 REPORTING AND NOTICE.—The Secretary
10 may not select a measure under subpara-
11 graph (A) for use under the Program with
12 respect to a performance period for a fiscal
13 year (as established under paragraph (4))
14 unless such measure has been specified
15 under subsection (b)(3)(B)(viii) and in-
16 cluded on the Hospital Compare Internet
17 website for at least 1 year prior to the be-
18 ginning of such performance period.

19 “(ii) MEASURE NOT APPLICABLE UN-
20 LESS HOSPITAL FURNISHES SERVICES AP-
21 PROPRIATE TO THE MEASURE.—A measure
22 selected under subparagraph (A) shall not
23 apply to a hospital if such hospital does not
24 furnish services appropriate to such meas-
25 ure.

1 “(D) *REPLACING MEASURES.*—Subclause
2 (VI) of subsection (b)(3)(B)(viii) shall apply to
3 measures selected under subparagraph (A) in the
4 same manner as such subclause applies to meas-
5 ures selected under such subsection.

6 “(3) *PERFORMANCE STANDARDS.*—

7 “(A) *ESTABLISHMENT.*—The Secretary shall
8 establish performance standards with respect to
9 measures selected under paragraph (2) for a per-
10 formance period for a fiscal year (as established
11 under paragraph (4)).

12 “(B) *ACHIEVEMENT AND IMPROVEMENT.*—
13 The performance standards established under
14 subparagraph (A) shall include levels of achieve-
15 ment and improvement.

16 “(C) *TIMING.*—The Secretary shall establish
17 and announce the performance standards under
18 subparagraph (A) not later than 60 days prior
19 to the beginning of the performance period for
20 the fiscal year involved.

21 “(D) *CONSIDERATIONS IN ESTABLISHING*
22 *STANDARDS.*—In establishing performance stand-
23 ards with respect to measures under this para-
24 graph, the Secretary shall take into account ap-
25 propriate factors, such as—

1 “(i) *practical experience with the*
2 *measures involved, including whether a sig-*
3 *nificant proportion of hospitals failed to*
4 *meet the performance standard during pre-*
5 *vious performance periods;*

6 “(ii) *historical performance standards;*

7 “(iii) *improvement rates; and*

8 “(iv) *the opportunity for continued im-*
9 *provement.*

10 “(4) *PERFORMANCE PERIOD.—For purposes of*
11 *the Program, the Secretary shall establish the per-*
12 *formance period for a fiscal year. Such performance*
13 *period shall begin and end prior to the beginning of*
14 *such fiscal year.*

15 “(5) *HOSPITAL PERFORMANCE SCORE.—*

16 “(A) *IN GENERAL.—Subject to subpara-*
17 *graph (B), the Secretary shall develop a method-*
18 *ology for assessing the total performance of each*
19 *hospital based on performance standards with*
20 *respect to the measures selected under paragraph*
21 *(2) for a performance period (as established*
22 *under paragraph (4)). Using such methodology,*
23 *the Secretary shall provide for an assessment (in*
24 *this subsection referred to as the ‘hospital per-*

1 *formance score’)* for each hospital for each per-
2 *formance period.*

3 “(B) *APPLICATION.*—

4 “(i) *APPROPRIATE DISTRIBUTION.*—

5 *The Secretary shall ensure that the applica-*
6 *tion of the methodology developed under*
7 *subparagraph (A) results in an appropriate*
8 *distribution of value-based incentive pay-*
9 *ments under paragraph (6) among hospitals*
10 *achieving different levels of hospital per-*
11 *formance scores, with hospitals achieving*
12 *the highest hospital performance scores re-*
13 *ceiving the largest value-based incentive*
14 *payments.*

15 “(ii) *HIGHER OF ACHIEVEMENT OR IM-*

16 *PROVEMENT.*—*The methodology developed*
17 *under subparagraph (A) shall provide that*
18 *the hospital performance score is determined*
19 *using the higher of its achievement or im-*
20 *provement score for each measure.*

21 “(iii) *WEIGHTS.*—*The methodology de-*

22 *veloped under subparagraph (A) shall pro-*
23 *vide for the assignment of weights for cat-*
24 *egories of measures as the Secretary deter-*
25 *mines appropriate.*

1 “(iv) *NO MINIMUM PERFORMANCE*
2 *STANDARD.—The Secretary shall not set a*
3 *minimum performance standard in deter-*
4 *mining the hospital performance score for*
5 *any hospital.*

6 “(v) *REFLECTION OF MEASURES AP-*
7 *PLICABLE TO THE HOSPITAL.—The hospital*
8 *performance score for a hospital shall reflect*
9 *the measures that apply to the hospital.*

10 “(6) *CALCULATION OF VALUE-BASED INCENTIVE*
11 *PAYMENTS.—*

12 “(A) *IN GENERAL.—In the case of a hos-*
13 *pital that the Secretary determines meets (or ex-*
14 *ceeds) the performance standards under para-*
15 *graph (3) for the performance period for a fiscal*
16 *year (as established under paragraph (4)), the*
17 *Secretary shall increase the base operating DRG*
18 *payment amount (as defined in paragraph*
19 *(7)(D)), as determined after application of para-*
20 *graph (7)(B)(i), for a hospital for each discharge*
21 *occurring in such fiscal year by the value-based*
22 *incentive payment amount.*

23 “(B) *VALUE-BASED INCENTIVE PAYMENT*
24 *AMOUNT.—The value-based incentive payment*

1 *amount for each discharge of a hospital in a fis-*
2 *cal year shall be equal to the product of—*

3 “(i) *the base operating DRG payment*
4 *amount (as defined in paragraph (7)(D))*
5 *for the discharge for the hospital for such*
6 *fiscal year; and*

7 “(ii) *the value-based incentive payment*
8 *percentage specified under subparagraph*
9 *(C) for the hospital for such fiscal year.*

10 “(C) *VALUE-BASED INCENTIVE PAYMENT*
11 *PERCENTAGE.—*

12 “(i) *IN GENERAL.—The Secretary shall*
13 *specify a value-based incentive payment*
14 *percentage for a hospital for a fiscal year.*

15 “(ii) *REQUIREMENTS.—In specifying*
16 *the value-based incentive payment percent-*
17 *age for each hospital for a fiscal year under*
18 *clause (i), the Secretary shall ensure that—*

19 “(I) *such percentage is based on*
20 *the hospital performance score of the*
21 *hospital under paragraph (5); and*

22 “(II) *the total amount of value-*
23 *based incentive payments under this*
24 *paragraph to all hospitals in such fis-*
25 *cal year is equal to the total amount*

1 *available for value-based incentive*
2 *payments for such fiscal year under*
3 *paragraph (7)(A), as estimated by the*
4 *Secretary.*

5 “(7) *FUNDING FOR VALUE-BASED INCENTIVE*
6 *PAYMENTS.—*

7 “(A) *AMOUNT.—The total amount available*
8 *for value-based incentive payments under para-*
9 *graph (6) for all hospitals for a fiscal year shall*
10 *be equal to the total amount of reduced payments*
11 *for all hospitals under subparagraph (B) for*
12 *such fiscal year, as estimated by the Secretary.*

13 “(B) *ADJUSTMENT TO PAYMENTS.—*

14 “(i) *IN GENERAL.—The Secretary shall*
15 *reduce the base operating DRG payment*
16 *amount (as defined in subparagraph (D))*
17 *for a hospital for each discharge in a fiscal*
18 *year (beginning with fiscal year 2013) by*
19 *an amount equal to the applicable percent*
20 *(as defined in subparagraph (C)) of the base*
21 *operating DRG payment amount for the*
22 *discharge for the hospital for such fiscal*
23 *year. The Secretary shall make such reduc-*
24 *tions for all hospitals in the fiscal year in-*
25 *volved, regardless of whether or not the hos-*

1 *pital has been determined by the Secretary*
2 *to have earned a value-based incentive pay-*
3 *ment under paragraph (6) for such fiscal*
4 *year.*

5 *“(ii) NO EFFECT ON OTHER PAY-*
6 *MENTS.—Payments described in items (aa)*
7 *and (bb) of subparagraph (D)(i)(II) for a*
8 *hospital shall be determined as if this sub-*
9 *section had not been enacted.*

10 *“(C) APPLICABLE PERCENT DEFINED.—For*
11 *purposes of subparagraph (B), the term ‘applica-*
12 *ble percent’ means—*

13 *“(i) with respect to fiscal year 2013,*
14 *1.0 percent;*

15 *“(ii) with respect to fiscal year 2014,*
16 *1.25 percent;*

17 *“(iii) with respect to fiscal year 2015,*
18 *1.5 percent;*

19 *“(iv) with respect to fiscal year 2016,*
20 *1.75 percent; and*

21 *“(v) with respect to fiscal year 2017*
22 *and succeeding fiscal years, 2 percent.*

23 *“(D) BASE OPERATING DRG PAYMENT*
24 *AMOUNT DEFINED.—*

1 “(i) *IN GENERAL.*—*Except as provided*
2 *in clause (ii), in this subsection, the term*
3 *‘base operating DRG payment amount’*
4 *means, with respect to a hospital for a fis-*
5 *cal year—*

6 “(I) *the payment amount that*
7 *would otherwise be made under sub-*
8 *section (d) (determined without regard*
9 *to subsection (q)) for a discharge if this*
10 *subsection did not apply; reduced by*

11 “(II) *any portion of such pay-*
12 *ment amount that is attributable to—*

13 “(aa) *payments under para-*
14 *graphs (5)(A), (5)(B), (5)(F), and*
15 *(12) of subsection (d); and*

16 “(bb) *such other payments*
17 *under subsection (d) determined*
18 *appropriate by the Secretary.*

19 “(ii) *SPECIAL RULES FOR CERTAIN*
20 *HOSPITALS.—*

21 “(I) *SOLE COMMUNITY HOSPITALS*
22 *AND MEDICARE-DEPENDENT, SMALL*
23 *RURAL HOSPITALS.—In the case of a*
24 *medicare-dependent, small rural hos-*
25 *pital (with respect to discharges occur-*

1 ring during fiscal year 2012 and 2013)
2 or a sole community hospital, in ap-
3 plying subparagraph (A)(i), the pay-
4 ment amount that would otherwise be
5 made under subsection (d) shall be de-
6 termined without regard to subpara-
7 graphs (I) and (L) of subsection (b)(3)
8 and subparagraphs (D) and (G) of
9 subsection (d)(5).

10 “(II) HOSPITALS PAID UNDER
11 SECTION 1814.—In the case of a hos-
12 pital that is paid under section
13 1814(b)(3), the term ‘base operating
14 DRG payment amount’ means the
15 payment amount under such section.

16 “(8) ANNOUNCEMENT OF NET RESULT OF AD-
17 JUSTMENTS.—Under the Program, the Secretary
18 shall, not later than 60 days prior to the fiscal year
19 involved, inform each hospital of the adjustments to
20 payments to the hospital for discharges occurring in
21 such fiscal year under paragraphs (6) and (7)(B)(i).

22 “(9) NO EFFECT IN SUBSEQUENT FISCAL
23 YEARS.—The value-based incentive payment under
24 paragraph (6) and the payment reduction under
25 paragraph (7)(B)(i) shall each apply only with re-

1 *spect to the fiscal year involved, and the Secretary*
2 *shall not take into account such value-based incentive*
3 *payment or payment reduction in making payments*
4 *to a hospital under this section in a subsequent fiscal*
5 *year.*

6 *“(10) PUBLIC REPORTING.—*

7 *“(A) HOSPITAL SPECIFIC INFORMATION.—*

8 *“(i) IN GENERAL.—The Secretary shall*
9 *make information available to the public re-*
10 *garding the performance of individual hos-*
11 *pitals under the Program, including—*

12 *“(I) the performance of the hos-*
13 *pital with respect to each measure that*
14 *applies to the hospital;*

15 *“(II) the performance of the hos-*
16 *pital with respect to each condition or*
17 *procedure; and*

18 *“(III) the hospital performance*
19 *score assessing the total performance of*
20 *the hospital.*

21 *“(ii) OPPORTUNITY TO REVIEW AND*
22 *SUBMIT CORRECTIONS.—The Secretary shall*
23 *ensure that a hospital has the opportunity*
24 *to review, and submit corrections for, the*
25 *information to be made public with respect*

1 to the hospital under clause (i) prior to
2 such information being made public.

3 “(iii) WEBSITE.—Such information
4 shall be posted on the Hospital Compare
5 Internet website in an easily understand-
6 able format.

7 “(B) AGGREGATE INFORMATION.—The Sec-
8 retary shall periodically post on the Hospital
9 Compare Internet website aggregate information
10 on the Program, including—

11 “(i) the number of hospitals receiving
12 value-based incentive payments under para-
13 graph (6) and the range and total amount
14 of such value-based incentive payments; and

15 “(ii) the number of hospitals receiving
16 less than the maximum value-based incen-
17 tive payment available to the hospital for
18 the fiscal year involved and the range and
19 amount of such payments.

20 “(11) IMPLEMENTATION.—

21 “(A) APPEALS.—The Secretary shall estab-
22 lish a process by which hospitals may appeal the
23 calculation of a hospital’s performance assess-
24 ment with respect to the performance standards
25 established under paragraph (3)(A) and the hos-

1 *pital performance score under paragraph (5).*
2 *The Secretary shall ensure that such process pro-*
3 *vides for resolution of such appeals in a timely*
4 *manner.*

5 *“(B) LIMITATION ON REVIEW.—Except as*
6 *provided in subparagraph (A), there shall be no*
7 *administrative or judicial review under section*
8 *1869, section 1878, or otherwise of the following:*

9 *“(i) The methodology used to determine*
10 *the amount of the value-based incentive*
11 *payment under paragraph (6) and the de-*
12 *termination of such amount.*

13 *“(ii) The determination of the amount*
14 *of funding available for such value-based in-*
15 *centive payments under paragraph (7)(A)*
16 *and the payment reduction under para-*
17 *graph (7)(B)(i).*

18 *“(iii) The establishment of the perform-*
19 *ance standards under paragraph (3) and*
20 *the performance period under paragraph*
21 *(4).*

22 *“(iv) The measures specified under*
23 *subsection (b)(3)(B)(viii) and the measures*
24 *selected under paragraph (2).*

1 “(v) *The methodology developed under*
2 *paragraph (5) that is used to calculate hos-*
3 *pital performance scores and the calculation*
4 *of such scores.*

5 “(vi) *The validation methodology spec-*
6 *ified in subsection (b)(3)(B)(viii)(XI).*

7 “(C) *CONSULTATION WITH SMALL HOS-*
8 *PITALS.—The Secretary shall consult with small*
9 *rural and urban hospitals on the application of*
10 *the Program to such hospitals.*

11 “(12) *PROMULGATION OF REGULATIONS.—The*
12 *Secretary shall promulgate regulations to carry out*
13 *the Program, including the selection of measures*
14 *under paragraph (2), the methodology developed*
15 *under paragraph (5) that is used to calculate hospital*
16 *performance scores, and the methodology used to de-*
17 *termine the amount of value-based incentive pay-*
18 *ments under paragraph (6).”.*

19 “(2) *AMENDMENTS FOR REPORTING OF HOSPITAL*
20 *QUALITY INFORMATION.—Section 1886(b)(3)(B)(viii)*
21 *of the Social Security Act (42 U.S.C.*
22 *1395ww(b)(3)(B)(viii)) is amended—*

23 *(A) in subclause (II), by adding at the end*
24 *the following sentence: “The Secretary may re-*
25 *quire hospitals to submit data on measures that*

1 are not used for the determination of value-based
2 incentive payments under subsection (o).”;

3 (B) in subclause (V), by striking “beginning
4 with fiscal year 2008” and inserting “for fiscal
5 years 2008 through 2012”;

6 (C) in subclause (VII), in the first sentence,
7 by striking “data submitted” and inserting “in-
8 formation regarding measures submitted”; and

9 (D) by adding at the end the following new
10 subclauses:

11 “(VIII) Effective for payments beginning with fiscal
12 year 2013, with respect to quality measures for outcomes
13 of care, the Secretary shall provide for such risk adjustment
14 as the Secretary determines to be appropriate to maintain
15 incentives for hospitals to treat patients with severe illnesses
16 or conditions.

17 “(IX)(aa) Subject to item (bb), effective for payments
18 beginning with fiscal year 2013, each measure specified by
19 the Secretary under this clause shall be endorsed by the enti-
20 ty with a contract under section 1890(a).

21 “(bb) In the case of a specified area or medical topic
22 determined appropriate by the Secretary for which a fea-
23 sible and practical measure has not been endorsed by the
24 entity with a contract under section 1890(a), the Secretary
25 may specify a measure that is not so endorsed as long as

1 *due consideration is given to measures that have been en-*
2 *dorsed or adopted by a consensus organization identified*
3 *by the Secretary.*

4 “(X) *To the extent practicable, the Secretary shall,*
5 *with input from consensus organizations and other stake-*
6 *holders, take steps to ensure that the measures specified by*
7 *the Secretary under this clause are coordinated and aligned*
8 *with quality measures applicable to—*

9 “(aa) *physicians under section 1848(k); and*

10 “(bb) *other providers of services and suppliers*
11 *under this title.*

12 “(XI) *The Secretary shall establish a process to vali-*
13 *date measures specified under this clause as appropriate.*
14 *Such process shall include the auditing of a number of ran-*
15 *domly selected hospitals sufficient to ensure validity of the*
16 *reporting program under this clause as a whole and shall*
17 *provide a hospital with an opportunity to appeal the vali-*
18 *date of measures reported by such hospital.”.*

19 (3) WEBSITE IMPROVEMENTS.—*Section*
20 1886(b)(3)(B) *of the Social Security Act (42 U.S.C.*
21 1395ww(b)(3)(B)), *as amended by section 4102(b) of*
22 *the HITECH Act (Public Law 111–5), is amended by*
23 *adding at the end the following new clause:*

24 “(x)(I) *The Secretary shall develop standard Internet*
25 *website reports tailored to meet the needs of various stake-*

1 holders such as hospitals, patients, researchers, and policy-
2 makers. The Secretary shall seek input from such stake-
3 holders in determining the type of information that is useful
4 and the formats that best facilitate the use of the informa-
5 tion.

6 “(II) The Secretary shall modify the Hospital Com-
7 pare Internet website to make the use and navigation of
8 that website readily available to individuals accessing it.”.

9 (4) GAO STUDY AND REPORT.—

10 (A) STUDY.—The Comptroller General of
11 the United States shall conduct a study on the
12 performance of the hospital value-based pur-
13 chasing program established under section
14 1886(o) of the Social Security Act, as added by
15 paragraph (1). Such study shall include an
16 analysis of the impact of such program on—

17 (i) the quality of care furnished to
18 Medicare beneficiaries, including diverse
19 Medicare beneficiary populations (such as
20 diverse in terms of race, ethnicity, and so-
21 cioeconomic status);

22 (ii) expenditures under the Medicare
23 program, including any reduced expendi-
24 tures under Part A of title XVIII of such
25 Act that are attributable to the improve-

1 *ment in the delivery of inpatient hospital*
2 *services by reason of such hospital value-*
3 *based purchasing program;*

4 *(iii) the quality performance among*
5 *safety net hospitals and any barriers such*
6 *hospitals face in meeting the performance*
7 *standards applicable under such hospital*
8 *value-based purchasing program; and*

9 *(iv) the quality performance among*
10 *small rural and small urban hospitals and*
11 *any barriers such hospitals face in meeting*
12 *the performance standards applicable under*
13 *such hospital value-based purchasing pro-*
14 *gram.*

15 *(B) REPORTS.—*

16 *(i) INTERIM REPORT.—Not later than*
17 *October 1, 2015, the Comptroller General of*
18 *the United States shall submit to Congress*
19 *an interim report containing the results of*
20 *the study conducted under subparagraph*
21 *(A), together with recommendations for such*
22 *legislation and administrative action as the*
23 *Comptroller General determines appro-*
24 *priate.*

1 (ii) *FINAL REPORT.*—Not later than
2 July 1, 2017, the Comptroller General of the
3 United States shall submit to Congress a re-
4 port containing the results of the study con-
5 ducted under subparagraph (A), together
6 with recommendations for such legislation
7 and administrative action as the Comp-
8 troller General determines appropriate.

9 (5) *HHS STUDY AND REPORT.*—

10 (A) *STUDY.*—The Secretary of Health and
11 Human Services shall conduct a study on the
12 performance of the hospital value-based pur-
13 chasing program established under section
14 1886(o) of the Social Security Act, as added by
15 paragraph (1). Such study shall include an
16 analysis—

17 (i) of ways to improve the hospital
18 value-based purchasing program and ways
19 to address any unintended consequences
20 that may occur as a result of such program;

21 (ii) of whether the hospital value-based
22 purchasing program resulted in lower
23 spending under the Medicare program
24 under title XVIII of such Act or other fi-
25 nancial savings to hospitals;

1 (iii) the appropriateness of the Medi-
2 care program sharing in any savings gen-
3 erated through the hospital value-based pur-
4 chasing program; and

5 (iv) any other area determined appro-
6 priate by the Secretary.

7 (B) *REPORT.*—Not later than January 1,
8 2016, the Secretary of Health and Human Serv-
9 ices shall submit to Congress a report containing
10 the results of the study conducted under subpara-
11 graph (A), together with recommendations for
12 such legislation and administrative action as the
13 Secretary determines appropriate.

14 (b) *VALUE-BASED PURCHASING DEMONSTRATION*
15 *PROGRAMS.*—

16 (1) *VALUE-BASED PURCHASING DEMONSTRATION*
17 *PROGRAM FOR INPATIENT CRITICAL ACCESS HOS-*
18 *PITALS.*—

19 (A) *ESTABLISHMENT.*—

20 (i) *IN GENERAL.*—Not later than 2
21 years after the date of enactment of this Act,
22 the Secretary of Health and Human Serv-
23 ices (in this subsection referred to as the
24 “Secretary”) shall establish a demonstration
25 program under which the Secretary estab-

1 lishes a value-based purchasing program
2 under the Medicare program under title
3 XVIII of the Social Security Act for critical
4 access hospitals (as defined in paragraph
5 (1) of section 1861(mm) of such Act (42
6 U.S.C. 1395x(mm))) with respect to inpa-
7 tient critical access hospital services (as de-
8 fined in paragraph (2) of such section) in
9 order to test innovative methods of meas-
10 uring and rewarding quality and efficient
11 health care furnished by such hospitals.

12 (ii) *DURATION.*—The demonstration
13 program under this paragraph shall be con-
14 ducted for a 3-year period.

15 (iii) *SITES.*—The Secretary shall con-
16 duct the demonstration program under this
17 paragraph at an appropriate number (as
18 determined by the Secretary) of critical ac-
19 cess hospitals. The Secretary shall ensure
20 that such hospitals are representative of the
21 spectrum of such hospitals that participate
22 in the Medicare program.

23 (B) *WAIVER AUTHORITY.*—The Secretary
24 may waive such requirements of titles XI and
25 XVIII of the Social Security Act as may be nec-

1 *essary to carry out the demonstration program*
2 *under this paragraph.*

3 (C) *BUDGET NEUTRALITY REQUIREMENT.—*

4 *In conducting the demonstration program under*
5 *this section, the Secretary shall ensure that the*
6 *aggregate payments made by the Secretary do*
7 *not exceed the amount which the Secretary would*
8 *have paid if the demonstration program under*
9 *this section was not implemented.*

10 (D) *REPORT.—Not later than 18 months*
11 *after the completion of the demonstration pro-*
12 *gram under this paragraph, the Secretary shall*
13 *submit to Congress a report on the demonstra-*
14 *tion program together with—*

15 (i) *recommendations on the establish-*
16 *ment of a permanent value-based pur-*
17 *chasing program under the Medicare pro-*
18 *gram for critical access hospitals with re-*
19 *spect to inpatient critical access hospital*
20 *services; and*

21 (ii) *recommendations for such other*
22 *legislation and administrative action as the*
23 *Secretary determines appropriate.*

24 (2) *VALUE-BASED PURCHASING DEMONSTRATION*
25 *PROGRAM FOR HOSPITALS EXCLUDED FROM HOSPITAL*

1 *VALUE-BASED PURCHASING PROGRAM AS A RESULT*
2 *OF INSUFFICIENT NUMBERS OF MEASURES AND*
3 *CASES.—*

4 *(A) ESTABLISHMENT.—*

5 *(i) IN GENERAL.—Not later than 2*
6 *years after the date of enactment of this Act,*
7 *the Secretary shall establish a demonstra-*
8 *tion program under which the Secretary es-*
9 *tablishes a value-based purchasing program*
10 *under the Medicare program under title*
11 *XVIII of the Social Security Act for appli-*
12 *cable hospitals (as defined in clause (ii))*
13 *with respect to inpatient hospital services*
14 *(as defined in section 1861(b) of the Social*
15 *Security Act (42 U.S.C. 1395x(b))) in order*
16 *to test innovative methods of measuring and*
17 *rewarding quality and efficient health care*
18 *furnished by such hospitals.*

19 *(ii) APPLICABLE HOSPITAL DE-*
20 *FINED.—For purposes of this paragraph,*
21 *the term “applicable hospital” means a hos-*
22 *pital described in subclause (III) or (IV) of*
23 *section 1886(o)(1)(C)(ii) of the Social Secu-*
24 *rity Act, as added by subsection (a)(1).*

1 (iii) *DURATION.*—*The demonstration*
2 *program under this paragraph shall be con-*
3 *ducted for a 3-year period.*

4 (iv) *SITES.*—*The Secretary shall con-*
5 *duct the demonstration program under this*
6 *paragraph at an appropriate number (as*
7 *determined by the Secretary) of applicable*
8 *hospitals. The Secretary shall ensure that*
9 *such hospitals are representative of the spec-*
10 *trum of such hospitals that participate in*
11 *the Medicare program.*

12 (B) *WAIVER AUTHORITY.*—*The Secretary*
13 *may waive such requirements of titles XI and*
14 *XVIII of the Social Security Act as may be nec-*
15 *essary to carry out the demonstration program*
16 *under this paragraph.*

17 (C) *BUDGET NEUTRALITY REQUIREMENT.*—
18 *In conducting the demonstration program under*
19 *this section, the Secretary shall ensure that the*
20 *aggregate payments made by the Secretary do*
21 *not exceed the amount which the Secretary would*
22 *have paid if the demonstration program under*
23 *this section was not implemented.*

24 (D) *REPORT.*—*Not later than 18 months*
25 *after the completion of the demonstration pro-*

1 *gram under this paragraph, the Secretary shall*
2 *submit to Congress a report on the demonstra-*
3 *tion program together with—*

4 *(i) recommendations on the establish-*
5 *ment of a permanent value-based pur-*
6 *chasing program under the Medicare pro-*
7 *gram for applicable hospitals with respect*
8 *to inpatient hospital services; and*

9 *(ii) recommendations for such other*
10 *legislation and administrative action as the*
11 *Secretary determines appropriate.*

12 **SEC. 3002. IMPROVEMENTS TO THE PHYSICIAN QUALITY RE-**
13 **PORTING SYSTEM.**

14 *(a) EXTENSION.—Section 1848(m) of the Social Secu-*
15 *rity Act (42 U.S.C. 1395w-4(m)) is amended—*

16 *(1) in paragraph (1)—*

17 *(A) in subparagraph (A), in the matter pre-*
18 *ceding clause (i), by striking “2010” and insert-*
19 *ing “2014”; and*

20 *(B) in subparagraph (B)—*

21 *(i) in clause (i), by striking “and” at*
22 *the end;*

23 *(ii) in clause (ii), by striking the pe-*
24 *riod at the end and inserting a semicolon;*
25 *and*

1 (iii) by adding at the end the following
2 new clauses:

3 “(iii) for 2011, 1.0 percent; and

4 “(iv) for 2012, 2013, and 2014, 0.5
5 percent.”;

6 (2) in paragraph (3)—

7 (A) in subparagraph (A), in the matter pre-
8 ceding clause (i), by inserting “(or, for purposes
9 of subsection (a)(8), for the quality reporting pe-
10 riod for the year)” after “reporting period”; and

11 (B) in subparagraph (C)(i), by inserting “,
12 or, for purposes of subsection (a)(8), for a qual-
13 ity reporting period for the year” after “(a)(5),
14 for a reporting period for a year”;

15 (3) in paragraph (5)(E)(iv), by striking “sub-
16 section (a)(5)(A)” and inserting “paragraphs (5)(A)
17 and (8)(A) of subsection (a)”; and

18 (4) in paragraph (6)(C)—

19 (A) in clause (i)(II), by striking “, 2009,
20 2010, and 2011” and inserting “and subsequent
21 years”; and

22 (B) in clause (iii)—

23 (i) by inserting “(a)(8)” after “(a)(5)”;

24 and

1 (ii) by striking “under subparagraph
2 (D)(iii) of such subsection” and inserting
3 “under subsection (a)(5)(D)(iii) or the qual-
4 ity reporting period under subsection
5 (a)(8)(D)(iii), respectively”.

6 (b) *INCENTIVE PAYMENT ADJUSTMENT FOR QUALITY*
7 *REPORTING.*—Section 1848(a) of the Social Security Act
8 (42 U.S.C. 1395w–4(a)) is amended by adding at the end
9 the following new paragraph:

10 “(8) *INCENTIVES FOR QUALITY REPORTING.*—

11 “(A) *ADJUSTMENT.*—

12 “(i) *IN GENERAL.*—With respect to cov-
13 ered professional services furnished by an
14 eligible professional during 2015 or any
15 subsequent year, if the eligible professional
16 does not satisfactorily submit data on qual-
17 ity measures for covered professional serv-
18 ices for the quality reporting period for the
19 year (as determined under subsection
20 (m)(3)(A)), the fee schedule amount for such
21 services furnished by such professional dur-
22 ing the year (including the fee schedule
23 amount for purposes of determining a pay-
24 ment based on such amount) shall be equal
25 to the applicable percent of the fee schedule

1 amount that would otherwise apply to such
2 services under this subsection (determined
3 after application of paragraphs (3), (5),
4 and (7), but without regard to this para-
5 graph).

6 “(ii) *APPLICABLE PERCENT.*—For pur-
7 poses of clause (i), the term ‘applicable per-
8 cent’ means—

9 “(I) for 2015, 98.5 percent; and

10 “(II) for 2016 and each subse-
11 quent year, 98 percent.

12 “(B) *APPLICATION.*—

13 “(i) *PHYSICIAN REPORTING SYSTEM*
14 *RULES.*—Paragraphs (5), (6), and (8) of
15 subsection (k) shall apply for purposes of
16 this paragraph in the same manner as they
17 apply for purposes of such subsection.

18 “(ii) *INCENTIVE PAYMENT VALIDATION*
19 *RULES.*—Clauses (ii) and (iii) of subsection
20 (m)(5)(D) shall apply for purposes of this
21 paragraph in a similar manner as they
22 apply for purposes of such subsection.

23 “(C) *DEFINITIONS.*—For purposes of this
24 paragraph:

1 “(i) *ELIGIBLE PROFESSIONAL; COV-*
2 *ERED PROFESSIONAL SERVICES.—The terms*
3 *‘eligible professional’ and ‘covered profes-*
4 *sional services’ have the meanings given*
5 *such terms in subsection (k)(3).*

6 “(ii) *PHYSICIAN REPORTING SYS-*
7 *TEM.—The term ‘physician reporting sys-*
8 *tem’ means the system established under*
9 *subsection (k).*

10 “(iii) *QUALITY REPORTING PERIOD.—*
11 *The term ‘quality reporting period’ means,*
12 *with respect to a year, a period specified by*
13 *the Secretary.”.*

14 (c) *MAINTENANCE OF CERTIFICATION PROGRAMS.—*

15 (1) *IN GENERAL.—Section 1848(k)(4) of the So-*
16 *cial Security Act (42 U.S.C. 1395w-4(k)(4)) is*
17 *amended by inserting “or through a Maintenance of*
18 *Certification program operated by a specialty body of*
19 *the American Board of Medical Specialties that meets*
20 *the criteria for such a registry” after “Database”).*

21 (2) *EFFECTIVE DATE.—The amendment made by*
22 *paragraph (1) shall apply for years after 2010.*

23 (d) *INTEGRATION OF PHYSICIAN QUALITY REPORTING*
24 *AND EHR REPORTING.—Section 1848(m) of the Social Se-*

1 *curity Act (42 U.S.C. 1395w-4(m)) is amended by adding*
2 *at the end the following new paragraph:*

3 “(7) *INTEGRATION OF PHYSICIAN QUALITY RE-*
4 *PORTING AND EHR REPORTING.—Not later than Jan-*
5 *uary 1, 2012, the Secretary shall develop a plan to*
6 *integrate reporting on quality measures under this*
7 *subsection with reporting requirements under sub-*
8 *section (o) relating to the meaningful use of electronic*
9 *health records. Such integration shall consist of the*
10 *following:*

11 “(A) *The selection of measures, the report-*
12 *ing of which would both demonstrate—*

13 “(i) *meaningful use of an electronic*
14 *health record for purposes of subsection (o);*
15 *and*

16 “(ii) *quality of care furnished to an*
17 *individual.*

18 “(B) *Such other activities as specified by*
19 *the Secretary.”.*

20 “(e) *FEEDBACK.—Section 1848(m)(5) of the Social Se-*
21 *curity Act (42 U.S.C. 1395w-4(m)(5)) is amended by add-*
22 *ing at the end the following new subparagraph:*

23 “(H) *FEEDBACK.—The Secretary shall pro-*
24 *vide timely feedback to eligible professionals on*
25 *the performance of the eligible professional with*

1 *respect to satisfactorily submitting data on qual-*
 2 *ity measures under this subsection.”.*

3 (f) *APPEALS.*—*Such section is further amended—*

4 (1) *in subparagraph (E), by striking “There*
 5 *shall” and inserting “Except as provided in subpara-*
 6 *graph (I), there shall”;* and

7 (2) *by adding at the end the following new sub-*
 8 *paragraph:*

9 “(I) *INFORMAL APPEALS PROCESS.*—*The*
 10 *Secretary shall, by not later than January 1,*
 11 *2011, establish and have in place an informal*
 12 *process for eligible professionals to seek a review*
 13 *of the determination that an eligible professional*
 14 *did not satisfactorily submit data on quality*
 15 *measures under this subsection.”.*

16 **SEC. 3003. IMPROVEMENTS TO THE PHYSICIAN FEEDBACK**
 17 **PROGRAM.**

18 (a) *IN GENERAL.*—*Section 1848(n) of the Social Secu-*
 19 *rity Act (42 U.S.C. 1395w-4(n)) is amended—*

20 (1) *in paragraph (1)—*

21 (A) *in subparagraph (A)—*

22 (i) *by striking “GENERAL.—The Sec-*
 23 *retary” and inserting “GENERAL.—*

24 “(i) *ESTABLISHMENT.—The Sec-*
 25 *retary”;*

1 (ii) in clause (i), as added by clause
2 (i), by striking “the ‘Program’” and all
3 that follows through the period at the end of
4 the second sentence and inserting “the ‘Pro-
5 gram’.”; and

6 (iii) by adding at the end the following
7 new clauses:

8 “(ii) *REPORTS ON RESOURCES.*—The
9 Secretary shall use claims data under this
10 title (and may use other data) to provide
11 confidential reports to physicians (and, as
12 determined appropriate by the Secretary, to
13 groups of physicians) that measure the re-
14 sources involved in furnishing care to indi-
15 viduals under this title.

16 “(iii) *INCLUSION OF CERTAIN INFOR-*
17 *MATION.*—If determined appropriate by the
18 Secretary, the Secretary may include infor-
19 mation on the quality of care furnished to
20 individuals under this title by the physician
21 (or group of physicians) in such reports.”;
22 and

23 (B) in subparagraph (B), by striking “sub-
24 paragraph (A)” and inserting “subparagraph
25 (A)(ii)”;

1 (2) *in paragraph (4)—*

2 (A) *in the heading, by inserting “INITIAL”*
3 *after “FOCUS”; and*

4 (B) *in the matter preceding subparagraph*
5 *(A), by inserting “initial” after “focus the”;*

6 (3) *in paragraph (6), by adding at the end the*
7 *following new sentence: “For adjustments for reports*
8 *on utilization under paragraph (9), see subparagraph*
9 *(D) of such paragraph.”; and*

10 (4) *by adding at the end the following new para-*
11 *graphs:*

12 “(9) *REPORTS ON UTILIZATION.—*

13 “(A) *DEVELOPMENT OF EPISODE GROUP-*
14 *ER.—*

15 “(i) *IN GENERAL.—The Secretary shall*
16 *develop an episode grouper that combines*
17 *separate but clinically related items and*
18 *services into an episode of care for an indi-*
19 *vidual, as appropriate.*

20 “(ii) *TIMELINE FOR DEVELOPMENT.—*

21 *The episode grouper described in subpara-*
22 *graph (A) shall be developed by not later*
23 *than January 1, 2012.*

24 “(iii) *PUBLIC AVAILABILITY.—The Sec-*
25 *retary shall make the details of the episode*

1 *grouper described in subparagraph (A)*
2 *available to the public.*

3 *“(iv) ENDORSEMENT.—The Secretary*
4 *shall seek endorsement of the episode group-*
5 *er described in subparagraph (A) by the en-*
6 *tity with a contract under section 1890(a).*

7 *“(B) REPORTS ON UTILIZATION.—Effective*
8 *beginning with 2012, the Secretary shall provide*
9 *reports to physicians that compare, as deter-*
10 *mined appropriate by the Secretary, patterns of*
11 *resource use of the individual physician to such*
12 *patterns of other physicians.*

13 *“(C) ANALYSIS OF DATA.—The Secretary*
14 *shall, for purposes of preparing reports under*
15 *this paragraph, establish methodologies as appro-*
16 *priate, such as to—*

17 *“(i) attribute episodes of care, in whole*
18 *or in part, to physicians;*

19 *“(ii) identify appropriate physicians*
20 *for purposes of comparison under subpara-*
21 *graph (B); and*

22 *“(iii) aggregate episodes of care attrib-*
23 *uted to a physician under clause (i) into a*
24 *composite measure per individual.*

1 “(D) *DATA ADJUSTMENT.*—*In preparing re-*
2 *ports under this paragraph, the Secretary shall*
3 *make appropriate adjustments, including adjust-*
4 *ments—*

5 “(i) *to account for differences in socio-*
6 *economic and demographic characteristics,*
7 *ethnicity, and health status of individuals*
8 *(such as to recognize that less healthy indi-*
9 *viduals may require more intensive inter-*
10 *ventions); and*

11 “(ii) *to eliminate the effect of geo-*
12 *graphic adjustments in payment rates (as*
13 *described in subsection (e)).*

14 “(E) *PUBLIC AVAILABILITY OF METHOD-*
15 *LOGY.*—*The Secretary shall make available to*
16 *the public—*

17 “(i) *the methodologies established*
18 *under subparagraph (C);*

19 “(ii) *information regarding any ad-*
20 *justments made to data under subpara-*
21 *graph (D); and*

22 “(iii) *aggregate reports with respect to*
23 *physicians.*

24 “(F) *DEFINITION OF PHYSICIAN.*—*In this*
25 *paragraph:*

1 “(i) *IN GENERAL.*—*The term ‘physi-*
2 *cian’ has the meaning given that term in*
3 *section 1861(r)(1).*

4 “(ii) *TREATMENT OF GROUPS.*—*Such*
5 *term includes, as the Secretary determines*
6 *appropriate, a group of physicians.*

7 “(G) *LIMITATIONS ON REVIEW.*—*There shall*
8 *be no administrative or judicial review under*
9 *section 1869, section 1878, or otherwise of the es-*
10 *tablishment of the methodology under subpara-*
11 *graph (C), including the determination of an*
12 *episode of care under such methodology.*

13 “(10) *COORDINATION WITH OTHER VALUE-BASED*
14 *PURCHASING REFORMS.*—*The Secretary shall coordi-*
15 *nate the Program with the value-based payment*
16 *modifier established under subsection (p) and, as the*
17 *Secretary determines appropriate, other similar pro-*
18 *visions of this title.”.*

19 “(b) *CONFORMING AMENDMENT.*—*Section 1890(b) of*
20 *the Social Security Act (42 U.S.C. 1395aaa(b)) is amended*
21 *by adding at the end the following new paragraph:*

22 “(6) *REVIEW AND ENDORSEMENT OF EPISODE*
23 *GROUPER UNDER THE PHYSICIAN FEEDBACK PRO-*
24 *GRAM.*—*The entity shall provide for the review and,*
25 *as appropriate, the endorsement of the episode group-*

1 *er developed by the Secretary under section*
 2 *1848(n)(9)(A). Such review shall be conducted on an*
 3 *expedited basis.”.*

4 **SEC. 3004. QUALITY REPORTING FOR LONG-TERM CARE**
 5 **HOSPITALS, INPATIENT REHABILITATION**
 6 **HOSPITALS, AND HOSPICE PROGRAMS.**

7 *(a) LONG-TERM CARE HOSPITALS.—Section 1886(m)*
 8 *of the Social Security Act (42 U.S.C. 1395ww(m)), as*
 9 *amended by section 3401(c), is amended by adding at the*
 10 *end the following new paragraph:*

11 *“(5) QUALITY REPORTING.—*

12 *“(A) REDUCTION IN UPDATE FOR FAILURE*
 13 *TO REPORT.—*

14 *“(i) IN GENERAL.—Under the system*
 15 *described in paragraph (1), for rate year*
 16 *2014 and each subsequent rate year, in the*
 17 *case of a long-term care hospital that does*
 18 *not submit data to the Secretary in accord-*
 19 *ance with subparagraph (C) with respect to*
 20 *such a rate year, any annual update to a*
 21 *standard Federal rate for discharges for the*
 22 *hospital during the rate year, and after ap-*
 23 *plication of paragraph (3), shall be reduced*
 24 *by 2 percentage points.*

1 “(i) *SPECIAL RULE.*—*The application*
2 *of this subparagraph may result in such an-*
3 *annual update being less than 0.0 for a rate*
4 *year, and may result in payment rates*
5 *under the system described in paragraph*
6 *(1) for a rate year being less than such pay-*
7 *ment rates for the preceding rate year.*

8 “(B) *NONCUMULATIVE APPLICATION.*—*Any*
9 *reduction under subparagraph (A) shall apply*
10 *only with respect to the rate year involved and*
11 *the Secretary shall not take into account such re-*
12 *duction in computing the payment amount*
13 *under the system described in paragraph (1) for*
14 *a subsequent rate year.*

15 “(C) *SUBMISSION OF QUALITY DATA.*—*For*
16 *rate year 2014 and each subsequent rate year,*
17 *each long-term care hospital shall submit to the*
18 *Secretary data on quality measures specified*
19 *under subparagraph (D). Such data shall be sub-*
20 *mitted in a form and manner, and at a time,*
21 *specified by the Secretary for purposes of this*
22 *subparagraph.*

23 “(D) *QUALITY MEASURES.*—

24 “(i) *IN GENERAL.*—*Subject to clause*
25 *(ii), any measure specified by the Secretary*

1 *under this subparagraph must have been*
2 *endorsed by the entity with a contract*
3 *under section 1890(a).*

4 “(ii) *EXCEPTION.—In the case of a*
5 *specified area or medical topic determined*
6 *appropriate by the Secretary for which a*
7 *feasible and practical measure has not been*
8 *endorsed by the entity with a contract*
9 *under section 1890(a), the Secretary may*
10 *specify a measure that is not so endorsed as*
11 *long as due consideration is given to meas-*
12 *ures that have been endorsed or adopted by*
13 *a consensus organization identified by the*
14 *Secretary.*

15 “(iii) *TIME FRAME.—Not later than*
16 *October 1, 2012, the Secretary shall publish*
17 *the measures selected under this subpara-*
18 *graph that will be applicable with respect to*
19 *rate year 2014.*

20 “(E) *PUBLIC AVAILABILITY OF DATA SUB-*
21 *MITTED.—The Secretary shall establish proce-*
22 *dures for making data submitted under subpara-*
23 *graph (C) available to the public. Such proce-*
24 *dures shall ensure that a long-term care hospital*
25 *has the opportunity to review the data that is to*

1 *be made public with respect to the hospital prior*
2 *to such data being made public. The Secretary*
3 *shall report quality measures that relate to serv-*
4 *ices furnished in inpatient settings in long-term*
5 *care hospitals on the Internet website of the Cen-*
6 *ters for Medicare & Medicaid Services.”.*

7 ***(b) INPATIENT REHABILITATION HOSPITALS.—Section***
8 ***1886(j) of the Social Security Act (42 U.S.C. 1395ww(j))***
9 ***is amended—***

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

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

14 ***“(7) QUALITY REPORTING.—***

15 ***“(A) REDUCTION IN UPDATE FOR FAILURE***
16 ***TO REPORT.—***

17 ***“(i) IN GENERAL.—For purposes of fis-***
18 ***cal year 2014 and each subsequent fiscal***
19 ***year, in the case of a rehabilitation facility***
20 ***that does not submit data to the Secretary***
21 ***in accordance with subparagraph (C) with***
22 ***respect to such a fiscal year, after deter-***
23 ***mining the increase factor described in***
24 ***paragraph (3)(C), and after application of***
25 ***paragraph (3)(D), the Secretary shall re-***

1 *duce such increase factor for payments for*
2 *discharges occurring during such fiscal year*
3 *by 2 percentage points.*

4 *“(i) SPECIAL RULE.—The application*
5 *of this subparagraph may result in the in-*
6 *crease factor described in paragraph (3)(C)*
7 *being less than 0.0 for a fiscal year, and*
8 *may result in payment rates under this*
9 *subsection for a fiscal year being less than*
10 *such payment rates for the preceding fiscal*
11 *year.*

12 *“(B) NONCUMULATIVE APPLICATION.—Any*
13 *reduction under subparagraph (A) shall apply*
14 *only with respect to the fiscal year involved and*
15 *the Secretary shall not take into account such re-*
16 *duction in computing the payment amount*
17 *under this subsection for a subsequent fiscal*
18 *year.*

19 *“(C) SUBMISSION OF QUALITY DATA.—For*
20 *fiscal year 2014 and each subsequent rate year,*
21 *each rehabilitation facility shall submit to the*
22 *Secretary data on quality measures specified*
23 *under subparagraph (D). Such data shall be sub-*
24 *mitted in a form and manner, and at a time,*

1 *specified by the Secretary for purposes of this*
2 *subparagraph.*

3 “(D) *QUALITY MEASURES.*—

4 “(i) *IN GENERAL.*—*Subject to clause*
5 *(ii), any measure specified by the Secretary*
6 *under this subparagraph must have been*
7 *endorsed by the entity with a contract*
8 *under section 1890(a).*

9 “(ii) *EXCEPTION.*—*In the case of a*
10 *specified area or medical topic determined*
11 *appropriate by the Secretary for which a*
12 *feasible and practical measure has not been*
13 *endorsed by the entity with a contract*
14 *under section 1890(a), the Secretary may*
15 *specify a measure that is not so endorsed as*
16 *long as due consideration is given to meas-*
17 *ures that have been endorsed or adopted by*
18 *a consensus organization identified by the*
19 *Secretary.*

20 “(iii) *TIME FRAME.*—*Not later than*
21 *October 1, 2012, the Secretary shall publish*
22 *the measures selected under this subpara-*
23 *graph that will be applicable with respect to*
24 *fiscal year 2014.*

1 “(E) *PUBLIC AVAILABILITY OF DATA SUB-*
2 *MITTED.—The Secretary shall establish proce-*
3 *dures for making data submitted under subpara-*
4 *graph (C) available to the public. Such proce-*
5 *dures shall ensure that a rehabilitation facility*
6 *has the opportunity to review the data that is to*
7 *be made public with respect to the facility prior*
8 *to such data being made public. The Secretary*
9 *shall report quality measures that relate to serv-*
10 *ices furnished in inpatient settings in rehabilita-*
11 *tion facilities on the Internet website of the Cen-*
12 *ters for Medicare & Medicaid Services.”.*

13 (c) *HOSPICE PROGRAMS.—Section 1814(i) of the So-*
14 *cial Security Act (42 U.S.C. 1395f(i)) is amended—*

15 (1) *by redesignating paragraph (5) as para-*
16 *graph (6); and*

17 (2) *by inserting after paragraph (4) the fol-*
18 *lowing new paragraph:*

19 “(5) *QUALITY REPORTING.—*

20 “(A) *REDUCTION IN UPDATE FOR FAILURE*
21 *TO REPORT.—*

22 “(i) *IN GENERAL.—For purposes of fis-*
23 *cal year 2014 and each subsequent fiscal*
24 *year, in the case of a hospice program that*
25 *does not submit data to the Secretary in ac-*

1 cordance with subparagraph (C) with re-
2 spect to such a fiscal year, after deter-
3 mining the market basket percentage in-
4 crease under paragraph (1)(C)(ii)(VII) or
5 paragraph (1)(C)(iii), as applicable, and
6 after application of paragraph (1)(C)(iv),
7 with respect to the fiscal year, the Secretary
8 shall reduce such market basket percentage
9 increase by 2 percentage points.

10 “(ii) *SPECIAL RULE.*—The application
11 of this subparagraph may result in the
12 market basket percentage increase under
13 paragraph (1)(C)(ii)(VII) or paragraph
14 (1)(C)(iii), as applicable, being less than
15 0.0 for a fiscal year, and may result in
16 payment rates under this subsection for a
17 fiscal year being less than such payment
18 rates for the preceding fiscal year.

19 “(B) *NONCUMULATIVE APPLICATION.*—Any
20 reduction under subparagraph (A) shall apply
21 only with respect to the fiscal year involved and
22 the Secretary shall not take into account such re-
23 duction in computing the payment amount
24 under this subsection for a subsequent fiscal
25 year.

1 “(C) *SUBMISSION OF QUALITY DATA.*—For
2 *fiscal year 2014 and each subsequent fiscal year,*
3 *each hospice program shall submit to the Sec-*
4 *retary data on quality measures specified under*
5 *subparagraph (D). Such data shall be submitted*
6 *in a form and manner, and at a time, specified*
7 *by the Secretary for purposes of this subpara-*
8 *graph.*

9 “(D) *QUALITY MEASURES.*—

10 “(i) *IN GENERAL.*—Subject to clause
11 *(ii), any measure specified by the Secretary*
12 *under this subparagraph must have been*
13 *endorsed by the entity with a contract*
14 *under section 1890(a).*

15 “(ii) *EXCEPTION.*—In the case of a
16 *specified area or medical topic determined*
17 *appropriate by the Secretary for which a*
18 *feasible and practical measure has not been*
19 *endorsed by the entity with a contract*
20 *under section 1890(a), the Secretary may*
21 *specify a measure that is not so endorsed as*
22 *long as due consideration is given to meas-*
23 *ures that have been endorsed or adopted by*
24 *a consensus organization identified by the*
25 *Secretary.*

1 “(iii) *TIME FRAME.*—Not later than
2 *October 1, 2012, the Secretary shall publish*
3 *the measures selected under this subpara-*
4 *graph that will be applicable with respect to*
5 *fiscal year 2014.*

6 “(E) *PUBLIC AVAILABILITY OF DATA SUB-*
7 *MITTED.*—*The Secretary shall establish proce-*
8 *dures for making data submitted under subpara-*
9 *graph (C) available to the public. Such proce-*
10 *dures shall ensure that a hospice program has*
11 *the opportunity to review the data that is to be*
12 *made public with respect to the hospice program*
13 *prior to such data being made public. The Sec-*
14 *retary shall report quality measures that relate*
15 *to hospice care provided by hospice programs on*
16 *the Internet website of the Centers for Medicare*
17 *& Medicaid Services.”.*

18 **SEC. 3005. QUALITY REPORTING FOR PPS-EXEMPT CANCER**

19 **HOSPITALS.**

20 *Section 1866 of the Social Security Act (42 U.S.C.*
21 *1395cc) is amended—*

22 (1) *in subsection (a)(1)—*

23 (A) *in subparagraph (U), by striking “and”*
24 *at the end;*

1 (B) in subparagraph (V), by striking the
2 period at the end and inserting “, and”; and

3 (C) by adding at the end the following new
4 subparagraph:

5 “(W) in the case of a hospital described in
6 section 1886(d)(1)(B)(v), to report quality data
7 to the Secretary in accordance with subsection
8 (k).”; and

9 (2) by adding at the end the following new sub-
10 section:

11 “(k) *QUALITY REPORTING BY CANCER HOSPITALS.*—

12 “(1) *IN GENERAL.*—For purposes of fiscal year
13 2014 and each subsequent fiscal year, a hospital de-
14 scribed in section 1886(d)(1)(B)(v) shall submit data
15 to the Secretary in accordance with paragraph (2)
16 with respect to such a fiscal year.

17 “(2) *SUBMISSION OF QUALITY DATA.*—For fiscal
18 year 2014 and each subsequent fiscal year, each hos-
19 pital described in such section shall submit to the Sec-
20 retary data on quality measures specified under
21 paragraph (3). Such data shall be submitted in a
22 form and manner, and at a time, specified by the
23 Secretary for purposes of this subparagraph.

24 “(3) *QUALITY MEASURES.*—

1 “(A) *IN GENERAL.*—Subject to subpara-
2 graph (B), any measure specified by the Sec-
3 retary under this paragraph must have been en-
4 dorsed by the entity with a contract under sec-
5 tion 1890(a).

6 “(B) *EXCEPTION.*—In the case of a specified
7 area or medical topic determined appropriate by
8 the Secretary for which a feasible and practical
9 measure has not been endorsed by the entity with
10 a contract under section 1890(a), the Secretary
11 may specify a measure that is not so endorsed as
12 long as due consideration is given to measures
13 that have been endorsed or adopted by a con-
14 sensus organization identified by the Secretary.

15 “(C) *TIME FRAME.*—Not later than October
16 1, 2012, the Secretary shall publish the measures
17 selected under this paragraph that will be appli-
18 cable with respect to fiscal year 2014.

19 “(4) *PUBLIC AVAILABILITY OF DATA SUB-*
20 *MITTED.*—The Secretary shall establish procedures for
21 making data submitted under paragraph (4) avail-
22 able to the public. Such procedures shall ensure that
23 a hospital described in section 1886(d)(1)(B)(v) has
24 the opportunity to review the data that is to be made
25 public with respect to the hospital prior to such data

1 *being made public. The Secretary shall report quality*
2 *measures of process, structure, outcome, patients’ per-*
3 *spective on care, efficiency, and costs of care that re-*
4 *late to services furnished in such hospitals on the*
5 *Internet website of the Centers for Medicare & Med-*
6 *icaid Services.”.*

7 **SEC. 3006. PLANS FOR A VALUE-BASED PURCHASING PRO-**
8 **GRAM FOR SKILLED NURSING FACILITIES**
9 **AND HOME HEALTH AGENCIES.**

10 *(a) SKILLED NURSING FACILITIES.—*

11 *(1) IN GENERAL.—The Secretary of Health and*
12 *Human Services (in this section referred to as the*
13 *“Secretary”) shall develop a plan to implement a*
14 *value-based purchasing program for payments under*
15 *the Medicare program under title XVIII of the Social*
16 *Security Act for skilled nursing facilities (as defined*
17 *in section 1819(a) of such Act (42 U.S.C. 1395i–*
18 *3(a))).*

19 *(2) DETAILS.—In developing the plan under*
20 *paragraph (1), the Secretary shall consider the fol-*
21 *lowing issues:*

22 *(A) The ongoing development, selection, and*
23 *modification process for measures (including*
24 *under section 1890 of the Social Security Act (42*
25 *U.S.C. 1395aaa) and section 1890A such Act, as*

1 *added by section 3014), to the extent feasible and*
2 *practicable, of all dimensions of quality and effi-*
3 *ciency in skilled nursing facilities.*

4 *(i) IN GENERAL.—Subject to clause*
5 *(ii), any measure specified by the Secretary*
6 *under subparagraph (A)(iii) must have been*
7 *endorsed by the entity with a contract*
8 *under section 1890(a).*

9 *(ii) EXCEPTION.—In the case of a spec-*
10 *ified area or medical topic determined ap-*
11 *propriate by the Secretary for which a fea-*
12 *sible and practical measure has not been en-*
13 *dorsed by the entity with a contract under*
14 *section 1890(a), the Secretary may specify a*
15 *measure that is not so endorsed as long as*
16 *due consideration is given to measures that*
17 *have been endorsed or adopted by a con-*
18 *sensus organization identified by the Sec-*
19 *retary.*

20 *(B) The reporting, collection, and valida-*
21 *tion of quality data.*

22 *(C) The structure of value-based payment*
23 *adjustments, including the determination of*
24 *thresholds or improvements in quality that*
25 *would substantiate a payment adjustment, the*

1 *size of such payments, and the sources of funding*
2 *for the value-based bonus payments.*

3 *(D) Methods for the public disclosure of in-*
4 *formation on the performance of skilled nursing*
5 *facilities.*

6 *(E) Any other issues determined appro-*
7 *priate by the Secretary.*

8 (3) *CONSULTATION.*—*In developing the plan*
9 *under paragraph (1), the Secretary shall—*

10 *(A) consult with relevant affected parties;*
11 *and*

12 *(B) consider experience with such dem-*
13 *onstrations that the Secretary determines are rel-*
14 *evant to the value-based purchasing program de-*
15 *scribed in paragraph (1).*

16 (4) *REPORT TO CONGRESS.*—*Not later than Oc-*
17 *tober 1, 2011, the Secretary shall submit to Congress*
18 *a report containing the plan developed under para-*
19 *graph (1).*

20 (b) *HOME HEALTH AGENCIES.*—

21 (1) *IN GENERAL.*—*The Secretary of Health and*
22 *Human Services (in this section referred to as the*
23 *“Secretary”)* *shall develop a plan to implement a*
24 *value-based purchasing program for payments under*
25 *the Medicare program under title XVIII of the Social*

1 *Security Act for home health agencies (as defined in*
2 *section 1861(o) of such Act (42 U.S.C. 1395x(o))).*

3 (2) *DETAILS.—In developing the plan under*
4 *paragraph (1), the Secretary shall consider the fol-*
5 *lowing issues:*

6 (A) *The ongoing development, selection, and*
7 *modification process for measures (including*
8 *under section 1890 of the Social Security Act (42*
9 *U.S.C. 1395aaa) and section 1890A such Act, as*
10 *added by section 3014), to the extent feasible and*
11 *practicable, of all dimensions of quality and effi-*
12 *ciency in home health agencies.*

13 (B) *The reporting, collection, and valida-*
14 *tion of quality data.*

15 (C) *The structure of value-based payment*
16 *adjustments, including the determination of*
17 *thresholds or improvements in quality that*
18 *would substantiate a payment adjustment, the*
19 *size of such payments, and the sources of funding*
20 *for the value-based bonus payments.*

21 (D) *Methods for the public disclosure of in-*
22 *formation on the performance of home health*
23 *agencies.*

24 (E) *Any other issues determined appro-*
25 *priate by the Secretary.*

1 (3) *CONSULTATION.*—*In developing the plan*
2 *under paragraph (1), the Secretary shall—*

3 (A) *consult with relevant affected parties;*

4 *and*

5 (B) *consider experience with such dem-*
6 *onstrations that the Secretary determines are rel-*
7 *evant to the value-based purchasing program de-*
8 *scribed in paragraph (1).*

9 (4) *REPORT TO CONGRESS.*—*Not later than Oc-*
10 *tober 1, 2011, the Secretary shall submit to Congress*
11 *a report containing the plan developed under para-*
12 *graph (1).*

13 **SEC. 3007. VALUE-BASED PAYMENT MODIFIER UNDER THE**
14 **PHYSICIAN FEE SCHEDULE.**

15 *Section 1848 of the Social Security Act (42 U.S.C.*
16 *1395w-4) is amended—*

17 (1) *in subsection (b)(1), by inserting “subject to*
18 *subsection (p),” after “1998;” and*

19 (2) *by adding at the end the following new sub-*
20 *section:*

21 “(p) *ESTABLISHMENT OF VALUE-BASED PAYMENT*
22 *MODIFIER.*—

23 “(1) *IN GENERAL.*—*The Secretary shall establish*
24 *a payment modifier that provides for differential*
25 *payment to a physician or a group of physicians*

1 *under the fee schedule established under subsection (b)*
2 *based upon the quality of care furnished compared to*
3 *cost (as determined under paragraphs (2) and (3), re-*
4 *spectively) during a performance period. Such pay-*
5 *ment modifier shall be separate from the geographic*
6 *adjustment factors established under subsection (e).*

7 *“(2) QUALITY.—*

8 *“(A) IN GENERAL.—For purposes of para-*
9 *graph (1), quality of care shall be evaluated, to*
10 *the extent practicable, based on a composite of*
11 *measures of the quality of care furnished (as es-*
12 *tablished by the Secretary under subparagraph*
13 *(B)).*

14 *“(B) MEASURES.—*

15 *“(i) The Secretary shall establish ap-*
16 *propriate measures of the quality of care*
17 *furnished by a physician or group of physi-*
18 *cians to individuals enrolled under this*
19 *part, such as measures that reflect health*
20 *outcomes. Such measures shall be risk ad-*
21 *justed as determined appropriate by the*
22 *Secretary.*

23 *“(ii) The Secretary shall seek endorse-*
24 *ment of the measures established under this*

1 *subparagraph by the entity with a contract*
2 *under section 1890(a).*

3 “(3) *COSTS.—For purposes of paragraph (1),*
4 *costs shall be evaluated, to the extent practicable,*
5 *based on a composite of appropriate measures of costs*
6 *established by the Secretary (such as the composite*
7 *measure under the methodology established under sub-*
8 *section (n)(9)(C)(iii)) that eliminate the effect of geo-*
9 *graphic adjustments in payment rates (as described*
10 *in subsection (e)), and take into account risk factors*
11 *(such as socioeconomic and demographic characteris-*
12 *tics, ethnicity, and health status of individuals (such*
13 *as to recognize that less healthy individuals may re-*
14 *quire more intensive interventions) and other factors*
15 *determined appropriate by the Secretary.*

16 “(4) *IMPLEMENTATION.—*

17 “(A) *PUBLICATION OF MEASURES, DATES*
18 *OF IMPLEMENTATION, PERFORMANCE PERIOD.—*
19 *Not later than January 1, 2012, the Secretary*
20 *shall publish the following:*

21 “(i) *The measures of quality of care*
22 *and costs established under paragraphs (2)*
23 *and (3), respectively.*

1 “(ii) *The dates for implementation of*
2 *the payment modifier (as determined under*
3 *subparagraph (B)).*

4 “(iii) *The initial performance period*
5 *(as specified under subparagraph (B)(ii)).*

6 “(B) *DEADLINES FOR IMPLEMENTATION.—*

7 “(i) *INITIAL IMPLEMENTATION.—Sub-*
8 *ject to the preceding provisions of this sub-*
9 *paragraph, the Secretary shall begin imple-*
10 *menting the payment modifier established*
11 *under this subsection through the rule-*
12 *making process during 2013 for the physi-*
13 *cian fee schedule established under sub-*
14 *section (b).*

15 “(ii) *INITIAL PERFORMANCE PERIOD.—*

16 “(I) *IN GENERAL.—The Secretary*
17 *shall specify an initial performance*
18 *period for application of the payment*
19 *modifier established under this sub-*
20 *section with respect to 2015.*

21 “(II) *PROVISION OF INFORMATION*
22 *DURING INITIAL PERFORMANCE PE-*
23 *RIOD.—During the initial performance*
24 *period, the Secretary shall, to the ex-*
25 *tent practicable, provide information*

1 to physicians and groups of physicians
2 about the quality of care furnished by
3 the physician or group of physicians to
4 individuals enrolled under this part
5 compared to cost (as determined under
6 paragraphs (2) and (3), respectively)
7 with respect to the performance period.

8 “(iii) *APPLICATION.*—The Secretary
9 shall apply the payment modifier estab-
10 lished under this subsection for items and
11 services furnished—

12 “(I) beginning on January 1,
13 2015, with respect to specific physi-
14 cians and groups of physicians the
15 Secretary determines appropriate; and

16 “(II) beginning not later than
17 January 1, 2017, with respect to all
18 physicians and groups of physicians.

19 “(C) *BUDGET NEUTRALITY.*—The payment
20 modifier established under this subsection shall
21 be implemented in a budget neutral manner.

22 “(5) *SYSTEMS-BASED CARE.*—The Secretary
23 shall, as appropriate, apply the payment modifier es-
24 tablished under this subsection in a manner that pro-
25 motes systems-based care.

1 “(6) *CONSIDERATION OF SPECIAL CIR-*
2 *CUMSTANCES OF CERTAIN PROVIDERS.*—*In applying*
3 *the payment modifier under this subsection, the Sec-*
4 *retary shall, as appropriate, take into account the*
5 *special circumstances of physicians or groups of phy-*
6 *sicians in rural areas and other underserved commu-*
7 *nities.*

8 “(7) *APPLICATION.*—*For purposes of the initial*
9 *application of the payment modifier established under*
10 *this subsection during the period beginning on Janu-*
11 *ary 1, 2015, and ending on December 31, 2016, the*
12 *term ‘physician’ has the meaning given such term in*
13 *section 1861(r). On or after January 1, 2017, the Sec-*
14 *retary may apply this subsection to eligible profes-*
15 *sionals (as defined in subsection (k)(3)(B)) as the Sec-*
16 *retary determines appropriate.*

17 “(8) *DEFINITIONS.*—*For purposes of this sub-*
18 *section:*

19 “(A) *COSTS.*—*The term ‘costs’ means ex-*
20 *penditures per individual as determined appro-*
21 *priate by the Secretary. In making the deter-*
22 *mination under the preceding sentence, the Sec-*
23 *retary may take into account the amount of*
24 *growth in expenditures per individual for a phy-*

1 *sician compared to the amount of such growth*
2 *for other physicians.*

3 *“(B) PERFORMANCE PERIOD.—The term*
4 *‘performance period’ means a period specified by*
5 *the Secretary.*

6 *“(9) COORDINATION WITH OTHER VALUE-BASED*
7 *PURCHASING REFORMS.—The Secretary shall coordi-*
8 *nate the value-based payment modifier established*
9 *under this subsection with the Physician Feedback*
10 *Program under subsection (n) and, as the Secretary*
11 *determines appropriate, other similar provisions of*
12 *this title.*

13 *“(10) LIMITATIONS ON REVIEW.—There shall be*
14 *no administrative or judicial review under section*
15 *1869, section 1878, or otherwise of—*

16 *“(A) the establishment of the value-based*
17 *payment modifier under this subsection;*

18 *“(B) the evaluation of quality of care under*
19 *paragraph (2), including the establishment of*
20 *appropriate measures of the quality of care*
21 *under paragraph (2)(B);*

22 *“(C) the evaluation of costs under para-*
23 *graph (3), including the establishment of appro-*
24 *priate measures of costs under such paragraph;*

1 “(D) the dates for implementation of the
2 value-based payment modifier;

3 “(E) the specification of the initial perform-
4 ance period and any other performance period
5 under paragraphs (4)(B)(ii) and (8)(B), respec-
6 tively;

7 “(F) the application of the value-based pay-
8 ment modifier under paragraph (7); and

9 “(G) the determination of costs under para-
10 graph (8)(A).”.

11 **SEC. 3008. PAYMENT ADJUSTMENT FOR CONDITIONS AC-**
12 **QUIRED IN HOSPITALS.**

13 (a) *IN GENERAL.*—Section 1886 of the Social Security
14 Act (42 U.S.C. 1395ww), as amended by section 3001, is
15 amended by adding at the end the following new subsection:

16 “(p) *ADJUSTMENT TO HOSPITAL PAYMENTS FOR HOS-*
17 *PITAL ACQUIRED CONDITIONS.*—

18 “(1) *IN GENERAL.*—In order to provide an in-
19 centive for applicable hospitals to reduce hospital ac-
20 quired conditions under this title, with respect to dis-
21 charges from an applicable hospital occurring during
22 fiscal year 2015 or a subsequent fiscal year, the
23 amount of payment under this section or section
24 1814(b)(3), as applicable, for such discharges during
25 the fiscal year shall be equal to 99 percent of the

1 *amount of payment that would otherwise apply to*
2 *such discharges under this section or section*
3 *1814(b)(3) (determined after the application of sub-*
4 *sections (o) and (q) and section 1814(l)(4) but with-*
5 *out regard to this subsection).*

6 “(2) *APPLICABLE HOSPITALS.—*

7 “(A) *IN GENERAL.—For purposes of this*
8 *subsection, the term ‘applicable hospital’ means*
9 *a subsection (d) hospital that meets the criteria*
10 *described in subparagraph (B).*

11 “(B) *CRITERIA DESCRIBED.—*

12 “(i) *IN GENERAL.—The criteria de-*
13 *scribed in this subparagraph, with respect*
14 *to a subsection (d) hospital, is that the sub-*
15 *section (d) hospital is in the top quartile of*
16 *all subsection (d) hospitals, relative to the*
17 *national average, of hospital acquired con-*
18 *ditions during the applicable period, as de-*
19 *termined by the Secretary.*

20 “(ii) *RISK ADJUSTMENT.—In carrying*
21 *out clause (i), the Secretary shall establish*
22 *and apply an appropriate risk adjustment*
23 *methodology.*

24 “(C) *EXEMPTION.—In the case of a hospital*
25 *that is paid under section 1814(b)(3), the Sec-*

1 *retary may exempt such hospital from the appli-*
2 *cation of this subsection if the State which is*
3 *paid under such section submits an annual re-*
4 *port to the Secretary describing how a similar*
5 *program in the State for a participating hos-*
6 *pital or hospitals achieves or surpasses the meas-*
7 *ured results in terms of patient health outcomes*
8 *and cost savings established under this sub-*
9 *section.*

10 *“(3) HOSPITAL ACQUIRED CONDITIONS.—For*
11 *purposes of this subsection, the term ‘hospital ac-*
12 *quired condition’ means a condition identified for*
13 *purposes of subsection (d)(4)(D)(iv) and any other*
14 *condition determined appropriate by the Secretary*
15 *that an individual acquires during a stay in an ap-*
16 *plicable hospital, as determined by the Secretary.*

17 *“(4) APPLICABLE PERIOD.—In this subsection,*
18 *the term ‘applicable period’ means, with respect to a*
19 *fiscal year, a period specified by the Secretary.*

20 *“(5) REPORTING TO HOSPITALS.—Prior to fiscal*
21 *year 2015 and each subsequent fiscal year, the Sec-*
22 *retary shall provide confidential reports to applicable*
23 *hospitals with respect to hospital acquired conditions*
24 *of the applicable hospital during the applicable pe-*
25 *riod.*

1 “(6) *REPORTING HOSPITAL SPECIFIC INFORMA-*
2 *TION.—*

3 “(A) *IN GENERAL.—The Secretary shall*
4 *make information available to the public regard-*
5 *ing hospital acquired conditions of each applica-*
6 *ble hospital.*

7 “(B) *OPPORTUNITY TO REVIEW AND SUBMIT*
8 *CORRECTIONS.—The Secretary shall ensure that*
9 *an applicable hospital has the opportunity to re-*
10 *view, and submit corrections for, the information*
11 *to be made public with respect to the hospital*
12 *under subparagraph (A) prior to such informa-*
13 *tion being made public.*

14 “(C) *WEBSITE.—Such information shall be*
15 *posted on the Hospital Compare Internet website*
16 *in an easily understandable format.*

17 “(7) *LIMITATIONS ON REVIEW.—There shall be*
18 *no administrative or judicial review under section*
19 *1869, section 1878, or otherwise of the following:*

20 “(A) *The criteria described in paragraph*
21 *(2)(A).*

22 “(B) *The specification of hospital acquired*
23 *conditions under paragraph (3).*

24 “(C) *The specification of the applicable pe-*
25 *riod under paragraph (4).*

1 “(D) *The provision of reports to applicable*
2 *hospitals under paragraph (5) and the informa-*
3 *tion made available to the public under para-*
4 *graph (6).”.*

5 (b) *STUDY AND REPORT ON EXPANSION OF*
6 *HEALTHCARE ACQUIRED CONDITIONS POLICY TO OTHER*
7 *PROVIDERS.—*

8 (1) *STUDY.—The Secretary of Health and*
9 *Human Services shall conduct a study on expanding*
10 *the healthcare acquired conditions policy under sub-*
11 *section (d)(4)(D) of section 1886 of the Social Secu-*
12 *rity Act (42 U.S.C. 1395ww) to payments made to*
13 *other facilities under the Medicare program under*
14 *title XVIII of the Social Security Act, including such*
15 *payments made to inpatient rehabilitation facilities,*
16 *long-term care hospitals (as described in sub-*
17 *section(d)(1)(B)(iv) of such section), hospital out-*
18 *patient departments, and other hospitals excluded*
19 *from the inpatient prospective payment system under*
20 *such section, skilled nursing facilities, ambulatory*
21 *surgical centers, and health clinics. Such study shall*
22 *include an analysis of how such policies could impact*
23 *quality of patient care, patient safety, and spending*
24 *under the Medicare program.*

1 (2) *REPORT.*—Not later than January 1, 2012,
 2 the Secretary shall submit to Congress a report con-
 3 taining the results of the study conducted under para-
 4 graph (1), together with recommendations for such
 5 legislation and administrative action as the Secretary
 6 determines appropriate.

7 **PART II—NATIONAL STRATEGY TO IMPROVE**

8 **HEALTH CARE QUALITY**

9 **SEC. 3011. NATIONAL STRATEGY.**

10 Title III of the Public Health Service Act (42 U.S.C.
 11 241 *et seq.*) is amended by adding at the end the following:

12 **“PART S—HEALTH CARE QUALITY PROGRAMS**

13 **“Subpart I—National Strategy for Quality**

14 **Improvement in Health Care**

15 **“SEC. 399HH. NATIONAL STRATEGY FOR QUALITY IMPROVE-**

16 **MENT IN HEALTH CARE.**

17 “(a) *ESTABLISHMENT OF NATIONAL STRATEGY AND*
 18 *PRIORITIES.*—

19 “(1) *NATIONAL STRATEGY.*—The Secretary,
 20 through a transparent collaborative process, shall es-
 21 tablish a national strategy to improve the delivery of
 22 health care services, patient health outcomes, and
 23 population health.

24 “(2) *IDENTIFICATION OF PRIORITIES.*—

1 “(A) *IN GENERAL.*—*The Secretary shall*
2 *identify national priorities for improvement in*
3 *developing the strategy under paragraph (1).*

4 “(B) *REQUIREMENTS.*—*The Secretary shall*
5 *ensure that priorities identified under subpara-*
6 *graph (A) will—*

7 “(i) *have the greatest potential for im-*
8 *proving the health outcomes, efficiency, and*
9 *patient-centeredness of health care for all*
10 *populations, including children and vulner-*
11 *able populations;*

12 “(ii) *identify areas in the delivery of*
13 *health care services that have the potential*
14 *for rapid improvement in the quality and*
15 *efficiency of patient care;*

16 “(iii) *address gaps in quality, effi-*
17 *ciency, comparative effectiveness informa-*
18 *tion, and health outcomes measures and*
19 *data aggregation techniques;*

20 “(iv) *improve Federal payment policy*
21 *to emphasize quality and efficiency;*

22 “(v) *enhance the use of health care*
23 *data to improve quality, efficiency, trans-*
24 *parency, and outcomes;*

1 “(vi) address the health care provided
2 to patients with high-cost chronic diseases;

3 “(vii) improve research and dissemina-
4 tion of strategies and best practices to im-
5 prove patient safety and reduce medical er-
6 rors, preventable admissions and readmis-
7 sions, and health care-associated infections;

8 “(viii) reduce health disparities across
9 health disparity populations (as defined in
10 section 485E) and geographic areas; and

11 “(ix) address other areas as determined
12 appropriate by the Secretary.

13 “(C) CONSIDERATIONS.—In identifying pri-
14 orities under subparagraph (A), the Secretary
15 shall take into consideration the recommenda-
16 tions submitted by the entity with a contract
17 under section 1890(a) of the Social Security Act
18 and other stakeholders.

19 “(D) COORDINATION WITH STATE AGEN-
20 CIES.—The Secretary shall collaborate, coordi-
21 nate, and consult with State agencies responsible
22 for administering the Medicaid program under
23 title XIX of the Social Security Act and the
24 Children’s Health Insurance Program under title
25 XXI of such Act with respect to developing and

1 *disseminating strategies, goals, models, and*
2 *timetables that are consistent with the national*
3 *priorities identified under subparagraph (A).*

4 “(b) *STRATEGIC PLAN.*—

5 “(1) *IN GENERAL.*—*The national strategy shall*
6 *include a comprehensive strategic plan to achieve the*
7 *priorities described in subsection (a).*

8 “(2) *REQUIREMENTS.*—*The strategic plan shall*
9 *include provisions for addressing, at a minimum, the*
10 *following:*

11 “(A) *Coordination among agencies within*
12 *the Department, which shall include steps to*
13 *minimize duplication of efforts and utilization of*
14 *common quality measures, where available. Such*
15 *common quality measures shall be measures*
16 *identified by the Secretary under section 1139A*
17 *or 1139B of the Social Security Act or endorsed*
18 *under section 1890 of such Act.*

19 “(B) *Agency-specific strategic plans to*
20 *achieve national priorities.*

21 “(C) *Establishment of annual benchmarks*
22 *for each relevant agency to achieve national pri-*
23 *orities.*

1 “(D) A process for regular reporting by the
2 agencies to the Secretary on the implementation
3 of the strategic plan.

4 “(E) Strategies to align public and private
5 payers with regard to quality and patient safety
6 efforts.

7 “(F) Incorporating quality improvement
8 and measurement in the strategic plan for health
9 information technology required by the American
10 Recovery and Reinvestment Act of 2009 (Public
11 Law 111–5).

12 “(c) PERIODIC UPDATE OF NATIONAL STRATEGY.—
13 The Secretary shall update the national strategy not less
14 than annually. Any such update shall include a review of
15 short- and long-term goals.

16 “(d) SUBMISSION AND AVAILABILITY OF NATIONAL
17 STRATEGY AND UPDATES.—

18 “(1) DEADLINE FOR INITIAL SUBMISSION OF NA-
19 TIONAL STRATEGY.—Not later than January 1, 2011,
20 the Secretary shall submit to the relevant committees
21 of Congress the national strategy described in sub-
22 section (a).

23 “(2) UPDATES.—

24 “(A) IN GENERAL.—The Secretary shall
25 submit to the relevant committees of Congress an

1 *annual update to the strategy described in para-*
2 *graph (1).*

3 “(B) *INFORMATION SUBMITTED.*—*Each up-*
4 *date submitted under subparagraph (A) shall in-*
5 *clude—*

6 “(i) *a review of the short- and long-*
7 *term goals of the national strategy and any*
8 *gaps in such strategy;*

9 “(ii) *an analysis of the progress, or*
10 *lack of progress, in meeting such goals and*
11 *any barriers to such progress;*

12 “(iii) *the information reported under*
13 *section 1139A of the Social Security Act,*
14 *consistent with the reporting requirements*
15 *of such section; and*

16 “(iv) *in the case of an update required*
17 *to be submitted on or after January 1,*
18 *2014, the information reported under sec-*
19 *tion 1139B(b)(4) of the Social Security Act,*
20 *consistent with the reporting requirements*
21 *of such section.*

22 “(C) *SATISFACTION OF OTHER REPORTING*
23 *REQUIREMENTS.*—*Compliance with the require-*
24 *ments of clauses (iii) and (iv) of subparagraph*
25 *(B) shall satisfy the reporting requirements*

1 *under sections 1139A(a)(6) and 1139B(b)(4), re-*
2 *spectively, of the Social Security Act.*

3 “(e) *HEALTH CARE QUALITY INTERNET WEBSITE.*—
4 *Not later than January 1, 2011, the Secretary shall create*
5 *an Internet website to make public information regard-*
6 *ing—*

7 “(1) *the national priorities for health care qual-*
8 *ity improvement established under subsection (a)(2);*

9 “(2) *the agency-specific strategic plans for health*
10 *care quality described in subsection (b)(2)(B); and*

11 “(3) *other information, as the Secretary deter-*
12 *mines to be appropriate.”.*

13 **SEC. 3012. INTERAGENCY WORKING GROUP ON HEALTH**
14 **CARE QUALITY.**

15 (a) *IN GENERAL.*—*The President shall convene a*
16 *working group to be known as the Interagency Working*
17 *Group on Health Care Quality (referred to in this section*
18 *as the “Working Group”).*

19 (b) *GOALS.*—*The goals of the Working Group shall be*
20 *to achieve the following:*

21 (1) *Collaboration, cooperation, and consultation*
22 *between Federal departments and agencies with re-*
23 *spect to developing and disseminating strategies,*
24 *goals, models, and timetables that are consistent with*
25 *the national priorities identified under section*

1 *399HH(a)(2) of the Public Health Service Act (as*
2 *added by section 3011).*

3 *(2) Avoidance of inefficient duplication of qual-*
4 *ity improvement efforts and resources, where prac-*
5 *ticable, and a streamlined process for quality report-*
6 *ing and compliance requirements.*

7 *(3) Assess alignment of quality efforts in the*
8 *public sector with private sector initiatives.*

9 *(c) COMPOSITION.—*

10 *(1) IN GENERAL.—The Working Group shall be*
11 *composed of senior level representatives of—*

12 *(A) the Department of Health and Human*
13 *Services;*

14 *(B) the Centers for Medicare & Medicaid*
15 *Services;*

16 *(C) the National Institutes of Health;*

17 *(D) the Centers for Disease Control and*
18 *Prevention;*

19 *(E) the Food and Drug Administration;*

20 *(F) the Health Resources and Services Ad-*
21 *ministration;*

22 *(G) the Agency for Healthcare Research and*
23 *Quality;*

24 *(H) the Office of the National Coordinator*
25 *for Health Information Technology;*

1 (I) *the Substance Abuse and Mental Health*
2 *Services Administration;*

3 (J) *the Administration for Children and*
4 *Families;*

5 (K) *the Department of Commerce;*

6 (L) *the Office of Management and Budget;*

7 (M) *the United States Coast Guard;*

8 (N) *the Federal Bureau of Prisons;*

9 (O) *the National Highway Traffic Safety*
10 *Administration;*

11 (P) *the Federal Trade Commission;*

12 (Q) *the Social Security Administration;*

13 (R) *the Department of Labor;*

14 (S) *the United States Office of Personnel*
15 *Management;*

16 (T) *the Department of Defense;*

17 (U) *the Department of Education;*

18 (V) *the Department of Veterans Affairs;*

19 (W) *the Veterans Health Administration;*

20 *and*

21 (X) *any other Federal agencies and depart-*
22 *ments with activities relating to improving*
23 *health care quality and safety, as determined by*
24 *the President.*

25 (2) *CHAIR AND VICE-CHAIR.—*

1 (A) *CHAIR.*—*The Working Group shall be*
2 *chaired by the Secretary of Health and Human*
3 *Services.*

4 (B) *VICE CHAIR.*—*Members of the Working*
5 *Group, other than the Secretary of Health and*
6 *Human Services, shall serve as Vice Chair of the*
7 *Group on a rotating basis, as determined by the*
8 *Group.*

9 (d) *REPORT TO CONGRESS.*—*Not later than December*
10 *31, 2010, and annually thereafter, the Working Group shall*
11 *submit to the relevant Committees of Congress, and make*
12 *public on an Internet website, a report describing the*
13 *progress and recommendations of the Working Group in*
14 *meeting the goals described in subsection (b).*

15 **SEC. 3013. QUALITY MEASURE DEVELOPMENT.**

16 (a) *PUBLIC HEALTH SERVICE ACT.*—*Title IX of the*
17 *Public Health Service Act (42 U.S.C. 299 et seq.) is amend-*
18 *ed—*

19 (1) *by redesignating part D as part E;*

20 (2) *by redesignating sections 931 through 938 as*
21 *sections 941 through 948, respectively;*

22 (3) *in section 948(1), as so redesignated, by*
23 *striking “931” and inserting “941”; and*

24 (4) *by inserting after section 926 the following:*

1 **“PART D—HEALTH CARE QUALITY IMPROVEMENT**

2 **“Subpart I—Quality Measure Development**

3 **“SEC. 931. QUALITY MEASURE DEVELOPMENT.**

4 “(a) *QUALITY MEASURE.*—*In this subpart, the term*
5 *‘quality measure’ means a standard for measuring the per-*
6 *formance and improvement of population health or of*
7 *health plans, providers of services, and other clinicians in*
8 *the delivery of health care services.*

9 “(b) *IDENTIFICATION OF QUALITY MEASURES.*—

10 “(1) *IDENTIFICATION.*—*The Secretary, in con-*
11 *sultation with the Director of the Agency for*
12 *Healthcare Research and Quality and the Adminis-*
13 *trator of the Centers for Medicare & Medicaid Serv-*
14 *ices, shall identify, not less often than triennially,*
15 *gaps where no quality measures exist and existing*
16 *quality measures that need improvement, updating,*
17 *or expansion, consistent with the national strategy*
18 *under section 399HH, to the extent available, for use*
19 *in Federal health programs. In identifying such gaps*
20 *and existing quality measures that need improvement,*
21 *the Secretary shall take into consideration—*

22 “(A) *the gaps identified by the entity with*
23 *a contract under section 1890(a) of the Social*
24 *Security Act and other stakeholders;*

1 “(B) quality measures identified by the pe-
2 diatric quality measures program under section
3 1139A of the Social Security Act; and

4 “(C) quality measures identified through
5 the Medicaid Quality Measurement Program
6 under section 1139B of the Social Security Act.

7 “(2) PUBLICATION.—The Secretary shall make
8 available to the public on an Internet website a report
9 on any gaps identified under paragraph (1) and the
10 process used to make such identification.

11 “(c) GRANTS OR CONTRACTS FOR QUALITY MEASURE
12 DEVELOPMENT.—

13 “(1) IN GENERAL.—The Secretary shall award
14 grants, contracts, or intergovernmental agreements to
15 eligible entities for purposes of developing, improving,
16 updating, or expanding quality measures identified
17 under subsection (b).

18 “(2) PRIORITIZATION IN THE DEVELOPMENT OF
19 QUALITY MEASURES.—In awarding grants, contracts,
20 or agreements under this subsection, the Secretary
21 shall give priority to the development of quality meas-
22 ures that allow the assessment of—

23 “(A) health outcomes and functional status
24 of patients;

1 “(B) the management and coordination of
2 health care across episodes of care and care tran-
3 sitions for patients across the continuum of pro-
4 viders, health care settings, and health plans;

5 “(C) the experience, quality, and use of in-
6 formation provided to and used by patients,
7 caregivers, and authorized representatives to in-
8 form decisionmaking about treatment options,
9 including the use of shared decisionmaking tools
10 and preference sensitive care (as defined in sec-
11 tion 936);

12 “(D) the meaningful use of health informa-
13 tion technology;

14 “(E) the safety, effectiveness, patient-
15 centeredness, appropriateness, and timeliness of
16 care;

17 “(F) the efficiency of care;

18 “(G) the equity of health services and health
19 disparities across health disparity populations
20 (as defined in section 485E) and geographic
21 areas;

22 “(H) patient experience and satisfaction;

23 “(I) the use of innovative strategies and
24 methodologies identified under section 933; and

1 “(J) other areas determined appropriate by
2 the Secretary.

3 “(3) *ELIGIBLE ENTITIES*.—To be eligible for a
4 grant or contract under this subsection, an entity
5 shall—

6 “(A) have demonstrated expertise and ca-
7 pacity in the development and evaluation of
8 quality measures;

9 “(B) have adopted procedures to include in
10 the quality measure development process—

11 “(i) the views of those providers or
12 payers whose performance will be assessed
13 by the measure; and

14 “(ii) the views of other parties who
15 also will use the quality measures (such as
16 patients, consumers, and health care pur-
17 chasers);

18 “(C) collaborate with the entity with a con-
19 tract under section 1890(a) of the Social Secu-
20 rity Act and other stakeholders, as practicable,
21 and the Secretary so that quality measures devel-
22 oped by the eligible entity will meet the require-
23 ments to be considered for endorsement by the
24 entity with a contract under such section
25 1890(a);

1 “(D) have transparent policies regarding
2 governance and conflicts of interest; and

3 “(E) submit an application to the Secretary
4 at such time and in such manner, as the Sec-
5 retary may require.

6 “(4) USE OF FUNDS.—An entity that receives a
7 grant, contract, or agreement under this subsection
8 shall use such award to develop quality measures that
9 meet the following requirements:

10 “(A) Such measures support measures re-
11 quired to be reported under the Social Security
12 Act, where applicable, and in support of gaps
13 and existing quality measures that need im-
14 provement, as described in subsection (b)(1)(A).

15 “(B) Such measures support measures de-
16 veloped under section 1139A of the Social Secu-
17 rity Act and the Medicaid Quality Measurement
18 Program under section 1139B of such Act, where
19 applicable.

20 “(C) To the extent practicable, data on such
21 quality measures is able to be collected using
22 health information technologies.

23 “(D) Each quality measure is free of charge
24 to users of such measure.

1 “(E) *Each quality measure is publicly*
2 *available on an Internet website.*

3 “(d) *OTHER ACTIVITIES BY THE SECRETARY.—The*
4 *Secretary may use amounts available under this section to*
5 *update and test, where applicable, quality measures en-*
6 *dorsed by the entity with a contract under section 1890(a)*
7 *of the Social Security Act or adopted by the Secretary.*

8 “(e) *COORDINATION OF GRANTS.—The Secretary shall*
9 *ensure that grants or contracts awarded under this section*
10 *are coordinated with grants and contracts awarded under*
11 *sections 1139A(5) and 1139B(4)(A) of the Social Security*
12 *Act.”.*

13 “(b) *SOCIAL SECURITY ACT.—Section 1890A of the So-*
14 *cial Security Act, as added by section 3014(b), is amended*
15 *by adding at the end the following new subsection:*

16 “(e) *DEVELOPMENT OF QUALITY MEASURES.—The*
17 *Administrator of the Center for Medicare & Medicaid Serv-*
18 *ices shall through contracts develop quality measures (as*
19 *determined appropriate by the Administrator) for use*
20 *under this Act. In developing such measures, the Adminis-*
21 *trator shall consult with the Director of the Agency for*
22 *Healthcare Research and Quality.”.*

23 “(c) *FUNDING.—There are authorized to be appro-*
24 *priated to the Secretary of Health and Human Services to*
25 *carry out this section, \$75,000,000 for each of fiscal years*

1 2010 through 2014. Of the amounts appropriated under the
2 preceding sentence in a fiscal year, not less than 50 percent
3 of such amounts shall be used pursuant to subsection (e)
4 of section 1890A of the Social Security Act, as added by
5 subsection (b), with respect to programs under such Act.
6 Amounts appropriated under this subsection for a fiscal
7 year shall remain available until expended.

8 **SEC. 3014. QUALITY MEASUREMENT.**

9 (a) *NEW DUTIES FOR CONSENSUS-BASED ENTITY.*—

10 (1) *MULTI-STAKEHOLDER GROUP INPUT.*—*Sec-*
11 *tion 1890(b) of the Social Security Act (42 U.S.C.*
12 *1395aaa(b)), as amended by section 3003, is amended*
13 *by adding at the end the following new paragraphs:*

14 “(7) *CONVENING MULTI-STAKEHOLDER*
15 *GROUPS.*—

16 “(A) *IN GENERAL.*—*The entity shall con-*
17 *vene multi-stakeholder groups to provide input*
18 *on—*

19 “(i) *the selection of quality measures*
20 *described in subparagraph (B), from*
21 *among—*

22 “(I) *such measures that have been*
23 *endorsed by the entity; and*

24 “(II) *such measures that have not*
25 *been considered for endorsement by*

1 *such entity but are used or proposed to*
2 *be used by the Secretary for the collec-*
3 *tion or reporting of quality measures;*
4 *and*

5 “(ii) *national priorities (as identified*
6 *under section 399HH of the Public Health*
7 *Service Act) for improvement in population*
8 *health and in the delivery of health care*
9 *services for consideration under the national*
10 *strategy established under section 399HH of*
11 *the Public Health Service Act.*

12 “(B) *QUALITY MEASURES.—*

13 “(i) *IN GENERAL.—Subject to clause*
14 *(ii), the quality measures described in this*
15 *subparagraph are quality measures—*

16 “(I) *for use pursuant to sections*
17 *1814(i)(5)(D), 1833(i)(7), 1833(t)(17),*
18 *1848(k)(2)(C), 1866(k)(3),*
19 *1881(h)(2)(A)(iii), 1886(b)(3)(B)(viii),*
20 *1886(j)(7)(D), 1886(m)(5)(D),*
21 *1886(o)(2), and 1895(b)(3)(B)(v);*

22 “(II) *for use in reporting per-*
23 *formance information to the public;*
24 *and*

1 “(III) for use in health care pro-
2 grams other than for use under this
3 Act.

4 “(i) *EXCLUSION.*—Data sets (such as
5 the outcome and assessment information set
6 for home health services and the minimum
7 data set for skilled nursing facility services)
8 that are used for purposes of classification
9 systems used in establishing payment rates
10 under this title shall not be quality meas-
11 ures described in this subparagraph.

12 “(C) *REQUIREMENT FOR TRANSPARENCY IN*
13 *PROCESS.*—

14 “(i) *IN GENERAL.*—In convening
15 multi-stakeholder groups under subpara-
16 graph (A) with respect to the selection of
17 quality measures, the entity shall provide
18 for an open and transparent process for the
19 activities conducted pursuant to such con-
20 vening.

21 “(ii) *SELECTION OF ORGANIZATIONS*
22 *PARTICIPATING IN MULTI-STAKEHOLDER*
23 *GROUPS.*—The process described in clause
24 (i) shall ensure that the selection of rep-
25 resentatives comprising such groups pro-

1 *vides for public nominations for, and the*
2 *opportunity for public comment on, such se-*
3 *lection.*

4 “(D) *MULTI-STAKEHOLDER GROUP DE-*
5 *FINED.—In this paragraph, the term ‘multi-*
6 *stakeholder group’ means, with respect to a qual-*
7 *ity measure, a voluntary collaborative of organi-*
8 *zations representing a broad group of stake-*
9 *holders interested in or affected by the use of*
10 *such quality measure.*

11 “(8) *TRANSMISSION OF MULTI-STAKEHOLDER*
12 *INPUT.—Not later than February 1 of each year (be-*
13 *ginning with 2012), the entity shall transmit to the*
14 *Secretary the input of multi-stakeholder groups pro-*
15 *vided under paragraph (7).”.*

16 (2) *ANNUAL REPORT.—Section 1890(b)(5)(A) of*
17 *the Social Security Act (42 U.S.C. 1395aaa(b)(5)(A))*
18 *is amended—*

19 (A) *in clause (ii), by striking “and” at the*
20 *end;*

21 (B) *in clause (iii), by striking the period at*
22 *the end and inserting a semicolon; and*

23 (C) *by adding at the end the following new*
24 *clauses:*

1 “(iv) gaps in endorsed quality meas-
 2 ures, which shall include measures that are
 3 within priority areas identified by the Sec-
 4 retary under the national strategy estab-
 5 lished under section 399HH of the Public
 6 Health Service Act, and where quality
 7 measures are unavailable or inadequate to
 8 identify or address such gaps;

9 “(v) areas in which evidence is insuffi-
 10 cient to support endorsement of quality
 11 measures in priority areas identified by the
 12 Secretary under the national strategy estab-
 13 lished under section 399HH of the Public
 14 Health Service Act and where targeted re-
 15 search may address such gaps; and

16 “(vi) the matters described in clauses
 17 (i) and (ii) of paragraph (7)(A).”.

18 (b) *MULTI-STAKEHOLDER GROUP INPUT INTO SELEC-*
 19 *TION OF QUALITY MEASURES.*—Title XVIII of the Social
 20 Security Act (42 U.S.C. 1395 et seq.) is amended by insert-
 21 ing after section 1890 the following:

22 “QUALITY MEASUREMENT

23 “SEC. 1890A. (a) *MULTI-STAKEHOLDER GROUP INPUT*
 24 *INTO SELECTION OF QUALITY MEASURES.*—The Secretary
 25 shall establish a pre-rulemaking process under which the

1 *following steps occur with respect to the selection of quality*
2 *measures described in section 1890(b)(7)(B):*

3 “(1) *INPUT.—Pursuant to section 1890(b)(7), the*
4 *entity with a contract under section 1890 shall con-*
5 *vene multi-stakeholder groups to provide input to the*
6 *Secretary on the selection of quality measures de-*
7 *scribed in subparagraph (B) of such paragraph.*

8 “(2) *PUBLIC AVAILABILITY OF MEASURES CON-*
9 *SIDERED FOR SELECTION.—Not later than December*
10 *1 of each year (beginning with 2011), the Secretary*
11 *shall make available to the public a list of quality*
12 *measures described in section 1890(b)(7)(B) that the*
13 *Secretary is considering under this title.*

14 “(3) *TRANSMISSION OF MULTI-STAKEHOLDER*
15 *INPUT.—Pursuant to section 1890(b)(8), not later*
16 *than February 1 of each year (beginning with 2012),*
17 *the entity shall transmit to the Secretary the input of*
18 *multi-stakeholder groups described in paragraph (1).*

19 “(4) *CONSIDERATION OF MULTI-STAKEHOLDER*
20 *INPUT.—The Secretary shall take into consideration*
21 *the input from multi-stakeholder groups described in*
22 *paragraph (1) in selecting quality measures described*
23 *in section 1890(b)(7)(B) that have been endorsed by*
24 *the entity with a contract under section 1890 and*
25 *measures that have not been endorsed by such entity.*

1 “(5) *RATIONALE FOR USE OF QUALITY MEAS-*
2 *URES.—The Secretary shall publish in the Federal*
3 *Register the rationale for the use of any quality meas-*
4 *ure described in section 1890(b)(7)(B) that has not*
5 *been endorsed by the entity with a contract under sec-*
6 *tion 1890.*

7 “(6) *ASSESSMENT OF IMPACT.—Not later than*
8 *March 1, 2012, and at least once every three years*
9 *thereafter, the Secretary shall—*

10 “(A) *conduct an assessment of the quality*
11 *impact of the use of endorsed measures described*
12 *in section 1890(b)(7)(B); and*

13 “(B) *make such assessment available to the*
14 *public.*

15 “(b) *PROCESS FOR DISSEMINATION OF MEASURES*
16 *USED BY THE SECRETARY.—*

17 “(1) *IN GENERAL.—The Secretary shall establish*
18 *a process for disseminating quality measures used by*
19 *the Secretary. Such process shall include the fol-*
20 *lowing:*

21 “(A) *The incorporation of such measures,*
22 *where applicable, in workforce programs, train-*
23 *ing curricula, and any other means of dissemi-*
24 *nation determined appropriate by the Secretary.*

1 “(B) *The dissemination of such quality*
2 *measures through the national strategy developed*
3 *under section 399HH of the Public Health Serv-*
4 *ice Act.*

5 “(2) *EXISTING METHODS.—To the extent prac-*
6 *ticable, the Secretary shall utilize and expand exist-*
7 *ing dissemination methods in disseminating quality*
8 *measures under the process established under para-*
9 *graph (1).*

10 “(c) *REVIEW OF QUALITY MEASURES USED BY THE*
11 *SECRETARY.—*

12 “(1) *IN GENERAL.—The Secretary shall—*

13 “(A) *periodically (but in no case less often*
14 *than once every 3 years) review quality measures*
15 *described in section 1890(b)(7)(B); and*

16 “(B) *with respect to each such measure, de-*
17 *termine whether to—*

18 “(i) *maintain the use of such measure;*

19 *or*

20 “(ii) *phase out such measure.*

21 “(2) *CONSIDERATIONS.—In conducting the re-*
22 *view under paragraph (1), the Secretary shall take*
23 *steps to—*

24 “(A) *seek to avoid duplication of measures*
25 *used; and*

1 “(B) take into consideration current inno-
2 vative methodologies and strategies for quality
3 improvement practices in the delivery of health
4 care services that represent best practices for
5 such quality improvement and measures en-
6 dorsed by the entity with a contract under sec-
7 tion 1890 since the previous review by the Sec-
8 retary.

9 “(d) *RULE OF CONSTRUCTION.*—Nothing in this sec-
10 tion shall preclude a State from using the quality measures
11 identified under sections 1139A and 1139B.”.

12 (c) *FUNDING.*—For purposes of carrying out the
13 amendments made by this section, the Secretary shall pro-
14 vide for the transfer, from the Federal Hospital Insurance
15 Trust Fund under section 1817 of the Social Security Act
16 (42 U.S.C. 1395i) and the Federal Supplementary Medical
17 Insurance Trust Fund under section 1841 of such Act (42
18 U.S.C. 1395t), in such proportion as the Secretary deter-
19 mines appropriate, of \$20,000,000, to the Centers for Medi-
20 care & Medicaid Services Program Management Account
21 for each of fiscal years 2010 through 2014. Amounts trans-
22 ferred under the preceding sentence shall remain available
23 until expended.

1 **SEC. 3015. DATA COLLECTION; PUBLIC REPORTING.**

2 *Title III of the Public Health Service Act (42 U.S.C.*
3 *241 et seq.), as amended by section 3011, is further amend-*
4 *ed by adding at the end the following:*

5 **“SEC. 399II. COLLECTION AND ANALYSIS OF DATA FOR**
6 **QUALITY AND RESOURCE USE MEASURES.**

7 *“(a) IN GENERAL.—The Secretary shall collect and ag-*
8 *gregate consistent data on quality and resource use meas-*
9 *ures from information systems used to support health care*
10 *delivery to implement the public reporting of performance*
11 *information, as described in section 399JJ, and may award*
12 *grants or contracts for this purpose. The Secretary shall en-*
13 *sure that such collection, aggregation, and analysis systems*
14 *span an increasingly broad range of patient populations,*
15 *providers, and geographic areas over time.*

16 *“(b) GRANTS OR CONTRACTS FOR DATA COLLEC-*
17 *TION.—*

18 *“(1) IN GENERAL.—The Secretary may award*
19 *grants or contracts to eligible entities to support new,*
20 *or improve existing, efforts to collect and aggregate*
21 *quality and resource use measures described under*
22 *subsection (c).*

23 *“(2) ELIGIBLE ENTITIES.—To be eligible for a*
24 *grant or contract under this subsection, an entity*
25 *shall—*

26 *“(A) be—*

1 “(i) a multi-stakeholder entity that co-
2 ordinates the development of methods and
3 implementation plans for the consistent re-
4 porting of summary quality and cost infor-
5 mation;

6 “(ii) an entity capable of submitting
7 such summary data for a particular popu-
8 lation and providers, such as a disease reg-
9 istry, regional collaboration, health plan
10 collaboration, or other population-wide
11 source; or

12 “(iii) a Federal Indian Health Service
13 program or a health program operated by
14 an Indian tribe (as defined in section 4 of
15 the Indian Health Care Improvement Act);

16 “(B) promote the use of the systems that
17 provide data to improve and coordinate patient
18 care;

19 “(C) support the provision of timely, con-
20 sistent quality and resource use information to
21 health care providers, and other groups and or-
22 ganizations as appropriate, with an opportunity
23 for providers to correct inaccurate measures; and

24 “(D) agree to report, as determined by the
25 Secretary, measures on quality and resource use

1 to the public in accordance with the public re-
2 porting process established under section 399JJ.

3 “(c) *CONSISTENT DATA AGGREGATION.*—The Sec-
4 retary may award grants or contracts under this section
5 only to entities that enable summary data that can be inte-
6 grated and compared across multiple sources. The Secretary
7 shall provide standards for the protection of the security
8 and privacy of patient data.

9 “(d) *MATCHING FUNDS.*—The Secretary may not
10 award a grant or contract under this section to an entity
11 unless the entity agrees that it will make available (directly
12 or through contributions from other public or private enti-
13 ties) non-Federal contributions toward the activities to be
14 carried out under the grant or contract in an amount equal
15 to \$1 for each \$5 of Federal funds provided under the grant
16 or contract. Such non-Federal matching funds may be pro-
17 vided directly or through donations from public or private
18 entities and may be in cash or in-kind, fairly evaluated,
19 including plant, equipment, or services.

20 “(e) *AUTHORIZATION OF APPROPRIATIONS.*—To carry
21 out this section, there are authorized to be appropriated
22 such sums as may be necessary for fiscal years 2010 through
23 2014.

1 **“SEC. 399JJ. PUBLIC REPORTING OF PERFORMANCE INFOR-**
2 **MATION.**

3 *“(a) DEVELOPMENT OF PERFORMANCE WEBSITES.—*
4 *The Secretary shall make available to the public, through*
5 *standardized Internet websites, performance information*
6 *summarizing data on quality measures. Such information*
7 *shall be tailored to respond to the differing needs of hos-*
8 *pitals and other institutional health care providers, physi-*
9 *cians and other clinicians, patients, consumers, researchers,*
10 *policymakers, States, and other stakeholders, as the Sec-*
11 *retary may specify.*

12 *“(b) INFORMATION ON CONDITIONS.—The performance*
13 *information made publicly available on an Internet*
14 *website, as described in subsection (a), shall include infor-*
15 *mation regarding clinical conditions to the extent such in-*
16 *formation is available, and the information shall, where ap-*
17 *propriate, be provider-specific and sufficiently*
18 *disaggregated and specific to meet the needs of patients with*
19 *different clinical conditions.*

20 *“(c) CONSULTATION.—*

21 *“(1) IN GENERAL.—In carrying out this section,*
22 *the Secretary shall consult with the entity with a con-*
23 *tract under section 1890(a) of the Social Security*
24 *Act, and other entities, as appropriate, to determine*
25 *the type of information that is useful to stakeholders*

1 *and the format that best facilitates use of the reports*
2 *and of performance reporting Internet websites.*

3 “(2) *CONSULTATION WITH STAKEHOLDERS.*—*The*
4 *entity with a contract under section 1890(a) of the*
5 *Social Security Act shall convene multi-stakeholder*
6 *groups, as described in such section, to review the de-*
7 *sign and format of each Internet website made avail-*
8 *able under subsection (a) and shall transmit to the*
9 *Secretary the views of such multi-stakeholder groups*
10 *with respect to each such design and format.*

11 “(d) *COORDINATION.*—*Where appropriate, the Sec-*
12 *retary shall coordinate the manner in which data are pre-*
13 *sented through Internet websites described in subsection (a)*
14 *and for public reporting of other quality measures by the*
15 *Secretary, including such quality measures under title*
16 *XVIII of the Social Security Act.*

17 “(e) *AUTHORIZATION OF APPROPRIATIONS.*—*To carry*
18 *out this section, there are authorized to be appropriated*
19 *such sums as may be necessary for fiscal years 2010 through*
20 *2014.”.*

1 **PART III—ENCOURAGING DEVELOPMENT OF NEW**
2 **PATIENT CARE MODELS**

3 **SEC. 3021. ESTABLISHMENT OF CENTER FOR MEDICARE**
4 **AND MEDICAID INNOVATION WITHIN CMS.**

5 (a) *IN GENERAL.*—Title XI of the Social Security Act
6 is amended by inserting after section 1115 the following
7 new section:

8 “CENTER FOR MEDICARE AND MEDICAID INNOVATION

9 “SEC. 1115A. (a) CENTER FOR MEDICARE AND MED-
10 ICAID INNOVATION ESTABLISHED.—

11 “(1) *IN GENERAL.*—There is created within the
12 Centers for Medicare & Medicaid Services a Center
13 for Medicare and Medicaid Innovation (in this sec-
14 tion referred to as the ‘CMI’) to carry out the duties
15 described in this section. The purpose of the CMI is
16 to test innovative payment and service delivery mod-
17 els to reduce program expenditures under the applica-
18 ble titles while preserving or enhancing the quality of
19 care furnished to individuals under such titles. In se-
20 lecting such models, the Secretary shall give pref-
21 erence to models that also improve the coordination,
22 quality, and efficiency of health care services fur-
23 nished to applicable individuals defined in paragraph
24 (4)(A).

1 “(2) *DEADLINE.*—*The Secretary shall ensure*
2 *that the CMI is carrying out the duties described in*
3 *this section by not later than January 1, 2011.*

4 “(3) *CONSULTATION.*—*In carrying out the duties*
5 *under this section, the CMI shall consult representa-*
6 *tives of relevant Federal agencies, and clinical and*
7 *analytical experts with expertise in medicine and*
8 *health care management. The CMI shall use open door*
9 *forums or other mechanisms to seek input from inter-*
10 *ested parties.*

11 “(4) *DEFINITIONS.*—*In this section:*

12 “(A) *APPLICABLE INDIVIDUAL.*—*The term*
13 *‘applicable individual’ means—*

14 “(i) *an individual who is entitled to,*
15 *or enrolled for, benefits under part A of title*
16 *XVIII or enrolled for benefits under part B*
17 *of such title;*

18 “(ii) *an individual who is eligible for*
19 *medical assistance under title XIX, under a*
20 *State plan or waiver; or*

21 “(iii) *an individual who meets the cri-*
22 *teria of both clauses (i) and (ii).*

23 “(B) *APPLICABLE TITLE.*—*The term ‘appli-*
24 *cable title’ means title XVIII, title XIX, or both.*

25 “(b) *TESTING OF MODELS (PHASE I).*—

1 “(1) *IN GENERAL.*—*The CMI shall test payment*
2 *and service delivery models in accordance with selec-*
3 *tion criteria under paragraph (2) to determine the ef-*
4 *fect of applying such models under the applicable title*
5 *(as defined in subsection (a)(4)(B)) on program ex-*
6 *penditures under such titles and the quality of care*
7 *received by individuals receiving benefits under such*
8 *title.*

9 “(2) *SELECTION OF MODELS TO BE TESTED.*—

10 “(A) *IN GENERAL.*—*The Secretary shall se-*
11 *lect models to be tested from models where the*
12 *Secretary determines that there is evidence that*
13 *the model addresses a defined population for*
14 *which there are deficits in care leading to poor*
15 *clinical outcomes or potentially avoidable ex-*
16 *penditures. The models selected under the pre-*
17 *ceding sentence may include the models described*
18 *in subparagraph (B).*

19 “(B) *OPPORTUNITIES.*—*The models de-*
20 *scribed in this subparagraph are the following*
21 *models:*

22 “(i) *Promoting broad payment and*
23 *practice reform in primary care, including*
24 *patient-centered medical home models for*
25 *high-need applicable individuals, medical*

1 *homes that address women’s unique health*
2 *care needs, and models that transition pri-*
3 *mary care practices away from fee-for-serv-*
4 *ice based reimbursement and toward com-*
5 *prehensive payment or salary-based pay-*
6 *ment.*

7 “(ii) *Contracting directly with groups*
8 *of providers of services and suppliers to pro-*
9 *mote innovative care delivery models, such*
10 *as through risk-based comprehensive pay-*
11 *ment or salary-based payment.*

12 “(iii) *Utilizing geriatric assessments*
13 *and comprehensive care plans to coordinate*
14 *the care (including through interdiscipli-*
15 *nary teams) of applicable individuals with*
16 *multiple chronic conditions and at least one*
17 *of the following:*

18 “(I) *An inability to perform 2 or*
19 *more activities of daily living.*

20 “(II) *Cognitive impairment, in-*
21 *cluding dementia.*

22 “(iv) *Promote care coordination be-*
23 *tween providers of services and suppliers*
24 *that transition health care providers away*

1 *from fee-for-service based reimbursement*
2 *and toward salary-based payment.*

3 “(v) *Supporting care coordination for*
4 *chronically-ill applicable individuals at*
5 *high risk of hospitalization through a health*
6 *information technology-enabled provider*
7 *network that includes care coordinators, a*
8 *chronic disease registry, and home tele-*
9 *health technology.*

10 “(vi) *Varying payment to physicians*
11 *who order advanced diagnostic imaging*
12 *services (as defined in section*
13 *1834(e)(1)(B)) according to the physician’s*
14 *adherence to appropriateness criteria for the*
15 *ordering of such services, as determined in*
16 *consultation with physician specialty*
17 *groups and other relevant stakeholders.*

18 “(vii) *Utilizing medication therapy*
19 *management services, such as those de-*
20 *scribed in section 935 of the Public Health*
21 *Service Act.*

22 “(viii) *Establishing community-based*
23 *health teams to support small-practice med-*
24 *ical homes by assisting the primary care*
25 *practitioner in chronic care management,*

1 including patient self-management, activi-
2 ties.

3 “(ix) Assisting applicable individuals
4 in making informed health care choices by
5 paying providers of services and suppliers
6 for using patient decision-support tools, in-
7 cluding tools that meet the standards devel-
8 oped and identified under section
9 936(c)(2)(A) of the Public Health Service
10 Act, that improve applicable individual and
11 caregiver understanding of medical treat-
12 ment options.

13 “(x) Allowing States to test and evalu-
14 ate fully integrating care for dual eligible
15 individuals in the State, including the
16 management and oversight of all funds
17 under the applicable titles with respect to
18 such individuals.

19 “(xi) Allowing States to test and evalu-
20 ate systems of all-payer payment reform for
21 the medical care of residents of the State,
22 including dual eligible individuals.

23 “(xii) Aligning nationally recognized,
24 evidence-based guidelines of cancer care
25 with payment incentives under title XVIII

1 *in the areas of treatment planning and fol-*
2 *low-up care planning for applicable indi-*
3 *viduals described in clause (i) or (iii) of*
4 *subsection (a)(4)(A) with cancer, including*
5 *the identification of gaps in applicable*
6 *quality measures.*

7 *“(xiii) Improving post-acute care*
8 *through continuing care hospitals that offer*
9 *inpatient rehabilitation, long-term care hos-*
10 *pitals, and home health or skilled nursing*
11 *care during an inpatient stay and the 30*
12 *days immediately following discharge.*

13 *“(xiv) Funding home health providers*
14 *who offer chronic care management services*
15 *to applicable individuals in cooperation*
16 *with interdisciplinary teams.*

17 *“(xv) Promoting improved quality and*
18 *reduced cost by developing a collaborative of*
19 *high-quality, low-cost health care institu-*
20 *tions that is responsible for—*

21 *“(I) developing, documenting, and*
22 *disseminating best practices and prov-*
23 *en care methods;*

24 *“(II) implementing such best*
25 *practices and proven care methods*

1 *within such institutions to demonstrate*
2 *further improvements in quality and*
3 *efficiency; and*

4 “(III) *providing assistance to*
5 *other health care institutions on how*
6 *best to employ such best practices and*
7 *proven care methods to improve health*
8 *care quality and lower costs.*

9 “(xvi) *Facilitate inpatient care, in-*
10 *cluding intensive care, of hospitalized appli-*
11 *cable individuals at their local hospital*
12 *through the use of electronic monitoring by*
13 *specialists, including intensivists and crit-*
14 *ical care specialists, based at integrated*
15 *health systems.*

16 “(xvii) *Promoting greater efficiencies*
17 *and timely access to outpatient services*
18 *(such as outpatient physical therapy serv-*
19 *ices) through models that do not require a*
20 *physician or other health professional to*
21 *refer the service or be involved in estab-*
22 *lishing the plan of care for the service, when*
23 *such service is furnished by a health profes-*
24 *sional who has the authority to furnish the*
25 *service under existing State law.*

1 “(xviii) *Establishing comprehensive*
2 *payments to Healthcare Innovation Zones,*
3 *consisting of groups of providers that in-*
4 *clude a teaching hospital, physicians, and*
5 *other clinical entities, that, through their*
6 *structure, operations, and joint-activity de-*
7 *liver a full spectrum of integrated and com-*
8 *prehensive health care services to applicable*
9 *individuals while also incorporating inno-*
10 *vative methods for the clinical training of*
11 *future health care professionals.*

12 “(C) *ADDITIONAL FACTORS FOR CONSIDER-*
13 *ATION.—In selecting models for testing under*
14 *subparagraph (A), the CMI may consider the fol-*
15 *lowing additional factors:*

16 “(i) *Whether the model includes a reg-*
17 *ular process for monitoring and updating*
18 *patient care plans in a manner that is con-*
19 *sistent with the needs and preferences of ap-*
20 *plicable individuals.*

21 “(ii) *Whether the model places the ap-*
22 *plicable individual, including family mem-*
23 *bers and other informal caregivers of the*
24 *applicable individual, at the center of the*
25 *care team of the applicable individual.*

1 “(iii) Whether the model provides for
2 in-person contact with applicable individ-
3 uals.

4 “(iv) Whether the model utilizes tech-
5 nology, such as electronic health records and
6 patient-based remote monitoring systems, to
7 coordinate care over time and across set-
8 tings.

9 “(v) Whether the model provides for the
10 maintenance of a close relationship between
11 care coordinators, primary care practi-
12 tioners, specialist physicians, community-
13 based organizations, and other providers of
14 services and suppliers.

15 “(vi) Whether the model relies on a
16 team-based approach to interventions, such
17 as comprehensive care assessments, care
18 planning, and self-management coaching.

19 “(vii) Whether, under the model, pro-
20 viders of services and suppliers are able to
21 share information with patients, caregivers,
22 and other providers of services and sup-
23 pliers on a real time basis.

24 “(3) BUDGET NEUTRALITY.—

1 “(A) *INITIAL PERIOD.*—*The Secretary shall*
2 *not require, as a condition for testing a model*
3 *under paragraph (1), that the design of such*
4 *model ensure that such model is budget neutral*
5 *initially with respect to expenditures under the*
6 *applicable title.*

7 “(B) *TERMINATION OR MODIFICATION.*—*The*
8 *Secretary shall terminate or modify the design*
9 *and implementation of a model unless the Sec-*
10 *retary determines (and the Chief Actuary of the*
11 *Centers for Medicare & Medicaid Services, with*
12 *respect to program spending under the applica-*
13 *ble title, certifies), after testing has begun, that*
14 *the model is expected to—*

15 “(i) *improve the quality of care (as de-*
16 *termined by the Administrator of the Cen-*
17 *ters for Medicare & Medicaid Services)*
18 *without increasing spending under the ap-*
19 *plicable title;*

20 “(ii) *reduce spending under the appli-*
21 *cable title without reducing the quality of*
22 *care; or*

23 “(iii) *improve the quality of care and*
24 *reduce spending.*

1 *Such termination may occur at any time after*
2 *such testing has begun and before completion of*
3 *the testing.*

4 “(4) *EVALUATION.*—

5 “(A) *IN GENERAL.*—*The Secretary shall*
6 *conduct an evaluation of each model tested under*
7 *this subsection. Such evaluation shall include an*
8 *analysis of—*

9 “(i) *the quality of care furnished under*
10 *the model, including the measurement of*
11 *patient-level outcomes and patient-*
12 *centeredness criteria determined appro-*
13 *priate by the Secretary; and*

14 “(ii) *the changes in spending under the*
15 *applicable titles by reason of the model.*

16 “(B) *INFORMATION.*—*The Secretary shall*
17 *make the results of each evaluation under this*
18 *paragraph available to the public in a timely*
19 *fashion and may establish requirements for*
20 *States and other entities participating in the*
21 *testing of models under this section to collect and*
22 *report information that the Secretary determines*
23 *is necessary to monitor and evaluate such mod-*
24 *els.*

1 “(c) *EXPANSION OF MODELS (PHASE II).*—Taking
2 *into account the evaluation under subsection (b)(4), the Sec-*
3 *retary may, through rulemaking, expand (including imple-*
4 *mentation on a nationwide basis) the duration and the*
5 *scope of a model that is being tested under subsection (b)*
6 *or a demonstration project under section 1866C, to the ex-*
7 *tent determined appropriate by the Secretary, if—*

8 “(1) *the Secretary determines that such expan-*
9 *sion is expected to—*

10 “(A) *reduce spending under applicable title*
11 *without reducing the quality of care; or*

12 “(B) *improve the quality of care and reduce*
13 *spending; and*

14 “(2) *the Chief Actuary of the Centers for Medi-*
15 *care & Medicaid Services certifies that such expan-*
16 *sion would reduce program spending under applicable*
17 *titles.*

18 “(d) *IMPLEMENTATION.*—

19 “(1) *WAIVER AUTHORITY.*—*The Secretary may*
20 *waive such requirements of titles XI and XVIII and*
21 *of sections 1902(a)(1), 1902(a)(13), and*
22 *1903(m)(2)(A)(iii) as may be necessary solely for*
23 *purposes of carrying out this section with respect to*
24 *testing models described in subsection (b).*

1 “(2) *LIMITATIONS ON REVIEW.*—*There shall be*
2 *no administrative or judicial review under section*
3 *1869, section 1878, or otherwise of—*

4 “(A) *the selection of models for testing or*
5 *expansion under this section;*

6 “(B) *the selection of organizations, sites, or*
7 *participants to test those models selected;*

8 “(C) *the elements, parameters, scope, and*
9 *duration of such models for testing or dissemina-*
10 *tion;*

11 “(D) *determinations regarding budget neu-*
12 *trality under subsection (b)(3);*

13 “(E) *the termination or modification of the*
14 *design and implementation of a model under*
15 *subsection (b)(3)(B); and*

16 “(F) *determinations about expansion of the*
17 *duration and scope of a model under subsection*
18 *(c), including the determination that a model is*
19 *not expected to meet criteria described in para-*
20 *graph (1) or (2) of such subsection.*

21 “(3) *ADMINISTRATION.*—*Chapter 35 of title 44,*
22 *United States Code, shall not apply to the testing and*
23 *evaluation of models or expansion of such models*
24 *under this section.*

1 “(e) *APPLICATION TO CHIP.*—*The Center may carry*
2 *out activities under this section with respect to title XXI*
3 *in the same manner as provided under this section with*
4 *respect to the program under the applicable titles.*

5 “(f) *FUNDING.*—

6 “(1) *IN GENERAL.*—*There are appropriated,*
7 *from amounts in the Treasury not otherwise appro-*
8 *priated—*

9 “(A) *\$5,000,000 for the design, implementa-*
10 *tion, and evaluation of models under subsection*
11 *(b) for fiscal year 2010;*

12 “(B) *\$10,000,000,000 for the activities ini-*
13 *tiated under this section for the period of fiscal*
14 *years 2011 through 2019; and*

15 “(C) *the amount described in subparagraph*
16 *(B) for the activities initiated under this section*
17 *for each subsequent 10-year fiscal period (begin-*
18 *ning with the 10-year fiscal period beginning*
19 *with fiscal year 2020).*

20 *Amounts appropriated under the preceding sentence*
21 *shall remain available until expended.*

22 “(2) *USE OF CERTAIN FUNDS.*—*Out of amounts*
23 *appropriated under subparagraphs (B) and (C) of*
24 *paragraph (1), not less than \$25,000,000 shall be*

1 *made available each such fiscal year to design, imple-*
2 *ment, and evaluate models under subsection (b).*

3 “(g) *REPORT TO CONGRESS.—Beginning in 2012, and*
4 *not less than once every other year thereafter, the Secretary*
5 *shall submit to Congress a report on activities under this*
6 *section. Each such report shall describe the models tested*
7 *under subsection (b), including the number of individuals*
8 *described in subsection (a)(4)(A)(i) and of individuals de-*
9 *scribed in subsection (a)(4)(A)(ii) participating in such*
10 *models and payments made under applicable titles for serv-*
11 *ices on behalf of such individuals, any models chosen for*
12 *expansion under subsection (c), and the results from evalua-*
13 *tions under subsection (b)(4). In addition, each such report*
14 *shall provide such recommendations as the Secretary deter-*
15 *mines are appropriate for legislative action to facilitate the*
16 *development and expansion of successful payment models.”.*

17 (b) *MEDICAID CONFORMING AMENDMENT.—Section*
18 *1902(a) of the Social Security Act (42 U.S.C. 1396a(a)),*
19 *as amended by section 8002(b), is amended—*

20 (1) *in paragraph (81), by striking “and” at the*
21 *end;*

22 (2) *in paragraph (82), by striking the period at*
23 *the end and inserting “; and”; and*

24 (3) *by inserting after paragraph (82) the fol-*
25 *lowing new paragraph:*

1 “(83) provide for implementation of the payment
2 models specified by the Secretary under section
3 1115A(c) for implementation on a nationwide basis
4 unless the State demonstrates to the satisfaction of the
5 Secretary that implementation would not be adminis-
6 tratively feasible or appropriate to the health care de-
7 livery system of the State.”.

8 (c) *REVISIONS TO HEALTH CARE QUALITY DEM-*
9 *ONSTRATION PROGRAM.*—Subsections (b) and (f) of section
10 1866C of the Social Security Act (42 U.S.C. 1395cc–3) are
11 amended by striking “5-year” each place it appears.

12 **SEC. 3022. MEDICARE SHARED SAVINGS PROGRAM.**

13 *Title XVIII of the Social Security Act (42 U.S.C. 1395*
14 *et seq.) is amended by adding at the end the following new*
15 *section:*

16 “SHARED SAVINGS PROGRAM

17 “SEC. 1899. (a) *ESTABLISHMENT.*—

18 “(1) *IN GENERAL.*—Not later than January 1,
19 2012, the Secretary shall establish a shared savings
20 program (in this section referred to as the ‘program’)
21 that promotes accountability for a patient population
22 and coordinates items and services under parts A and
23 B, and encourages investment in infrastructure and
24 redesigned care processes for high quality and effi-
25 cient service delivery. Under such program—

1 “(A) groups of providers of services and
2 suppliers meeting criteria specified by the Sec-
3 retary may work together to manage and coordi-
4 nate care for Medicare fee-for-service bene-
5 ficiaries through an accountable care organiza-
6 tion (referred to in this section as an ‘ACO’);
7 and

8 “(B) ACOs that meet quality performance
9 standards established by the Secretary are eligi-
10 ble to receive payments for shared savings under
11 subsection (d)(2).

12 “(b) ELIGIBLE ACOS.—

13 “(1) IN GENERAL.—Subject to the succeeding
14 provisions of this subsection, as determined appro-
15 priate by the Secretary, the following groups of pro-
16 viders of services and suppliers which have established
17 a mechanism for shared governance are eligible to
18 participate as ACOs under the program under this
19 section:

20 “(A) ACO professionals in group practice
21 arrangements.

22 “(B) Networks of individual practices of
23 ACO professionals.

24 “(C) Partnerships or joint venture arrange-
25 ments between hospitals and ACO professionals.

1 “(D) *Hospitals employing ACO profes-*
2 *sionals.*

3 “(E) *Such other groups of providers of serv-*
4 *ices and suppliers as the Secretary determines*
5 *appropriate.*

6 “(2) *REQUIREMENTS.—An ACO shall meet the*
7 *following requirements:*

8 “(A) *The ACO shall be willing to become*
9 *accountable for the quality, cost, and overall care*
10 *of the Medicare fee-for-service beneficiaries as-*
11 *signed to it.*

12 “(B) *The ACO shall enter into an agree-*
13 *ment with the Secretary to participate in the*
14 *program for not less than a 3-year period (re-*
15 *ferred to in this section as the ‘agreement pe-*
16 *riod’).*

17 “(C) *The ACO shall have a formal legal*
18 *structure that would allow the organization to*
19 *receive and distribute payments for shared sav-*
20 *ings under subsection (d)(2) to participating*
21 *providers of services and suppliers.*

22 “(D) *The ACO shall include primary care*
23 *ACO professionals that are sufficient for the*
24 *number of Medicare fee-for-service beneficiaries*
25 *assigned to the ACO under subsection (c). At a*

1 *minimum, the ACO shall have at least 5,000*
2 *such beneficiaries assigned to it under subsection*
3 *(c) in order to be eligible to participate in the*
4 *ACO program.*

5 “(E) *The ACO shall provide the Secretary*
6 *with such information regarding ACO profes-*
7 *sionals participating in the ACO as the Sec-*
8 *retary determines necessary to support the as-*
9 *ignment of Medicare fee-for-service beneficiaries*
10 *to an ACO, the implementation of quality and*
11 *other reporting requirements under paragraph*
12 *(3), and the determination of payments for*
13 *shared savings under subsection (d)(2).*

14 “(F) *The ACO shall have in place a leader-*
15 *ship and management structure that includes*
16 *clinical and administrative systems.*

17 “(G) *The ACO shall define processes to pro-*
18 *mote evidence-based medicine and patient en-*
19 *gagement, report on quality and cost measures,*
20 *and coordinate care, such as through the use of*
21 *telehealth, remote patient monitoring, and other*
22 *such enabling technologies.*

23 “(H) *The ACO shall demonstrate to the Sec-*
24 *retary that it meets patient-centeredness criteria*
25 *specified by the Secretary, such as the use of pa-*

1 *tient and caregiver assessments or the use of in-*
2 *dividualized care plans.*

3 “(3) *QUALITY AND OTHER REPORTING REQUIRE-*
4 *MENTS.—*

5 “(A) *IN GENERAL.—The Secretary shall de-*
6 *termine appropriate measures to assess the qual-*
7 *ity of care furnished by the ACO, such as meas-*
8 *ures of—*

9 “(i) *clinical processes and outcomes;*

10 “(ii) *patient and, where practicable,*
11 *caregiver experience of care; and*

12 “(iii) *utilization (such as rates of hos-*
13 *pital admissions for ambulatory care sen-*
14 *sitive conditions).*

15 “(B) *REPORTING REQUIREMENTS.—An*
16 *ACO shall submit data in a form and manner*
17 *specified by the Secretary on measures the Sec-*
18 *retary determines necessary for the ACO to re-*
19 *port in order to evaluate the quality of care fur-*
20 *nished by the ACO. Such data may include care*
21 *transitions across health care settings, including*
22 *hospital discharge planning and post-hospital*
23 *discharge follow-up by ACO professionals, as the*
24 *Secretary determines appropriate.*

1 “(C) *QUALITY PERFORMANCE STAND-*
2 *ARDS.—The Secretary shall establish quality*
3 *performance standards to assess the quality of*
4 *care furnished by ACOs. The Secretary shall seek*
5 *to improve the quality of care furnished by ACOs*
6 *over time by specifying higher standards, new*
7 *measures, or both for purposes of assessing such*
8 *quality of care.*

9 “(D) *OTHER REPORTING REQUIREMENTS.—*
10 *The Secretary may, as the Secretary determines*
11 *appropriate, incorporate reporting requirements*
12 *and incentive payments related to the physician*
13 *quality reporting initiative (PQRI) under sec-*
14 *tion 1848, including such requirements and such*
15 *payments related to electronic prescribing, elec-*
16 *tronic health records, and other similar initia-*
17 *tives under section 1848, and may use alter-*
18 *native criteria than would otherwise apply*
19 *under such section for determining whether to*
20 *make such payments. The incentive payments*
21 *described in the preceding sentence shall not be*
22 *taken into consideration when calculating any*
23 *payments otherwise made under subsection (d).*

24 “(4) *NO DUPLICATION IN PARTICIPATION IN*
25 *SHARED SAVINGS PROGRAMS.—A provider of services*

1 or supplier that participates in any of the following
2 shall not be eligible to participate in an ACO under
3 this section:

4 “(A) A model tested or expanded under sec-
5 tion 1115A that involves shared savings under
6 this title, or any other program or demonstration
7 project that involves such shared savings.

8 “(B) The independence at home medical
9 practice pilot program under section 1866E.

10 “(c) *ASSIGNMENT OF MEDICARE FEE-FOR-SERVICE*
11 *BENEFICIARIES TO ACOs.*—The Secretary shall determine
12 an appropriate method to assign Medicare fee-for-service
13 beneficiaries to an ACO based on their utilization of pri-
14 mary care services provided under this title by an ACO pro-
15 fessional described in subsection (h)(1)(A).

16 “(d) *PAYMENTS AND TREATMENT OF SAVINGS.*—

17 “(1) *PAYMENTS.*—

18 “(A) *IN GENERAL.*—Under the program,
19 subject to paragraph (3), payments shall con-
20 tinue to be made to providers of services and
21 suppliers participating in an ACO under the
22 original Medicare fee-for-service program under
23 parts A and B in the same manner as they
24 would otherwise be made except that a partici-

1 *pating ACO is eligible to receive payment for*
2 *shared savings under paragraph (2) if—*

3 *“(i) the ACO meets quality perform-*
4 *ance standards established by the Secretary*
5 *under subsection (b)(3); and*

6 *“(ii) the ACO meets the requirement*
7 *under subparagraph (B)(i).*

8 *“(B) SAVINGS REQUIREMENT AND BENCH-*
9 *MARK.—*

10 *“(i) DETERMINING SAVINGS.—In each*
11 *year of the agreement period, an ACO shall*
12 *be eligible to receive payment for shared*
13 *savings under paragraph (2) only if the es-*
14 *timated average per capita Medicare ex-*
15 *penditures under the ACO for Medicare fee-*
16 *for-service beneficiaries for parts A and B*
17 *services, adjusted for beneficiary character-*
18 *istics, is at least the percent specified by the*
19 *Secretary below the applicable benchmark*
20 *under clause (ii). The Secretary shall deter-*
21 *mine the appropriate percent described in*
22 *the preceding sentence to account for nor-*
23 *mal variation in expenditures under this*
24 *title, based upon the number of Medicare*

1 *fee-for-service beneficiaries assigned to an*
2 *ACO.*

3 “(ii) *ESTABLISH AND UPDATE BENCH-*
4 *MARK.—The Secretary shall estimate a*
5 *benchmark for each agreement period for*
6 *each ACO using the most recent available 3*
7 *years of per-beneficiary expenditures for*
8 *parts A and B services for Medicare fee-for-*
9 *service beneficiaries assigned to the ACO.*
10 *Such benchmark shall be adjusted for bene-*
11 *ficiary characteristics and such other fac-*
12 *tors as the Secretary determines appro-*
13 *priate and updated by the projected absolute*
14 *amount of growth in national per capita*
15 *expenditures for parts A and B services*
16 *under the original Medicare fee-for-service*
17 *program, as estimated by the Secretary.*
18 *Such benchmark shall be reset at the start*
19 *of each agreement period.*

20 “(2) *PAYMENTS FOR SHARED SAVINGS.—Subject*
21 *to performance with respect to the quality perform-*
22 *ance standards established by the Secretary under*
23 *subsection (b)(3), if an ACO meets the requirements*
24 *under paragraph (1), a percent (as determined appro-*
25 *priate by the Secretary) of the difference between such*

1 *estimated average per capita Medicare expenditures*
2 *in a year, adjusted for beneficiary characteristics,*
3 *under the ACO and such benchmark for the ACO may*
4 *be paid to the ACO as shared savings and the re-*
5 *mainder of such difference shall be retained by the*
6 *program under this title. The Secretary shall establish*
7 *limits on the total amount of shared savings that may*
8 *be paid to an ACO under this paragraph.*

9 “(3) *MONITORING AVOIDANCE OF AT-RISK PA-*
10 *TIENTS.—If the Secretary determines that an ACO*
11 *has taken steps to avoid patients at risk in order to*
12 *reduce the likelihood of increasing costs to the ACO*
13 *the Secretary may impose an appropriate sanction on*
14 *the ACO, including termination from the program.*

15 “(4) *TERMINATION.—The Secretary may termi-*
16 *nate an agreement with an ACO if it does not meet*
17 *the quality performance standards established by the*
18 *Secretary under subsection (b)(3).*

19 “(e) *ADMINISTRATION.—Chapter 35 of title 44, United*
20 *States Code, shall not apply to the program.*

21 “(f) *WAIVER AUTHORITY.—The Secretary may waive*
22 *such requirements of sections 1128A and 1128B and title*
23 *XVIII of this Act as may be necessary to carry out the pro-*
24 *visions of this section.*

1 “(g) *LIMITATIONS ON REVIEW.*—*There shall be no ad-*
2 *ministrative or judicial review under section 1869, section*
3 *1878, or otherwise of—*

4 “(1) *the specification of criteria under subsection*
5 *(a)(1)(B);*

6 “(2) *the assessment of the quality of care fur-*
7 *nished by an ACO and the establishment of perform-*
8 *ance standards under subsection (b)(3);*

9 “(3) *the assignment of Medicare fee-for-service*
10 *beneficiaries to an ACO under subsection (c);*

11 “(4) *the determination of whether an ACO is eli-*
12 *gible for shared savings under subsection (d)(2) and*
13 *the amount of such shared savings, including the de-*
14 *termination of the estimated average per capita Medi-*
15 *care expenditures under the ACO for Medicare fee-for-*
16 *service beneficiaries assigned to the ACO and the av-*
17 *erage benchmark for the ACO under subsection*
18 *(d)(1)(B);*

19 “(5) *the percent of shared savings specified by*
20 *the Secretary under subsection (d)(2) and any limit*
21 *on the total amount of shared savings established by*
22 *the Secretary under such subsection; and*

23 “(6) *the termination of an ACO under subsection*
24 *(d)(4).*

25 “(h) *DEFINITIONS.*—*In this section:*

1 “(1) *ACO PROFESSIONAL*.—The term ‘ACO pro-
2 fessional’ means—

3 “(A) a physician (as defined in section
4 1861(r)(1)); and

5 “(B) a practitioner described in section
6 1842(b)(18)(C)(i).

7 “(2) *HOSPITAL*.—The term ‘hospital’ means a
8 subsection (d) hospital (as defined in section
9 1886(d)(1)(B)).

10 “(3) *MEDICARE FEE-FOR-SERVICE BENE-*
11 *FICIARY*.—The term ‘Medicare fee-for-service bene-
12 ficiary’ means an individual who is enrolled in the
13 original Medicare fee-for-service program under parts
14 A and B and is not enrolled in an MA plan under
15 part C, an eligible organization under section 1876,
16 or a PACE program under section 1894.”.

17 **SEC. 3023. NATIONAL PILOT PROGRAM ON PAYMENT BUN-**
18 **DLING.**

19 *Title XVIII of the Social Security Act, as amended by*
20 *section 3021, is amended by inserting after section 1886C*
21 *the following new section:*

22 “*NATIONAL PILOT PROGRAM ON PAYMENT BUNDLING*

23 “*SEC. 1866D. (a) IMPLEMENTATION*.—

24 “(1) *IN GENERAL*.—The Secretary shall establish
25 a pilot program for integrated care during an episode
26 of care provided to an applicable beneficiary around

1 *a hospitalization in order to improve the coordina-*
2 *tion, quality, and efficiency of health care services*
3 *under this title.*

4 “(2) *DEFINITIONS.—In this section:*

5 “(A) *APPLICABLE BENEFICIARY.—The term*
6 *‘applicable beneficiary’ means an individual*
7 *who—*

8 “(i) *is entitled to, or enrolled for, bene-*
9 *fits under part A and enrolled for benefits*
10 *under part B of such title, but not enrolled*
11 *under part C or a PACE program under*
12 *section 1894; and*

13 “(ii) *is admitted to a hospital for an*
14 *applicable condition.*

15 “(B) *APPLICABLE CONDITION.—The term*
16 *‘applicable condition’ means 1 or more of 8 con-*
17 *ditions selected by the Secretary. In selecting*
18 *conditions under the preceding sentence, the Sec-*
19 *retary shall take into consideration the following*
20 *factors:*

21 “(i) *Whether the conditions selected in-*
22 *clude a mix of chronic and acute conditions.*

23 “(ii) *Whether the conditions selected*
24 *include a mix of surgical and medical con-*
25 *ditions.*

1 “(iii) Whether a condition is one for
2 which there is evidence of an opportunity
3 for providers of services and suppliers to
4 improve the quality of care furnished while
5 reducing total expenditures under this title.

6 “(iv) Whether a condition has signifi-
7 cant variation in—

8 “(I) the number of readmissions;

9 and

10 “(II) the amount of expenditures
11 for post-acute care spending under this
12 title.

13 “(v) Whether a condition is high-vol-
14 ume and has high post-acute care expendi-
15 tures under this title.

16 “(vi) Which conditions the Secretary
17 determines are most amenable to bundling
18 across the spectrum of care given practice
19 patterns under this title.

20 “(C) *APPLICABLE SERVICES*.—The term
21 ‘applicable services’ means the following:

22 “(i) Acute care inpatient services.

23 “(ii) Physicians’ services delivered in
24 and outside of an acute care hospital set-
25 ting.

1 “(iii) *Outpatient hospital services, in-*
2 *cluding emergency department services.*

3 “(iv) *Post-acute care services, includ-*
4 *ing home health services, skilled nursing*
5 *services, inpatient rehabilitation services,*
6 *and inpatient hospital services furnished by*
7 *a long-term care hospital.*

8 “(v) *Other services the Secretary deter-*
9 *mines appropriate.*

10 “(D) *EPISODE OF CARE.—*

11 “(i) *IN GENERAL.—Subject to clause*
12 *(ii), the term ‘episode of care’ means, with*
13 *respect to an applicable condition and an*
14 *applicable beneficiary, the period that in-*
15 *cludes—*

16 “(I) *the 3 days prior to the ad-*
17 *mission of the applicable beneficiary to*
18 *a hospital for the applicable condition;*

19 “(II) *the length of stay of the ap-*
20 *plicable beneficiary in such hospital;*
21 *and*

22 “(III) *the 30 days following the*
23 *discharge of the applicable beneficiary*
24 *from such hospital.*

1 “(i) *ESTABLISHMENT OF PERIOD BY*
2 *THE SECRETARY.—The Secretary, as appro-*
3 *priate, may establish a period (other than*
4 *the period described in clause (i)) for an*
5 *episode of care under the pilot program.*

6 “(E) *PHYSICIANS’ SERVICES.—The term*
7 *‘physicians’ services’ has the meaning given such*
8 *term in section 1861(q).*

9 “(F) *PILOT PROGRAM.—The term ‘pilot*
10 *program’ means the pilot program under this*
11 *section.*

12 “(G) *PROVIDER OF SERVICES.—The term*
13 *‘provider of services’ has the meaning given such*
14 *term in section 1861(u).*

15 “(H) *READMISSION.—The term ‘readmis-*
16 *sion’ has the meaning given such term in section*
17 *1886(q)(5)(E).*

18 “(I) *SUPPLIER.—The term ‘supplier’ has*
19 *the meaning given such term in section 1861(d).*

20 “(3) *DEADLINE FOR IMPLEMENTATION.—The*
21 *Secretary shall establish the pilot program not later*
22 *than January 1, 2013.*

23 “(b) *DEVELOPMENTAL PHASE.—*

24 “(1) *DETERMINATION OF PATIENT ASSESSMENT*
25 *INSTRUMENT.—The Secretary shall determine which*

1 *patient assessment instrument (such as the Con-*
2 *tinuity Assessment Record and Evaluation (CARE)*
3 *tool) shall be used under the pilot program to evaluate*
4 *the applicable condition of an applicable beneficiary*
5 *for purposes of determining the most clinically appro-*
6 *priate site for the provision of post-acute care to the*
7 *applicable beneficiary.*

8 “(2) *DEVELOPMENT OF QUALITY MEASURES FOR*
9 *AN EPISODE OF CARE AND FOR POST-ACUTE CARE.—*

10 “(A) *IN GENERAL.—The Secretary, in con-*
11 *sultation with the Agency for Healthcare Re-*
12 *search and Quality and the entity with a con-*
13 *tract under section 1890(a) of the Social Secu-*
14 *rity Act, shall develop quality measures for use*
15 *in the pilot program—*

16 “(i) *for episodes of care; and*

17 “(ii) *for post-acute care.*

18 “(B) *SITE-NEUTRAL POST-ACUTE CARE*
19 *QUALITY MEASURES.—Any quality measures de-*
20 *veloped under subparagraph (A)(i) shall be site-*
21 *neutral.*

22 “(C) *COORDINATION WITH QUALITY MEAS-*
23 *URE DEVELOPMENT AND ENDORSEMENT PROCE-*
24 *DURES.—The Secretary shall ensure that the de-*
25 *velopment of quality measures under subpara-*

1 *graph (A) is done in a manner that is consistent*
2 *with the measures developed and endorsed under*
3 *section 1890 and 1890A that are applicable to*
4 *all post-acute care settings.*

5 “(c) *DETAILS.—*

6 “(1) *DURATION.—*

7 “(A) *IN GENERAL.—Subject to subpara-*
8 *graph (B), the pilot program shall be conducted*
9 *for a period of 5 years.*

10 “(B) *EXTENSION.—The Secretary may ex-*
11 *tend the duration of the pilot program for pro-*
12 *viders of services and suppliers participating in*
13 *the pilot program as of the day before the end of*
14 *the 5-year period described in subparagraph (A),*
15 *for a period determined appropriate by the Sec-*
16 *retary, if the Secretary determines that such ex-*
17 *ension will result in improving or not reducing*
18 *the quality of patient care and reducing spend-*
19 *ing under this title.*

20 “(2) *PARTICIPATING PROVIDERS OF SERVICES*
21 *AND SUPPLIERS.—*

22 “(A) *IN GENERAL.—An entity comprised of*
23 *providers of services and suppliers, including a*
24 *hospital, a physician group, a skilled nursing fa-*
25 *cility, and a home health agency, who are other-*

1 *wise participating under this title, may submit*
2 *an application to the Secretary to provide appli-*
3 *cable services to applicable individuals under*
4 *this section.*

5 “(B) *REQUIREMENTS.*—*The Secretary shall*
6 *develop requirements for entities to participate*
7 *in the pilot program under this section. Such re-*
8 *quirements shall ensure that applicable bene-*
9 *ficiaries have an adequate choice of providers of*
10 *services and suppliers under the pilot program.*

11 “(3) *PAYMENT METHODOLOGY.*—

12 “(A) *IN GENERAL.*—

13 “(i) *ESTABLISHMENT OF PAYMENT*
14 *METHODS.*—*The Secretary shall develop*
15 *payment methods for the pilot program for*
16 *entities participating in the pilot program.*
17 *Such payment methods may include bun-*
18 *dled payments and bids from entities for*
19 *episodes of care. The Secretary shall make*
20 *payments to the entity for services covered*
21 *under this section.*

22 “(ii) *NO ADDITIONAL PROGRAM EX-*
23 *PENDITURES.*—*Payments under this section*
24 *for applicable items and services under this*
25 *title (including payment for services de-*

1 scribed in subparagraph (B)) for applicable
2 beneficiaries for a year shall be established
3 in a manner that does not result in spend-
4 ing more for such entity for such bene-
5 ficiaries than would otherwise be expended
6 for such entity for such beneficiaries for
7 such year if the pilot program were not im-
8 plemented, as estimated by the Secretary.

9 “(B) *INCLUSION OF CERTAIN SERVICES.*—A
10 payment methodology tested under the pilot pro-
11 gram shall include payment for the furnishing of
12 applicable services and other appropriate serv-
13 ices, such as care coordination, medication rec-
14 onciliation, discharge planning, transitional care
15 services, and other patient-centered activities as
16 determined appropriate by the Secretary.

17 “(C) *BUNDLED PAYMENTS.*—

18 “(i) *IN GENERAL.*—A bundled payment
19 under the pilot program shall—

20 “(I) be comprehensive, covering
21 the costs of applicable services and
22 other appropriate services furnished to
23 an individual during an episode of
24 care (as determined by the Secretary);
25 and

1 “(II) be made to the entity which
2 is participating in the pilot program.

3 “(ii) *REQUIREMENT FOR PROVISION OF*
4 *APPLICABLE SERVICES AND OTHER APPRO-*
5 *PRIATE SERVICES.—Applicable services and*
6 *other appropriate services for which pay-*
7 *ment is made under this subparagraph shall*
8 *be furnished or directed by the entity which*
9 *is participating in the pilot program.*

10 “(D) *PAYMENT FOR POST-ACUTE CARE*
11 *SERVICES AFTER THE EPISODE OF CARE.—The*
12 *Secretary shall establish procedures, in the case*
13 *where an applicable beneficiary requires contin-*
14 *ued post-acute care services after the last day of*
15 *the episode of care, under which payment for*
16 *such services shall be made.*

17 “(4) *QUALITY MEASURES.—*

18 “(A) *IN GENERAL.—The Secretary shall es-*
19 *tablish quality measures (including quality*
20 *measures of process, outcome, and structure) re-*
21 *lated to care provided by entities participating*
22 *in the pilot program. Quality measures estab-*
23 *lished under the preceding sentence shall include*
24 *measures of the following:*

25 “(i) *Functional status improvement.*

1 “(ii) *Reducing rates of avoidable hos-*
2 *pital readmissions.*

3 “(iii) *Rates of discharge to the commu-*
4 *nity.*

5 “(iv) *Rates of admission to an emer-*
6 *gency room after a hospitalization.*

7 “(v) *Incidence of health care acquired*
8 *infections.*

9 “(vi) *Efficiency measures.*

10 “(vii) *Measures of patient-centeredness*
11 *of care.*

12 “(viii) *Measures of patient perception*
13 *of care.*

14 “(ix) *Other measures, including meas-*
15 *ures of patient outcomes, determined appro-*
16 *priate by the Secretary.*

17 “(B) *REPORTING ON QUALITY MEASURES.—*

18 “(i) *IN GENERAL.—A entity shall sub-*
19 *mit data to the Secretary on quality meas-*
20 *ures established under subparagraph (A)*
21 *during each year of the pilot program (in*
22 *a form and manner, subject to clause (iii),*
23 *specified by the Secretary).*

24 “(ii) *SUBMISSION OF DATA THROUGH*
25 *ELECTRONIC HEALTH RECORD.—To the ex-*

1 *tent practicable, the Secretary shall specify*
2 *that data on measures be submitted under*
3 *clause (i) through the use of an qualified*
4 *electronic health record (as defined in sec-*
5 *tion 3000(13) of the Public Health Service*
6 *Act (42 U.S.C. 300jj-11(13)) in a manner*
7 *specified by the Secretary.*

8 “(d) *WAIVER.—The Secretary may waive such provi-*
9 *sions of this title and title XI as may be necessary to carry*
10 *out the pilot program.*

11 “(e) *INDEPENDENT EVALUATION AND REPORTS ON*
12 *PILOT PROGRAM.—*

13 “(1) *INDEPENDENT EVALUATION.—The Secretary*
14 *shall conduct an independent evaluation of the pilot*
15 *program, including the extent to which the pilot pro-*
16 *gram has—*

17 “(A) *improved quality measures established*
18 *under subsection (c)(4)(A);*

19 “(B) *improved health outcomes;*

20 “(C) *improved applicable beneficiary access*
21 *to care; and*

22 “(D) *reduced spending under this title.*

23 “(2) *REPORTS.—*

24 “(A) *INTERIM REPORT.—Not later than 2*
25 *years after the implementation of the pilot pro-*

1 *gram, the Secretary shall submit to Congress a*
2 *report on the initial results of the independent*
3 *evaluation conducted under paragraph (1).*

4 “(B) *FINAL REPORT.*—*Not later than 3*
5 *years after the implementation of the pilot pro-*
6 *gram, the Secretary shall submit to Congress a*
7 *report on the final results of the independent*
8 *evaluation conducted under paragraph (1).*

9 “(f) *CONSULTATION.*—*The Secretary shall consult with*
10 *representatives of small rural hospitals, including critical*
11 *access hospitals (as defined in section 1861(mm)(1)), re-*
12 *garding their participation in the pilot program. Such con-*
13 *sultation shall include consideration of innovative methods*
14 *of implementing bundled payments in hospitals described*
15 *in the preceding sentence, taking into consideration any*
16 *difficulties in doing so as a result of the low volume of serv-*
17 *ices provided by such hospitals.*

18 “(g) *IMPLEMENTATION PLAN.*—

19 “(1) *IN GENERAL.*—*Not later than January 1,*
20 *2016, the Secretary shall submit a plan for the imple-*
21 *mentation of an expansion of the pilot program if the*
22 *Secretary determines that such expansion will result*
23 *in improving or not reducing the quality of patient*
24 *care and reducing spending under this title.*

1 “(h) *ADMINISTRATION.*—Chapter 35 of title 44, United
2 *States Code, shall not apply to the selection, testing, and*
3 *evaluation of models or the expansion of such models under*
4 *this section.*”.

5 **SEC. 3024. INDEPENDENCE AT HOME DEMONSTRATION**
6 **PROGRAM.**

7 *Title XVIII of the Social Security Act is amended by*
8 *inserting after section 1866D, as inserted by section 3023,*
9 *the following new section:*

10 “*INDEPENDENCE AT HOME MEDICAL PRACTICE*
11 *DEMONSTRATION PROGRAM*

12 “*SEC. 1866D. (a) ESTABLISHMENT.*—

13 “(1) *IN GENERAL.*—*The Secretary shall conduct*
14 *a demonstration program (in this section referred to*
15 *as the ‘demonstration program’) to test a payment in-*
16 *centive and service delivery model that utilizes physi-*
17 *cian and nurse practitioner directed home-based pri-*
18 *mary care teams designed to reduce expenditures and*
19 *improve health outcomes in the provision of items and*
20 *services under this title to applicable beneficiaries (as*
21 *defined in subsection (d)).*

22 “(2) *REQUIREMENT.*—*The demonstration pro-*
23 *gram shall test whether a model described in para-*
24 *graph (1), which is accountable for providing com-*
25 *prehensive, coordinated, continuous, and accessible*
26 *care to high-need populations at home and coordi-*

1 *nating health care across all treatment settings, re-*
2 *sults in—*

3 *“(A) reducing preventable hospitalizations;*

4 *“(B) preventing hospital readmissions;*

5 *“(C) reducing emergency room visits;*

6 *“(D) improving health outcomes commensu-*
7 *rate with the beneficiaries’ stage of chronic ill-*
8 *ness;*

9 *“(E) improving the efficiency of care, such*
10 *as by reducing duplicative diagnostic and lab-*
11 *oratory tests;*

12 *“(F) reducing the cost of health care services*
13 *covered under this title; and*

14 *“(G) achieving beneficiary and family care-*
15 *giver satisfaction.*

16 *“(b) INDEPENDENCE AT HOME MEDICAL PRACTICE.—*

17 *“(1) INDEPENDENCE AT HOME MEDICAL PRAC-*
18 *TICE DEFINED.—In this section:*

19 *“(A) IN GENERAL.—The term ‘independence*
20 *at home medical practice’ means a legal entity*
21 *that—*

22 *“(i) is comprised of an individual phy-*
23 *sician or nurse practitioner or group of*
24 *physicians and nurse practitioners that*
25 *provides care as part of a team that in-*

1 *cludes physicians, nurses, physician assist-*
2 *ants, pharmacists, and other health and so-*
3 *cial services staff as appropriate who have*
4 *experience providing home-based primary*
5 *care to applicable beneficiaries, make in-*
6 *home visits, and are available 24 hours per*
7 *day, 7 days per week to carry out plans of*
8 *care that are tailored to the individual*
9 *beneficiary's chronic conditions and de-*
10 *signed to achieve the results in subsection*
11 *(a);*

12 *“(ii) is organized at least in part for*
13 *the purpose of providing physicians' serv-*
14 *ices;*

15 *“(iii) has documented experience in*
16 *providing home-based primary care services*
17 *to high-cost chronically ill beneficiaries, as*
18 *determined appropriate by the Secretary;*

19 *“(iv) furnishes services to at least 200*
20 *applicable beneficiaries (as defined in sub-*
21 *section (d)) during each year of the dem-*
22 *onstration program;*

23 *“(v) has entered into an agreement*
24 *with the Secretary;*

1 “(vi) uses electronic health information
2 systems, remote monitoring, and mobile di-
3 agnostic technology; and

4 “(vii) meets such other criteria as the
5 Secretary determines to be appropriate to
6 participate in the demonstration program.

7 The entity shall report on quality measures (in
8 such form, manner, and frequency as specified
9 by the Secretary, which may be for the group, for
10 providers of services and suppliers, or both) and
11 report to the Secretary (in a form, manner, and
12 frequency as specified by the Secretary) such
13 data as the Secretary determines appropriate to
14 monitor and evaluate the demonstration pro-
15 gram.

16 “(B) PHYSICIAN.—The term ‘physician’ in-
17 cludes, except as the Secretary may otherwise
18 provide, any individual who furnishes services
19 for which payment may be made as physicians’
20 services and has the medical training or experi-
21 ence to fulfill the physician’s role described in
22 subparagraph (A)(i).

23 “(2) PARTICIPATION OF NURSE PRACTITIONERS
24 AND PHYSICIAN ASSISTANTS.—Nothing in this section
25 shall be construed to prevent a nurse practitioner or

1 *physician assistant from participating in, or leading,*
2 *a home-based primary care team as part of an inde-*
3 *pendence at home medical practice if—*

4 *“(A) all the requirements of this section are*
5 *met;*

6 *“(B) the nurse practitioner or physician as-*
7 *stant, as the case may be, is acting consistent*
8 *with State law; and*

9 *“(C) the nurse practitioner or physician as-*
10 *stant has the medical training or experience to*
11 *fulfill the nurse practitioner or physician assist-*
12 *ant role described in paragraph (1)(A)(i).*

13 *“(3) INCLUSION OF PROVIDERS AND PRACTI-*
14 *TIONERS.—Nothing in this subsection shall be con-*
15 *strued as preventing an independence at home med-*
16 *ical practice from including a provider of services or*
17 *a participating practitioner described in section*
18 *1842(b)(18)(C) that is affiliated with the practice*
19 *under an arrangement structured so that such pro-*
20 *vider of services or practitioner participates in the*
21 *demonstration program and shares in any savings*
22 *under the demonstration program.*

23 *“(4) QUALITY AND PERFORMANCE STANDARDS.—*
24 *The Secretary shall develop quality performance*

1 standards for independence at home medical practices
2 participating in the demonstration program.

3 “(c) *PAYMENT METHODOLOGY.*—

4 “(1) *ESTABLISHMENT OF TARGET SPENDING*
5 *LEVEL.*—*The Secretary shall establish an estimated*
6 *annual spending target, for the amount the Secretary*
7 *estimates would have been spent in the absence of the*
8 *demonstration, for items and services covered under*
9 *parts A and B furnished to applicable beneficiaries*
10 *for each qualifying independence at home medical*
11 *practice under this section. Such spending targets*
12 *shall be determined on a per capita basis. Such*
13 *spending targets shall include a risk corridor that*
14 *takes into account normal variation in expenditures*
15 *for items and services covered under parts A and B*
16 *furnished to such beneficiaries with the size of the cor-*
17 *ridor being related to the number of applicable bene-*
18 *ficiaries furnished services by each independence at*
19 *home medical practice. The spending targets may also*
20 *be adjusted for other factors as the Secretary deter-*
21 *mines appropriate.*

22 “(2) *INCENTIVE PAYMENTS.*—*Subject to perform-*
23 *ance on quality measures, a qualifying independence*
24 *at home medical practice is eligible to receive an in-*
25 *centive payment under this section if actual expendi-*

1 *tures for a year for the applicable beneficiaries it en-*
2 *rolls are less than the estimated spending target estab-*
3 *lished under paragraph (1) for such year. An incen-*
4 *tive payment for such year shall be equal to a portion*
5 *(as determined by the Secretary) of the amount by*
6 *which actual expenditures (including incentive pay-*
7 *ments under this paragraph) for applicable bene-*
8 *ficiaries under parts A and B for such year are esti-*
9 *mated to be less than 5 percent less than the estimated*
10 *spending target for such year, as determined under*
11 *paragraph (1).*

12 “(d) *APPLICABLE BENEFICIARIES.*—

13 “(1) *DEFINITION.*—*In this section, the term ‘ap-*
14 *plicable beneficiary’ means, with respect to a quali-*
15 *fying independence at home medical practice, an in-*
16 *dividual who the practice has determined—*

17 “(A) *is entitled to benefits under part A*
18 *and enrolled for benefits under part B;*

19 “(B) *is not enrolled in a Medicare Advan-*
20 *tage plan under part C or a PACE program*
21 *under section 1894;*

22 “(C) *has 2 or more chronic illnesses, such as*
23 *congestive heart failure, diabetes, other dementias*
24 *designated by the Secretary, chronic obstructive*
25 *pulmonary disease, ischemic heart disease,*

1 *stroke, Alzheimer’s Disease and*
2 *neurodegenerative diseases, and other diseases*
3 *and conditions designated by the Secretary*
4 *which result in high costs under this title;*

5 *“(D) within the past 12 months has had a*
6 *nonelective hospital admission;*

7 *“(E) within the past 12 months has received*
8 *acute or subacute rehabilitation services;*

9 *“(F) has 2 or more functional dependencies*
10 *requiring the assistance of another person (such*
11 *as bathing, dressing, toileting, walking, or feed-*
12 *ing); and*

13 *“(G) meets such other criteria as the Sec-*
14 *retary determines appropriate.*

15 *“(2) PATIENT ELECTION TO PARTICIPATE.—The*
16 *Secretary shall determine an appropriate method of*
17 *ensuring that applicable beneficiaries have agreed to*
18 *enroll in an independence at home medical practice*
19 *under the demonstration program. Enrollment in the*
20 *demonstration program shall be voluntary.*

21 *“(3) BENEFICIARY ACCESS TO SERVICES.—Noth-*
22 *ing in this section shall be construed as encouraging*
23 *physicians or nurse practitioners to limit applicable*
24 *beneficiary access to services covered under this title*
25 *and applicable beneficiaries shall not be required to*

1 *relinquish access to any benefit under this title as a*
2 *condition of receiving services from an independence*
3 *at home medical practice.*

4 “(e) *IMPLEMENTATION.*—

5 “(1) *STARTING DATE.*—*The demonstration pro-*
6 *gram shall begin no later than January 1, 2012. An*
7 *agreement with an independence at home medical*
8 *practice under the demonstration program may cover*
9 *not more than a 3-year period.*

10 “(2) *NO PHYSICIAN DUPLICATION IN DEM-*
11 *ONSTRATION PARTICIPATION.*—*The Secretary shall not*
12 *pay an independence at home medical practice under*
13 *this section that participates in section 1899.*

14 “(3) *NO BENEFICIARY DUPLICATION IN DEM-*
15 *ONSTRATION PARTICIPATION.*—*The Secretary shall en-*
16 *sure that no applicable beneficiary enrolled in an*
17 *independence at home medical practice under this sec-*
18 *tion is participating in the programs under section*
19 *1899.*

20 “(4) *PREFERENCE.*—*In approving an independ-*
21 *ence at home medical practice, the Secretary shall*
22 *give preference to practices that are—*

23 “(A) *located in high-cost areas of the coun-*
24 *try;*

1 “(B) have experience in furnishing health
2 care services to applicable beneficiaries in the
3 home; and

4 “(C) use electronic medical records, health
5 information technology, and individualized
6 plans of care.

7 “(5) *LIMITATION ON NUMBER OF PRACTICES.*—
8 *In selecting qualified independence at home medical*
9 *practices to participate under the demonstration pro-*
10 *gram, the Secretary shall limit the number of such*
11 *practices so that the number of applicable bene-*
12 *ficiaries that may participate in the demonstration*
13 *program does not exceed 10,000.*

14 “(6) *WAIVER.*—*The Secretary may waive such*
15 *provisions of this title and title XI as the Secretary*
16 *determines necessary in order to implement the dem-*
17 *onstration program.*

18 “(7) *ADMINISTRATION.*—*Chapter 35 of title 44,*
19 *United States Code, shall not apply to this section.*

20 “(f) *EVALUATION AND MONITORING.*—

21 “(1) *IN GENERAL.*—*The Secretary shall evaluate*
22 *each independence at home medical practice under the*
23 *demonstration program to assess whether the practice*
24 *achieved the results described in subsection (a).*

1 “(2) *MONITORING APPLICABLE BENE-*
2 *FICIARIES.—The Secretary may monitor data on ex-*
3 *penditures and quality of services under this title*
4 *after an applicable beneficiary discontinues receiving*
5 *services under this title through a qualifying inde-*
6 *pendence at home medical practice.*

7 “(g) *REPORTS TO CONGRESS.—The Secretary shall*
8 *conduct an independent evaluation of the demonstration*
9 *program and submit to Congress a final report, including*
10 *best practices under the demonstration program. Such re-*
11 *port shall include an analysis of the demonstration pro-*
12 *gram on coordination of care, expenditures under this title,*
13 *applicable beneficiary access to services, and the quality of*
14 *health care services provided to applicable beneficiaries.*

15 “(h) *FUNDING.—For purposes of administering and*
16 *carrying out the demonstration program, other than for*
17 *payments for items and services furnished under this title*
18 *and incentive payments under subsection (c), in addition*
19 *to funds otherwise appropriated, there shall be transferred*
20 *to the Secretary for the Center for Medicare & Medicaid*
21 *Services Program Management Account from the Federal*
22 *Hospital Insurance Trust Fund under section 1817 and the*
23 *Federal Supplementary Medical Insurance Trust Fund*
24 *under section 1841 (in proportions determined appropriate*
25 *by the Secretary) \$5,000,000 for each of fiscal years 2010*

1 *through 2015. Amounts transferred under this subsection*
 2 *for a fiscal year shall be available until expended.*

3 “(i) *TERMINATION.*—

4 “(1) *MANDATORY TERMINATION.*—*The Secretary*
 5 *shall terminate an agreement with an independence*
 6 *at home medical practice if—*

7 “(A) *the Secretary estimates or determines*
 8 *that such practice will not receive an incentive*
 9 *payment for the second of 2 consecutive years*
 10 *under the demonstration program; or*

11 “(B) *such practice fails to meet quality*
 12 *standards during any year of the demonstration*
 13 *program.*

14 “(2) *PERMISSIVE TERMINATION.*—*The Secretary*
 15 *may terminate an agreement with an independence at*
 16 *home medical practice for such other reasons deter-*
 17 *mined appropriate by the Secretary.”.*

18 **SEC. 3025. HOSPITAL READMISSIONS REDUCTION PRO-**
 19 **GRAM.**

20 (a) *IN GENERAL.*—*Section 1886 of the Social Security*
 21 *Act (42 U.S.C. 1395ww), as amended by sections 3001 and*
 22 *3008, is amended by adding at the end the following new*
 23 *subsection:*

24 “(q) *HOSPITAL READMISSIONS REDUCTION PRO-*
 25 *GRAM.*—

1 “(1) *IN GENERAL.*—*With respect to payment for*
2 *discharges from an applicable hospital (as defined in*
3 *paragraph (5)(C)) occurring during a fiscal year be-*
4 *ginning on or after October 1, 2012, in order to ac-*
5 *count for excess readmissions in the hospital, the Sec-*
6 *retary shall reduce the payments that would otherwise*
7 *be made to such hospital under subsection (d) (or sec-*
8 *tion 1814(b)(3), as the case may be) for such a dis-*
9 *charge by an amount equal to the product of—*

10 “(A) *the base operating DRG payment*
11 *amount (as defined in paragraph (2)) for the*
12 *discharge; and*

13 “(B) *the adjustment factor (described in*
14 *paragraph (3)(A)) for the hospital for the fiscal*
15 *year.*

16 “(2) *BASE OPERATING DRG PAYMENT AMOUNT*
17 *DEFINED.*—

18 “(A) *IN GENERAL.*—*Except as provided in*
19 *subparagraph (B), in this subsection, the term*
20 *‘base operating DRG payment amount’ means,*
21 *with respect to a hospital for a fiscal year—*

22 “(i) *the payment amount that would*
23 *otherwise be made under subsection (d) (de-*
24 *termined without regard to subsection (o))*

1 for a discharge if this subsection did not
2 apply; reduced by

3 “(i) any portion of such payment
4 amount that is attributable to payments
5 under paragraphs (5)(A), (5)(B), (5)(F),
6 and (12) of subsection (d).

7 “(B) SPECIAL RULES FOR CERTAIN HOS-
8 PITALS.—

9 “(i) SOLE COMMUNITY HOSPITALS AND
10 MEDICARE-DEPENDENT, SMALL RURAL HOS-
11 PITALS.—In the case of a medicare-depend-
12 ent, small rural hospital (with respect to
13 discharges occurring during fiscal years
14 2012 and 2013) or a sole community hos-
15 pital, in applying subparagraph (A)(i), the
16 payment amount that would otherwise be
17 made under subsection (d) shall be deter-
18 mined without regard to subparagraphs (I)
19 and (L) of subsection (b)(3) and subpara-
20 graphs (D) and (G) of subsection (d)(5).

21 “(ii) HOSPITALS PAID UNDER SECTION
22 1814.—In the case of a hospital that is paid
23 under section 1814(b)(3), the Secretary may
24 exempt such hospitals provided that States
25 paid under such section submit an annual

1 *report to the Secretary describing how a*
2 *similar program in the State for a partici-*
3 *pating hospital or hospitals achieves or sur-*
4 *passes the measured results in terms of pa-*
5 *tient health outcomes and cost savings es-*
6 *tablished herein with respect to this section.*

7 “(3) *ADJUSTMENT FACTOR.*—

8 “(A) *IN GENERAL.*—*For purposes of para-*
9 *graph (1), the adjustment factor under this para-*
10 *graph for an applicable hospital for a fiscal year*
11 *is equal to the greater of—*

12 “(i) *the ratio described in subpara-*
13 *graph (B) for the hospital for the applicable*
14 *period (as defined in paragraph (5)(D)) for*
15 *such fiscal year; or*

16 “(ii) *the floor adjustment factor speci-*
17 *fied in subparagraph (C).*

18 “(B) *RATIO.*—*The ratio described in this*
19 *subparagraph for a hospital for an applicable*
20 *period is equal to 1 minus the ratio of—*

21 “(i) *the aggregate payments for excess*
22 *readmissions (as defined in paragraph*
23 *(4)(A)) with respect to an applicable hos-*
24 *pital for the applicable period; and*

1 “(ii) the aggregate payments for all
2 discharges (as defined in paragraph (4)(B))
3 with respect to such applicable hospital for
4 such applicable period.

5 “(C) FLOOR ADJUSTMENT FACTOR.—For
6 purposes of subparagraph (A), the floor adjust-
7 ment factor specified in this subparagraph for—

8 “(i) fiscal year 2013 is 0.99;

9 “(ii) fiscal year 2014 is 0.98; or

10 “(iii) fiscal year 2015 and subsequent
11 fiscal years is 0.97.

12 “(4) AGGREGATE PAYMENTS, EXCESS READMIS-
13 SION RATIO DEFINED.—For purposes of this sub-
14 section:

15 “(A) AGGREGATE PAYMENTS FOR EXCESS
16 READMISSIONS.—The term ‘aggregate payments
17 for excess readmissions’ means, for a hospital for
18 an applicable period, the sum, for applicable
19 conditions (as defined in paragraph (5)(A)), of
20 the product, for each applicable condition, of—

21 “(i) the base operating DRG payment
22 amount for such hospital for such applicable
23 period for such condition;

1 “(ii) the number of admissions for such
2 condition for such hospital for such applica-
3 ble period; and

4 “(iii) the excess readmissions ratio (as
5 defined in subparagraph (C)) for such hos-
6 pital for such applicable period minus 1.

7 “(B) *AGGREGATE PAYMENTS FOR ALL DIS-*
8 *CHARGES.*—The term ‘aggregate payments for all
9 discharges’ means, for a hospital for an applica-
10 ble period, the sum of the base operating DRG
11 payment amounts for all discharges for all con-
12 ditions from such hospital for such applicable
13 period.

14 “(C) *EXCESS READMISSION RATIO.*—

15 “(i) *IN GENERAL.*—Subject to clause
16 (ii), the term ‘excess readmissions ratio’
17 means, with respect to an applicable condi-
18 tion for a hospital for an applicable period,
19 the ratio (but not less than 1.0) of—

20 “(I) the risk adjusted readmis-
21 sions based on actual readmissions, as
22 determined consistent with a readmis-
23 sion measure methodology that has
24 been endorsed under paragraph
25 (5)(A)(ii)(I), for an applicable hospital

1 for such condition with respect to such
2 applicable period; to

3 “(II) the risk adjusted expected re-
4 admissions (as determined consistent
5 with such a methodology) for such hos-
6 pital for such condition with respect to
7 such applicable period.

8 “(ii) *EXCLUSION OF CERTAIN RE-*
9 *ADMISSIONS.*—For purposes of clause (i),
10 with respect to a hospital, excess readmis-
11 sions shall not include readmissions for an
12 applicable condition for which there are
13 fewer than a minimum number (as deter-
14 mined by the Secretary) of discharges for
15 such applicable condition for the applicable
16 period and such hospital.

17 “(5) *DEFINITIONS.*—For purposes of this sub-
18 section:

19 “(A) *APPLICABLE CONDITION.*—The term
20 ‘applicable condition’ means, subject to subpara-
21 graph (B), a condition or procedure selected by
22 the Secretary among conditions and procedures
23 for which—

24 “(i) readmissions (as defined in sub-
25 paragraph (E)) that represent conditions or

1 *procedures that are high volume or high ex-*
2 *penditures under this title (or other criteria*
3 *specified by the Secretary); and*

4 “(i) *measures of such readmissions—*

5 “(I) *have been endorsed by the en-*
6 *tity with a contract under section*
7 *1890(a); and*

8 “(II) *such endorsed measures have*
9 *exclusions for readmissions that are*
10 *unrelated to the prior discharge (such*
11 *as a planned readmission or transfer*
12 *to another applicable hospital).*

13 “(B) *EXPANSION OF APPLICABLE CONDI-*
14 *TIONS.—Beginning with fiscal year 2015, the*
15 *Secretary shall, to the extent practicable, expand*
16 *the applicable conditions beyond the 3 conditions*
17 *for which measures have been endorsed as de-*
18 *scribed in subparagraph (A)(i)(I) as of the date*
19 *of the enactment of this subsection to the addi-*
20 *tional 4 conditions that have been identified by*
21 *the Medicare Payment Advisory Commission in*
22 *its report to Congress in June 2007 and to other*
23 *conditions and procedures as determined appro-*
24 *priate by the Secretary. In expanding such ap-*
25 *plicable conditions, the Secretary shall seek the*

1 endorsement described in subparagraph
2 (A)(ii)(I) but may apply such measures without
3 such an endorsement in the case of a specified
4 area or medical topic determined appropriate by
5 the Secretary for which a feasible and practical
6 measure has not been endorsed by the entity with
7 a contract under section 1890(a) as long as due
8 consideration is given to measures that have been
9 endorsed or adopted by a consensus organization
10 identified by the Secretary.

11 “(C) *APPLICABLE HOSPITAL.*—The term
12 ‘applicable hospital’ means a subsection (d) hos-
13 pital or a hospital that is paid under section
14 1814(b)(3), as the case may be.

15 “(D) *APPLICABLE PERIOD.*—The term ‘ap-
16 plicable period’ means, with respect to a fiscal
17 year, such period as the Secretary shall specify.

18 “(E) *READMISSION.*—The term ‘readmis-
19 sion’ means, in the case of an individual who is
20 discharged from an applicable hospital, the ad-
21 mission of the individual to the same or another
22 applicable hospital within a time period speci-
23 fied by the Secretary from the date of such dis-
24 charge. Insofar as the discharge relates to an ap-
25 plicable condition for which there is an endorsed

1 *measure described in subparagraph (A)(ii)(I),*
2 *such time period (such as 30 days) shall be con-*
3 *sistent with the time period specified for such*
4 *measure.*

5 “(6) *REPORTING HOSPITAL SPECIFIC INFORMA-*
6 *TION.—*

7 “(A) *IN GENERAL.—The Secretary shall*
8 *make information available to the public regard-*
9 *ing readmission rates of each subsection (d) hos-*
10 *pital under the program.*

11 “(B) *OPPORTUNITY TO REVIEW AND SUBMIT*
12 *CORRECTIONS.—The Secretary shall ensure that*
13 *a subsection (d) hospital has the opportunity to*
14 *review, and submit corrections for, the informa-*
15 *tion to be made public with respect to the hos-*
16 *pital under subparagraph (A) prior to such in-*
17 *formation being made public.*

18 “(C) *WEBSITE.—Such information shall be*
19 *posted on the Hospital Compare Internet website*
20 *in an easily understandable format.*

21 “(7) *LIMITATIONS ON REVIEW.—There shall be*
22 *no administrative or judicial review under section*
23 *1869, section 1878, or otherwise of the following:*

24 “(A) *The determination of base operating*
25 *DRG payment amounts.*

1 “(B) *The methodology for determining the*
2 *adjustment factor under paragraph (3), includ-*
3 *ing excess readmissions ratio under paragraph*
4 *(4)(C), aggregate payments for excess readmis-*
5 *sions under paragraph (4)(A), and aggregate*
6 *payments for all discharges under paragraph*
7 *(4)(B), and applicable periods and applicable*
8 *conditions under paragraph (5).*

9 “(C) *The measures of readmissions as de-*
10 *scribed in paragraph (5)(A)(ii).*

11 “(8) *READMISSION RATES FOR ALL PATIENTS.—*

12 “(A) *CALCULATION OF READMISSION.—The*
13 *Secretary shall calculate readmission rates for*
14 *all patients (as defined in subparagraph (D)) for*
15 *a specified hospital (as defined in subparagraph*
16 *(D)(ii)) for an applicable condition (as defined*
17 *in paragraph (5)(B)) and other conditions*
18 *deemed appropriate by the Secretary for an ap-*
19 *plicable period (as defined in paragraph (5)(D))*
20 *in the same manner as used to calculate such re-*
21 *admission rates for hospitals with respect to this*
22 *title and posted on the CMS Hospital Compare*
23 *website.*

24 “(B) *POSTING OF HOSPITAL SPECIFIC ALL*
25 *PATIENT READMISSION RATES.—The Secretary*

1 *shall make information on all patient readmis-*
2 *sion rates calculated under subparagraph (A)*
3 *available on the CMS Hospital Compare website*
4 *in a form and manner determined appropriate*
5 *by the Secretary. The Secretary may also make*
6 *other information determined appropriate by the*
7 *Secretary available on such website.*

8 “(C) *HOSPITAL SUBMISSION OF ALL PA-*
9 *TIENT DATA.—*

10 “(i) *Except as provided for in clause*
11 *(ii), each specified hospital (as defined in*
12 *subparagraph (D)(ii)) shall submit to the*
13 *Secretary, in a form, manner and time*
14 *specified by the Secretary, data and infor-*
15 *mation determined necessary by the Sec-*
16 *retary for the Secretary to calculate the all*
17 *patient readmission rates described in sub-*
18 *paragraph (A).*

19 “(ii) *Instead of a specified hospital*
20 *submitting to the Secretary the data and*
21 *information described in clause (i), such*
22 *data and information may be submitted to*
23 *the Secretary, on behalf of such a specified*
24 *hospital, by a state or an entity determined*
25 *appropriate by the Secretary.*

1 “(D) *DEFINITIONS.*—For purposes of this
2 paragraph:

3 “(i) *The term ‘all patients’ means pa-*
4 *tients who are treated on an inpatient basis*
5 *and discharged from a specified hospital (as*
6 *defined in clause (ii)).*

7 “(ii) *The term ‘specified hospital’*
8 *means a subsection (d) hospital, hospitals*
9 *described in clauses (i) through (v) of sub-*
10 *section (d)(1)(B) and, as determined fea-*
11 *sible and appropriate by the Secretary,*
12 *other hospitals not otherwise described in*
13 *this subparagraph.”.*

14 (b) *QUALITY IMPROVEMENT.*—Part S of title III of the
15 *Public Health Service Act, as amended by section 3015, is*
16 *further amended by adding at the end the following:*

17 “**SEC. 399KK. QUALITY IMPROVEMENT PROGRAM FOR HOS-**
18 **PITALS WITH A HIGH SEVERITY ADJUSTED**
19 **READMISSION RATE.**

20 “(a) *ESTABLISHMENT.*—

21 “(1) *IN GENERAL.*—Not later than 2 years after
22 *the date of enactment of this section, the Secretary*
23 *shall make available a program for eligible hospitals*
24 *to improve their readmission rates through the use of*

1 *patient safety organizations (as defined in section*
2 *921(4)).*

3 “(2) *ELIGIBLE HOSPITAL DEFINED.*—*In this*
4 *subsection, the term ‘eligible hospital’ means a hos-*
5 *pital that the Secretary determines has a high rate of*
6 *risk adjusted readmissions for the conditions described*
7 *in section 1886(q)(8)(A) of the Social Security Act*
8 *and has not taken appropriate steps to reduce such*
9 *readmissions and improve patient safety as evidenced*
10 *through historically high rates of readmissions, as de-*
11 *termined by the Secretary.*

12 “(3) *RISK ADJUSTMENT.*—*The Secretary shall*
13 *utilize appropriate risk adjustment measures to deter-*
14 *mine eligible hospitals.*

15 “(b) *REPORT TO THE SECRETARY.*—*As determined ap-*
16 *propriate by the Secretary, eligible hospitals and patient*
17 *safety organizations working with those hospitals shall re-*
18 *port to the Secretary on the processes employed by the hos-*
19 *pital to improve readmission rates and the impact of such*
20 *processes on readmission rates.”.*

21 **SEC. 3026. COMMUNITY-BASED CARE TRANSITIONS PRO-**
22 **GRAM.**

23 “(a) *IN GENERAL.*—*The Secretary shall establish a*
24 *Community-Based Care Transitions Program under which*
25 *the Secretary provides funding to eligible entities that fur-*

1 *nish improved care transition services to high-risk Medicare*
2 *beneficiaries.*

3 (b) *DEFINITIONS.—In this section:*

4 (1) *ELIGIBLE ENTITY.—The term “eligible enti-*
5 *ty” means the following:*

6 (A) *A subsection (d) hospital (as defined in*
7 *section 1886(d)(1)(B) of the Social Security Act*
8 *(42 U.S.C. 1395ww(d)(1)(B))) identified by the*
9 *Secretary as having a high readmission rate,*
10 *such as under section 1886(q) of the Social Secu-*
11 *rity Act, as added by section 3025.*

12 (B) *An appropriate community-based orga-*
13 *nization that provides care transition services*
14 *under this section across a continuum of care*
15 *through arrangements with subsection (d) hos-*
16 *pitals (as so defined) to furnish the services de-*
17 *scribed in subsection (c)(2)(B)(i) and whose gov-*
18 *erning body includes sufficient representation of*
19 *multiple health care stakeholders (including con-*
20 *sumers).*

21 (2) *HIGH-RISK MEDICARE BENEFICIARY.—The*
22 *term “high-risk Medicare beneficiary” means a Medi-*
23 *care beneficiary who has attained a minimum hier-*
24 *archical condition category score, as determined by*
25 *the Secretary, based on a diagnosis of multiple chron-*

1 *ic conditions or other risk factors associated with a*
2 *hospital readmission or substandard transition into*
3 *post-hospitalization care, which may include 1 or*
4 *more of the following:*

5 *(A) Cognitive impairment.*

6 *(B) Depression.*

7 *(C) A history of multiple readmissions.*

8 *(D) Any other chronic disease or risk factor*
9 *as determined by the Secretary.*

10 *(3) MEDICARE BENEFICIARY.—The term “Medi-*
11 *care beneficiary” means an individual who is entitled*
12 *to benefits under part A of title XVIII of the Social*
13 *Security Act (42 U.S.C. 1395 et seq.) and enrolled*
14 *under part B of such title, but not enrolled under*
15 *part C of such title.*

16 *(4) PROGRAM.—The term “program” means the*
17 *program conducted under this section.*

18 *(5) READMISSION.—The term “readmission” has*
19 *the meaning given such term in section 1886(q)(5)(E)*
20 *of the Social Security Act, as added by section 3025.*

21 *(6) SECRETARY.—The term “Secretary” means*
22 *the Secretary of Health and Human Services.*

23 *(c) REQUIREMENTS.—*

24 *(1) DURATION.—*

1 (A) *IN GENERAL.*—*The program shall be*
2 *conducted for a 5-year period, beginning Janu-*
3 *ary 1, 2011.*

4 (B) *EXPANSION.*—*The Secretary may ex-*
5 *pend the duration and the scope of the program,*
6 *to the extent determined appropriate by the Sec-*
7 *retary, if the Secretary determines (and the Chief*
8 *Actuary of the Centers for Medicare & Medicaid*
9 *Services, with respect to spending under this*
10 *title, certifies) that such expansion would reduce*
11 *spending under this title without reducing qual-*
12 *ity.*

13 (2) *APPLICATION; PARTICIPATION.*—

14 (A) *IN GENERAL.*—

15 (i) *APPLICATION.*—*An eligible entity*
16 *seeking to participate in the program shall*
17 *submit an application to the Secretary at*
18 *such time, in such manner, and containing*
19 *such information as the Secretary may re-*
20 *quire.*

21 (ii) *PARTNERSHIP.*—*If an eligible enti-*
22 *ty is a hospital, such hospital shall enter*
23 *into a partnership with a community-based*
24 *organization to participate in the program.*

1 (B) *INTERVENTION PROPOSAL.*—*Subject to*
2 *subparagraph (C), an application submitted*
3 *under subparagraph (A)(i) shall include a de-*
4 *tailed proposal for at least 1 care transition*
5 *intervention, which may include the following:*

6 (i) *Initiating care transition services*
7 *for a high-risk Medicare beneficiary not*
8 *later than 24 hours prior to the discharge of*
9 *the beneficiary from the eligible entity.*

10 (ii) *Arranging timely post-discharge*
11 *follow-up services to the high-risk Medicare*
12 *beneficiary to provide the beneficiary (and,*
13 *as appropriate, the primary caregiver of the*
14 *beneficiary) with information regarding re-*
15 *sponding to symptoms that may indicate*
16 *additional health problems or a deterio-*
17 *rating condition.*

18 (iii) *Providing the high-risk Medicare*
19 *beneficiary (and, as appropriate, the pri-*
20 *mary caregiver of the beneficiary) with as-*
21 *sistance to ensure productive and timely*
22 *interactions between patients and post-acute*
23 *and outpatient providers.*

24 (iv) *Assessing and actively engaging*
25 *with a high-risk Medicare beneficiary (and,*

1 *as appropriate, the primary caregiver of the*
2 *beneficiary) through the provision of self-*
3 *management support and relevant informa-*
4 *tion that is specific to the beneficiary's con-*
5 *dition.*

6 *(v) Conducting comprehensive medica-*
7 *tion review and management (including, if*
8 *appropriate, counseling and self-manage-*
9 *ment support).*

10 *(C) LIMITATION.—A care transition inter-*
11 *vention proposed under subparagraph (B) may*
12 *not include payment for services required under*
13 *the discharge planning process described in sec-*
14 *tion 1861(ee) of the Social Security Act (42*
15 *U.S.C. 1395x(ee)).*

16 *(3) SELECTION.—In selecting eligible entities to*
17 *participate in the program, the Secretary shall give*
18 *priority to eligible entities that—*

19 *(A) participate in a program administered*
20 *by the Administration on Aging to provide con-*
21 *current care transitions interventions with mul-*
22 *tiple hospitals and practitioners; or*

23 *(B) provide services to medically under-*
24 *served populations, small communities, and*
25 *rural areas.*

1 (d) *IMPLEMENTATION.*—Notwithstanding any other
2 provision of law, the Secretary may implement the provi-
3 sions of this section by program instruction or otherwise.

4 (e) *WAIVER AUTHORITY.*—The Secretary may waive
5 such requirements of titles XI and XVIII of the Social Secu-
6 rity Act as may be necessary to carry out the program.

7 (f) *FUNDING.*—For purposes of carrying out this sec-
8 tion, the Secretary of Health and Human Services shall
9 provide for the transfer, from the Federal Hospital Insur-
10 ance Trust Fund under section 1817 of the Social Security
11 Act (42 U.S.C. 1395i) and the Federal Supplementary Med-
12 ical Insurance Trust Fund under section 1841 of such Act
13 (42 U.S.C. 1395t), in such proportion as the Secretary de-
14 termines appropriate, of \$500,000,000, to the Centers for
15 Medicare & Medicaid Services Program Management Ac-
16 count for the period of fiscal years 2011 through 2015.
17 Amounts transferred under the preceding sentence shall re-
18 main available until expended.

19 **SEC. 3027. EXTENSION OF GAINSHARING DEMONSTRATION.**

20 (a) *IN GENERAL.*—Subsection (d)(3) of section 5007
21 of the Deficit Reduction Act of 2005 (Public Law 109–171)
22 is amended by inserting “(or September 30, 2011, in the
23 case of a demonstration project in operation as of October
24 1, 2008)” after “December 31, 2009”.

25 (b) *FUNDING.*—

1 (1) *IN GENERAL.*—Subsection (f)(1) of such sec-
 2 tion is amended by inserting “and for fiscal year
 3 2010, \$1,600,000,” after “\$6,000,000,”.

4 (2) *AVAILABILITY.*—Subsection (f)(2) of such sec-
 5 tion is amended by striking “2010” and inserting
 6 “2014 or until expended”.

7 (c) *REPORTS.*—

8 (1) *QUALITY IMPROVEMENT AND SAVINGS.*—Sub-
 9 section (e)(3) of such section is amended by striking
 10 “December 1, 2008” and inserting “March 31, 2011”.

11 (2) *FINAL REPORT.*—Subsection (e)(4) of such
 12 section is amended by striking “May 1, 2010” and
 13 inserting “March 31, 2013”.

14 ***Subtitle B—Improving Medicare for***
 15 ***Patients and Providers***

16 ***PART I—ENSURING BENEFICIARY ACCESS TO***
 17 ***PHYSICIAN CARE AND OTHER SERVICES***

18 ***SEC. 3101. INCREASE IN THE PHYSICIAN PAYMENT UPDATE.***

19 Section 1848(d) of the Social Security Act (42 U.S.C.
 20 1395w-4(d)) is amended by adding at the end the following
 21 new paragraph:

22 “(10) *UPDATE FOR 2010.*—

23 “(A) *IN GENERAL.*—Subject to paragraphs
 24 (7)(B), (8)(B), and (9)(B), in lieu of the update
 25 to the single conversion factor established in

1 paragraph (1)(C) that would otherwise apply for
2 2010, the update to the single conversion factor
3 shall be 0.5 percent.

4 “(B) NO EFFECT ON COMPUTATION OF CON-
5 VERSION FACTOR FOR 2011 AND SUBSEQUENT
6 YEARS.—The conversion factor under this sub-
7 section shall be computed under paragraph
8 (1)(A) for 2011 and subsequent years as if sub-
9 paragraph (A) had never applied.”.

10 **SEC. 3102. EXTENSION OF THE WORK GEOGRAPHIC INDEX**
11 **FLOOR AND REVISIONS TO THE PRACTICE EX-**
12 **PENSE GEOGRAPHIC ADJUSTMENT UNDER**
13 **THE MEDICARE PHYSICIAN FEE SCHEDULE.**

14 (a) *EXTENSION OF WORK GPCI FLOOR.*—Section
15 1848(e)(1)(E) of the Social Security Act (42 U.S.C. 1395w-
16 4(e)(1)(E)) is amended by striking “before January 1,
17 2010” and inserting “before January 1, 2011”.

18 (b) *PRACTICE EXPENSE GEOGRAPHIC ADJUSTMENT*
19 *FOR 2010 AND SUBSEQUENT YEARS.*—Section 1848(e)(1) of
20 the Social Security Act (42 U.S.C. 1395w4(e)(1)) is amend-
21 ed—

22 (1) in subparagraph (A), by striking “and (G)”
23 and inserting “(G), and (H)”; and

24 (2) by adding at the end the following new sub-
25 paragraph:

1 “(H) *PRACTICE EXPENSE GEOGRAPHIC AD-*
2 *JUSTMENT FOR 2010 AND SUBSEQUENT YEARS.—*

3 “(i) *FOR 2010.—Subject to clause (iii),*
4 *for services furnished during 2010, the em-*
5 *ployee wage and rent portions of the prac-*
6 *tice expense geographic index described in*
7 *subparagraph (A)(i) shall reflect $\frac{3}{4}$ of the*
8 *difference between the relative costs of em-*
9 *ployee wages and rents in each of the dif-*
10 *ferent fee schedule areas and the national*
11 *average of such employee wages and rents.*

12 “(ii) *FOR 2011.—Subject to clause (iii),*
13 *for services furnished during 2011, the em-*
14 *ployee wage and rent portions of the prac-*
15 *tice expense geographic index described in*
16 *subparagraph (A)(i) shall reflect $\frac{1}{2}$ of the*
17 *difference between the relative costs of em-*
18 *ployee wages and rents in each of the dif-*
19 *ferent fee schedule areas and the national*
20 *average of such employee wages and rents.*

21 “(iii) *HOLD HARMLESS.—The practice*
22 *expense portion of the geographic adjust-*
23 *ment factor applied in a fee schedule area*
24 *for services furnished in 2010 or 2011 shall*
25 *not, as a result of the application of clause*

1 *(i) or (ii), be reduced below the practice ex-*
2 *penditure portion of the geographic adjustment*
3 *factor under subparagraph (A)(i) (as cal-*
4 *culated prior to the application of such*
5 *clause (i) or (ii), respectively) for such area*
6 *for such year.*

7 “(iv) ANALYSIS.—The Secretary shall
8 analyze current methods of establishing
9 practice expense geographic adjustments
10 under subparagraph (A)(i) and evaluate
11 data that fairly and reliably establishes dis-
12 tinctions in the costs of operating a medical
13 practice in the different fee schedule areas.
14 Such analysis shall include an evaluation of
15 the following:

16 “(I) The feasibility of using ac-
17 tual data or reliable survey data devel-
18 oped by medical organizations on the
19 costs of operating a medical practice,
20 including office rents and non-physi-
21 cian staff wages, in different fee sched-
22 ule areas.

23 “(II) The office expense portion of
24 the practice expense geographic adjust-
25 ment described in subparagraph (A)(i),

1 *including the extent to which types of*
2 *office expenses are determined in local*
3 *markets instead of national markets.*

4 “(III) *The weights assigned to*
5 *each of the categories within the prac-*
6 *tice expense geographic adjustment de-*
7 *scribed in subparagraph (A)(i).*

8 “(v) *REVISION FOR 2012 AND SUBSE-*
9 *QUENT YEARS.—As a result of the analysis*
10 *described in clause (iv), the Secretary shall,*
11 *not later than January 1, 2012, make ap-*
12 *propriate adjustments to the practice ex-*
13 *penditure geographic adjustment described in*
14 *subparagraph (A)(i) to ensure accurate geo-*
15 *graphic adjustments across fee schedule*
16 *areas, including—*

17 “(I) *basing the office rents compo-*
18 *nent and its weight on office expenses*
19 *that vary among fee schedule areas;*
20 *and*

21 “(II) *considering a representative*
22 *range of professional and non-profes-*
23 *sional personnel employed in a med-*
24 *ical office based on the use of the*
25 *American Community Survey data or*

1 *other reliable data for wage adjust-*
2 *ments.*

3 *Such adjustments shall be made without re-*
4 *gard to adjustments made pursuant to*
5 *clauses (i) and (ii) and shall be made in a*
6 *budget neutral manner.”.*

7 **SEC. 3103. EXTENSION OF EXCEPTIONS PROCESS FOR**
8 **MEDICARE THERAPY CAPS.**

9 *Section 1833(g)(5) of the Social Security Act (42*
10 *U.S.C. 1395l(g)(5)) is amended by striking “December 31,*
11 *2009” and inserting “December 31, 2010”.*

12 **SEC. 3104. EXTENSION OF PAYMENT FOR TECHNICAL COM-**
13 **PONENT OF CERTAIN PHYSICIAN PATHOLOGY**
14 **SERVICES.**

15 *Section 542(c) of the Medicare, Medicaid, and SCHIP*
16 *Benefits Improvement and Protection Act of 2000 (as en-*
17 *acted into law by section 1(a)(6) of Public Law 106–554),*
18 *as amended by section 732 of the Medicare Prescription*
19 *Drug, Improvement, and Modernization Act of 2003 (42*
20 *U.S.C. 1395w–4 note), section 104 of division B of the Tax*
21 *Relief and Health Care Act of 2006 (42 U.S.C. 1395w–4*
22 *note), section 104 of the Medicare, Medicaid, and SCHIP*
23 *Extension Act of 2007 (Public Law 110–173), and section*
24 *136 of the Medicare Improvements for Patients and Pro-*

1 *viders Act of 2008 (Public Law 110–275), is amended by*
2 *striking “and 2009” and inserting “2009, and 2010”.*

3 **SEC. 3105. EXTENSION OF AMBULANCE ADD-ONS.**

4 *(a) GROUND AMBULANCE.—Section 1834(l)(13)(A) of*
5 *the Social Security Act (42 U.S.C. 1395m(l)(13)(A)) is*
6 *amended—*

7 *(1) in the matter preceding clause (i)—*

8 *(A) by striking “2007, and for” and insert-*
9 *ing “2007, for”; and*

10 *(B) by striking “2010” and inserting*
11 *“2010, and for such services furnished on or*
12 *after April 1, 2010, and before January 1,*
13 *2011,”; and*

14 *(2) in each of clauses (i) and (ii), by inserting*
15 *“, and on or after April 1, 2010, and before January*
16 *1, 2011” after “January 1, 2010” each place it ap-*
17 *pears.*

18 *(b) AIR AMBULANCE.—Section 146(b)(1) of the Medi-*
19 *care Improvements for Patients and Providers Act of 2008*
20 *(Public Law 110–275) is amended by striking “December*
21 *31, 2009” and inserting “December 31, 2009, and during*
22 *the period beginning on April 1, 2010, and ending on Janu-*
23 *ary 1, 2011”.*

24 *(c) SUPER RURAL AMBULANCE.—Section*
25 *1834(l)(12)(A) of the Social Security Act (42 U.S.C.*

1 1395m(l)(12)(A)) is amended by striking “2010” and in-
2 serting “2010, and on or after April 1, 2010, and before
3 January 1, 2011”.

4 **SEC. 3106. EXTENSION OF CERTAIN PAYMENT RULES FOR**
5 **LONG-TERM CARE HOSPITAL SERVICES AND**
6 **OF MORATORIUM ON THE ESTABLISHMENT**
7 **OF CERTAIN HOSPITALS AND FACILITIES.**

8 (a) *EXTENSION OF CERTAIN PAYMENT RULES.*—Sec-
9 tion 114(c) of the Medicare, Medicaid, and SCHIP Exten-
10 sion Act of 2007 (42 U.S.C. 1395ww note), as amended by
11 section 4302(a) of the American Recovery and Reinvestment
12 Act (Public Law 111–5), is further amended by striking
13 “3-year period” each place it appears and inserting “4-year
14 period”.

15 (b) *EXTENSION OF MORATORIUM.*—Section 114(d)(1)
16 of such Act (42 U.S.C. 1395ww note), in the matter pre-
17 ceding subparagraph (A), is amended by striking “3-year
18 period” and inserting “4-year period”.

19 **SEC. 3107. EXTENSION OF PHYSICIAN FEE SCHEDULE MEN-**
20 **TAL HEALTH ADD-ON.**

21 Section 138(a)(1) of the Medicare Improvements for
22 Patients and Providers Act of 2008 (Public Law 110–275)
23 is amended by striking “December 31, 2009” and inserting
24 “December 31, 2010”.

1 **SEC. 3108. PERMITTING PHYSICIAN ASSISTANTS TO ORDER**
2 **POST-HOSPITAL EXTENDED CARE SERVICES.**

3 (a) *ORDERING POST-HOSPITAL EXTENDED CARE*
4 *SERVICES.—*

5 (1) *IN GENERAL.—Section 1814(a)(2) of the So-*
6 *cial Security Act (42 U.S.C. 1395f(a)(2)), in the mat-*
7 *ter preceding subparagraph (A), is amended by strik-*
8 *ing “or clinical nurse specialist” and inserting “, a*
9 *clinical nurse specialist, or a physician assistant (as*
10 *those terms are defined in section 1861(aa)(5))” after*
11 *“nurse practitioner”.*

12 (2) *CONFORMING AMENDMENT.—Section 1814(a)*
13 *of the Social Security Act (42 U.S.C. 1395f(a)) is*
14 *amended, in the second sentence, by striking “or clin-*
15 *ical nurse specialist” and inserting “clinical nurse*
16 *specialist, or physician assistant” after “nurse practi-*
17 *tioner,”.*

18 (b) *EFFECTIVE DATE.—The amendments made by this*
19 *section shall apply to items and services furnished on or*
20 *after January 1, 2011.*

21 **SEC. 3109. EXEMPTION OF CERTAIN PHARMACIES FROM AC-**
22 **CREDITATION REQUIREMENTS.**

23 (a) *IN GENERAL.—Section 1834(a)(20) of the Social*
24 *Security Act (42 U.S.C. 1395m(a)(20)), as added by section*
25 *154(b)(1)(A) of the Medicare Improvements for Patients*

1 *and Providers Act of 2008 (Public Law 100–275), is*
2 *amended—*

3 *(1) in subparagraph (F)(i)—*

4 *(A) by inserting “and subparagraph (G)”*
5 *after “clause (ii)”;* and

6 *(B) by inserting “, except that the Secretary*
7 *shall not require a pharmacy to have submitted*
8 *to the Secretary such evidence of accreditation*
9 *prior to January 1, 2011” before the semicolon*
10 *at the end; and*

11 *(2) by adding at the end the following new sub-*
12 *paragraph:*

13 *“(G) APPLICATION OF ACCREDITATION RE-*
14 *QUIREMENT TO CERTAIN PHARMACIES.—*

15 *“(i) IN GENERAL.—With respect to*
16 *items and services furnished on or after*
17 *January 1, 2011, in implementing quality*
18 *standards under this paragraph—*

19 *“(I) subject to subclause (II), in*
20 *applying such standards and the ac-*
21 *creditation requirement of subpara-*
22 *graph (F)(i) with respect to phar-*
23 *macies described in clause (ii) fur-*
24 *nishing such items and services, such*
25 *standards and accreditation require-*

1 *ment shall not apply to such phar-*
2 *macies; and*

3 “(II) *the Secretary may apply to*
4 *such pharmacies an alternative accred-*
5 *itation requirement established by the*
6 *Secretary if the Secretary determines*
7 *such alternative accreditation require-*
8 *ment is more appropriate for such*
9 *pharmacies.*

10 “(i) *PHARMACIES DESCRIBED.—A*
11 *pharmacy described in this clause is a*
12 *pharmacy that meets each of the following*
13 *criteria:*

14 “(I) *The total billings by the*
15 *pharmacy for such items and services*
16 *under this title are less than 5 percent*
17 *of total pharmacy sales, as determined*
18 *based on the average total pharmacy*
19 *sales for the previous 3 calendar years,*
20 *3 fiscal years, or other yearly period*
21 *specified by the Secretary.*

22 “(II) *The pharmacy has been en-*
23 *rolled under section 1866(j) as a sup-*
24 *plier of durable medical equipment,*
25 *prosthetics, orthotics, and supplies, has*

1 *been issued (which may include the re-*
2 *newal of) a provider number for at*
3 *least 5 years, and for which a final ad-*
4 *verse action (as defined in section*
5 *424.57(a) of title 42, Code of Federal*
6 *Regulations) has not been imposed in*
7 *the past 5 years.*

8 *“(III) The pharmacy submits to*
9 *the Secretary an attestation, in a form*
10 *and manner, and at a time, specified*
11 *by the Secretary, that the pharmacy*
12 *meets the criteria described in sub-*
13 *clauses (I) and (II). Such attestation*
14 *shall be subject to section 1001 of title*
15 *18, United States Code.*

16 *“(IV) The pharmacy agrees to*
17 *submit materials as requested by the*
18 *Secretary, or during the course of an*
19 *audit conducted on a random sample*
20 *of pharmacies selected annually, to*
21 *verify that the pharmacy meets the cri-*
22 *teria described in subclauses (I) and*
23 *(II). Materials submitted under the*
24 *preceding sentence shall include a cer-*
25 *tification by an accountant on behalf*

1 of the pharmacy or the submission of
2 tax returns filed by the pharmacy dur-
3 ing the relevant periods, as requested
4 by the Secretary.”.

5 (b) *ADMINISTRATION.*—Notwithstanding any other
6 provision of law, the Secretary may implement the amend-
7 ments made by subsection (a) by program instruction or
8 otherwise.

9 (c) *RULE OF CONSTRUCTION.*—Nothing in the provi-
10 sions of or amendments made by this section shall be con-
11 strued as affecting the application of an accreditation re-
12 quirement for pharmacies to qualify for bidding in a com-
13 petitive acquisition area under section 1847 of the Social
14 Security Act (42 U.S.C. 1395w–3).

15 **SEC. 3110. PART B SPECIAL ENROLLMENT PERIOD FOR DIS-**
16 **ABLED TRICARE BENEFICIARIES.**

17 (a) *IN GENERAL.*—

18 (1) *IN GENERAL.*—Section 1837 of the Social Se-
19 curity Act (42 U.S.C. 1395p) is amended by adding
20 at the end the following new subsection:

21 “(l)(1) *In the case of any individual who is a covered*
22 *beneficiary (as defined in section 1072(5) of title 10, United*
23 *States Code) at the time the individual is entitled to part*
24 *A under section 226(b) or section 226A and who is eligible*
25 *to enroll but who has elected not to enroll (or to be deemed*

1 enrolled) during the individual's initial enrollment period,
2 there shall be a special enrollment period described in para-
3 graph (2).

4 “(2) The special enrollment period described in this
5 paragraph, with respect to an individual, is the 12-month
6 period beginning on the day after the last day of the initial
7 enrollment period of the individual or, if later, the 12-
8 month period beginning with the month the individual is
9 notified of enrollment under this section.

10 “(3) In the case of an individual who enrolls during
11 the special enrollment period provided under paragraph
12 (1), the coverage period under this part shall begin on the
13 first day of the month in which the individual enrolls, or,
14 at the option of the individual, the first month after the
15 end of the individual's initial enrollment period.

16 “(4) An individual may only enroll during the special
17 enrollment period provided under paragraph (1) one time
18 during the individual's lifetime.

19 “(5) The Secretary shall ensure that the materials re-
20 lating to coverage under this part that are provided to an
21 individual described in paragraph (1) prior to the individ-
22 ual's initial enrollment period contain information con-
23 cerning the impact of not enrolling under this part, includ-
24 ing the impact on health care benefits under the TRICARE
25 program under chapter 55 of title 10, United States Code.

1 “(6) *The Secretary of Defense shall collaborate with*
2 *the Secretary of Health and Human Services and the Com-*
3 *missioner of Social Security to provide for the accurate*
4 *identification of individuals described in paragraph (1).*
5 *The Secretary of Defense shall provide such individuals*
6 *with notification with respect to this subsection. The Sec-*
7 *retary of Defense shall collaborate with the Secretary of*
8 *Health and Human Services and the Commissioner of So-*
9 *cial Security to ensure appropriate follow up pursuant to*
10 *any notification provided under the preceding sentence.”.*

11 (2) *EFFECTIVE DATE.*—*The amendment made by*
12 *paragraph (1) shall apply to elections made with re-*
13 *spect to initial enrollment periods that end after the*
14 *date of the enactment of this Act.*

15 (b) *WAIVER OF INCREASE OF PREMIUM.*—*Section*
16 *1839(b) of the Social Security Act (42 U.S.C. 1395r(b)) is*
17 *amended by striking “section 1837(i)(4)” and inserting*
18 *“subsection (i)(4) or (l) of section 1837”.*

19 **SEC. 3111. PAYMENT FOR BONE DENSITY TESTS.**

20 (a) *PAYMENT.*—

21 (1) *IN GENERAL.*—*Section 1848 of the Social Se-*
22 *curity Act (42 U.S.C. 1395w-4) is amended—*

23 (A) *in subsection (b)—*

24 (i) *in paragraph (4)(B), by inserting*

25 “, and for 2010 and 2011, dual-energy x-

1 *ray absorptiometry services (as described in*
2 *paragraph (6))” before the period at the*
3 *end; and*

4 *(ii) by adding at the end the following*
5 *new paragraph:*

6 “(6) *TREATMENT OF BONE MASS SCANS.—For*
7 *dual-energy x-ray absorptiometry services (identified*
8 *in 2006 by HCPCS codes 76075 and 76077 (and any*
9 *succeeding codes)) furnished during 2010 and 2011,*
10 *instead of the payment amount that would otherwise*
11 *be determined under this section for such years, the*
12 *payment amount shall be equal to 70 percent of the*
13 *product of—*

14 “(A) *the relative value for the service (as de-*
15 *termined in subsection (c)(2)) for 2006;*

16 “(B) *the conversion factor (established*
17 *under subsection (d)) for 2006; and*

18 “(C) *the geographic adjustment factor (es-*
19 *tablished under subsection (e)(2)) for the service*
20 *for the fee schedule area for 2010 and 2011, re-*
21 *spectively.”; and*

22 (B) *in subsection (c)(2)(B)(iv)—*

23 *(i) in subclause (II), by striking “and”*
24 *at the end;*

1 (ii) in subclause (III), by striking the
2 period at the end and inserting “; and”;
3 and

4 (iii) by adding at the end the following
5 new subclause:

6 “(IV) subsection (b)(6) shall not
7 be taken into account in applying
8 clause (ii)(II) for 2010 or 2011.”.

9 (2) *IMPLEMENTATION.*—Notwithstanding any
10 other provision of law, the Secretary may implement
11 the amendments made by paragraph (1) by program
12 instruction or otherwise.

13 (b) *STUDY AND REPORT BY THE INSTITUTE OF MEDI-*
14 *CINE.*—

15 (1) *IN GENERAL.*—The Secretary of Health and
16 Human Services is authorized to enter into an agree-
17 ment with the Institute of Medicine of the National
18 Academies to conduct a study on the ramifications of
19 Medicare payment reductions for dual-energy x-ray
20 absorptiometry (as described in section 1848(b)(6) of
21 the Social Security Act, as added by subsection
22 (a)(1)) during 2007, 2008, and 2009 on beneficiary
23 access to bone mass density tests.

24 (2) *REPORT.*—An agreement entered into under
25 paragraph (1) shall provide for the Institute of Medi-

1 *cine to submit to the Secretary and to Congress a re-*
2 *port containing the results of the study conducted*
3 *under such paragraph.*

4 **SEC. 3112. REVISION TO THE MEDICARE IMPROVEMENT**
5 **FUND.**

6 *Section 1898(b)(1)(A) of the Social Security Act (42*
7 *U.S.C. 1395iii) is amended by striking “\$22,290,000,000”*
8 *and inserting “\$0”.*

9 **SEC. 3113. TREATMENT OF CERTAIN COMPLEX DIAGNOSTIC**
10 **LABORATORY TESTS.**

11 *(a) DEMONSTRATION PROJECT.—*

12 *(1) IN GENERAL.—The Secretary of Health and*
13 *Human Services (in this section referred to as the*
14 *“Secretary”) shall conduct a demonstration project*
15 *under part B title XVIII of the Social Security Act*
16 *under which separate payments are made under such*
17 *part for complex diagnostic laboratory tests provided*
18 *to individuals under such part. Under the demonstra-*
19 *tion project, the Secretary shall establish appropriate*
20 *payment rates for such tests.*

21 *(2) COVERED COMPLEX DIAGNOSTIC LABORATORY*
22 *TEST DEFINED.—In this section, the term “complex*
23 *diagnostic laboratory test” means a diagnostic lab-*
24 *oratory test—*

1 (A) that is an analysis of gene protein ex-
2 pression, topographic genotyping, or a cancer
3 chemotherapy sensitivity assay;

4 (B) that is determined by the Secretary to
5 be a laboratory test for which there is not an al-
6 ternative test having equivalent performance
7 characteristics;

8 (C) which is billed using a Health Care
9 Procedure Coding System (HCPCS) code other
10 than a not otherwise classified code under such
11 Coding System;

12 (D) which is approved or cleared by the
13 Food and Drug Administration or is covered
14 under title XVIII of the Social Security Act; and

15 (E) is described in section 1861(s)(3) of the
16 Social Security Act (42 U.S.C. 1395x(s)(3)).

17 (3) SEPARATE PAYMENT DEFINED.—In this sec-
18 tion, the term “separate payment” means direct pay-
19 ment to a laboratory (including a hospital-based or
20 independent laboratory) that performs a complex di-
21 agnostic laboratory test with respect to a specimen
22 collected from an individual during a period in which
23 the individual is a patient of a hospital if the test is
24 performed after such period of hospitalization and if
25 separate payment would not otherwise be made under

1 *title XVIII of the Social Security Act by reason of*
2 *sections 1862(a)(14) and 1866(a)(1)(H)(i) of the such*
3 *Act (42 U.S.C. 1395y(a)(14); 42 U.S.C.*
4 *1395cc(a)(1)(H)(i)).*

5 *(b) DURATION.—Subject to subsection (c)(2), the Sec-*
6 *retary shall conduct the demonstration project under this*
7 *section for the 2-year period beginning on July 1, 2011.*

8 *(c) PAYMENTS AND LIMITATION.—Payments under the*
9 *demonstration project under this section shall—*

10 *(1) be made from the Federal Supplemental Med-*
11 *ical Insurance Trust Fund under section 1841 of the*
12 *Social Security Act (42 U.S.C. 1395t); and*

13 *(2) may not exceed \$100,000,000.*

14 *(d) REPORT.—Not later than 2 years after the comple-*
15 *tion of the demonstration project under this section, the Sec-*
16 *retary shall submit to Congress a report on the project. Such*
17 *report shall include—*

18 *(1) an assessment of the impact of the dem-*
19 *onstration project on access to care, quality of care,*
20 *health outcomes, and expenditures under title XVIII*
21 *of the Social Security Act (including any savings*
22 *under such title); and*

23 *(2) such recommendations as the Secretary deter-*
24 *mines appropriate.*

1 (e) *IMPLEMENTATION FUNDING.*—For purposes of ad-
 2 ministering this section (including preparing and submit-
 3 ting the report under subsection (d)), the Secretary shall
 4 provide for the transfer, from the Federal Supplemental
 5 Medical Insurance Trust Fund under section 1841 of the
 6 Social Security Act (42 U.S.C. 1395t), to the Centers for
 7 Medicare & Medicaid Services Program Management Ac-
 8 count, of \$5,000,000. Amounts transferred under the pre-
 9 ceding sentence shall remain available until expended.

10 **SEC. 3114. IMPROVED ACCESS FOR CERTIFIED NURSE-MID-**
 11 **WIFE SERVICES.**

12 Section 1833(a)(1)(K) of the Social Security Act (42
 13 U.S.C. 1395l(a)(1)(K)) is amended by inserting “(or 100
 14 percent for services furnished on or after January 1, 2011)”
 15 after “1992, 65 percent”.

16 **PART II—RURAL PROTECTIONS**

17 **SEC. 3121. EXTENSION OF OUTPATIENT HOLD HARMLESS**
 18 **PROVISION.**

19 (a) *IN GENERAL.*—Section 1833(t)(7)(D)(i) of the So-
 20 cial Security Act (42 U.S.C. 1395l(t)(7)(D)(i)) is amend-
 21 ed—

22 (1) in subclause (II)—

23 (A) in the first sentence, by striking
 24 “2010” and inserting “2011”; and

1 (B) in the second sentence, by striking “or
2 2009” and inserting “, 2009, or 2010”; and
3 (2) in subclause (III), by striking “January 1,
4 2010” and inserting “January 1, 2011”.

5 (b) *PERMITTING ALL SOLE COMMUNITY HOSPITALS*
6 *TO BE ELIGIBLE FOR HOLD HARMLESS.*—Section
7 1833(t)(7)(D)(i)(III) of the Social Security Act (42 U.S.C.
8 1395l(t)(7)(D)(i)(III)) is amended by adding at the end the
9 following new sentence: “In the case of covered OPD services
10 furnished on or after January 1, 2010, and before January
11 1, 2011, the preceding sentence shall be applied without re-
12 gard to the 100-bed limitation.”.

13 **SEC. 3122. EXTENSION OF MEDICARE REASONABLE COSTS**
14 **PAYMENTS FOR CERTAIN CLINICAL DIAG-**
15 **NOSTIC LABORATORY TESTS FURNISHED TO**
16 **HOSPITAL PATIENTS IN CERTAIN RURAL**
17 **AREAS.**

18 Section 416(b) of the Medicare Prescription Drug, Im-
19 provement, and Modernization Act of 2003 (42 U.S.C.
20 1395l–4), as amended by section 105 of division B of the
21 Tax Relief and Health Care Act of 2006 (42 U.S.C. 1395l
22 note) and section 107 of the Medicare, Medicaid, and
23 SCHIP Extension Act of 2007 (42 U.S.C. 1395l note), is
24 amended by inserting “or during the 1-year period begin-
25 ning on July 1, 2010” before the period at the end.

1 **SEC. 3123. EXTENSION OF THE RURAL COMMUNITY HOS-**
2 **PITAL DEMONSTRATION PROGRAM.**

3 (a) *ONE-YEAR EXTENSION.*—Section 410A of the Medi-
4 care Prescription Drug, Improvement, and Modernization
5 Act of 2003 (Public Law 108–173; 117 Stat. 2272) is
6 amended by adding at the end the following new subsection:

7 “(g) *ONE-YEAR EXTENSION OF DEMONSTRATION PRO-*
8 *GRAM.*—

9 “(1) *IN GENERAL.*—Subject to the succeeding
10 provisions of this subsection, the Secretary shall con-
11 duct the demonstration program under this section for
12 an additional 1-year period (in this section referred
13 to as the ‘1-year extension period’) that begins on the
14 date immediately following the last day of the initial
15 5-year period under subsection (a)(5).

16 “(2) *EXPANSION OF DEMONSTRATION STATES.*—
17 Notwithstanding subsection (a)(2), during the 1-year
18 extension period, the Secretary shall expand the num-
19 ber of States with low population densities deter-
20 mined by the Secretary under such subsection to 20.
21 In determining which States to include in such ex-
22 pansion, the Secretary shall use the same criteria and
23 data that the Secretary used to determine the States
24 under such subsection for purposes of the initial 5-
25 year period.

1 “(3) *INCREASE IN MAXIMUM NUMBER OF HOS-*
2 *PITALS PARTICIPATING IN THE DEMONSTRATION PRO-*
3 *GRAM.*—*Notwithstanding subsection (a)(4), during the*
4 *1-year extension period, not more than 30 rural com-*
5 *munity hospitals may participate in the demonstra-*
6 *tion program under this section.*

7 “(4) *NO AFFECT ON HOSPITALS IN DEMONSTRA-*
8 *TION PROGRAM ON DATE OF ENACTMENT.*—*In the case*
9 *of a rural community hospital that is participating*
10 *in the demonstration program under this section as*
11 *of the last day of the initial 5-year period, the Sec-*
12 *retary shall provide for the continued participation of*
13 *such rural community hospital in the demonstration*
14 *program during the 1-year extension period unless the*
15 *rural community hospital makes an election, in such*
16 *form and manner as the Secretary may specify, to*
17 *discontinue such participation.”.*

18 “(b) *CONFORMING AMENDMENTS.*—*Subsection (a)(5) of*
19 *section 410A of the Medicare Prescription Drug, Improve-*
20 *ment, and Modernization Act of 2003 (Public Law 108–*
21 *173; 117 Stat. 2272) is amended by inserting “(in this sec-*
22 *tion referred to as the ‘initial 5-year period’) and, as pro-*
23 *vided in subsection (g), for the 1-year extension period”*
24 *after “5-year period”.*

25 “(c) *TECHNICAL AMENDMENTS.*—

1 (1) Subsection (b) of section 410A of the Medi-
2 care Prescription Drug, Improvement, and Mod-
3 ernization Act of 2003 (Public Law 108–173; 117
4 Stat. 2272) is amended—

5 (A) in paragraph (1)(B)(ii), by striking
6 “2)” and inserting “2))”; and

7 (B) in paragraph (2), by inserting “cost”
8 before “reporting period” the first place such
9 term appears in each of subparagraphs (A) and
10 (B).

11 (2) Subsection (f)(1) of section 410A of the Medi-
12 care Prescription Drug, Improvement, and Mod-
13 ernization Act of 2003 (Public Law 108–173; 117
14 Stat. 2272) is amended—

15 (A) in subparagraph (A)(ii), by striking
16 “paragraph (2)” and inserting “subparagraph
17 (B)”; and

18 (B) in subparagraph (B), by striking
19 “paragraph (1)(B)” and inserting “subpara-
20 graph (A)(ii)”.

21 **SEC. 3124. EXTENSION OF THE MEDICARE-DEPENDENT**
22 **HOSPITAL (MDH) PROGRAM.**

23 (a) **EXTENSION OF PAYMENT METHODOLOGY.**—Sec-
24 tion 1886(d)(5)(G) of the Social Security Act (42 U.S.C.
25 1395ww(d)(5)(G)) is amended—

1 (1) *in clause (i), by striking “October 1, 2011”*
2 *and inserting “October 1, 2012”; and*

3 (2) *in clause (ii)(II), by striking “October 1,*
4 *2011” and inserting “October 1, 2012”.*

5 **(b) CONFORMING AMENDMENTS.—**

6 (1) *EXTENSION OF TARGET AMOUNT.—Section*
7 *1886(b)(3)(D) of the Social Security Act (42 U.S.C.*
8 *1395ww(b)(3)(D)) is amended—*

9 (A) *in the matter preceding clause (i), by*
10 *striking “October 1, 2011” and inserting “Octo-*
11 *ber 1, 2012”; and*

12 (B) *in clause (iv), by striking “through fis-*
13 *cal year 2011” and inserting “through fiscal*
14 *year 2012”.*

15 (2) *PERMITTING HOSPITALS TO DECLINE RE-*
16 *CLASSIFICATION.—Section 13501(e)(2) of the Omni-*
17 *bus Budget Reconciliation Act of 1993 (42 U.S.C.*
18 *1395ww note) is amended by striking “through fiscal*
19 *year 2011” and inserting “through fiscal year 2012”.*

20 **SEC. 3125. TEMPORARY IMPROVEMENTS TO THE MEDICARE**
21 **INPATIENT HOSPITAL PAYMENT ADJUST-**
22 **MENT FOR LOW-VOLUME HOSPITALS.**

23 Section 1886(d)(12) of the Social Security Act (42
24 U.S.C. 1395ww(d)(12)) is amended—

1 (1) *in subparagraph (A), by inserting “or (D)”*
2 *after “subparagraph (B)”;*

3 (2) *in subparagraph (B), in the matter pre-*
4 *ceding clause (i), by striking “The Secretary” and in-*
5 *serting “For discharges occurring in fiscal years 2005*
6 *through 2010 and for discharges occurring in fiscal*
7 *year 2013 and subsequent fiscal years, the Secretary”;*

8 (3) *in subparagraph (C)(i)—*

9 (A) *by inserting “(or, with respect to fiscal*
10 *years 2011 and 2012, 15 road miles)” after “25*
11 *road miles”;* and

12 (B) *by inserting “(or, with respect to fiscal*
13 *years 2011 and 2012, 1,500 discharges of indi-*
14 *viduals entitled to, or enrolled for, benefits under*
15 *part A)” after “800 discharges”;* and

16 (4) *by adding at the end the following new sub-*
17 *paragraph:*

18 “(D) *TEMPORARY APPLICABLE PERCENTAGE*
19 *INCREASE.—For discharges occurring in fiscal*
20 *years 2011 and 2012, the Secretary shall deter-*
21 *mine an applicable percentage increase for pur-*
22 *poses of subparagraph (A) using a continuous*
23 *linear sliding scale ranging from 25 percent for*
24 *low-volume hospitals with 200 or fewer dis-*
25 *charges of individuals entitled to, or enrolled for,*

1 *benefits under part A in the fiscal year to 0 per-*
2 *cent for low-volume hospitals with greater than*
3 *1,500 discharges of such individuals in the fiscal*
4 *year.”.*

5 **SEC. 3126. IMPROVEMENTS TO THE DEMONSTRATION**
6 **PROJECT ON COMMUNITY HEALTH INTEGRA-**
7 **TION MODELS IN CERTAIN RURAL COUNTIES.**

8 *(a) REMOVAL OF LIMITATION ON NUMBER OF ELIGI-*
9 *BLE COUNTIES SELECTED.—Subsection (d)(3) of section*
10 *123 of the Medicare Improvements for Patients and Pro-*
11 *viders Act of 2008 (42 U.S.C. 1395i–4 note) is amended*
12 *by striking “not more than 6”.*

13 *(b) REMOVAL OF REFERENCES TO RURAL HEALTH*
14 *CLINIC SERVICES AND INCLUSION OF PHYSICIANS’ SERV-*
15 *ICES IN SCOPE OF DEMONSTRATION PROJECT.—Such sec-*
16 *tion 123 is amended—*

17 *(1) in subsection (d)(4)(B)(i)(3), by striking sub-*
18 *clause (III); and*

19 *(2) in subsection (j)—*

20 *(A) in paragraph (8), by striking subpara-*
21 *graph (B) and inserting the following:*

22 *“(B) Physicians’ services (as defined in sec-*
23 *tion 1861(q) of the Social Security Act (42*
24 *U.S.C. 1395x(q)).”;*

25 *(B) by striking paragraph (9); and*

1 (C) by redesignating paragraph (10) as
2 paragraph (9).

3 **SEC. 3127. MEDPAC STUDY ON ADEQUACY OF MEDICARE**
4 **PAYMENTS FOR HEALTH CARE PROVIDERS**
5 **SERVING IN RURAL AREAS.**

6 (a) *STUDY.*—*The Medicare Payment Advisory Com-*
7 *mission shall conduct a study on the adequacy of payments*
8 *for items and services furnished by providers of services and*
9 *suppliers in rural areas under the Medicare program under*
10 *title XVIII of the Social Security Act (42 U.S.C. 1395 et*
11 *seq.). Such study shall include an analysis of—*

12 (1) *any adjustments in payments to providers of*
13 *services and suppliers that furnish items and services*
14 *in rural areas;*

15 (2) *access by Medicare beneficiaries to items and*
16 *services in rural areas;*

17 (3) *the adequacy of payments to providers of*
18 *services and suppliers that furnish items and services*
19 *in rural areas; and*

20 (4) *the quality of care furnished in rural areas.*

21 (b) *REPORT.*—*Not later than January 1, 2011, the*
22 *Medicare Payment Advisory Commission shall submit to*
23 *Congress a report containing the results of the study con-*
24 *ducted under subsection (a). Such report shall include rec-*
25 *ommendations on appropriate modifications to any adjust-*

1 *ments in payments to providers of services and suppliers*
2 *that furnish items and services in rural areas, together with*
3 *recommendations for such legislation and administrative*
4 *action as the Medicare Payment Advisory Commission de-*
5 *termines appropriate.*

6 **SEC. 3128. TECHNICAL CORRECTION RELATED TO CRITICAL**
7 **ACCESS HOSPITAL SERVICES.**

8 *(a) IN GENERAL.—Subsections (g)(2)(A) and (l)(8) of*
9 *section 1834 of the Social Security Act (42 U.S.C. 1395m)*
10 *are each amended by inserting “101 percent of” before “the*
11 *reasonable costs”.*

12 *(b) EFFECTIVE DATE.—The amendments made by sub-*
13 *section (a) shall take effect as if included in the enactment*
14 *of section 405(a) of the Medicare Prescription Drug, Im-*
15 *provement, and Modernization Act of 2003 (Public Law*
16 *108–173; 117 Stat. 2266).*

17 **SEC. 3129. EXTENSION OF AND REVISIONS TO MEDICARE**
18 **RURAL HOSPITAL FLEXIBILITY PROGRAM.**

19 *(a) AUTHORIZATION.—Section 1820(j) of the Social*
20 *Security Act (42 U.S.C. 1395i–4(j)) is amended—*

21 *(1) by striking “2010, and for” and inserting*
22 *“2010, for”; and*

23 *(2) by inserting “and for making grants to all*
24 *States under subsection (g), such sums as may be nec-*
25 *essary in each of fiscal years 2011 and 2012, to re-*

1 *main available until expended” before the period at*
2 *the end.*

3 *(b) USE OF FUNDS.—Section 1820(g)(3) of the Social*
4 *Security Act (42 U.S.C. 1395i–4(g)(3)) is amended—*

5 *(1) in subparagraph (A), by inserting “and to*
6 *assist such hospitals in participating in delivery sys-*
7 *tem reforms under the provisions of and amendments*
8 *made by the Patient Protection and Affordable Care*
9 *Act, such as value-based purchasing programs, ac-*
10 *countable care organizations under section 1899, the*
11 *National pilot program on payment bundling under*
12 *section 1866D, and other delivery system reform pro-*
13 *grams determined appropriate by the Secretary” be-*
14 *fore the period at the end; and*

15 *(2) in subparagraph (E)—*

16 *(A) by striking “, and to offset” and insert-*
17 *ing “, to offset”; and*

18 *(B) by inserting “and to participate in de-*
19 *livery system reforms under the provisions of*
20 *and amendments made by the Patient Protection*
21 *and Affordable Care Act, such as value-based*
22 *purchasing programs, accountable care organiza-*
23 *tions under section 1899, the National pilot pro-*
24 *gram on payment bundling under section*
25 *1866D, and other delivery system reform pro-*

1 *grams determined appropriate by the Secretary”*
 2 *before the period at the end.*

3 (c) *EFFECTIVE DATE.*—*The amendments made by this*
 4 *section shall apply to grants made on or after January 1,*
 5 *2010.*

6 ***PART III—IMPROVING PAYMENT ACCURACY***

7 ***SEC. 3131. PAYMENT ADJUSTMENTS FOR HOME HEALTH***
 8 ***CARE.***

9 (a) *REBASING HOME HEALTH PROSPECTIVE PAYMENT*
 10 *AMOUNT.*—

11 (1) *IN GENERAL.*—*Section 1895(b)(3)(A) of the*
 12 *Social Security Act (42 U.S.C. 1395fff(b)(3)(A)) is*
 13 *amended—*

14 (A) *in clause (i)(III), by striking “For peri-*
 15 *ods” and inserting “Subject to clause (iii), for*
 16 *periods”;* and

17 (B) *by adding at the end the following new*
 18 *clause:*

19 “*(iii) ADJUSTMENT FOR 2013 AND SUB-*
 20 *SEQUENT YEARS.*—

21 “*(I) IN GENERAL.*—*Subject to*
 22 *subclause (II), for 2013 and subsequent*
 23 *years, the amount (or amounts) that*
 24 *would otherwise be applicable under*
 25 *clause (i)(III) shall be adjusted by a*

1 *percentage determined appropriate by*
2 *the Secretary to reflect such factors as*
3 *changes in the number of visits in an*
4 *episode, the mix of services in an epi-*
5 *sode, the level of intensity of services in*
6 *an episode, the average cost of pro-*
7 *viding care per episode, and other fac-*
8 *tors that the Secretary considers to be*
9 *relevant. In conducting the analysis*
10 *under the preceding sentence, the Sec-*
11 *retary may consider differences be-*
12 *tween hospital-based and freestanding*
13 *agencies, between for-profit and non-*
14 *profit agencies, and between the re-*
15 *source costs of urban and rural agen-*
16 *cies. Such adjustment shall be made be-*
17 *fore the update under subparagraph*
18 *(B) is applied for the year.*

19 *“(II) TRANSITION.—The Sec-*
20 *retary shall provide for a 4-year phase-*
21 *in (in equal increments) of the adjust-*
22 *ment under subclause (I), with such*
23 *adjustment being fully implemented for*
24 *2016. During each year of such phase-*
25 *in, the amount of any adjustment*

1 *under subclause (I) for the year may*
2 *not exceed 3.5 percent of the amount*
3 *(or amounts) applicable under clause*
4 *(i)(III) as of the date of enactment of*
5 *the Patient Protection and Affordable*
6 *Care Act.”.*

7 *(2) MEDPAC STUDY AND REPORT.—*

8 *(A) STUDY.—The Medicare Payment Advi-*
9 *sory Commission shall conduct a study on the*
10 *implementation of the amendments made by*
11 *paragraph (1). Such study shall include an*
12 *analysis of the impact of such amendments on—*

13 *(i) access to care;*

14 *(ii) quality outcomes;*

15 *(iii) the number of home health agen-*
16 *cies; and*

17 *(iv) rural agencies, urban agencies,*
18 *for-profit agencies, and nonprofit agencies.*

19 *(B) REPORT.—Not later than January 1,*
20 *2015, the Medicare Payment Advisory Commis-*
21 *sion shall submit to Congress a report on the*
22 *study conducted under subparagraph (A), to-*
23 *gether with recommendations for such legislation*
24 *and administrative action as the Commission*
25 *determines appropriate.*

1 (b) *PROGRAM-SPECIFIC OUTLIER CAP.*—Section
2 1895(b) of the Social Security Act (42 U.S.C. 1395fff(b))
3 is amended—

4 (1) in paragraph (3)(C), by striking “the aggre-
5 gate” and all that follows through the period at the
6 end and inserting “5 percent of the total payments es-
7 timated to be made based on the prospective payment
8 system under this subsection for the period.”; and

9 (2) in paragraph (5)—

10 (A) by striking “OUTLIERS.—The Sec-
11 retary” and inserting the following:
12 “OUTLIERS.—

13 “(A) *IN GENERAL.*—Subject to subpara-
14 graph (B), the Secretary”;

15 (B) in subparagraph (A), as added by sub-
16 paragraph (A), by striking “5 percent” and in-
17 serting “2.5 percent”; and

18 (C) by adding at the end the following new
19 subparagraph:

20 “(B) *PROGRAM SPECIFIC OUTLIER CAP.*—
21 The estimated total amount of additional pay-
22 ments or payment adjustments made under sub-
23 paragraph (A) with respect to a home health
24 agency for a year (beginning with 2011) may
25 not exceed an amount equal to 10 percent of the

1 *estimated total amount of payments made under*
2 *this section (without regard to this paragraph)*
3 *with respect to the home health agency for the*
4 *year.”.*

5 (c) *APPLICATION OF THE MEDICARE RURAL HOME*
6 *HEALTH ADD-ON POLICY.—Section 421 of the Medicare*
7 *Prescription Drug, Improvement, and Modernization Act of*
8 *2003 (Public Law 108–173; 117 Stat. 2283), as amended*
9 *by section 5201(b) of the Deficit Reduction Act of 2005*
10 *(Public Law 109–171; 120 Stat. 46), is amended—*

11 (1) *in the section heading, by striking “ONE-*
12 *YEAR” and inserting “TEMPORARY”; and*

13 (2) *in subsection (a)—*

14 (A) *by striking “, and episodes” and insert-*
15 *ing “, episodes”;*

16 (B) *by inserting “and episodes and visits*
17 *ending on or after April 1, 2010, and before*
18 *January 1, 2016,” after “January 1, 2007,”;*
19 *and*

20 (C) *by inserting “(or, in the case of episodes*
21 *and visits ending on or after April 1, 2010, and*
22 *before January 1, 2016, 3 percent)” before the*
23 *period at the end.*

1 (d) *STUDY AND REPORT ON THE DEVELOPMENT OF*
2 *HOME HEALTH PAYMENT REFORMS IN ORDER TO ENSURE*
3 *ACCESS TO CARE AND QUALITY SERVICES.—*

4 (1) *IN GENERAL.—The Secretary of Health and*
5 *Human Services (in this section referred to as the*
6 *“Secretary”)* shall conduct a study to evaluate the
7 *costs and quality of care among efficient home health*
8 *agencies relative to other such agencies in providing*
9 *ongoing access to care and in treating Medicare bene-*
10 *ficiaries with varying severity levels of illness. Such*
11 *study shall include an analysis of the following:*

12 (A) *Methods to revise the home health pro-*
13 *spective payment system under section 1895 of*
14 *the Social Security Act (42 U.S.C. 1395fff) to*
15 *more accurately account for the costs related to*
16 *patient severity of illness or to improving bene-*
17 *ficiary access to care, including—*

18 (i) *payment adjustments for services*
19 *that may be under- or over-valued;*

20 (ii) *necessary changes to reflect the re-*
21 *source use relative to providing home health*
22 *services to low-income Medicare bene-*
23 *ficiaries or Medicare beneficiaries living in*
24 *medically underserved areas;*

1 (iii) ways the outlier payment may be
2 improved to more accurately reflect the cost
3 of treating Medicare beneficiaries with high
4 severity levels of illness;

5 (iv) the role of quality of care incen-
6 tives and penalties in driving provider and
7 patient behavior;

8 (v) improvements in the application of
9 a wage index; and

10 (vi) other areas determined appro-
11 priate by the Secretary.

12 (B) The validity and reliability of responses
13 on the OASIS instrument with particular em-
14 phasis on questions that relate to higher pay-
15 ment under the home health prospective payment
16 system and higher outcome scores under Home
17 Care Compare.

18 (C) Additional research or payment revi-
19 sions under the home health prospective payment
20 system that may be necessary to set the payment
21 rates for home health services based on costs of
22 high-quality and efficient home health agencies
23 or to improve Medicare beneficiary access to
24 care.

1 (D) *A timetable for implementation of any*
2 *appropriate changes based on the analysis of the*
3 *matters described in subparagraphs (A), (B),*
4 *and (C).*

5 (E) *Other areas determined appropriate by*
6 *the Secretary.*

7 (2) *CONSIDERATIONS.—In conducting the study*
8 *under paragraph (1), the Secretary shall consider*
9 *whether certain factors should be used to measure pa-*
10 *tient severity of illness and access to care, such as—*

11 (A) *population density and relative patient*
12 *access to care;*

13 (B) *variations in service costs for providing*
14 *care to individuals who are dually eligible under*
15 *the Medicare and Medicaid programs;*

16 (C) *the presence of severe or chronic dis-*
17 *eases, as evidenced by multiple, discontinuous*
18 *home health episodes;*

19 (D) *poverty status, as evidenced by the re-*
20 *ceipt of Supplemental Security Income under*
21 *title XVI of the Social Security Act;*

22 (E) *the absence of caregivers;*

23 (F) *language barriers;*

24 (G) *atypical transportation costs;*

25 (H) *security costs; and*

1 (I) other factors determined appropriate by
2 the Secretary.

3 (3) *REPORT.*—Not later than March 1, 2011, the
4 Secretary shall submit to Congress a report on the
5 study conducted under paragraph (1), together with
6 recommendations for such legislation and administra-
7 tive action as the Secretary determines appropriate.

8 (4) *CONSULTATIONS.*—In conducting the study
9 under paragraph (1) and preparing the report under
10 paragraph (3), the Secretary shall consult with—

11 (A) stakeholders representing home health
12 agencies;

13 (B) groups representing Medicare bene-
14 ficiaries;

15 (C) the Medicare Payment Advisory Com-
16 mission;

17 (D) the Inspector General of the Depart-
18 ment of Health and Human Services; and

19 (E) the Comptroller General of the United
20 States.

21 **SEC. 3132. HOSPICE REFORM.**

22 (a) *HOSPICE CARE PAYMENT REFORMS.*—

23 (1) *IN GENERAL.*—Section 1814(i) of the Social
24 Security Act (42 U.S.C. 1395f(i)), as amended by sec-
25 tion 3004(c), is amended—

1 (A) by redesignating paragraph (6) as
2 paragraph (7); and

3 (B) by inserting after paragraph (5) the fol-
4 lowing new paragraph:

5 “(6)(A) The Secretary shall collect additional
6 data and information as the Secretary determines ap-
7 propriate to revise payments for hospice care under
8 this subsection pursuant to subparagraph (D) and for
9 other purposes as determined appropriate by the Sec-
10 retary. The Secretary shall begin to collect such data
11 by not later than January 1, 2011.

12 “(B) The additional data and information to be
13 collected under subparagraph (A) may include data
14 and information on—

15 “(i) charges and payments;

16 “(ii) the number of days of hospice care
17 which are attributable to individuals who are en-
18 titled to, or enrolled for, benefits under part A;
19 and

20 “(iii) with respect to each type of service in-
21 cluded in hospice care—

22 “(I) the number of days of hospice care
23 attributable to the type of service;

24 “(II) the cost of the type of service; and

1 “(III) the amount of payment for the
2 type of service;

3 “(iv) charitable contributions and other rev-
4 enue of the hospice program;

5 “(v) the number of hospice visits;

6 “(vi) the type of practitioner providing the
7 visit; and

8 “(vii) the length of the visit and other basic
9 information with respect to the visit.

10 “(C) The Secretary may collect the additional
11 data and information under subparagraph (A) on
12 cost reports, claims, or other mechanisms as the Sec-
13 retary determines to be appropriate.

14 “(D)(i) Notwithstanding the preceding para-
15 graphs of this subsection, not earlier than October 1,
16 2013, the Secretary shall, by regulation, implement
17 revisions to the methodology for determining the pay-
18 ment rates for routine home care and other services
19 included in hospice care under this part, as the Sec-
20 retary determines to be appropriate. Such revisions
21 may be based on an analysis of data and information
22 collected under subparagraph (A). Such revisions may
23 include adjustments to per diem payments that reflect
24 changes in resource intensity in providing such care

1 *and services during the course of the entire episode of*
2 *hospice care.*

3 “(i) Revisions in payment implemented pursu-
4 *ant to clause (i) shall result in the same estimated*
5 *amount of aggregate expenditures under this title for*
6 *hospice care furnished in the fiscal year in which*
7 *such revisions in payment are implemented as would*
8 *have been made under this title for such care in such*
9 *fiscal year if such revisions had not been imple-*
10 *mented.*

11 “(E) The Secretary shall consult with hospice
12 *programs and the Medicare Payment Advisory Com-*
13 *mission regarding the additional data and informa-*
14 *tion to be collected under subparagraph (A) and the*
15 *payment revisions under subparagraph (D).”.*

16 (2) CONFORMING AMENDMENTS.—Section
17 *1814(i)(1)(C) of the Social Security Act (42 U.S.C.*
18 *1395f(i)(1)(C)) is amended—*

19 (A) in clause (ii)—

20 (i) in the matter preceding subclause
21 *(I), by inserting “(before the first fiscal year*
22 *in which the payment revisions described in*
23 *paragraph (6)(D) are implemented)” after*
24 *“subsequent fiscal year”; and*

1 (ii) in subclause (VII), by inserting
2 “(before the first fiscal year in which the
3 payment revisions described in paragraph
4 (6)(D) are implemented), subject to clause
5 (iv),” after “subsequent fiscal year”; and
6 (B) by adding at the end the following new
7 clause:

8 “(iii) With respect to routine home
9 care and other services included in hospice
10 care furnished during fiscal years subse-
11 quent to the first fiscal year in which pay-
12 ment revisions described in paragraph
13 (6)(D) are implemented, the payment rates
14 for such care and services shall be the pay-
15 ment rates in effect under this clause during
16 the preceding fiscal year increased by, sub-
17 ject to clause (iv), the market basket per-
18 centage increase (as defined in section
19 1886(b)(3)(B)(iii)) for the fiscal year.”.

20 (b) ADOPTION OF MEDPAC HOSPICE PROGRAM ELIGI-
21 BILITY RECERTIFICATION RECOMMENDATIONS.—Section
22 1814(a)(7) of the Social Security Act (42 U.S.C.
23 1395f(a)(7)) is amended—

24 (1) in subparagraph (B), by striking “and” at
25 the end; and

1 (2) *by adding at the end the following new sub-*
2 *paragraph:*

3 “(D) *on and after January 1, 2011—*

4 “(i) *a hospice physician or nurse prac-*
5 *titioner has a face-to-face encounter with*
6 *the individual to determine continued eligi-*
7 *bility of the individual for hospice care*
8 *prior to the 180th-day recertification and*
9 *each subsequent recertification under sub-*
10 *paragraph (A)(ii) and attests that such*
11 *visit took place (in accordance with proce-*
12 *dures established by the Secretary); and*

13 “(ii) *in the case of hospice care pro-*
14 *vided an individual for more than 180 days*
15 *by a hospice program for which the number*
16 *of such cases for such program comprises*
17 *more than a percent (specified by the Sec-*
18 *retary) of the total number of such cases for*
19 *all programs under this title, the hospice*
20 *care provided to such individual is medi-*
21 *cally reviewed (in accordance with proce-*
22 *dures established by the Secretary); and”.*

1 **SEC. 3133. IMPROVEMENT TO MEDICARE DISPROPOR-**
2 **TIONATE SHARE HOSPITAL (DSH) PAYMENTS.**

3 *Section 1886 of the Social Security Act (42 U.S.C.*
4 *1395ww), as amended by sections 3001, 3008, and 3025,*
5 *is amended—*

6 *(1) in subsection (d)(5)(F)(i), by striking “For”*
7 *and inserting “Subject to subsection (r), for”; and*

8 *(2) by adding at the end the following new sub-*
9 *section:*

10 *“(r) ADJUSTMENTS TO MEDICARE DSH PAYMENTS.—*

11 *“(1) EMPIRICALLY JUSTIFIED DSH PAYMENTS.—*

12 *For fiscal year 2015 and each subsequent fiscal year,*
13 *instead of the amount of disproportionate share hos-*
14 *pital payment that would otherwise be made under*
15 *subsection (d)(5)(F) to a subsection (d) hospital for*
16 *the fiscal year, the Secretary shall pay to the sub-*
17 *section (d) hospital 25 percent of such amount (which*
18 *represents the empirically justified amount for such*
19 *payment, as determined by the Medicare Payment*
20 *Advisory Commission in its March 2007 Report to*
21 *the Congress).*

22 *“(2) ADDITIONAL PAYMENT.—In addition to the*
23 *payment made to a subsection (d) hospital under*
24 *paragraph (1), for fiscal year 2015 and each subse-*
25 *quent fiscal year, the Secretary shall pay to such sub-*

1 *section (d) hospitals an additional amount equal to*
2 *the product of the following factors:*

3 *“(A) FACTOR ONE.—A factor equal to the*
4 *difference between—*

5 *“(i) the aggregate amount of payments*
6 *that would be made to subsection (d) hos-*
7 *pitals under subsection (d)(5)(F) if this sub-*
8 *section did not apply for such fiscal year*
9 *(as estimated by the Secretary); and*

10 *“(ii) the aggregate amount of pay-*
11 *ments that are made to subsection (d) hos-*
12 *pitals under paragraph (1) for such fiscal*
13 *year (as so estimated).*

14 *“(B) FACTOR TWO.—*

15 *“(i) FISCAL YEARS 2015, 2016, AND*
16 *2017.—For each of fiscal years 2015, 2016,*
17 *and 2017, a factor equal to 1 minus the*
18 *percent change (divided by 100) in the per-*
19 *cent of individuals under the age of 65 who*
20 *are uninsured, as determined by comparing*
21 *the percent of such individuals—*

22 *“(I) who are uninsured in 2012,*
23 *the last year before coverage expansion*
24 *under the Patient Protection and Af-*
25 *fordable Care Act (as calculated by the*

1 *Secretary based on the most recent esti-*
2 *mates available from the Director of*
3 *the Congressional Budget Office before*
4 *a vote in either House on such Act*
5 *that, if determined in the affirmative,*
6 *would clear such Act for enrollment);*
7 *and*

8 *“(II) who are uninsured in the*
9 *most recent period for which data is*
10 *available (as so calculated).*

11 *“(ii) 2018 AND SUBSEQUENT YEARS.—*
12 *For fiscal year 2018 and each subsequent*
13 *fiscal year, a factor equal to 1 minus the*
14 *percent change (divided by 100) in the per-*
15 *cent of individuals who are uninsured, as*
16 *determined by comparing the percent of in-*
17 *dividuals—*

18 *“(I) who are uninsured in 2012*
19 *(as estimated by the Secretary, based*
20 *on data from the Census Bureau or*
21 *other sources the Secretary determines*
22 *appropriate, and certified by the Chief*
23 *Actuary of the Centers for Medicare &*
24 *Medicaid Services); and*

1 “(II) who are uninsured in the
2 most recent period for which data is
3 available (as so estimated and cer-
4 tified).

5 “(C) *FACTOR THREE*.—A factor equal to the
6 percent, for each subsection (d) hospital, that
7 represents the quotient of—

8 “(i) the amount of uncompensated care
9 for such hospital for a period selected by the
10 Secretary (as estimated by the Secretary,
11 based on appropriate data (including, in
12 the case where the Secretary determines that
13 alternative data is available which is a bet-
14 ter proxy for the costs of subsection (d) hos-
15 pitals for treating the uninsured, the use of
16 such alternative data)); and

17 “(ii) the aggregate amount of uncom-
18 pensated care for all subsection (d) hospitals
19 that receive a payment under this sub-
20 section for such period (as so estimated,
21 based on such data).

22 “(3) *LIMITATIONS ON REVIEW*.—There shall be
23 no administrative or judicial review under section
24 1869, section 1878, or otherwise of the following:

1 “(A) Any estimate of the Secretary for pur-
2 poses of determining the factors described in
3 paragraph (2).

4 “(B) Any period selected by the Secretary
5 for such purposes.”.

6 **SEC. 3134. MISVALUED CODES UNDER THE PHYSICIAN FEE**
7 **SCHEDULE.**

8 (a) *IN GENERAL.*—Section 1848(c)(2) of the Social Se-
9 curity Act (42 U.S.C. 1395w-4(c)(2)) is amended by add-
10 ing at the end the following new subparagraphs:

11 “(K) *POTENTIALLY MISVALUED CODES.*—

12 “(i) *IN GENERAL.*—The Secretary
13 shall—

14 “(I) periodically identify services
15 as being potentially misvalued using
16 criteria specified in clause (ii); and

17 “(II) review and make appro-
18 priate adjustments to the relative val-
19 ues established under this paragraph
20 for services identified as being poten-
21 tially misvalued under subclause (I).

22 “(ii) *IDENTIFICATION OF POTENTIALLY*
23 *MISVALUED CODES.*—For purposes of iden-
24 tifying potentially misvalued services pur-
25 suant to clause (i)(I), the Secretary shall ex-

1 *amine (as the Secretary determines to be*
2 *appropriate) codes (and families of codes as*
3 *appropriate) for which there has been the*
4 *fastest growth; codes (and families of codes*
5 *as appropriate) that have experienced sub-*
6 *stantial changes in practice expenses; codes*
7 *for new technologies or services within an*
8 *appropriate period (such as 3 years) after*
9 *the relative values are initially established*
10 *for such codes; multiple codes that are fre-*
11 *quently billed in conjunction with fur-*
12 *nishing a single service; codes with low rel-*
13 *ative values, particularly those that are*
14 *often billed multiple times for a single treat-*
15 *ment; codes which have not been subject to*
16 *review since the implementation of the*
17 *RBRVS (the so-called ‘Harvard-valued*
18 *codes’); and such other codes determined to*
19 *be appropriate by the Secretary.*

20 *“(iii) REVIEW AND ADJUSTMENTS.—*

21 *“(I) The Secretary may use exist-*
22 *ing processes to receive recommenda-*
23 *tions on the review and appropriate*
24 *adjustment of potentially misvalued*
25 *services described in clause (i)(II).*

1 “(II) *The Secretary may conduct*
2 *surveys, other data collection activities,*
3 *studies, or other analyses as the Sec-*
4 *retary determines to be appropriate to*
5 *facilitate the review and appropriate*
6 *adjustment described in clause (i)(II).*

7 “(III) *The Secretary may use*
8 *analytic contractors to identify and*
9 *analyze services identified under clause*
10 *(i)(I), conduct surveys or collect data,*
11 *and make recommendations on the re-*
12 *view and appropriate adjustment of*
13 *services described in clause (i)(II).*

14 “(IV) *The Secretary may coordi-*
15 *nate the review and appropriate ad-*
16 *justment described in clause (i)(II)*
17 *with the periodic review described in*
18 *subparagraph (B).*

19 “(V) *As part of the review and*
20 *adjustment described in clause (i)(II),*
21 *including with respect to codes with*
22 *low relative values described in clause*
23 *(ii), the Secretary may make appro-*
24 *priate coding revisions (including*
25 *using existing processes for consider-*

1 *ation of coding changes) which may*
2 *include consolidation of individual*
3 *services into bundled codes for payment*
4 *under the fee schedule under subsection*
5 *(b).*

6 *“(VI) The provisions of subpara-*
7 *graph (B)(ii)(II) shall apply to adjust-*
8 *ments to relative value units made*
9 *pursuant to this subparagraph in the*
10 *same manner as such provisions apply*
11 *to adjustments under subparagraph*
12 *(B)(ii)(II).*

13 *“(L) VALIDATING RELATIVE VALUE*
14 *UNITS.—*

15 *“(i) IN GENERAL.—The Secretary shall*
16 *establish a process to validate relative value*
17 *units under the fee schedule under sub-*
18 *section (b).*

19 *“(ii) COMPONENTS AND ELEMENTS OF*
20 *WORK.—The process described in clause (i)*
21 *may include validation of work elements*
22 *(such as time, mental effort and profes-*
23 *sional judgment, technical skill and phys-*
24 *ical effort, and stress due to risk) involved*
25 *with furnishing a service and may include*

1 validation of the pre-, post-, and intra-serv-
2 ice components of work.

3 “(iii) *SCOPE OF CODES.*—The valida-
4 tion of work relative value units shall in-
5 clude a sampling of codes for services that
6 is the same as the codes listed under sub-
7 paragraph (K)(ii).

8 “(iv) *METHODS.*—The Secretary may
9 conduct the validation under this subpara-
10 graph using methods described in subclauses
11 (I) through (V) of subparagraph (K)(iii) as
12 the Secretary determines to be appropriate.

13 “(v) *ADJUSTMENTS.*—The Secretary
14 shall make appropriate adjustments to the
15 work relative value units under the fee
16 schedule under subsection (b). The provi-
17 sions of subparagraph (B)(ii)(II) shall
18 apply to adjustments to relative value units
19 made pursuant to this subparagraph in the
20 same manner as such provisions apply to
21 adjustments under subparagraph
22 (B)(ii)(II).”.

23 (b) *IMPLEMENTATION.*—

24 (1) *ADMINISTRATION.*—

1 (A) Chapter 35 of title 44, United States
2 Code and the provisions of the Federal Advisory
3 Committee Act (5 U.S.C. App.) shall not apply
4 to this section or the amendment made by this
5 section.

6 (B) Notwithstanding any other provision of
7 law, the Secretary may implement subpara-
8 graphs (K) and (L) of 1848(c)(2) of the Social
9 Security Act, as added by subsection (a), by pro-
10 gram instruction or otherwise.

11 (C) Section 4505(d) of the Balanced Budget
12 Act of 1997 is repealed.

13 (D) Except for provisions related to con-
14 fidentiality of information, the provisions of the
15 Federal Acquisition Regulation shall not apply
16 to this section or the amendment made by this
17 section.

18 (2) *FOCUSING CMS RESOURCES ON POTENTIALLY*
19 *OVERVALUED CODES.*—Section 1868(a) of the Social
20 Security Act (42 U.S.C. 1395ee(a)) is repealed.

21 **SEC. 3135. MODIFICATION OF EQUIPMENT UTILIZATION**

22 **FACTOR FOR ADVANCED IMAGING SERVICES.**

23 (a) *ADJUSTMENT IN PRACTICE EXPENSE TO REFLECT*
24 *HIGHER PRESUMED UTILIZATION.*—Section 1848 of the
25 Social Security Act (42 U.S.C. 1395w–4) is amended—

1 (1) *in subsection (b)(4)—*

2 (A) *in subparagraph (B), by striking “sub-*
3 *paragraph (A)” and inserting “this paragraph”;*
4 *and*

5 (B) *by adding at the end the following new*
6 *subparagraph:*

7 “(C) *ADJUSTMENT IN PRACTICE EXPENSE*
8 *TO REFLECT HIGHER PRESUMED UTILIZATION.—*
9 *Consistent with the methodology for computing*
10 *the number of practice expense relative value*
11 *units under subsection (c)(2)(C)(ii) with respect*
12 *to advanced diagnostic imaging services (as de-*
13 *defined in section 1834(e)(1)(B)) furnished on or*
14 *after January 1, 2010, the Secretary shall adjust*
15 *such number of units so it reflects—*

16 “(i) *in the case of services furnished on*
17 *or after January 1, 2010, and before Janu-*
18 *ary 1, 2013, a 65 percent (rather than 50*
19 *percent) presumed rate of utilization of im-*
20 *aging equipment;*

21 “(ii) *in the case of services furnished*
22 *on or after January 1, 2013, and before*
23 *January 1, 2014, a 70 percent (rather than*
24 *50 percent) presumed rate of utilization of*
25 *imaging equipment; and*

1 “(iii) in the case of services furnished
2 on or after January 1, 2014, a 75 percent
3 (rather than 50 percent) presumed rate of
4 utilization of imaging equipment.”; and
5 (2) in subsection (c)(2)(B)(v), by adding at the
6 end the following new subclauses:

7 “(III) CHANGE IN PRESUMED UTI-
8 LIZATION LEVEL OF CERTAIN AD-
9 VANCED DIAGNOSTIC IMAGING SERV-
10 ICES FOR 2010 THROUGH 2012.—Effective
11 for fee schedules established begin-
12 ning with 2010 and ending with 2012,
13 reduced expenditures attributable to the
14 presumed rate of utilization of imaging
15 equipment of 65 percent under sub-
16 section (b)(4)(C)(i) instead of a pre-
17 sumed rate of utilization of such equip-
18 ment of 50 percent.

19 “(IV) CHANGE IN PRESUMED UTI-
20 LIZATION LEVEL OF CERTAIN AD-
21 VANCED DIAGNOSTIC IMAGING SERV-
22 ICES FOR 2013.—Effective for fee sched-
23 ules established for 2013, reduced ex-
24 penditures attributable to the presumed
25 rate of utilization of imaging equip-

1 *ment of 70 percent under subsection*
2 *(b)(4)(C)(ii) instead of a presumed*
3 *rate of utilization of such equipment of*
4 *50 percent.*

5 “(V) *CHANGE IN PRESUMED UTI-*
6 *LIZATION LEVEL OF CERTAIN AD-*
7 *VANCED DIAGNOSTIC IMAGING SERV-*
8 *ICES FOR 2014 AND SUBSEQUENT*
9 *YEARS.—Effective for fee schedules es-*
10 *tablished beginning with 2014, reduced*
11 *expenditures attributable to the pre-*
12 *sumed rate of utilization of imaging*
13 *equipment of 75 percent under sub-*
14 *section (b)(4)(C)(iii) instead of a pre-*
15 *sumed rate of utilization of such equip-*
16 *ment of 50 percent.”.*

17 (b) *ADJUSTMENT IN TECHNICAL COMPONENT “DIS-*
18 *COUNT” ON SINGLE-SESSION IMAGING TO CONSECUTIVE*
19 *BODY PARTS.—Section 1848 of the Social Security Act (42*
20 *U.S.C. 1395w–4), as amended by subsection (a), is amend-*
21 *ed—*

22 (1) *in subsection (b)(4), by adding at the end the*
23 *following new subparagraph:*

24 “(D) *ADJUSTMENT IN TECHNICAL COMPO-*
25 *NENT DISCOUNT ON SINGLE-SESSION IMAGING IN-*

1 VOLVING CONSECUTIVE BODY PARTS.—*For serv-*
2 *ices furnished on or after July 1, 2010, the Sec-*
3 *retary shall increase the reduction in payments*
4 *attributable to the multiple procedure payment*
5 *reduction applicable to the technical component*
6 *for imaging under the final rule published by the*
7 *Secretary in the Federal Register on November*
8 *21, 2005 (part 405 of title 42, Code of Federal*
9 *Regulations) from 25 percent to 50 percent.”;*
10 *and*

11 *(2) in subsection (c)(2)(B)(v), by adding at the*
12 *end the following new subclause:*

13 “(VI) *ADDITIONAL REDUCED PAY-*
14 *MENT FOR MULTIPLE IMAGING PROCE-*
15 *DURES.—Effective for fee schedules es-*
16 *tablished beginning with 2010 (but not*
17 *applied for services furnished prior to*
18 *July 1, 2010), reduced expenditures at-*
19 *tributable to the increase in the mul-*
20 *tiple procedure payment reduction*
21 *from 25 to 50 percent (as described in*
22 *subsection (b)(4)(D)).”.*

23 *(c) ANALYSIS BY THE CHIEF ACTUARY OF THE CEN-*
24 *TERS FOR MEDICARE & MEDICAID SERVICES.—Not later*
25 *than January 1, 2013, the Chief Actuary of the Centers for*

1 *Medicare & Medicaid Services shall make publicly available*
2 *an analysis of whether, for the period of 2010 through 2019,*
3 *the cumulative expenditure reductions under title XVIII of*
4 *the Social Security Act that are attributable to the adjust-*
5 *ments under the amendments made by this section are pro-*
6 *jected to exceed \$3,000,000,000.*

7 **SEC. 3136. REVISION OF PAYMENT FOR POWER-DRIVEN**
8 **WHEELCHAIRS.**

9 *(a) IN GENERAL.—Section 1834(a)(7)(A) of the Social*
10 *Security Act (42 U.S.C. 1395m(a)(7)(A)) is amended—*

11 *(1) in clause (i)—*

12 *(A) in subclause (II), by inserting “sub-*
13 *clause (III) and” after “Subject to”; and*

14 *(B) by adding at the end the following new*
15 *subclause:*

16 *“(III) SPECIAL RULE FOR POWER-*
17 *DRIVEN WHEELCHAIRS.—For purposes*
18 *of payment for power-driven wheel-*
19 *chairs, subclause (II) shall be applied*
20 *by substituting ‘15 percent’ and ‘6 per-*
21 *cent’ for ‘10 percent’ and ‘7.5 percent’,*
22 *respectively.”; and*

23 *(2) in clause (iii)—*

24 *(A) in the heading, by inserting “COMPLEX,*
25 *REHABILITATIVE” before “POWER-DRIVEN”; and*

1 (B) by inserting “complex, rehabilitative”
2 before “power-driven”.

3 (b) **TECHNICAL AMENDMENT.**—Section
4 1834(a)(7)(C)(ii)(II) of the Social Security Act (42 U.S.C.
5 1395m(a)(7)(C)(ii)(II)) is amended by striking “(A)(ii)
6 or”.

7 (c) **EFFECTIVE DATE.**—

8 (1) **IN GENERAL.**—Subject to paragraph (2), the
9 amendments made by subsection (a) shall take effect
10 on January 1, 2011, and shall apply to power-driven
11 wheelchairs furnished on or after such date.

12 (2) **APPLICATION TO COMPETITIVE BIDDING.**—
13 The amendments made by subsection (a) shall not
14 apply to payment made for items and services fur-
15 nished pursuant to contracts entered into under sec-
16 tion 1847 of the Social Security Act (42 U.S.C.
17 1395w-3) prior to January 1, 2011, pursuant to the
18 implementation of subsection (a)(1)(B)(i)(I) of such
19 section 1847.

20 **SEC. 3137. HOSPITAL WAGE INDEX IMPROVEMENT.**

21 (a) **EXTENSION OF SECTION 508 HOSPITAL RECLASSI-**
22 **FICATIONS.**—

23 (1) **IN GENERAL.**—Subsection (a) of section 106
24 of division B of the Tax Relief and Health Care Act
25 of 2006 (42 U.S.C. 1395 note), as amended by section

1 *117 of the Medicare, Medicaid, and SCHIP Extension*
2 *Act of 2007 (Public Law 110–173) and section 124*
3 *of the Medicare Improvements for Patients and Pro-*
4 *viders Act of 2008 (Public Law 110–275), is amended*
5 *by striking “September 30, 2009” and inserting*
6 *“September 30, 2010”.*

7 *(2) USE OF PARTICULAR WAGE INDEX IN FISCAL*
8 *YEAR 2010.—For purposes of implementation of the*
9 *amendment made by this subsection during fiscal*
10 *year 2010, the Secretary shall use the hospital wage*
11 *index that was promulgated by the Secretary in the*
12 *Federal Register on August 27, 2009 (74 Fed. Reg.*
13 *43754), and any subsequent corrections.*

14 *(b) PLAN FOR REFORMING THE MEDICARE HOSPITAL*
15 *WAGE INDEX SYSTEM.—*

16 *(1) IN GENERAL.—Not later than December 31,*
17 *2011, the Secretary of Health and Human Services*
18 *(in this section referred to as the “Secretary”) shall*
19 *submit to Congress a report that includes a plan to*
20 *reform the hospital wage index system under section*
21 *1886 of the Social Security Act.*

22 *(2) DETAILS.—In developing the plan under*
23 *paragraph (1), the Secretary shall take into account*
24 *the goals for reforming such system set forth in the*
25 *Medicare Payment Advisory Commission June 2007*

1 report entitled “Report to Congress: Promoting Great-
2 er Efficiency in Medicare”, including establishing a
3 new hospital compensation index system that—

4 (A) uses Bureau of Labor Statistics data, or
5 other data or methodologies, to calculate relative
6 wages for each geographic area involved;

7 (B) minimizes wage index adjustments be-
8 tween and within metropolitan statistical areas
9 and statewide rural areas;

10 (C) includes methods to minimize the vola-
11 tility of wage index adjustments that result from
12 implementation of policy, while maintaining
13 budget neutrality in applying such adjustments;

14 (D) takes into account the effect that imple-
15 mentation of the system would have on health
16 care providers and on each region of the country;

17 (E) addresses issues related to occupational
18 mix, such as staffing practices and ratios, and
19 any evidence on the effect on quality of care or
20 patient safety as a result of the implementation
21 of the system; and

22 (F) provides for a transition.

23 (3) CONSULTATION.—In developing the plan
24 under paragraph (1), the Secretary shall consult with
25 relevant affected parties.

1 (c) *USE OF PARTICULAR CRITERIA FOR DETERMINING*
2 *RECLASSIFICATIONS.*—*Notwithstanding any other provi-*
3 *sion of law, in making decisions on applications for reclas-*
4 *sification of a subsection (d) hospital (as defined in para-*
5 *graph (1)(B) of section 1886(d) of the Social Security Act*
6 *(42 U.S.C. 1395ww(d)) for the purposes described in para-*
7 *graph (10)(D)(v) of such section for fiscal year 2011 and*
8 *each subsequent fiscal year (until the first fiscal year begin-*
9 *ning on or after the date that is 1 year after the Secretary*
10 *of Health and Human Services submits the report to Con-*
11 *gress under subsection (b)), the Geographic Classification*
12 *Review Board established under paragraph (10) of such sec-*
13 *tion shall use the average hourly wage comparison criteria*
14 *used in making such decisions as of September 30, 2008.*
15 *The preceding sentence shall be effected in a budget neutral*
16 *manner.*

17 **SEC. 3138. TREATMENT OF CERTAIN CANCER HOSPITALS.**

18 Section 1833(t) of the Social Security Act (42 U.S.C.
19 1395l(t)) is amended by adding at the end the following
20 new paragraph:

21 “(18) *AUTHORIZATION OF ADJUSTMENT FOR*
22 *CANCER HOSPITALS.*—

23 “(A) *STUDY.*—*The Secretary shall conduct*
24 *a study to determine if, under the system under*
25 *this subsection, costs incurred by hospitals de-*

1 *scribed in section 1886(d)(1)(B)(v) with respect*
2 *to ambulatory payment classification groups ex-*
3 *ceed those costs incurred by other hospitals fur-*
4 *nishing services under this subsection (as deter-*
5 *mined appropriate by the Secretary). In con-*
6 *ducting the study under this subparagraph, the*
7 *Secretary shall take into consideration the cost of*
8 *drugs and biologicals incurred by such hospitals.*

9 “(B) *AUTHORIZATION OF ADJUSTMENT.—*
10 *Insofar as the Secretary determines under sub-*
11 *paragraph (A) that costs incurred by hospitals*
12 *described in section 1886(d)(1)(B)(v) exceed those*
13 *costs incurred by other hospitals furnishing serv-*
14 *ices under this subsection, the Secretary shall*
15 *provide for an appropriate adjustment under*
16 *paragraph (2)(E) to reflect those higher costs ef-*
17 *fective for services furnished on or after January*
18 *1, 2011.”.*

19 **SEC. 3139. PAYMENT FOR BIOSIMILAR BIOLOGICAL PROD-**
20 **UCTS.**

21 *(a) IN GENERAL.—Section 1847A of the Social Secu-*
22 *rity Act (42 U.S.C. 1395w–3a) is amended—*

23 *(1) in subsection (b)—*

24 *(A) in paragraph (1)—*

1 (i) in subparagraph (A), by striking
2 “or” at the end;

3 (ii) in subparagraph (B), by striking
4 the period at the end and inserting “; or”;
5 and

6 (iii) by adding at the end the following
7 new subparagraph:

8 “(C) in the case of a biosimilar biological
9 product (as defined in subsection (c)(6)(H)), the
10 amount determined under paragraph (8).”; and

11 (B) by adding at the end the following new
12 paragraph:

13 “(8) *BIOSIMILAR BIOLOGICAL PRODUCT*.—The
14 amount specified in this paragraph for a biosimilar
15 biological product described in paragraph (1)(C) is
16 the sum of—

17 “(A) the average sales price as determined
18 using the methodology described under para-
19 graph (6) applied to a biosimilar biological
20 product for all National Drug Codes assigned to
21 such product in the same manner as such para-
22 graph is applied to drugs described in such
23 paragraph; and

24 “(B) 6 percent of the amount determined
25 under paragraph (4) for the reference biological

1 *product (as defined in subsection (c)(6)(I)).”;*
2 *and*

3 *(2) in subsection (c)(6), by adding at the end the*
4 *following new subparagraph:*

5 “(H) *BIOSIMILAR BIOLOGICAL PRODUCT.*—
6 *The term ‘biosimilar biological product’ means a*
7 *biological product approved under an abbrev-*
8 *viated application for a license of a biological*
9 *product that relies in part on data or informa-*
10 *tion in an application for another biological*
11 *product licensed under section 351 of the Public*
12 *Health Service Act.*

13 “(I) *REFERENCE BIOLOGICAL PRODUCT.*—
14 *The term ‘reference biological product’ means the*
15 *biological product licensed under such section*
16 *351 that is referred to in the application de-*
17 *scribed in subparagraph (H) of the biosimilar*
18 *biological product.”.*

19 (b) *EFFECTIVE DATE.*—*The amendments made by sub-*
20 *section (a) shall apply to payments for biosimilar biological*
21 *products beginning with the first day of the second calendar*
22 *quarter after enactment of legislation providing for a bio-*
23 *similar pathway (as determined by the Secretary).*

1 **SEC. 3140. MEDICARE HOSPICE CONCURRENT CARE DEM-**
2 **ONSTRATION PROGRAM.**

3 (a) *ESTABLISHMENT.*—

4 (1) *IN GENERAL.*—*The Secretary of Health and*
5 *Human Services (in this section referred to as the*
6 *“Secretary”)* shall establish a Medicare Hospice Con-
7 *current Care demonstration program at participating*
8 *hospice programs under which Medicare beneficiaries*
9 *are furnished, during the same period, hospice care*
10 *and any other items or services covered under title*
11 *XVIII of the Social Security Act (42 U.S.C. 1395 et*
12 *seq.) from funds otherwise paid under such title to*
13 *such hospice programs.*

14 (2) *DURATION.*—*The demonstration program*
15 *under this section shall be conducted for a 3-year pe-*
16 *riod.*

17 (3) *SITES.*—*The Secretary shall select not more*
18 *than 15 hospice programs at which the demonstration*
19 *program under this section shall be conducted. Such*
20 *hospice programs shall be located in urban and rural*
21 *areas.*

22 (b) *INDEPENDENT EVALUATION AND REPORTS.*—

23 (1) *INDEPENDENT EVALUATION.*—*The Secretary*
24 *shall provide for the conduct of an independent eval-*
25 *uation of the demonstration program under this sec-*
26 *tion. Such independent evaluation shall determine*

1 *whether the demonstration program has improved pa-*
2 *tient care, quality of life, and cost-effectiveness for*
3 *Medicare beneficiaries participating in the dem-*
4 *onstration program.*

5 (2) *REPORTS.*—*The Secretary shall submit to*
6 *Congress a report containing the results of the evalua-*
7 *tion conducted under paragraph (1), together with*
8 *such recommendations as the Secretary determines*
9 *appropriate.*

10 (c) *BUDGET NEUTRALITY.*—*With respect to the 3-year*
11 *period of the demonstration program under this section, the*
12 *Secretary shall ensure that the aggregate expenditures*
13 *under title XVIII for such period shall not exceed the aggre-*
14 *gate expenditures that would have been expended under*
15 *such title if the demonstration program under this section*
16 *had not been implemented.*

17 **SEC. 3141. APPLICATION OF BUDGET NEUTRALITY ON A NA-**
18 **TIONAL BASIS IN THE CALCULATION OF THE**
19 **MEDICARE HOSPITAL WAGE INDEX FLOOR.**

20 *In the case of discharges occurring on or after October*
21 *1, 2010, for purposes of applying section 4410 of the Bal-*
22 *anced Budget Act of 1997 (42 U.S.C. 1395ww note) and*
23 *paragraph (h)(4) of section 412.64 of title 42, Code of Fed-*
24 *eral Regulations, the Secretary of Health and Human Serv-*
25 *ices shall administer subsection (b) of such section 4410 and*

1 paragraph (e) of such section 412.64 in the same manner
2 as the Secretary administered such subsection (b) and para-
3 graph (e) for discharges occurring during fiscal year 2008
4 (through a uniform, national adjustment to the area wage
5 index).

6 **SEC. 3142. HHS STUDY ON URBAN MEDICARE-DEPENDENT**
7 **HOSPITALS.**

8 (a) *STUDY.*—

9 (1) *IN GENERAL.*—*The Secretary of Health and*
10 *Human Services (in this section referred to as the*
11 *“Secretary”)* shall conduct a study on the need for an
12 *additional payment for urban Medicare-dependent*
13 *hospitals for inpatient hospital services under section*
14 *1886 of the Social Security Act (42 U.S.C. 1395ww).*
15 *Such study shall include an analysis of—*

16 (A) *the Medicare inpatient margins of*
17 *urban Medicare-dependent hospitals, as com-*
18 *pared to other hospitals which receive 1 or more*
19 *additional payments or adjustments under such*
20 *section (including those payments or adjustments*
21 *described in paragraph (2)(A)); and*

22 (B) *whether payments to medicare-depend-*
23 *ent, small rural hospitals under subsection*
24 *(d)(5)(G) of such section should be applied to*
25 *urban Medicare-dependent hospitals.*

1 (2) *URBAN MEDICARE-DEPENDENT HOSPITAL*
2 *DEFINED.—For purposes of this section, the term*
3 *“urban Medicare-dependent hospital” means a sub-*
4 *section (d) hospital (as defined in subsection*
5 *(d)(1)(B) of such section) that—*

6 *(A) does not receive any additional pay-*
7 *ment or adjustment under such section, such as*
8 *payments for indirect medical education costs*
9 *under subsection (d)(5)(B) of such section, dis-*
10 *proportionate share payments under subsection*
11 *(d)(5)(A) of such section, payments to a rural re-*
12 *ferred center under subsection (d)(5)(C) of such*
13 *section, payments to a critical access hospital*
14 *under section 1814(l) of such Act (42 U.S.C.*
15 *1395f(l)), payments to a sole community hospital*
16 *under subsection (d)(5)(D) of such section 1886,*
17 *or payments to a Medicare-dependent, small*
18 *rural hospital under subsection (d)(5)(G) of such*
19 *section 1886; and*

20 *(B) for which more than 60 percent of its*
21 *inpatient days or discharges during 2 of the 3*
22 *most recently audited cost reporting periods for*
23 *which the Secretary has a settled cost report were*
24 *attributable to inpatients entitled to benefits*
25 *under part A of title XVIII of such Act.*

1 (b) *REPORT.*—Not later than 9 months after the date
2 of enactment of this Act, the Secretary shall submit to Con-
3 gress a report containing the results of the study conducted
4 under subsection (a), together with recommendations for
5 such legislation and administrative action as the Secretary
6 determines appropriate.

7 **SEC. 3143. PROTECTING HOME HEALTH BENEFITS.**

8 Nothing in the provisions of, or amendments made by,
9 this Act shall result in the reduction of guaranteed home
10 health benefits under title XVIII of the Social Security Act.

11 ***Subtitle C—Provisions Relating to***
12 ***Part C***

13 **SEC. 3201. MEDICARE ADVANTAGE PAYMENT.**

14 (a) *MA BENCHMARK BASED ON PLAN'S COMPETITIVE*
15 *BIDS.*—

16 (1) *IN GENERAL.*—Section 1853(j) of the Social
17 Security Act (42 U.S.C. 1395w–23(j)) is amended—

18 (A) by striking “AMOUNTS.—For purposes”
19 and inserting “AMOUNTS.—

20 “(1) *IN GENERAL.*—For purposes”;

21 (B) by redesignating paragraphs (1) and
22 (2) as subparagraphs (A) and (B), respectively,
23 and indenting the subparagraphs appropriately;

24 (C) in subparagraph (A), as redesignated
25 by subparagraph (B)—

1 *(i) by redesignating subparagraphs (A)*
2 *and (B) as clauses (i) and (ii), respectively,*
3 *and indenting the clauses appropriately;*
4 *and*

5 *(ii) in clause (i), as redesignated by*
6 *clause (i), by striking “an amount equal to”*
7 *and all that follows through the end and in-*
8 *serting “an amount equal to—*

9 *“(I) for years before 2007, $\frac{1}{12}$ of*
10 *the annual MA capitation rate under*
11 *section 1853(c)(1) for the area for the*
12 *year, adjusted as appropriate for the*
13 *purpose of risk adjustment;*

14 *“(II) for 2007 through 2011, $\frac{1}{12}$*
15 *of the applicable amount determined*
16 *under subsection (k)(1) for the area for*
17 *the year;*

18 *“(III) for 2012, the sum of—*

19 *“(aa) $\frac{2}{3}$ of the quotient of—*

20 *“(AA) the applicable*
21 *amount determined under*
22 *subsection (k)(1) for the area*
23 *for the year; and*

24 *“(BB) 12; and*

1 “(bb) $\frac{1}{3}$ of the MA competi-
2 tive benchmark amount (deter-
3 mined under paragraph (2)) for
4 the area for the month;
5 “(IV) for 2013, the sum of—
6 “(aa) $\frac{1}{3}$ of the quotient of—
7 “(AA) the applicable
8 amount determined under
9 subsection (k)(1) for the area
10 for the year; and
11 “(BB) 12; and
12 “(bb) $\frac{2}{3}$ of the MA competi-
13 tive benchmark amount (as so de-
14 termined) for the area for the
15 month;
16 “(V) for 2014, the MA competitive
17 benchmark amount for the area for a
18 month in 2013 (as so determined), in-
19 creased by the national per capita MA
20 growth percentage, described in sub-
21 section (c)(6) for 2014, but not taking
22 into account any adjustment under
23 subparagraph (C) of such subsection
24 for a year before 2004; and

1 “(VI) for 2015 and each subse-
2 quent year, the MA competitive bench-
3 mark amount (as so determined) for
4 the area for the month; or”;

5 (iii) in clause (ii), as redesignated by
6 clause (i), by striking “subparagraph (A)”
7 and inserting “clause (i)”;

8 (D) by adding at the end the following new
9 paragraphs:

10 “(2) COMPUTATION OF MA COMPETITIVE BENCH-
11 MARK AMOUNT.—

12 “(A) IN GENERAL.—Subject to subpara-
13 graph (B) and paragraph (3), for months in
14 each year (beginning with 2012) for each MA
15 payment area the Secretary shall compute an
16 MA competitive benchmark amount equal to the
17 weighted average of the unadjusted MA statutory
18 non-drug monthly bid amount (as defined in sec-
19 tion 1854(b)(2)(E)) for each MA plan in the
20 area, with the weight for each plan being equal
21 to the average number of beneficiaries enrolled
22 under such plan in the reference month (as de-
23 fined in section 1858(f)(4), except that, in apply-
24 ing such definition for purposes of this para-
25 graph, to compute the MA competitive bench-

1 *mark amount under section 1853(j)(2)’ shall be*
2 *substituted for ‘to compute the percentage speci-*
3 *fied in subparagraph (A) and other relevant per-*
4 *centages under this part’).*

5 “(B) *WEIGHTING RULES.—*

6 “(i) *SINGLE PLAN RULE.—In the case*
7 *of an MA payment area in which only a*
8 *single MA plan is being offered, the weight*
9 *under subparagraph (A) shall be equal to 1.*

10 “(ii) *USE OF SIMPLE AVERAGE AMONG*
11 *MULTIPLE PLANS IF NO PLANS OFFERED IN*
12 *PREVIOUS YEAR.—In the case of an MA*
13 *payment area in which no MA plan was of-*
14 *fered in the previous year and more than 1*
15 *MA plan is offered in the current year, the*
16 *Secretary shall use a simple average of the*
17 *unadjusted MA statutory non-drug monthly*
18 *bid amount (as so defined) for purposes of*
19 *computing the MA competitive benchmark*
20 *amount under subparagraph (A).*

21 “(3) *CAP ON MA COMPETITIVE BENCHMARK*
22 *AMOUNT.—In no case shall the MA competitive bench-*
23 *mark amount for an area for a month in a year be*
24 *greater than the applicable amount that would (but*
25 *for the application of this subsection) be determined*

1 *under subsection (k)(1) for the area for the month in*
2 *the year.”; and*

3 *(E) in subsection (k)(2)(B)(ii)(III), by*
4 *striking “(j)(1)(A)” and inserting “(j)(1)(A)(i)”.*

5 (2) *CONFORMING AMENDMENTS.—*

6 *(A) Section 1853(k)(2) of the Social Secu-*
7 *rity Act (42 U.S.C. 1395w-23(k)(2)) is amend-*
8 *ed—*

9 *(i) in subparagraph (A), by striking*
10 *“through 2010” and inserting “and subse-*
11 *quent years”; and*

12 *(ii) in subparagraph (C)—*

13 *(I) in clause (iii), by striking*
14 *“and” at the end;*

15 *(II) in clause (iv), by striking the*
16 *period at the end and inserting “;*
17 *and”; and*

18 *(III) by adding at the end the fol-*
19 *lowing new clause:*

20 *“(v) for 2011 and subsequent years,*
21 *0.00.”.*

22 *(B) Section 1854(b) of the Social Security*
23 *Act (42 U.S.C. 1395w-24(b)) is amended—*

1 (i) in paragraph (3)(B)(i), by striking
2 “1853(j)(1)” and inserting “1853(j)(1)(A)”;
3 and

4 (ii) in paragraph (4)(B)(i), by striking
5 “1853(j)(2)” and inserting “1853(j)(1)(B)”.

6 (C) Section 1858(f) of the Social Security
7 Act (42 U.S.C. 1395w–27(f)) is amended—

8 (i) in paragraph (1), by striking
9 “1853(j)(2)” and inserting “1853(j)(1)(B)”;
10 and

11 (ii) in paragraph (3)(A), by striking
12 “1853(j)(1)(A)” and inserting
13 “1853(j)(1)(A)(i)”.

14 (D) Section 1860C–1(d)(1)(A) of the Social
15 Security Act (42 U.S.C. 1395w–29(d)(1)(A)) is
16 amended by striking “1853(j)(1)(A)” and insert-
17 ing “1853(j)(1)(A)(i)”.

18 (b) *REDUCTION OF NATIONAL PER CAPITA GROWTH*
19 *PERCENTAGE FOR 2011.*—Section 1853(c)(6) of the Social
20 Security Act (42 U.S.C. 1395w–23(c)(6)) is amended—

21 (1) in clause (v), by striking “and” at the end;

22 (2) in clause (vi)—

23 (A) by striking “for a year after 2002” and
24 inserting “for 2003 through 2010”; and

1 (B) by striking the period at the end and
2 inserting a comma; and

3 (C) by adding at the end the following new
4 clauses:

5 “(vii) for 2011, 3 percentage points;

6 and

7 “(viii) for a year after 2011, 0 percent-
8 age points.”.

9 (c) *ENHANCEMENT OF BENEFICIARY REBATES.*—Sec-
10 *tion 1854(b)(1)(C)(i) of the Social Security Act (42 U.S.C.*
11 *1395w–24(b)(1)(C)(i)) is amended by inserting “(or 100*
12 *percent in the case of plan years beginning on or after Jan-*
13 *uary 1, 2014)” after “75 percent”.*

14 (d) *BIDDING RULES.*—

15 (1) *REQUIREMENTS FOR INFORMATION SUB-*
16 *MITTED.*—*Section 1854(a)(6)(A) of the Social Secu-*
17 *rity Act (42 U.S.C. 1395w–24(a)(6)(A)) is amended,*
18 *in the flush matter following clause (v), by adding at*
19 *the end the following sentence: “Information to be*
20 *submitted under this paragraph shall be certified by*
21 *a qualified member of the American Academy of Ac-*
22 *tuaries and shall meet actuarial guidelines and rules*
23 *established by the Secretary under subparagraph*
24 *(B)(v).”.*

1 (2) *ESTABLISHMENT OF ACTUARIAL GUIDE-*
2 *LINES.—Section 1854(a)(6)(B) of the Social Security*
3 *Act (42 U.S.C. 1395w–24(a)(6)(B)) is amended—*

4 (A) *in clause (i), by striking “(iii) and*
5 *(iv)” and inserting “(iii), (iv), and (v)”;* and

6 (B) *by adding at the end the following new*
7 *clause:*

8 “(v) *ESTABLISHMENT OF ACTUARIAL*
9 *GUIDELINES.—*

10 “(I) *IN GENERAL.—In order to es-*
11 *tablish fair MA competitive bench-*
12 *marks under section 1853(j)(1)(A)(i),*
13 *the Secretary, acting through the Chief*
14 *Actuary of the Centers for Medicare &*
15 *Medicaid Services (in this clause re-*
16 *ferred to as the ‘Chief Actuary’), shall*
17 *establish—*

18 “(aa) *actuarial guidelines for*
19 *the submission of bid information*
20 *under this paragraph; and*

21 “(bb) *bidding rules that are*
22 *appropriate to ensure accurate*
23 *bids and fair competition among*
24 *MA plans.*

1 “(II) DENIAL OF BID AMOUNTS.—
2 *The Secretary shall deny monthly bid*
3 *amounts submitted under subpara-*
4 *graph (A) that do not meet the actu-*
5 *arial guidelines and rules established*
6 *under subclause (I).*

7 “(III) REFUSAL TO ACCEPT CER-
8 TAIN BIDS DUE TO MISREPRESENTA-
9 TIONS AND FAILURES TO ADEQUATELY
10 MEET REQUIREMENTS.—*In the case*
11 *where the Secretary determines that in-*
12 *formation submitted by an MA organi-*
13 *zation under subparagraph (A) con-*
14 *tains consistent misrepresentations and*
15 *failures to adequately meet require-*
16 *ments of the organization, the Sec-*
17 *retary may refuse to accept any addi-*
18 *tional such bid amounts from the orga-*
19 *nization for the plan year and the*
20 *Chief Actuary shall, if the Chief Actu-*
21 *ary determines that the actuaries of the*
22 *organization were complicit in those*
23 *misrepresentations and failures, report*
24 *those actuaries to the Actuarial Board*
25 *for Counseling and Discipline.”.*

1 (3) *EFFECTIVE DATE.*—*The amendments made*
 2 *by this subsection shall apply to bid amounts sub-*
 3 *mitted on or after January 1, 2012.*

4 *(e) MA LOCAL PLAN SERVICE AREAS.*—

5 (1) *IN GENERAL.*—*Section 1853(d) of the Social*
 6 *Security Act (42 U.S.C. 1395w–23(d)) is amended—*

7 (A) *in the subsection heading, by striking*
 8 *“MA REGION” and inserting “MA REGION; MA*
 9 *LOCAL PLAN SERVICE AREA”;*

10 (B) *in paragraph (1), by striking subpara-*
 11 *graph (A) and inserting the following:*

12 “(A) *with respect to an MA local plan—*

13 *“(i) for years before 2012, an MA local*
 14 *area (as defined in paragraph (2)); and*

15 *“(ii) for 2012 and succeeding years, a*
 16 *service area that is an entire urban or rural*
 17 *area, as applicable (as described in para-*
 18 *graph (5)); and”;* and

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

21 “(5) *MA LOCAL PLAN SERVICE AREA.*—*For 2012*
 22 *and succeeding years, the service area for an MA local*
 23 *plan shall be an entire urban or rural area in each*
 24 *State as follows:*

25 “(A) *URBAN AREAS.*—

1 “(i) *IN GENERAL.*—Subject to clause
2 (ii) and subparagraphs (C) and (D), the
3 service area for an MA local plan in an
4 urban area shall be the Core Based Statis-
5 tical Area (in this paragraph referred to as
6 a ‘CBSA’) or, if applicable, a conceptually
7 similar alternative classification, as defined
8 by the Director of the Office of Management
9 and Budget.

10 “(ii) *CBSA COVERING MORE THAN ONE*
11 *STATE.*—In the case of a CBSA (or alter-
12 native classification) that covers more than
13 one State, the Secretary shall divide the
14 CBSA (or alternative classification) into
15 separate service areas with respect to each
16 State covered by the CBSA (or alternative
17 classification).

18 “(B) *RURAL AREAS.*—Subject to subpara-
19 graphs (C) and (D), the service area for an MA
20 local plan in a rural area shall be a county that
21 does not qualify for inclusion in a CBSA (or al-
22 ternative classification), as defined by the Direc-
23 tor of the Office of Management and Budget.

24 “(C) *REFINEMENTS TO SERVICE AREAS.*—
25 For 2015 and succeeding years, in order to re-

1 *flect actual patterns of health care service utili-*
2 *zation, the Secretary may adjust the boundaries*
3 *of service areas for MA local plans in urban*
4 *areas and rural areas under subparagraphs (A)*
5 *and (B), respectively, but may only do so based*
6 *on recent analyses of actual patterns of care.*

7 “(D) *ADDITIONAL AUTHORITY TO MAKE*
8 *LIMITED EXCEPTIONS TO SERVICE AREA RE-*
9 *QUIREMENTS FOR MA LOCAL PLANS.—The Sec-*
10 *retary may, in addition to any adjustments*
11 *under subparagraph (C), make limited excep-*
12 *tions to service area requirements otherwise ap-*
13 *plicable under this part for MA local plans that*
14 *have in effect (as of the date of enactment of the*
15 *Patient Protection and Affordable Care Act)—*

16 “(i) *agreements with another MA orga-*
17 *nization or MA plan that preclude the offer-*
18 *ing of benefits throughout an entire service*
19 *area; or*

20 “(ii) *limitations in their structural ca-*
21 *capacity to support adequate networks*
22 *throughout an entire service area as a result*
23 *of the delivery system model of the MA local*
24 *plan.”.*

25 (2) *CONFORMING AMENDMENTS.—*

1 (A) *IN GENERAL.*—

2 (i) *Section 1851(b)(1) of the Social Se-*
3 *curity Act (42 U.S.C. 1395w–21(b)(1)) is*
4 *amended by striking subparagraph (C).*

5 (ii) *Section 1853(b)(1)(B)(i) of such*
6 *Act (42 U.S.C. 1395w–23(b)(1)(B)(i))—*

7 (I) *in the matter preceding sub-*
8 *clause (I), by striking “MA payment*
9 *area” and inserting “MA local area*
10 *(as defined in subsection (d)(2))”;* and

11 (II) *in subclause (I), by striking*
12 *“MA payment area” and inserting*
13 *“MA local area (as so defined)”.*

14 (iii) *Section 1853(b)(4) of such Act (42*
15 *U.S.C. 1395w–23(b)(4)) is amended by*
16 *striking “Medicare Advantage payment*
17 *area” and inserting “MA local area (as so*
18 *defined)”.*

19 (iv) *Section 1853(c)(1) of such Act (42*
20 *U.S.C. 1395w–23(c)(1)) is amended—*

21 (I) *in the matter preceding sub-*
22 *paragraph (A), by striking “a Medi-*
23 *care Advantage payment area that is”;*
24 *and*

1 (ii) in subparagraph (D)(i), by
2 striking “MA payment area” and in-
3 serting “MA local area (as defined in
4 subsection (d)(2))”.

5 (v) Section 1854 of such Act (42
6 U.S.C. 1395w-24) is amended by striking
7 subsection (h).

8 (B) *EFFECTIVE DATE.*—The amendments
9 made by this paragraph shall take effect on Jan-
10 uary 1, 2012.

11 (f) *PERFORMANCE BONUSES.*—

12 (1) *MA PLANS.*—

13 (A) *IN GENERAL.*—Section 1853 of the So-
14 cial Security Act (42 U.S.C. 1395w-23) is
15 amended by adding at the end the following new
16 subsection:

17 “(n) *PERFORMANCE BONUSES.*—

18 “(1) *CARE COORDINATION AND MANAGEMENT*
19 *PERFORMANCE BONUS.*—

20 “(A) *IN GENERAL.*—For years beginning
21 with 2014, subject to subparagraph (B), in the
22 case of an MA plan that conducts 1 or more pro-
23 grams described in subparagraph (C) with re-
24 spect to the year, the Secretary shall, in addition
25 to any other payment provided under this part,

1 *make monthly payments, with respect to cov-*
2 *erage of an individual under this part, to the*
3 *MA plan in an amount equal to the product of—*

4 “(i) 0.5 percent of the national month-

5 *ly per capita cost for expenditures for indi-*
6 *viduals enrolled under the original medicare*
7 *fee-for-service program for the year; and*

8 “(ii) the total number of programs de-

9 *scribed in clauses (i) through (ix) of sub-*
10 *paragraph (C) that the Secretary deter-*
11 *mines the plan is conducting for the year*
12 *under such subparagraph.*

13 “(B) *LIMITATION.*—*In no case may the*
14 *total amount of payment with respect to a year*
15 *under subparagraph (A) be greater than 2 per-*
16 *cent of the national monthly per capita cost for*
17 *expenditures for individuals enrolled under the*
18 *original medicare fee-for-service program for the*
19 *year, as determined prior to the application of*
20 *risk adjustment under paragraph (4).*

21 “(C) *PROGRAMS DESCRIBED.*—*The fol-*
22 *lowing programs are described in this para-*
23 *graph:*

24 “(i) *Care management programs*
25 *that—*

1 “(I) target individuals with 1 or
2 more chronic conditions;

3 “(II) identify gaps in care; and

4 “(III) facilitate improved care by
5 using additional resources like nurses,
6 nurse practitioners, and physician as-
7 sistants.

8 “(ii) Programs that focus on patient
9 education and self-management of health
10 conditions, including interventions that—

11 “(I) help manage chronic condi-
12 tions;

13 “(II) reduce declines in health sta-
14 tus; and

15 “(III) foster patient and provider
16 collaboration.

17 “(iii) Transitional care interventions
18 that focus on care provided around a hos-
19 pital inpatient episode, including programs
20 that target post-discharge patient care in
21 order to reduce unnecessary health com-
22 plications and readmissions.

23 “(iv) Patient safety programs, includ-
24 ing provisions for hospital-based patient
25 safety programs in contracts that the Medi-

1 *care Advantage organization offering the*
2 *MA plan has with hospitals.*

3 “(v) *Financial policies that promote*
4 *systematic coordination of care by primary*
5 *care physicians across the full spectrum of*
6 *specialties and sites of care, such as medical*
7 *homes, capitation arrangements, or pay-for-*
8 *performance programs.*

9 “(vi) *Programs that address, identify,*
10 *and ameliorate health care disparities*
11 *among principal at-risk subpopulations.*

12 “(vii) *Medication therapy management*
13 *programs that are more extensive than is*
14 *required under section 1860D–4(c) (as de-*
15 *termined by the Secretary).*

16 “(viii) *Health information technology*
17 *programs, including clinical decision sup-*
18 *port and other tools to facilitate data collec-*
19 *tion and ensure patient-centered, appro-*
20 *priate care.*

21 “(ix) *Such other care management and*
22 *coordination programs as the Secretary de-*
23 *termines appropriate.*

24 “(D) *CONDUCT OF PROGRAM IN URBAN AND*
25 *RURAL AREAS.—An MA plan may conduct a*

1 program described in subparagraph (C) in a
2 manner appropriate for an urban or rural area,
3 as applicable.

4 “(E) *REPORTING OF DATA.*—Each Medicare
5 Advantage organization shall provide to the Sec-
6 retary the information needed to determine
7 whether they are eligible for a care coordination
8 and management performance bonus at a time
9 and in a manner specified by the Secretary.

10 “(F) *PERIODIC AUDITING.*—The Secretary
11 shall provide for the annual auditing of pro-
12 grams described in subparagraph (C) for which
13 an MA plan receives a care coordination and
14 management performance bonus under this para-
15 graph. The Comptroller General shall monitor
16 auditing activities conducted under this sub-
17 paragraph.

18 “(2) *QUALITY PERFORMANCE BONUSES.*—

19 “(A) *QUALITY BONUS.*—For years begin-
20 ning with 2014, the Secretary shall, in addition
21 to any other payment provided under this part,
22 make monthly payments, with respect to cov-
23 erage of an individual under this part, to an MA
24 plan that achieves at least a 3 star rating (or

1 *comparable rating) on a rating system described*
2 *in subparagraph (C) in an amount equal to—*

3 “(i) *in the case of a plan that achieves*
4 *a 3 star rating (or comparable rating) on*
5 *such system 2 percent of the national*
6 *monthly per capita cost for expenditures for*
7 *individuals enrolled under the original*
8 *medicare fee-for-service program for the*
9 *year; and*

10 “(ii) *in the case of a plan that achieves*
11 *a 4 or 5 star rating (or comparable rating*
12 *on such system, 4 percent of such national*
13 *monthly per capita cost for the year.*

14 “(B) *IMPROVED QUALITY BONUS.—For*
15 *years beginning with 2014, in the case of an MA*
16 *plan that does not receive a quality bonus under*
17 *subparagraph (A) and is an improved quality*
18 *MA plan with respect to the year (as identified*
19 *by the Secretary), the Secretary shall, in addi-*
20 *tion to any other payment provided under this*
21 *part, make monthly payments, with respect to*
22 *coverage of an individual under this part, to the*
23 *MA plan in an amount equal to 1 percent of*
24 *such national monthly per capita cost for the*
25 *year.*

1 “(C) *USE OF RATING SYSTEM.*—For pur-
2 poses of subparagraph (A), a rating system de-
3 scribed in this paragraph is—

4 “(i) a rating system that uses up to 5
5 stars to rate clinical quality and enrollee
6 satisfaction and performance at the Medi-
7 care Advantage contract or MA plan level;
8 or

9 “(ii) such other system established by
10 the Secretary that provides for the deter-
11 mination of a comparable quality perform-
12 ance rating to the rating system described
13 in clause (i).

14 “(D) *DATA USED IN DETERMINING*
15 *SCORE.*—

16 “(i) *IN GENERAL.*—The rating of an
17 MA plan under the rating system described
18 in subparagraph (C) with respect to a year
19 shall be based on based on the most recent
20 data available.

21 “(ii) *PLANS THAT FAIL TO REPORT*
22 *DATA.*—An MA plan which does not report
23 data that enables the Secretary to rate the
24 plan for purposes of subparagraph (A) or
25 identify the plan for purposes of subpara-

1 *graph (B) shall be counted, for purposes of*
2 *such rating or identification, as having the*
3 *lowest plan performance rating and the*
4 *lowest percentage improvement, respectively.*

5 “(3) *QUALITY BONUS FOR NEW AND LOW EN-*
6 *ROLLMENT MA PLANS.—*

7 “(A) *NEW MA PLANS.—For years beginning*
8 *with 2014, in the case of an MA plan that first*
9 *submits a bid under section 1854(a)(1)(A) for*
10 *2012 or a subsequent year, only receives enroll-*
11 *ments made during the coverage election periods*
12 *described in section 1851(e), and is not able to*
13 *receive a bonus under subparagraph (A) or (B)*
14 *of paragraph (2) for the year, the Secretary*
15 *shall, in addition to any other payment provided*
16 *under this part, make monthly payments, with*
17 *respect to coverage of an individual under this*
18 *part, to the MA plan in an amount equal to 2*
19 *percent of national monthly per capita cost for*
20 *expenditures for individuals enrolled under the*
21 *original medicare fee-for-service program for the*
22 *year. In its fourth year of operation, the MA*
23 *plan shall be paid in the same manner as other*
24 *MA plans with comparable enrollment.*

1 “(B) *LOW ENROLLMENT PLANS.*—*For years*
2 *beginning with 2014, in the case of an MA plan*
3 *that has low enrollment (as defined by the Sec-*
4 *retary) and would not otherwise be able to re-*
5 *ceive a bonus under subparagraph (A) or (B) of*
6 *paragraph (2) or subparagraph (A) of this para-*
7 *graph for the year (referred to in this subpara-*
8 *graph as a ‘low enrollment plan’), the Secretary*
9 *shall use a regional or local mean of the rating*
10 *of all MA plans in the region or local area, as*
11 *determined appropriate by the Secretary, on*
12 *measures used to determine whether MA plans*
13 *are eligible for a quality or an improved quality*
14 *bonus, as applicable, to determine whether the*
15 *low enrollment plan is eligible for a bonus under*
16 *such a subparagraph.*

17 “(4) *RISK ADJUSTMENT.*—*The Secretary shall*
18 *risk adjust a performance bonus under this subsection*
19 *in the same manner as the Secretary risk adjusts ben-*
20 *eficiary rebates described in section 1854(b)(1)(C).*

21 “(5) *NOTIFICATION.*—*The Secretary, in the an-*
22 *annual announcement required under subsection*
23 *(b)(1)(B) for 2014 and each succeeding year, shall no-*
24 *tify the Medicare Advantage organization of any per-*
25 *formance bonus (including a care coordination and*

1 *management performance bonus under paragraph (1),*
 2 *a quality performance bonus under paragraph (2),*
 3 *and a quality bonus for new and low enrollment*
 4 *plans under paragraph (3)) that the organization will*
 5 *receive under this subsection with respect to the year.*
 6 *The Secretary shall provide for the publication of the*
 7 *information described in the previous sentence on the*
 8 *Internet website of the Centers for Medicare & Med-*
 9 *icaid Services.”*

10 (B) *CONFORMING AMENDMENT.—Section*
 11 *1853(a)(1)(B) of the Social Security Act (42*
 12 *U.S.C. 1395w–23(a)(1)(B)) is amended—*

13 (i) *in clause (i), by inserting “and any*
 14 *performance bonus under subsection (n)”*
 15 *before the period at the end; and*

16 (ii) *in clause (ii), by striking “(G)”*
 17 *and inserting “(G), plus the amount (if*
 18 *any) of any performance bonus under sub-*
 19 *section (n)”.*

20 (2) *APPLICATION OF PERFORMANCE BONUSES TO*
 21 *MA REGIONAL PLANS.—Section 1858 of the Social Se-*
 22 *curity Act (42 U.S.C. 1395w–27a) is amended—*

23 (A) *in subsection (f)(1), by striking “sub-*
 24 *section (e)” and inserting “subsections (e) and*
 25 *(i)”;* *and*

1 (B) by adding at the end the following new
2 subsection:

3 “(i) *APPLICATION OF PERFORMANCE BONUSES TO MA*
4 *REGIONAL PLANS.*—For years beginning with 2014, the
5 Secretary shall apply the performance bonuses under sec-
6 tion 1853(n) (relating to bonuses for care coordination and
7 management, quality performance, and new and low enroll-
8 ment MA plans) to MA regional plans in a similar manner
9 as such performance bonuses apply to MA plans under such
10 subsection.”.

11 (g) *GRANDFATHERING SUPPLEMENTAL BENEFITS FOR*
12 *CURRENT ENROLLEES AFTER IMPLEMENTATION OF COM-*
13 *PETITIVE BIDDING.*—Section 1853 of the Social Security
14 Act (42 U.S.C. 1395w–23), as amended by subsection (f),
15 is amended by adding at the end the following new sub-
16 section:

17 “(o) *GRANDFATHERING SUPPLEMENTAL BENEFITS*
18 *FOR CURRENT ENROLLES AFTER IMPLEMENTATION OF*
19 *COMPETITIVE BIDDING.*—

20 “(1) *IDENTIFICATION OF AREAS.*—The Secretary
21 shall identify MA local areas in which, with respect
22 to 2009, average bids submitted by an MA organiza-
23 tion under section 1854(a) for MA local plans in the
24 area are not greater than 75 percent of the adjusted
25 average per capita cost for the year involved, deter-

1 *mined under section 1876(a)(4), for the area for indi-*
2 *viduals who are not enrolled in an MA plan under*
3 *this part for the year, but adjusted to exclude costs at-*
4 *tributable to payments under section 1848(o),*
5 *1886(n), and 1886(h).*

6 “(2) *ELECTION TO PROVIDE REBATES TO GRAND-*
7 *FATHERED ENROLLEES.—*

8 “(A) *IN GENERAL.—For years beginning*
9 *with 2012, each Medicare Advantage organiza-*
10 *tion offering an MA local plan in an area iden-*
11 *tified by the Secretary under paragraph (1) may*
12 *elect to provide rebates to grandfathered enrollees*
13 *under section 1854(b)(1)(C). In the case where*
14 *an MA organization makes such an election, the*
15 *monthly per capita dollar amount of such re-*
16 *bates shall not exceed the applicable amount for*
17 *the year (as defined in subparagraph (B)).*

18 “(B) *APPLICABLE AMOUNT.—For purposes*
19 *of this subsection, the term ‘applicable amount’*
20 *means—*

21 “(i) *for 2012, the monthly per capita*
22 *dollar amount of such rebates provided to*
23 *enrollees under the MA local plan with re-*
24 *spect to 2011; and*

1 “(i) for a subsequent year, 95 percent
2 of the amount determined under this sub-
3 paragraph for the preceding year.

4 “(3) *SPECIAL RULES FOR PLANS IN IDENTIFIED*
5 *AREAS.*—Notwithstanding any other provision of this
6 part, the following shall apply with respect to each
7 Medicare Advantage organization offering an MA
8 local plan in an area identified by the Secretary
9 under paragraph (1) that makes an election described
10 in paragraph (2):

11 “(A) *PAYMENTS.*—The amount of the
12 monthly payment under this section to the Medi-
13 care Advantage organization, with respect to cov-
14 erage of a grandfathered enrollee under this part
15 in the area for a month, shall be equal to—

16 “(i) for 2012 and 2013, the sum of—

17 “(I) the bid amount under section
18 1854(a) for the MA local plan; and

19 “(II) the applicable amount (as
20 defined in paragraph (2)(B)) for the
21 MA local plan for the year.

22 “(ii) for 2014 and subsequent years,
23 the sum of—

24 “(I) the MA competitive bench-
25 mark amount under subsection

1 (j)(1)(A)(i) for the area for the month,
2 adjusted, only to the extent the Sec-
3 retary determines necessary, to account
4 for induced utilization as a result of
5 rebates provided to grandfathered en-
6 rollees (except that such adjustment
7 shall not exceed 0.5 percent of such MA
8 competitive benchmark amount); and

9 “(II) the applicable amount (as so
10 defined) for the MA local plan for the
11 year.

12 “(B) REQUIREMENT TO SUBMIT BIDS
13 UNDER COMPETITIVE BIDDING.—The Medicare
14 Advantage organization shall submit a single bid
15 amount under section 1854(a) for the MA local
16 plan. The Medicare Advantage organization shall
17 remove from such bid amount any effects of in-
18 duced demand for care that may result from the
19 higher rebates available to grandfathered enroll-
20 ees under this subsection.

21 “(C) NONAPPLICATION OF BONUS PAYMENTS
22 AND ANY OTHER REBATES.—The Medicare Ad-
23 vantage organization offering the MA local plan
24 shall not be eligible for any bonus payment
25 under subsection (n) or any rebate under this

1 *part (other than as provided under this sub-*
2 *section) with respect to grandfathered enrollees.*

3 “(D) *NONAPPLICATION OF UNIFORM BID*
4 *AND PREMIUM AMOUNTS TO GRANDFATHERED*
5 *ENROLLEES.—Section 1854(c) shall not apply*
6 *with respect to the MA local plan.*

7 “(E) *NONAPPLICATION OF LIMITATION ON*
8 *APPLICATION OF PLAN REBATES TOWARD PAY-*
9 *MENT OF PART B PREMIUM.—Notwithstanding*
10 *clause (iii) of section 1854(b)(1)(C), in the case*
11 *of a grandfathered enrollee, a rebate under such*
12 *section may be used for the purpose described in*
13 *clause (ii)(III) of such section.*

14 “(F) *RISK ADJUSTMENT.—The Secretary*
15 *shall risk adjust rebates to grandfathered enroll-*
16 *ees under this subsection in the same manner as*
17 *the Secretary risk adjusts beneficiary rebates de-*
18 *scribed in section 1854(b)(1)(C).*

19 “(4) *DEFINITION OF GRANDFATHERED EN-*
20 *ROLLEE.—In this subsection, the term ‘grandfathered*
21 *enrollee’ means an individual who is enrolled (effec-*
22 *tive as of the date of enactment of this subsection) in*
23 *an MA local plan in an area that is identified by the*
24 *Secretary under paragraph (1).”.*

1 (h) *TRANSITIONAL EXTRA BENEFITS.*—Section 1853
2 *of the Social Security Act (42 U.S.C. 1395w–23), as amend-*
3 *ed by subsections (f) and (g), is amended by adding at the*
4 *end the following new subsection:*

5 “(p) *TRANSITIONAL EXTRA BENEFITS.*—

6 “(1) *IN GENERAL.*—For years beginning with
7 2012, the Secretary shall provide transitional rebates
8 under section 1854(b)(1)(C) for the provision of extra
9 benefits (as specified by the Secretary) to enrollees de-
10 scribed in paragraph (2).

11 “(2) *ENROLLEES DESCRIBED.*—An enrollee de-
12 scribed in this paragraph is an individual who—

13 “(A) enrolls in an MA local plan in an ap-
14 plicable area; and

15 “(B) experiences a significant reduction in
16 extra benefits described in clause (ii) of section
17 1854(b)(1)(C) as a result of competitive bidding
18 under this part (as determined by the Secretary).

19 “(3) *APPLICABLE AREAS.*—In this subsection, the
20 term ‘applicable area’ means the following:

21 “(A) The 2 largest metropolitan statistical
22 areas, if the Secretary determines that the total
23 amount of such extra benefits for each enrollee
24 for the month in those areas is greater than
25 \$100.

1 “(B) A county where—

2 “(i) the MA area-specific non-drug
3 monthly benchmark amount for a month in
4 2011 is equal to the legacy urban floor
5 amount (as described in subsection
6 (c)(1)(B)(iii)), as determined by the Sec-
7 retary for the area for 2011;

8 “(ii) the percentage of Medicare Ad-
9 vantage eligible beneficiaries in the county
10 who are enrolled in an MA plan for 2009
11 is greater than 30 percent (as determined
12 by the Secretary); and

13 “(iii) average bids submitted by an
14 MA organization under section 1854(a) for
15 MA local plans in the county for 2011 are
16 not greater than the adjusted average per
17 capita cost for the year involved, deter-
18 mined under section 1876(a)(4), for the
19 county for individuals who are not enrolled
20 in an MA plan under this part for the year,
21 but adjusted to exclude costs attributable to
22 payments under section 1848(o), 1886(n),
23 and 1886(h).

24 “(C) If the Secretary determines appro-
25 priate, a county contiguous to an area or county

1 *described in subparagraph (A) or (B), respec-*
2 *tively.*

3 “(4) *REVIEW OF PLAN BIDS.—In the case of a*
4 *bid submitted by an MA organization under section*
5 *1854(a) for an MA local plan in an applicable area,*
6 *the Secretary shall review such bid in order to ensure*
7 *that extra benefits (as specified by the Secretary) are*
8 *provided to enrollees described in paragraph (2).*

9 “(5) *FUNDING.—The Secretary shall provide for*
10 *the transfer from the Federal Hospital Insurance*
11 *Trust Fund under section 1817 and the Federal Sup-*
12 *plementary Medical Insurance Trust Fund established*
13 *under section 1841, in such proportion as the Sec-*
14 *retary determines appropriate, of an amount not to*
15 *exceed \$5,000,000,000 for the period of fiscal years*
16 *2012 through 2019 for the purpose of providing tran-*
17 *sitional rebates under section 1854(b)(1)(C) for the*
18 *provision of extra benefits under this subsection.”.*

19 *(i) NONAPPLICATION OF COMPETITIVE BIDDING AND*
20 *RELATED PROVISIONS AND CLARIFICATION OF MA PAY-*
21 *MENT AREA FOR PACE PROGRAMS.—*

22 *(1) NONAPPLICATION OF COMPETITIVE BIDDING*
23 *AND RELATED PROVISIONS FOR PACE PROGRAMS.—*
24 *Section 1894 of the Social Security Act (42 U.S.C.*
25 *1395eee) is amended—*

1 (A) by redesignating subsections (h) and (i)
2 as subsections (i) and (j), respectively;

3 (B) by inserting after subsection (g) the fol-
4 lowing new subsection:

5 “(h) *NONAPPLICATION OF COMPETITIVE BIDDING AND*
6 *RELATED PROVISIONS UNDER PART C.—With respect to a*
7 *PACE program under this section, the following provisions*
8 *(and regulations relating to such provisions) shall not*
9 *apply:*

10 “(1) *Section 1853(j)(1)(A)(i), relating to MA*
11 *area-specific non-drug monthly benchmark amount*
12 *being based on competitive bids.*

13 “(2) *Section 1853(d)(5), relating to the establish-*
14 *ment of MA local plan service areas.*

15 “(3) *Section 1853(n), relating to the payment of*
16 *performance bonuses.*

17 “(4) *Section 1853(o), relating to grandfathering*
18 *supplemental benefits for current enrollees after im-*
19 *plementation of competitive bidding.*

20 “(5) *Section 1853(p), relating to transitional*
21 *extra benefits.”.*

22 (2) *SPECIAL RULE FOR MA PAYMENT AREA FOR*
23 *PACE PROGRAMS.—Section 1853(d) of the Social Se-*
24 *curity Act (42 U.S.C. 1395w–23(d)), as amended by*

1 *subsection (e), is amended by adding at the end the*
2 *following new paragraph:*

3 *“(6) SPECIAL RULE FOR MA PAYMENT AREA FOR*
4 *PACE PROGRAMS.—For years beginning with 2012, in*
5 *the case of a PACE program under section 1894, the*
6 *MA payment area shall be the MA local area (as de-*
7 *finied in paragraph (2)).”.*

8 **SEC. 3202. BENEFIT PROTECTION AND SIMPLIFICATION.**

9 *(a) LIMITATION ON VARIATION OF COST SHARING FOR*
10 *CERTAIN BENEFITS.—*

11 *(1) IN GENERAL.—Section 1852(a)(1)(B) of the*
12 *Social Security Act (42 U.S.C. 1395w-22(a)(1)(B)) is*
13 *amended—*

14 *(A) in clause (i), by inserting “, subject to*
15 *clause (iii),” after “and B or”; and*

16 *(B) by adding at the end the following new*
17 *clauses:*

18 *“(iii) LIMITATION ON VARIATION OF*
19 *COST SHARING FOR CERTAIN BENEFITS.—*
20 *Subject to clause (v), cost-sharing for serv-*
21 *ices described in clause (iv) shall not exceed*
22 *the cost-sharing required for those services*
23 *under parts A and B.*

24 *“(iv) SERVICES DESCRIBED.—The fol-*
25 *lowing services are described in this clause:*

1 “(I) *Chemotherapy administration*
2 *services.*

3 “(II) *Renal dialysis services (as*
4 *defined in section 1881(b)(14)(B)).*

5 “(III) *Skilled nursing care.*

6 “(IV) *Such other services that the*
7 *Secretary determines appropriate (in-*
8 *cluding services that the Secretary de-*
9 *termines require a high level of predict-*
10 *ability and transparency for bene-*
11 *ficiaries).*

12 “(v) *EXCEPTION.—In the case of serv-*
13 *ices described in clause (iv) for which there*
14 *is no cost-sharing required under parts A*
15 *and B, cost-sharing may be required for*
16 *those services in accordance with clause*
17 *(i).”.*

18 (2) *EFFECTIVE DATE.—The amendments made*
19 *by this subsection shall apply to plan years beginning*
20 *on or after January 1, 2011.*

21 (b) *APPLICATION OF REBATES, PERFORMANCE BO-*
22 *NUSES, AND PREMIUMS.—*

23 (1) *APPLICATION OF REBATES.—Section*
24 *1854(b)(1)(C) of the Social Security Act (42 U.S.C.*
25 *1395w-24(b)(1)(C)) is amended—*

1 (A) in clause (ii), by striking “REBATE.—
2 A rebate” and inserting “REBATE FOR PLAN
3 YEARS BEFORE 2012.—For plan years before
4 2012, a rebate”;

5 (B) by redesignating clauses (iii) and (iv)
6 as clauses (iv) and (v); and

7 (C) by inserting after clause (ii) the fol-
8 lowing new clause:

9 “(iii) FORM OF REBATE FOR PLAN
10 YEAR 2012 AND SUBSEQUENT PLAN YEARS.—
11 For plan years beginning on or after Janu-
12 ary 1, 2012, a rebate required under this
13 subparagraph may not be used for the pur-
14 pose described in clause (ii)(III) and shall
15 be provided through the application of the
16 amount of the rebate in the following pri-
17 ority order:

18 “(I) First, to use the most signifi-
19 cant share to meaningfully reduce cost-
20 sharing otherwise applicable for bene-
21 fits under the original medicare fee-for-
22 service program under parts A and B
23 and for qualified prescription drug
24 coverage under part D, including the
25 reduction of any deductibles, copay-

1 *ments, and maximum limitations on*
2 *out-of-pocket expenses otherwise appli-*
3 *cable. Any reduction of maximum lim-*
4 *itations on out-of-pocket expenses*
5 *under the preceding sentence shall*
6 *apply to all benefits under the original*
7 *medicare fee-for-service program op-*
8 *tion. The Secretary may provide guid-*
9 *ance on meaningfully reducing cost-*
10 *sharing under this subclause, except*
11 *that such guidance may not require a*
12 *particular amount of cost-sharing or*
13 *reduction in cost-sharing.*

14 *“(II) Second, to use the next most*
15 *significant share to meaningfully pro-*
16 *vide coverage of preventive and*
17 *wellness health care benefits (as defined*
18 *by the Secretary) which are not bene-*
19 *fits under the original medicare fee-for-*
20 *service program, such as smoking ces-*
21 *sation, a free flu shot, and an annual*
22 *physical examination.*

23 *“(III) Third, to use the remaining*
24 *share to meaningfully provide coverage*
25 *of other health care benefits which are*

1 not benefits under the original medi-
 2 care fee-for-service program, such as
 3 eye examinations and dental coverage,
 4 and are not benefits described in sub-
 5 clause (II).”.

6 (2) *APPLICATION OF PERFORMANCE BONUSES.*—
 7 Section 1853(n) of the Social Security Act, as added
 8 by section 3201(f), is amended by adding at the end
 9 the following new paragraph:

10 “(6) *APPLICATION OF PERFORMANCE BO-*
 11 *NUSES.*—For plan years beginning on or after Janu-
 12 ary 1, 2014, any performance bonus paid to an MA
 13 plan under this subsection shall be used for the pur-
 14 poses, and in the priority order, described in sub-
 15 clauses (I) through (III) of section
 16 1854(b)(1)(C)(iii).”.

17 (3) *APPLICATION OF MA MONTHLY SUPPLE-*
 18 *MENTARY BENEFICIARY PREMIUM.*—Section
 19 1854(b)(2)(C) of the Social Security Act (42 U.S.C.
 20 1395w-24(b)(2)(C)) is amended—

21 (A) by striking “*PREMIUM.—The term*” and
 22 inserting “*PREMIUM.—*”

23 “(i) *IN GENERAL.—The term*”; and

24 (B) by adding at the end the following new
 25 clause:

1 “(ii) *APPLICATION OF MA MONTHLY*
2 *SUPPLEMENTARY BENEFICIARY PREMIUM.—*
3 *For plan years beginning on or after Janu-*
4 *ary 1, 2012, any MA monthly supple-*
5 *mentary beneficiary premium charged to an*
6 *individual enrolled in an MA plan shall be*
7 *used for the purposes, and in the priority*
8 *order, described in subclauses (I) through*
9 *(III) of paragraph (1)(C)(iii).”.*

10 **SEC. 3203. APPLICATION OF CODING INTENSITY ADJUST-**
11 **MENT DURING MA PAYMENT TRANSITION.**

12 *Section 1853(a)(1)(C) of the Social Security Act (42*
13 *U.S.C. 1395w-23(a)(1)(C)) is amended by adding at the*
14 *end the following new clause:*

15 “(iii) *APPLICATION OF CODING INTEN-*
16 *SITY ADJUSTMENT FOR 2011 AND SUBSE-*
17 *QUENT YEARS.—*

18 “(I) *REQUIREMENT TO APPLY IN*
19 *2011 THROUGH 2013.—In order to en-*
20 *sure payment accuracy, the Secretary*
21 *shall conduct an analysis of the dif-*
22 *ferences described in clause (ii)(I). The*
23 *Secretary shall ensure that the results*
24 *of such analysis are incorporated into*

1 *the risk scores for 2011, 2012, and*
 2 *2013.*

3 “(II) *AUTHORITY TO APPLY IN*
 4 *2014 AND SUBSEQUENT YEARS.—The*
 5 *Secretary may, as appropriate, incor-*
 6 *porate the results of such analysis into*
 7 *the risk scores for 2014 and subsequent*
 8 *years.”.*

9 **SEC. 3204. SIMPLIFICATION OF ANNUAL BENEFICIARY**
 10 **ELECTION PERIODS.**

11 *(a) ANNUAL 45-DAY PERIOD FOR DISENROLLMENT*
 12 *FROM MA PLANS TO ELECT TO RECEIVE BENEFITS*
 13 *UNDER THE ORIGINAL MEDICARE FEE-FOR-SERVICE PRO-*
 14 *GRAM.—*

15 *(1) IN GENERAL.—Section 1851(e)(2)(C) of the*
 16 *Social Security Act (42 U.S.C. 1395w–1(e)(2)(C)) is*
 17 *amended to read as follows:*

18 “(C) *ANNUAL 45-DAY PERIOD FOR*
 19 *DISENROLLMENT FROM MA PLANS TO ELECT TO*
 20 *RECEIVE BENEFITS UNDER THE ORIGINAL MEDI-*
 21 *CARE FEE-FOR-SERVICE PROGRAM.—Subject to*
 22 *subparagraph (D), at any time during the first*
 23 *45 days of a year (beginning with 2011), an in-*
 24 *dividual who is enrolled in a Medicare Advan-*
 25 *tage plan may change the election under sub-*

1 *section (a)(1), but only with respect to coverage*
2 *under the original medicare fee-for-service pro-*
3 *gram under parts A and B, and may elect quali-*
4 *fied prescription drug coverage in accordance*
5 *with section 1860D-1.”.*

6 (2) *EFFECTIVE DATE.*—*The amendment made by*
7 *paragraph (1) shall apply with respect to 2011 and*
8 *succeeding years.*

9 (b) *TIMING OF THE ANNUAL, COORDINATED ELECTION*
10 *PERIOD UNDER PARTS C AND D.*—*Section 1851(e)(3)(B)*
11 *of the Social Security Act (42 U.S.C. 1395w-1(e)(3)(B))*
12 *is amended—*

13 (1) *in clause (iii), by striking “and” at the end;*

14 (2) *in clause (iv)—*

15 (A) *by striking “and succeeding years” and*
16 *inserting “, 2008, 2009, and 2010”; and*

17 (B) *by striking the period at the end and*
18 *inserting “; and”; and*

19 (3) *by adding at the end the following new*
20 *clause:*

21 “(v) *with respect to 2012 and suc-*
22 *ceeding years, the period beginning on Octo-*
23 *ber 15 and ending on December 7 of the*
24 *year before such year.”.*

1 **SEC. 3205. EXTENSION FOR SPECIALIZED MA PLANS FOR**
2 **SPECIAL NEEDS INDIVIDUALS.**

3 (a) *EXTENSION OF SNP AUTHORITY.*—Section
4 1859(f)(1) of the Social Security Act (42 U.S.C. 1395w–
5 28(f)(1)), as amended by section 164(a) of the Medicare Im-
6 provements for Patients and Providers Act of 2008 (Public
7 Law 110–275), is amended by striking “2011” and insert-
8 ing “2014”.

9 (b) *AUTHORITY TO APPLY FRAILTY ADJUSTMENT*
10 *UNDER PACE PAYMENT RULES.*—Section 1853(a)(1)(B) of
11 the Social Security Act (42 U.S.C. 1395w–23(a)(1)(B)) is
12 amended by adding at the end the following new clause:

13 “(iv) *AUTHORITY TO APPLY FRAILTY*
14 *ADJUSTMENT UNDER PACE PAYMENT RULES*
15 *FOR CERTAIN SPECIALIZED MA PLANS FOR*
16 *SPECIAL NEEDS INDIVIDUALS.*—

17 “(I) *IN GENERAL.*—Notwith-
18 standing the preceding provisions of
19 this paragraph, for plan year 2011
20 and subsequent plan years, in the case
21 of a plan described in subclause (II),
22 the Secretary may apply the payment
23 rules under section 1894(d) (other than
24 paragraph (3) of such section) rather
25 than the payment rules that would oth-
26 erwise apply under this part, but only

1 to the extent necessary to reflect the
2 costs of treating high concentrations of
3 frail individuals.

4 “(II) *PLAN DESCRIBED.*—A plan
5 described in this subclause is a special-
6 ized MA plan for special needs individ-
7 uals described in section
8 1859(b)(6)(B)(ii) that is fully inte-
9 grated with capitated contracts with
10 States for Medicaid benefits, including
11 long-term care, and that have similar
12 average levels of frailty (as determined
13 by the Secretary) as the PACE pro-
14 gram.”.

15 (c) *TRANSITION AND EXCEPTION REGARDING RE-*
16 *STRICTION ON ENROLLMENT.*—Section 1859(f) of the Social
17 *Security Act (42 U.S.C. 1395w–28(f)) is amended by add-*
18 *ing at the end the following new paragraph:*

19 “(6) *TRANSITION AND EXCEPTION REGARDING*
20 *RESTRICTION ON ENROLLMENT.*—

21 “(A) *IN GENERAL.*—Subject to subpara-
22 graph (C), the Secretary shall establish proce-
23 dures for the transition of applicable individuals
24 to—

1 “(i) a Medicare Advantage plan that is
2 not a specialized MA plan for special needs
3 individuals (as defined in subsection
4 (b)(6)); or

5 “(ii) the original medicare fee-for-serv-
6 ice program under parts A and B.

7 “(B) APPLICABLE INDIVIDUALS.—For pur-
8 poses of clause (i), the term ‘applicable indi-
9 vidual’ means an individual who—

10 “(i) is enrolled under a specialized MA
11 plan for special needs individuals (as de-
12 fined in subsection (b)(6)); and

13 “(ii) is not within the 1 or more of the
14 classes of special needs individuals to which
15 enrollment under the plan is restricted to.

16 “(C) EXCEPTION.—The Secretary shall pro-
17 vide for an exception to the transition described
18 in subparagraph (A) for a limited period of time
19 for individuals enrolled under a specialized MA
20 plan for special needs individuals described in
21 subsection (b)(6)(B)(ii) who are no longer eligi-
22 ble for medical assistance under title XIX.

23 “(D) TIMELINE FOR INITIAL TRANSITION.—
24 The Secretary shall ensure that applicable indi-
25 viduals enrolled in a specialized MA plan for

1 *special needs individuals (as defined in sub-*
2 *section (b)(6)) prior to January 1, 2010, are*
3 *transitioned to a plan or the program described*
4 *in subparagraph (A) by not later than January*
5 *1, 2013.”.*

6 *(d) TEMPORARY EXTENSION OF AUTHORITY TO OPER-*
7 *ATE BUT NO SERVICE AREA EXPANSION FOR DUAL SPE-*
8 *CIAL NEEDS PLANS THAT DO NOT MEET CERTAIN RE-*
9 *QUIREMENTS.—Section 164(c)(2) of the Medicare Improve-*
10 *ments for Patients and Providers Act of 2008 (Public Law*
11 *110–275) is amended by striking “December 31, 2010” and*
12 *inserting “December 31, 2012”.*

13 *(e) AUTHORITY TO REQUIRE SPECIAL NEEDS PLANS*
14 *BE NCQA APPROVED.—Section 1859(f) of the Social Secu-*
15 *rity Act (42 U.S.C. 1395w–28(f)), as amended by sub-*
16 *sections (a) and (c), is amended—*

17 *(1) in paragraph (2), by adding at the end the*
18 *following new subparagraph:*

19 *“(C) If applicable, the plan meets the re-*
20 *quirement described in paragraph (7).”;*

21 *(2) in paragraph (3), by adding at the end the*
22 *following new subparagraph:*

23 *“(E) If applicable, the plan meets the re-*
24 *quirement described in paragraph (7).”;*

1 (3) in paragraph (4), by adding at the end the
2 following new subparagraph:

3 “(C) If applicable, the plan meets the re-
4 quirement described in paragraph (7).”;

5 (4) by adding at the end the following new para-
6 graph:

7 “(7) *AUTHORITY TO REQUIRE SPECIAL NEEDS*
8 *PLANS BE NCQA APPROVED.*—For 2012 and subse-
9 quent years, the Secretary shall require that a Medi-
10 care Advantage organization offering a specialized
11 MA plan for special needs individuals be approved by
12 the National Committee for Quality Assurance (based
13 on standards established by the Secretary).”.

14 (f) *RISK ADJUSTMENT.*—Section 1853(a)(1)(C) of the
15 Social Security Act (42 U.S.C. 1395i–23(a)(1)(C)) is
16 amended by adding at the end the following new clause:

17 “(iii) *IMPROVEMENTS TO RISK AD-*
18 *JUSTMENT FOR SPECIAL NEEDS INDIVID-*
19 *UALS WITH CHRONIC HEALTH CONDI-*
20 *TIONS.*—

21 “(I) *IN GENERAL.*—For 2011 and
22 subsequent years, for purposes of the
23 adjustment under clause (i) with re-
24 spect to individuals described in sub-
25 clause (II), the Secretary shall use a

1 *risk score that reflects the known un-*
2 *derlying risk profile and chronic health*
3 *status of similar individuals. Such risk*
4 *score shall be used instead of the de-*
5 *fault risk score for new enrollees in*
6 *Medicare Advantage plans that are not*
7 *specialized MA plans for special needs*
8 *individuals (as defined in section*
9 *1859(b)(6)).*

10 *“(II) INDIVIDUALS DESCRIBED.—*
11 *An individual described in this sub-*
12 *clause is a special needs individual de-*
13 *scribed in subsection (b)(6)(B)(iii) who*
14 *enrolls in a specialized MA plan for*
15 *special needs individuals on or after*
16 *January 1, 2011.*

17 *“(III) EVALUATION.—For 2011*
18 *and periodically thereafter, the Sec-*
19 *retary shall evaluate and revise the*
20 *risk adjustment system under this sub-*
21 *paragraph in order to, as accurately as*
22 *possible, account for higher medical*
23 *and care coordination costs associated*
24 *with frailty, individuals with multiple,*
25 *comorbid chronic conditions, and indi-*

1 *viduals with a diagnosis of mental ill-*
2 *ness, and also to account for costs that*
3 *may be associated with higher con-*
4 *centrations of beneficiaries with those*
5 *conditions.*

6 *“(IV) PUBLICATION OF EVALUA-*
7 *TION AND REVISIONS.—The Secretary*
8 *shall publish, as part of an announce-*
9 *ment under subsection (b), a descrip-*
10 *tion of any evaluation conducted under*
11 *subclause (III) during the preceding*
12 *year and any revisions made under*
13 *such subclause as a result of such eval-*
14 *uation.”.*

15 *(g) TECHNICAL CORRECTION.—Section 1859(f)(5) of*
16 *the Social Security Act (42 U.S.C. 1395w–28(f)(5)) is*
17 *amended, in the matter preceding subparagraph (A), by*
18 *striking “described in subsection (b)(6)(B)(i)”.*

19 **SEC. 3206. EXTENSION OF REASONABLE COST CONTRACTS.**

20 *Section 1876(h)(5)(C)(ii) of the Social Security Act*
21 *(42 U.S.C. 1395mm(h)(5)(C)(ii)) is amended, in the matter*
22 *preceding subclause (I), by striking “January 1, 2010” and*
23 *inserting “January 1, 2013”.*

1 **SEC. 3207. TECHNICAL CORRECTION TO MA PRIVATE FEE-**
2 **FOR-SERVICE PLANS.**

3 *For plan year 2011 and subsequent plan years, to the*
4 *extent that the Secretary of Health and Human Services*
5 *is applying the 2008 service area extension waiver policy*
6 *(as modified in the April 11, 2008, Centers for Medicare*
7 *& Medicaid Services' memorandum with the subject "2009*
8 *Employer Group Waiver-Modification of the 2008 Service*
9 *Area Extension Waiver Granted to Certain MA Local Co-*
10 *ordinated Care Plans") to Medicare Advantage coordinated*
11 *care plans, the Secretary shall extend the application of*
12 *such waiver policy to employers who contract directly with*
13 *the Secretary as a Medicare Advantage private fee-for-serv-*
14 *ice plan under section 1857(i)(2) of the Social Security Act*
15 *(42 U.S.C. 1395w-27(i)(2)) and that had enrollment as of*
16 *October 1, 2009.*

17 **SEC. 3208. MAKING SENIOR HOUSING FACILITY DEM-**
18 **ONSTRATION PERMANENT.**

19 *(a) IN GENERAL.—Section 1859 of the Social Security*
20 *Act (42 U.S.C. 1395w-28) is amended by adding at the*
21 *end the following new subsection:*

22 *“(g) SPECIAL RULES FOR SENIOR HOUSING FACILITY*
23 *PLANS.—*

24 *“(1) IN GENERAL.—In the case of a Medicare*
25 *Advantage senior housing facility plan described in*
26 *paragraph (2), notwithstanding any other provision*

1 of this part to the contrary and in accordance with
2 regulations of the Secretary, the service area of such
3 plan may be limited to a senior housing facility in
4 a geographic area.

5 “(2) *MEDICARE ADVANTAGE SENIOR HOUSING*
6 *FACILITY PLAN DESCRIBED.*—For purposes of this
7 subsection, a Medicare Advantage senior housing fa-
8 cility plan is a Medicare Advantage plan that—

9 “(A) restricts enrollment of individuals
10 under this part to individuals who reside in a
11 continuing care retirement community (as de-
12 fined in section 1852(l)(4)(B));

13 “(B) provides primary care services onsite
14 and has a ratio of accessible physicians to bene-
15 ficiaries that the Secretary determines is ade-
16 quate;

17 “(C) provides transportation services for
18 beneficiaries to specialty providers outside of the
19 facility; and

20 “(D) has participated (as of December 31,
21 2009) in a demonstration project established by
22 the Secretary under which such a plan was of-
23 fered for not less than 1 year.”.

1 (b) *EFFECTIVE DATE.*—*The amendment made by this*
2 *section shall take effect on January 1, 2010, and shall apply*
3 *to plan years beginning on or after such date.*

4 **SEC. 3209. AUTHORITY TO DENY PLAN BIDS.**

5 (a) *IN GENERAL.*—*Section 1854(a)(5) of the Social Se-*
6 *curity Act (42 U.S.C. 1395w–24(a)(5)) is amended by add-*
7 *ing at the end the following new subparagraph:*

8 “(C) *REJECTION OF BIDS.*—

9 “(i) *IN GENERAL.*—*Nothing in this sec-*
10 *tion shall be construed as requiring the Sec-*
11 *retary to accept any or every bid submitted*
12 *by an MA organization under this sub-*
13 *section.*

14 “(ii) *AUTHORITY TO DENY BIDS THAT*
15 *PROPOSE SIGNIFICANT INCREASES IN COST*
16 *SHARING OR DECREASES IN BENEFITS.*—
17 *The Secretary may deny a bid submitted by*
18 *an MA organization for an MA plan if it*
19 *proposes significant increases in cost shar-*
20 *ing or decreases in benefits offered under the*
21 *plan.”.*

22 (b) *APPLICATION UNDER PART D.*—*Section 1860D–*
23 *11(d) of such Act (42 U.S.C. 1395w–111(d)) is amended*
24 *by adding at the end the following new paragraph:*

1 “(3) *REJECTION OF BIDS.*—Paragraph (5)(C) of
2 *section 1854(a) shall apply with respect to bids sub-*
3 *mitted by a PDP sponsor under subsection (b) in the*
4 *same manner as such paragraph applies to bids sub-*
5 *mitted by an MA organization under such section*
6 *1854(a).”.*

7 (c) *EFFECTIVE DATE.*—*The amendments made by this*
8 *section shall apply to bids submitted for contract years be-*
9 *ginning on or after January 1, 2011.*

10 **SEC. 3210. DEVELOPMENT OF NEW STANDARDS FOR CER-**
11 **TAIN MEDIGAP PLANS.**

12 (a) *IN GENERAL.*—*Section 1882 of the Social Security*
13 *Act (42 U.S.C. 1395ss) is amended by adding at the end*
14 *the following new subsection:*

15 “(y) *DEVELOPMENT OF NEW STANDARDS FOR CER-*
16 *TAIN MEDICARE SUPPLEMENTAL POLICIES.*—

17 “(1) *IN GENERAL.*—*The Secretary shall request*
18 *the National Association of Insurance Commissioners*
19 *to review and revise the standards for benefit pack-*
20 *ages described in paragraph (2) under subsection*
21 *(p)(1), to otherwise update standards to include re-*
22 *quirements for nominal cost sharing to encourage the*
23 *use of appropriate physicians’ services under part B.*
24 *Such revisions shall be based on evidence published in*
25 *peer-reviewed journals or current examples used by*

1 *integrated delivery systems and made consistent with*
2 *the rules applicable under subsection (p)(1)(E) with*
3 *the reference to the ‘1991 NAIC Model Regulation’*
4 *deemed a reference to the NAIC Model Regulation as*
5 *published in the Federal Register on December 4,*
6 *1998, and as subsequently updated by the National*
7 *Association of Insurance Commissioners to reflect pre-*
8 *vious changes in law and the reference to ‘date of en-*
9 *actment of this subsection’ deemed a reference to the*
10 *date of enactment of the Patient Protection and Af-*
11 *fordable Care Act. To the extent practicable, such re-*
12 *vision shall provide for the implementation of revised*
13 *standards for benefit packages as of January 1, 2015.*

14 *“(2) BENEFIT PACKAGES DESCRIBED.—The ben-*
15 *efit packages described in this paragraph are benefit*
16 *packages classified as ‘C’ and ‘F’.”.*

17 *(b) CONFORMING AMENDMENT.—Section 1882(o)(1) of*
18 *the Social Security Act (42 U.S.C. 1395ss(o)(1)) is amended*
19 *by striking “, and (w)” and inserting “(w), and (y)”.*

20 ***Subtitle D—Medicare Part D Im-***
21 ***provements for Prescription***
22 ***Drug Plans and MA–PD Plans***

23 ***SEC. 3301. MEDICARE COVERAGE GAP DISCOUNT PROGRAM.***

24 *(a) CONDITION FOR COVERAGE OF DRUGS UNDER*
25 *PART D.—Part D of Title XVIII of the Social Security Act*

1 *(42 U.S.C. 1395w–101 et seq.)*, is amended by adding at
2 *the end the following new section:*

3 *“CONDITION FOR COVERAGE OF DRUGS UNDER THIS PART*

4 *“SEC. 1860D–43. (a) IN GENERAL.—In order for cov-*
5 *erage to be available under this part for covered part D*
6 *drugs (as defined in section 1860D–2(e)) of a manufacturer,*
7 *the manufacturer must—*

8 *“(1) participate in the Medicare coverage gap*
9 *discount program under section 1860D–14A;*

10 *“(2) have entered into and have in effect an*
11 *agreement described in subsection (b) of such section*
12 *with the Secretary; and*

13 *“(3) have entered into and have in effect, under*
14 *terms and conditions specified by the Secretary, a*
15 *contract with a third party that the Secretary has en-*
16 *tered into a contract with under subsection (d)(3) of*
17 *such section.*

18 *“(b) EFFECTIVE DATE.—Subsection (a) shall apply to*
19 *covered part D drugs dispensed under this part on or after*
20 *July 1, 2010.*

21 *“(c) AUTHORIZING COVERAGE FOR DRUGS NOT COV-*
22 *ERED UNDER AGREEMENTS.—Subsection (a) shall not*
23 *apply to the dispensing of a covered part D drug if—*

24 *“(1) the Secretary has made a determination*
25 *that the availability of the drug is essential to the*
26 *health of beneficiaries under this part; or*

1 “(2) the Secretary determines that in the period
2 beginning on July 1, 2010, and ending on December
3 31, 2010, there were extenuating circumstances.

4 “(d) *DEFINITION OF MANUFACTURER.*—In this sec-
5 tion, the term ‘manufacturer’ has the meaning given such
6 term in section 1860D–14A(g)(5).”.

7 (b) *MEDICARE COVERAGE GAP DISCOUNT PRO-*
8 *GRAM.*—Part D of title XVIII of the Social Security Act
9 (42 U.S.C. 1395w–101) is amended by inserting after sec-
10 tion 1860D–14 the following new section:

11 “*MEDICARE COVERAGE GAP DISCOUNT PROGRAM*

12 “*SEC. 1860D–14A. (a) ESTABLISHMENT.*—The Sec-
13 retary shall establish a Medicare coverage gap discount pro-
14 gram (in this section referred to as the ‘program’) by not
15 later than July 1, 2010. Under the program, the Secretary
16 shall enter into agreements described in subsection (b) with
17 manufacturers and provide for the performance of the duties
18 described in subsection (c)(1). The Secretary shall establish
19 a model agreement for use under the program by not later
20 than April 1, 2010, in consultation with manufacturers,
21 and allow for comment on such model agreement.

22 “(b) *TERMS OF AGREEMENT.*—

23 “(1) *IN GENERAL.*—

24 “(A) *AGREEMENT.*—An agreement under
25 this section shall require the manufacturer to
26 provide applicable beneficiaries access to dis-

1 *counted prices for applicable drugs of the manu-*
2 *facturer.*

3 “(B) *PROVISION OF DISCOUNTED PRICES AT*
4 *THE POINT-OF-SALE.—Except as provided in*
5 *subsection (c)(1)(A)(iii), such discounted prices*
6 *shall be provided to the applicable beneficiary at*
7 *the pharmacy or by the mail order service at the*
8 *point-of-sale of an applicable drug.*

9 “(C) *TIMING OF AGREEMENT.—*

10 “(i) *SPECIAL RULE FOR 2010 AND*
11 *2011.—In order for an agreement with a*
12 *manufacturer to be in effect under this sec-*
13 *tion with respect to the period beginning on*
14 *July 1, 2010, and ending on December 31,*
15 *2011, the manufacturer shall enter into such*
16 *agreement not later than May 1, 2010.*

17 “(ii) *2012 AND SUBSEQUENT YEARS.—*
18 *In order for an agreement with a manufac-*
19 *turer to be in effect under this section with*
20 *respect to plan year 2012 or a subsequent*
21 *plan year, the manufacturer shall enter into*
22 *such agreement (or such agreement shall be*
23 *renewed under paragraph (4)(A)) not later*
24 *than January 30 of the preceding year.*

1 “(2) *PROVISION OF APPROPRIATE DATA.*—Each
2 *manufacturer with an agreement in effect under this*
3 *section shall collect and have available appropriate*
4 *data, as determined by the Secretary, to ensure that*
5 *it can demonstrate to the Secretary compliance with*
6 *the requirements under the program.*

7 “(3) *COMPLIANCE WITH REQUIREMENTS FOR AD-*
8 *MINISTRATION OF PROGRAM.*—Each manufacturer
9 *with an agreement in effect under this section shall*
10 *comply with requirements imposed by the Secretary*
11 *or a third party with a contract under subsection*
12 *(d)(3), as applicable, for purposes of administering*
13 *the program, including any determination under*
14 *clause (i) of subsection (c)(1)(A) or procedures estab-*
15 *lished under such subsection (c)(1)(A).*

16 “(4) *LENGTH OF AGREEMENT.*—

17 “(A) *IN GENERAL.*—An agreement under
18 *this section shall be effective for an initial period*
19 *of not less than 18 months and shall be auto-*
20 *matically renewed for a period of not less than*
21 *1 year unless terminated under subparagraph*
22 *(B).*

23 “(B) *TERMINATION.*—

24 “(i) *BY THE SECRETARY.*—The Sec-
25 *retary may provide for termination of an*

1 *agreement under this section for a knowing*
2 *and willful violation of the requirements of*
3 *the agreement or other good cause shown.*
4 *Such termination shall not be effective ear-*
5 *lier than 30 days after the date of notice to*
6 *the manufacturer of such termination. The*
7 *Secretary shall provide, upon request, a*
8 *manufacturer with a hearing concerning*
9 *such a termination, and such hearing shall*
10 *take place prior to the effective date of the*
11 *termination with sufficient time for such ef-*
12 *fective date to be repealed if the Secretary*
13 *determines appropriate.*

14 “(ii) *BY A MANUFACTURER.—A manu-*
15 *facturer may terminate an agreement under*
16 *this section for any reason. Any such termi-*
17 *nation shall be effective, with respect to a*
18 *plan year—*

19 “(I) *if the termination occurs be-*
20 *fore January 30 of a plan year, as of*
21 *the day after the end of the plan year;*
22 *and*

23 “(II) *if the termination occurs on*
24 *or after January 30 of a plan year, as*

1 of the day after the end of the suc-
2 ceeding plan year.

3 “(iii) *EFFECTIVENESS OF TERMI-*
4 *NATION.*—Any termination under this sub-
5 paragraph shall not affect discounts for ap-
6 plicable drugs of the manufacturer that are
7 due under the agreement before the effective
8 date of its termination.

9 “(iv) *NOTICE TO THIRD PARTY.*—The
10 Secretary shall provide notice of such termi-
11 nation to a third party with a contract
12 under subsection (d)(3) within not less than
13 30 days before the effective date of such ter-
14 mination.

15 “(c) *DUTIES DESCRIBED AND SPECIAL RULE FOR*
16 *SUPPLEMENTAL BENEFITS.*—

17 “(1) *DUTIES DESCRIBED.*—The duties described
18 in this subsection are the following:

19 “(A) *ADMINISTRATION OF PROGRAM.*—Ad-
20 ministering the program, including—

21 “(i) the determination of the amount of
22 the discounted price of an applicable drug
23 of a manufacturer;

24 “(ii) except as provided in clause (iii),
25 the establishment of procedures under which

1 *discounted prices are provided to applicable*
2 *beneficiaries at pharmacies or by mail*
3 *order service at the point-of-sale of an ap-*
4 *plicable drug;*

5 *“(iii) in the case where, during the pe-*
6 *riod beginning on July 1, 2010, and ending*
7 *on December 31, 2011, it is not practicable*
8 *to provide such discounted prices at the*
9 *point-of-sale (as described in clause (ii)),*
10 *the establishment of procedures to provide*
11 *such discounted prices as soon as prac-*
12 *ticable after the point-of-sale;*

13 *“(iv) the establishment of procedures to*
14 *ensure that, not later than the applicable*
15 *number of calendar days after the dis-*
16 *persing of an applicable drug by a phar-*
17 *macy or mail order service, the pharmacy*
18 *or mail order service is reimbursed for an*
19 *amount equal to the difference between—*

20 *“(I) the negotiated price of the ap-*
21 *plicable drug; and*

22 *“(II) the discounted price of the*
23 *applicable drug;*

24 *“(v) the establishment of procedures to*
25 *ensure that the discounted price for an ap-*

1 *plicable drug under this section is applied*
2 *before any coverage or financial assistance*
3 *under other health benefit plans or pro-*
4 *grams that provide coverage or financial as-*
5 *sistance for the purchase or provision of*
6 *prescription drug coverage on behalf of ap-*
7 *plicable beneficiaries as the Secretary may*
8 *specify;*

9 *“(vi) the establishment of procedures to*
10 *implement the special rule for supplemental*
11 *benefits under paragraph (2); and*

12 *“(vii) providing a reasonable dispute*
13 *resolution mechanism to resolve disagree-*
14 *ments between manufacturers, applicable*
15 *beneficiaries, and the third party with a*
16 *contract under subsection (d)(3).*

17 *“(B) MONITORING COMPLIANCE.—*

18 *“(i) IN GENERAL.—The Secretary shall*
19 *monitor compliance by a manufacturer*
20 *with the terms of an agreement under this*
21 *section.*

22 *“(ii) NOTIFICATION.—If a third party*
23 *with a contract under subsection (d)(3) de-*
24 *termines that the manufacturer is not in*
25 *compliance with such agreement, the third*

1 party shall notify the Secretary of such
2 noncompliance for appropriate enforcement
3 under subsection (e).

4 “(C) *COLLECTION OF DATA FROM PRE-*
5 *SCRIPTION DRUG PLANS AND MA–PD PLANS.—*
6 *The Secretary may collect appropriate data from*
7 *prescription drug plans and MA–PD plans in a*
8 *timeframe that allows for discounted prices to be*
9 *provided for applicable drugs under this section.*

10 “(2) *SPECIAL RULE FOR SUPPLEMENTAL BENE-*
11 *FITS.—For plan year 2010 and each subsequent plan*
12 *year, in the case where an applicable beneficiary has*
13 *supplemental benefits with respect to applicable drugs*
14 *under the prescription drug plan or MA–PD plan*
15 *that the applicable beneficiary is enrolled in, the ap-*
16 *plicable beneficiary shall not be provided a discounted*
17 *price for an applicable drug under this section until*
18 *after such supplemental benefits have been applied*
19 *with respect to the applicable drug.*

20 “(d) *ADMINISTRATION.—*

21 “(1) *IN GENERAL.—Subject to paragraph (2), the*
22 *Secretary shall provide for the implementation of this*
23 *section, including the performance of the duties de-*
24 *scribed in subsection (c)(1).*

25 “(2) *LIMITATION.—*

1 “(A) *IN GENERAL.*—Subject to subpara-
2 graph (B), in providing for such implementa-
3 tion, the Secretary shall not receive or distribute
4 any funds of a manufacturer under the program.

5 “(B) *EXCEPTION.*—The limitation under
6 subparagraph (A) shall not apply to the Sec-
7 retary with respect to drugs dispensed during the
8 period beginning on July 1, 2010, and ending on
9 December 31, 2010, but only if the Secretary de-
10 termines that the exception to such limitation
11 under this subparagraph is necessary in order
12 for the Secretary to begin implementation of this
13 section and provide applicable beneficiaries time-
14 ly access to discounted prices during such period.

15 “(3) *CONTRACT WITH THIRD PARTIES.*—The Sec-
16 retary shall enter into a contract with 1 or more
17 third parties to administer the requirements estab-
18 lished by the Secretary in order to carry out this sec-
19 tion. At a minimum, the contract with a third party
20 under the preceding sentence shall require that the
21 third party—

22 “(A) receive and transmit information be-
23 tween the Secretary, manufacturers, and other
24 individuals or entities the Secretary determines
25 appropriate;

1 “(B) receive, distribute, or facilitate the dis-
2 tribution of funds of manufacturers to appro-
3 priate individuals or entities in order to meet
4 the obligations of manufacturers under agree-
5 ments under this section;

6 “(C) provide adequate and timely informa-
7 tion to manufacturers, consistent with the agree-
8 ment with the manufacturer under this section,
9 as necessary for the manufacturer to fulfill its
10 obligations under this section; and

11 “(D) permit manufacturers to conduct peri-
12 odic audits, directly or through contracts, of the
13 data and information used by the third party to
14 determine discounts for applicable drugs of the
15 manufacturer under the program.

16 “(4) *PERFORMANCE REQUIREMENTS.*—The Sec-
17 retary shall establish performance requirements for a
18 third party with a contract under paragraph (3) and
19 safeguards to protect the independence and integrity
20 of the activities carried out by the third party under
21 the program under this section.

22 “(5) *IMPLEMENTATION.*—The Secretary may im-
23 plement the program under this section by program
24 instruction or otherwise.

1 “(6) *ADMINISTRATION.*—Chapter 35 of title 44,
2 *United States Code, shall not apply to the program*
3 *under this section.*

4 “(e) *ENFORCEMENT.*—

5 “(1) *AUDITS.*—Each manufacturer with an
6 *agreement in effect under this section shall be subject*
7 *to periodic audit by the Secretary.*

8 “(2) *CIVIL MONEY PENALTY.*—

9 “(A) *IN GENERAL.*—The Secretary shall im-
10 *pose a civil money penalty on a manufacturer*
11 *that fails to provide applicable beneficiaries dis-*
12 *counts for applicable drugs of the manufacturer*
13 *in accordance with such agreement for each such*
14 *failure in an amount the Secretary determines is*
15 *commensurate with the sum of—*

16 “(i) *the amount that the manufacturer*
17 *would have paid with respect to such dis-*
18 *counts under the agreement, which will then*
19 *be used to pay the discounts which the man-*
20 *ufacturer had failed to provide; and*

21 “(ii) *25 percent of such amount.*

22 “(B) *APPLICATION.*—The provisions of sec-
23 *tion 1128A (other than subsections (a) and (b))*
24 *shall apply to a civil money penalty under this*
25 *paragraph in the same manner as such provi-*

1 sions apply to a penalty or proceeding under
2 section 1128A(a).

3 “(f) *CLARIFICATION REGARDING AVAILABILITY OF*
4 *OTHER COVERED PART D DRUGS.*—Nothing in this section
5 shall prevent an applicable beneficiary from purchasing a
6 covered part D drug that is not an applicable drug (includ-
7 ing a generic drug or a drug that is not on the formulary
8 of the prescription drug plan or MA–PD plan that the ap-
9 plicable beneficiary is enrolled in).

10 “(g) *DEFINITIONS.*—In this section:

11 “(1) *APPLICABLE BENEFICIARY.*—The term ‘ap-
12 plicable beneficiary’ means an individual who, on the
13 date of dispensing an applicable drug—

14 “(A) is enrolled in a prescription drug plan
15 or an MA–PD plan;

16 “(B) is not enrolled in a qualified retiree
17 prescription drug plan;

18 “(C) is not entitled to an income-related
19 subsidy under section 1860D–14(a);

20 “(D) is not subject to a reduction in pre-
21 mium subsidy under section 1839(i); and

22 “(E) who—

23 “(i) has reached or exceeded the initial
24 coverage limit under section 1860D–2(b)(3)
25 during the year; and

1 “(ii) has not incurred costs for covered
2 part D drugs in the year equal to the an-
3 nual out-of-pocket threshold specified in sec-
4 tion 1860D–2(b)(4)(B).

5 “(2) *APPLICABLE DRUG.*—The term ‘applicable
6 drug’ means, with respect to an applicable bene-
7 ficiary, a covered part D drug—

8 “(A) approved under a new drug applica-
9 tion under section 505(b) of the Federal Food,
10 Drug, and Cosmetic Act or, in the case of a bio-
11 logic product, licensed under section 351 of the
12 Public Health Service Act (other than a product
13 licensed under subsection (k) of such section
14 351); and

15 “(B)(i) if the PDP sponsor of the prescrip-
16 tion drug plan or the MA organization offering
17 the MA–PD plan uses a formulary, which is on
18 the formulary of the prescription drug plan or
19 MA–PD plan that the applicable beneficiary is
20 enrolled in;

21 “(ii) if the PDP sponsor of the prescription
22 drug plan or the MA organization offering the
23 MA–PD plan does not use a formulary, for
24 which benefits are available under the prescrip-

1 *tion drug plan or MA–PD plan that the applica-*
2 *ble beneficiary is enrolled in; or*

3 *“(iii) is provided through an exception or*
4 *appeal.*

5 *“(3) APPLICABLE NUMBER OF CALENDAR*
6 *DAYS.—The term ‘applicable number of calendar*
7 *days’ means—*

8 *“(A) with respect to claims for reimburse-*
9 *ment submitted electronically, 14 days; and*

10 *“(B) with respect to claims for reimburse-*
11 *ment submitted otherwise, 30 days.*

12 *“(4) DISCOUNTED PRICE.—*

13 *“(A) IN GENERAL.—The term ‘discounted*
14 *price’ means 50 percent of the negotiated price*
15 *of the applicable drug of a manufacturer.*

16 *“(B) CLARIFICATION.—Nothing in this sec-*
17 *tion shall be construed as affecting the responsi-*
18 *bility of an applicable beneficiary for payment*
19 *of a dispensing fee for an applicable drug.*

20 *“(C) SPECIAL CASE FOR CERTAIN*
21 *CLAIMS.—In the case where the entire amount of*
22 *the negotiated price of an individual claim for*
23 *an applicable drug with respect to an applicable*
24 *beneficiary does not fall at or above the initial*
25 *coverage limit under section 1860D–2(b)(3) and*

1 *below the annual out-of-pocket threshold specified*
2 *in section 1860D–2(b)(4)(B) for the year, the*
3 *manufacturer of the applicable drug shall pro-*
4 *vide the discounted price under this section on*
5 *only the portion of the negotiated price of the ap-*
6 *plicable drug that falls at or above such initial*
7 *coverage limit and below such annual out-of-*
8 *pocket threshold.*

9 “(5) *MANUFACTURER.*—*The term ‘manufacturer’*
10 *means any entity which is engaged in the production,*
11 *preparation, propagation, compounding, conversion,*
12 *or processing of prescription drug products, either di-*
13 *rectly or indirectly by extraction from substances of*
14 *natural origin, or independently by means of chem-*
15 *ical synthesis, or by a combination of extraction and*
16 *chemical synthesis. Such term does not include a*
17 *wholesale distributor of drugs or a retail pharmacy li-*
18 *censed under State law.*

19 “(6) *NEGOTIATED PRICE.*—*The term ‘negotiated*
20 *price’ has the meaning given such term in section*
21 *423.100 of title 42, Code of Federal Regulations (as*
22 *in effect on the date of enactment of this section), ex-*
23 *cept that such negotiated price shall not include any*
24 *dispensing fee for the applicable drug.*

1 “(7) *QUALIFIED RETIREE PRESCRIPTION DRUG*
2 *PLAN.*—*The term ‘qualified retiree prescription drug*
3 *plan’ has the meaning given such term in section*
4 *1860D–22(a)(2).”.*

5 *(c) INCLUSION IN INCURRED COSTS.*—

6 (1) *IN GENERAL.*—*Section 1860D–2(b)(4) of the*
7 *Social Security Act (42 U.S.C. 1395w–102(b)(4)) is*
8 *amended—*

9 (A) *in subparagraph (C), in the matter pre-*
10 *ceding clause (i), by striking “In applying” and*
11 *inserting “Except as provided in subparagraph*
12 *(E), in applying”;* and

13 (B) *by adding at the end the following new*
14 *subparagraph:*

15 “(E) *INCLUSION OF COSTS OF APPLICABLE*
16 *DRUGS UNDER MEDICARE COVERAGE GAP DIS-*
17 *COUNT PROGRAM.*—*In applying subparagraph*
18 *(A), incurred costs shall include the negotiated*
19 *price (as defined in paragraph (6) of section*
20 *1860D–14A(g)) of an applicable drug (as defined*
21 *in paragraph (2) of such section) of a manufac-*
22 *turer that is furnished to an applicable bene-*
23 *ficiary (as defined in paragraph (1) of such sec-*
24 *tion) under the Medicare coverage gap discount*
25 *program under section 1860D–14A, regardless of*

1 *whether part of such costs were paid by a manu-*
2 *facturer under such program.”.*

3 (2) *EFFECTIVE DATE.*—*The amendments made*
4 *by this subsection shall apply to costs incurred on or*
5 *after July 1, 2010.*

6 (d) *CONFORMING AMENDMENT PERMITTING PRE-*
7 *SCRIPTION DRUG DISCOUNTS.*—

8 (1) *IN GENERAL.*—*Section 1128B(b)(3) of the*
9 *Social Security Act (42 U.S.C. 1320a–7b(b)(3)) is*
10 *amended—*

11 (A) *by striking “and” at the end of sub-*
12 *paragraph (G);*

13 (B) *in the subparagraph (H) added by sec-*
14 *tion 237(d) of the Medicare Prescription Drug,*
15 *Improvement, and Modernization Act of 2003*
16 *(Public Law 108–173; 117 Stat. 2213)—*

17 (i) *by moving such subparagraph 2*
18 *ems to the left; and*

19 (ii) *by striking the period at the end*
20 *and inserting a semicolon;*

21 (C) *in the subparagraph (H) added by sec-*
22 *tion 431(a) of such Act (117 Stat. 2287)—*

23 (i) *by redesignating such subparagraph*
24 *as subparagraph (I);*

1 (ii) by moving such subparagraph 2
2 ems to the left; and

3 (iii) by striking the period at the end
4 and inserting “; and”; and

5 (D) by adding at the end the following new
6 subparagraph:

7 “(J) a discount in the price of an applica-
8 ble drug (as defined in paragraph (2) of section
9 1860D–14A(g)) of a manufacturer that is fur-
10 nished to an applicable beneficiary (as defined
11 in paragraph (1) of such section) under the
12 Medicare coverage gap discount program under
13 section 1860D–14A.”.

14 (2) *CONFORMING AMENDMENT TO DEFINITION OF*
15 *BEST PRICE UNDER MEDICAID.*—Section
16 1927(c)(1)(C)(i)(VI) of the Social Security Act (42
17 U.S.C. 1396r–8(c)(1)(C)(i)(VI)) is amended by insert-
18 ing “, or any discounts provided by manufacturers
19 under the Medicare coverage gap discount program
20 under section 1860D–14A” before the period at the
21 end.

22 (3) *EFFECTIVE DATE.*—The amendments made
23 by this subsection shall apply to drugs dispensed on
24 or after July 1, 2010.

1 **SEC. 3302. IMPROVEMENT IN DETERMINATION OF MEDI-**
 2 **CARE PART D LOW-INCOME BENCHMARK PRE-**
 3 **MIUM.**

4 (a) *IN GENERAL.*—Section 1860D–14(b)(2)(B)(iii) of
 5 the Social Security Act (42 U.S.C. 1395w–
 6 114(b)(2)(B)(iii)) is amended by inserting “, determined
 7 without regard to any reduction in such premium as a re-
 8 sult of any beneficiary rebate under section 1854(b)(1)(C)
 9 or bonus payment under section 1853(n)” before the period
 10 at the end.

11 (b) *EFFECTIVE DATE.*—The amendment made by sub-
 12 section (a) shall apply to premiums for months beginning
 13 on or after January 1, 2011.

14 **SEC. 3303. VOLUNTARY DE MINIMIS POLICY FOR SUBSIDY**
 15 **ELIGIBLE INDIVIDUALS UNDER PRESCRIP-**
 16 **TION DRUG PLANS AND MA-PD PLANS.**

17 (a) *IN GENERAL.*—Section 1860D–14(a) of the Social
 18 Security Act (42 U.S.C. 1395w–114(a)) is amended by add-
 19 ing at the end the following new paragraph:

20 “(5) *WAIVER OF DE MINIMIS PREMIUMS.*—The
 21 Secretary shall, under procedures established by the
 22 Secretary, permit a prescription drug plan or an
 23 MA–PD plan to waive the monthly beneficiary pre-
 24 mium for a subsidy eligible individual if the amount
 25 of such premium is de minimis. If such premium is
 26 waived under the plan, the Secretary shall not reas-

1 *sign subsidy eligible individuals enrolled in the plan*
2 *to other plans based on the fact that the monthly ben-*
3 *eficiary premium under the plan was greater than the*
4 *low-income benchmark premium amount.”.*

5 *(b) AUTHORIZING THE SECRETARY TO AUTO-ENROLL*
6 *SUBSIDY ELIGIBLE INDIVIDUALS IN PLANS THAT WAIVE*
7 *DE MINIMIS PREMIUMS.—Section 1860D–1(b)(1) of the So-*
8 *cial Security Act (42 U.S.C. 1395w–101(b)(1)) is amend-*
9 *ed—*

10 *(1) in subparagraph (C), by inserting “except as*
11 *provided in subparagraph (D),” after “shall include,”*

12 *(2) by adding at the end the following new sub-*
13 *paragraph:*

14 *“(D) SPECIAL RULE FOR PLANS THAT*
15 *WAIVE DE MINIMIS PREMIUMS.—The process es-*
16 *tablished under subparagraph (A) may include,*
17 *in the case of a part D eligible individual who*
18 *is a subsidy eligible individual (as defined in*
19 *section 1860D–14(a)(3)) who has failed to enroll*
20 *in a prescription drug plan or an MA–PD plan,*
21 *for the enrollment in a prescription drug plan or*
22 *MA–PD plan that has waived the monthly bene-*
23 *ficiary premium for such subsidy eligible indi-*
24 *vidual under section 1860D–14(a)(5). If there is*
25 *more than one such plan available, the Secretary*

1 *shall enroll such an individual under the pre-*
2 *ceding sentence on a random basis among all*
3 *such plans in the PDP region. Nothing in the*
4 *previous sentence shall prevent such an indi-*
5 *vidual from declining or changing such enroll-*
6 *ment.”.*

7 *(c) EFFECTIVE DATE.—The amendments made by this*
8 *subsection shall apply to premiums for months, and enroll-*
9 *ments for plan years, beginning on or after January 1,*
10 *2011.*

11 **SEC. 3304. SPECIAL RULE FOR WIDOWS AND WIDOWERS RE-**
12 **GARDING ELIGIBILITY FOR LOW-INCOME AS-**
13 **SISTANCE.**

14 *(a) IN GENERAL.—Section 1860D–14(a)(3)(B) of the*
15 *Social Security Act (42 U.S.C. 1395w–114(a)(3)(B)) is*
16 *amended by adding at the end the following new clause:*

17 *“(vi) SPECIAL RULE FOR WIDOWS AND*
18 *WIDOWERS.—Notwithstanding the preceding*
19 *provisions of this subparagraph, in the case*
20 *of an individual whose spouse dies during*
21 *the effective period for a determination or*
22 *redetermination that has been made under*
23 *this subparagraph, such effective period*
24 *shall be extended through the date that is 1*
25 *year after the date on which the determina-*

1 tion or redetermination would (but for the
2 application of this clause) otherwise cease to
3 be effective.”.

4 (b) *EFFECTIVE DATE.*—The amendment made by sub-
5 section (a) shall take effect on January 1, 2011.

6 **SEC. 3305. IMPROVED INFORMATION FOR SUBSIDY ELIGI-**
7 **BLE INDIVIDUALS REASSIGNED TO PRESCRIP-**
8 **TION DRUG PLANS AND MA-PD PLANS.**

9 Section 1860D–14 of the Social Security Act (42
10 U.S.C. 1395w–114) is amended—

11 (1) by redesignating subsection (d) as subsection
12 (e); and

13 (2) by inserting after subsection (c) the following
14 new subsection:

15 “(d) *FACILITATION OF REASSIGNMENTS.*—Beginning
16 not later than January 1, 2011, the Secretary shall, in the
17 case of a subsidy eligible individual who is enrolled in one
18 prescription drug plan and is subsequently reassigned by
19 the Secretary to a new prescription drug plan, provide the
20 individual, within 30 days of such reassignment, with—

21 “(1) information on formulary differences be-
22 tween the individual’s former plan and the plan to
23 which the individual is reassigned with respect to the
24 individual’s drug regimens; and

1 “(2) a description of the individual’s right to re-
 2 quest a coverage determination, exception, or recon-
 3 sideration under section 1860D–4(g), bring an appeal
 4 under section 1860D–4(h), or resolve a grievance
 5 under section 1860D–4(f).”.

6 **SEC. 3306. FUNDING OUTREACH AND ASSISTANCE FOR**
 7 **LOW-INCOME PROGRAMS.**

8 (a) *ADDITIONAL FUNDING FOR STATE HEALTH INSUR-*
 9 *ANCE PROGRAMS.*—Subsection (a)(1)(B) of section 119 of
 10 *the Medicare Improvements for Patients and Providers Act*
 11 *of 2008 (42 U.S.C. 1395b–3 note) is amended by striking*
 12 *“(42 U.S.C. 1395w–23(f))” and all that follows through the*
 13 *period at the end and inserting “(42 U.S.C. 1395w–23(f)),*
 14 *to the Centers for Medicare & Medicaid Services Program*
 15 *Management Account—*

16 “(i) for fiscal year 2009, of \$7,500,000;
 17 and
 18 “(ii) for the period of fiscal years 2010
 19 through 2012, of \$15,000,000.

20 *Amounts appropriated under this subparagraph*
 21 *shall remain available until expended.”.*

22 (b) *ADDITIONAL FUNDING FOR AREA AGENCIES ON*
 23 *AGING.*—Subsection (b)(1)(B) of such section 119 is amend-
 24 *ed by striking “(42 U.S.C. 1395w–23(f))” and all that fol-*

1 lows through the period at the end and inserting “(42
2 U.S.C. 1395w–23(f)), to the Administration on Aging—

3 “(i) for fiscal year 2009, of \$7,500,000;

4 and

5 “(ii) for the period of fiscal years 2010
6 through 2012, of \$15,000,000.

7 Amounts appropriated under this subparagraph
8 shall remain available until expended.”

9 (c) *ADDITIONAL FUNDING FOR AGING AND DISABILITY*
10 *RESOURCE CENTERS.*—Subsection (c)(1)(B) of such section
11 119 is amended by striking “(42 U.S.C. 1395w–23(f))” and
12 all that follows through the period at the end and inserting
13 “(42 U.S.C. 1395w–23(f)), to the Administration on
14 Aging—

15 “(i) for fiscal year 2009, of \$5,000,000;

16 and

17 “(ii) for the period of fiscal years 2010
18 through 2012, of \$10,000,000.

19 Amounts appropriated under this subparagraph
20 shall remain available until expended.”

21 (d) *ADDITIONAL FUNDING FOR CONTRACT WITH THE*
22 *NATIONAL CENTER FOR BENEFITS AND OUTREACH EN-*
23 *ROLLMENT.*—Subsection (d)(2) of such section 119 is
24 amended by striking “(42 U.S.C. 1395w–23(f))” and all
25 that follows through the period at the end and inserting

1 “(42 U.S.C. 1395w–23(f)), to the Administration on
2 Aging—

3 “(i) for fiscal year 2009, of \$5,000,000;

4 and

5 “(ii) for the period of fiscal years 2010
6 through 2012, of \$5,000,000.

7 Amounts appropriated under this subparagraph
8 shall remain available until expended.”.

9 (e) SECRETARIAL AUTHORITY TO ENLIST SUPPORT IN
10 CONDUCTING CERTAIN OUTREACH ACTIVITIES.—Such sec-
11 tion 119 is amended by adding at the end the following
12 new subsection:

13 “(g) SECRETARIAL AUTHORITY TO ENLIST SUPPORT
14 IN CONDUCTING CERTAIN OUTREACH ACTIVITIES.—The
15 Secretary may request that an entity awarded a grant
16 under this section support the conduct of outreach activities
17 aimed at preventing disease and promoting wellness. Not-
18 withstanding any other provision of this section, an entity
19 may use a grant awarded under this subsection to support
20 the conduct of activities described in the preceding sen-
21 tence.”.

1 **SEC. 3307. IMPROVING FORMULARY REQUIREMENTS FOR**
2 **PRESCRIPTION DRUG PLANS AND MA-PD**
3 **PLANS WITH RESPECT TO CERTAIN CAT-**
4 **EGORIES OR CLASSES OF DRUGS.**

5 (a) *IMPROVING FORMULARY REQUIREMENTS.*—*Sec-*
6 *tion 1860D-4(b)(3)(G) of the Social Security Act is amend-*
7 *ed to read as follows:*

8 “(G) *REQUIRED INCLUSION OF DRUGS IN*
9 *CERTAIN CATEGORIES AND CLASSES.*—

10 “(i) *FORMULARY REQUIREMENTS.*—

11 “(I) *IN GENERAL.*—*Subject to*
12 *subclause (II), a PDP sponsor offering*
13 *a prescription drug plan shall be re-*
14 *quired to include all covered part D*
15 *drugs in the categories and classes*
16 *identified by the Secretary under*
17 *clause (ii)(I).*

18 “(II) *EXCEPTIONS.*—*The Sec-*
19 *retary may establish exceptions that*
20 *permit a PDP sponsor offering a pre-*
21 *scription drug plan to exclude from its*
22 *formulary a particular covered part D*
23 *drug in a category or class that is oth-*
24 *erwise required to be included in the*
25 *formulary under subclause (I) (or to*
26 *otherwise limit access to such a drug,*

1 *including through prior authorization*
2 *or utilization management).*

3 “(ii) *IDENTIFICATION OF DRUGS IN*
4 *CERTAIN CATEGORIES AND CLASSES.—*

5 “(I) *IN GENERAL.—Subject to*
6 *clause (iv), the Secretary shall identify,*
7 *as appropriate, categories and classes*
8 *of drugs for which the Secretary deter-*
9 *mines are of clinical concern.*

10 “(II) *CRITERIA.—The Secretary*
11 *shall use criteria established by the*
12 *Secretary in making any determina-*
13 *tion under subclause (I).*

14 “(iii) *IMPLEMENTATION.—The Sec-*
15 *retary shall establish the criteria under*
16 *clause (ii)(II) and any exceptions under*
17 *clause (i)(II) through the promulgation of a*
18 *regulation which includes a public notice*
19 *and comment period.*

20 “(iv) *REQUIREMENT FOR CERTAIN*
21 *CATEGORIES AND CLASSES UNTIL CRITERIA*
22 *ESTABLISHED.—Until such time as the Sec-*
23 *retary establishes the criteria under clause*
24 *(ii)(II) the following categories and classes*

1 of drugs shall be identified under clause
2 (ii)(I):

3 “(I) Anticonvulsants.

4 “(II) Antidepressants.

5 “(III) Antineoplastics.

6 “(IV) Antipsychotics.

7 “(V) Antiretrovirals.

8 “(VI) Immunosuppressants for the
9 treatment of transplant rejection.”.

10 (b) *EFFECTIVE DATE.*—The amendments made by this
11 section shall apply to plan year 2011 and subsequent plan
12 years.

13 **SEC. 3308. REDUCING PART D PREMIUM SUBSIDY FOR**
14 **HIGH-INCOME BENEFICIARIES.**

15 (a) *INCOME-RELATED INCREASE IN PART D PRE-*
16 *MIUM.*—

17 (1) *IN GENERAL.*—Section 1860D–13(a) of the
18 *Social Security Act* (42 U.S.C. 1395w–113(a)) is
19 amended by adding at the end the following new
20 paragraph:

21 “(7) *INCREASE IN BASE BENEFICIARY PREMIUM*
22 *BASED ON INCOME.*—

23 “(A) *IN GENERAL.*—In the case of an indi-
24 vidual whose modified adjusted gross income ex-
25 ceeds the threshold amount applicable under

1 paragraph (2) of section 1839(i) (including ap-
2 plication of paragraph (5) of such section) for
3 the calendar year, the monthly amount of the
4 beneficiary premium applicable under this sec-
5 tion for a month after December 2010 shall be
6 increased by the monthly adjustment amount
7 specified in subparagraph (B).

8 “(B) MONTHLY ADJUSTMENT AMOUNT.—
9 The monthly adjustment amount specified in this
10 subparagraph for an individual for a month in
11 a year is equal to the product of—

12 “(i) the quotient obtained by divid-
13 ing—

14 “(I) the applicable percentage de-
15 termined under paragraph (3)(C) of
16 section 1839(i) (including application
17 of paragraph (5) of such section) for
18 the individual for the calendar year re-
19 duced by 25.5 percent; by

20 “(II) 25.5 percent; and

21 “(ii) the base beneficiary premium (as
22 computed under paragraph (2)).

23 “(C) MODIFIED ADJUSTED GROSS IN-
24 COME.—For purposes of this paragraph, the
25 term ‘modified adjusted gross income’ has the

1 *meaning given such term in subparagraph (A) of*
2 *section 1839(i)(4), determined for the taxable*
3 *year applicable under subparagraphs (B) and*
4 *(C) of such section.*

5 “(D) *DETERMINATION BY COMMISSIONER OF*
6 *SOCIAL SECURITY.—The Commissioner of Social*
7 *Security shall make any determination necessary*
8 *to carry out the income-related increase in the*
9 *base beneficiary premium under this paragraph.*

10 “(E) *PROCEDURES TO ASSURE CORRECT IN-*
11 *COME-RELATED INCREASE IN BASE BENEFICIARY*
12 *PREMIUM.—*

13 “(i) *DISCLOSURE OF BASE BENE-*
14 *FICIARY PREMIUM.—Not later than Sep-*
15 *tember 15 of each year beginning with*
16 *2010, the Secretary shall disclose to the*
17 *Commissioner of Social Security the*
18 *amount of the base beneficiary premium (as*
19 *computed under paragraph (2)) for the pur-*
20 *pose of carrying out the income-related in-*
21 *crease in the base beneficiary premium*
22 *under this paragraph with respect to the*
23 *following year.*

24 “(ii) *ADDITIONAL DISCLOSURE.—Not*
25 *later than October 15 of each year begin-*

1 *ning with 2010, the Secretary shall disclose*
2 *to the Commissioner of Social Security the*
3 *following information for the purpose of*
4 *carrying out the income-related increase in*
5 *the base beneficiary premium under this*
6 *paragraph with respect to the following*
7 *year:*

8 *“(I) The modified adjusted gross*
9 *income threshold applicable under*
10 *paragraph (2) of section 1839(i) (in-*
11 *cluding application of paragraph (5)*
12 *of such section).*

13 *“(II) The applicable percentage*
14 *determined under paragraph (3)(C) of*
15 *section 1839(i) (including application*
16 *of paragraph (5) of such section).*

17 *“(III) The monthly adjustment*
18 *amount specified in subparagraph (B).*

19 *“(IV) Any other information the*
20 *Commissioner of Social Security deter-*
21 *mines necessary to carry out the in-*
22 *come-related increase in the base bene-*
23 *ficiary premium under this paragraph.*

24 *“(F) RULE OF CONSTRUCTION.—The for-*
25 *mula used to determine the monthly adjustment*

1 *amount specified under subparagraph (B) shall*
2 *only be used for the purpose of determining such*
3 *monthly adjustment amount under such sub-*
4 *paragraph.”.*

5 (2) *COLLECTION OF MONTHLY ADJUSTMENT*
6 *AMOUNT.—Section 1860D–13(c) of the Social Secu-*
7 *urity Act (42 U.S.C. 1395w–113(c)) is amended—*

8 (A) *in paragraph (1), by striking “(2) and*
9 (3)” and inserting “(2), (3), and (4)”;

10 (B) *by adding at the end the following new*
11 *paragraph:*

12 “(4) *COLLECTION OF MONTHLY ADJUSTMENT*
13 *AMOUNT.—*

14 “(A) *IN GENERAL.—Notwithstanding any*
15 *provision of this subsection or section 1854(d)(2),*
16 *subject to subparagraph (B), the amount of the*
17 *income-related increase in the base beneficiary*
18 *premium for an individual for a month (as de-*
19 *termined under subsection (a)(7)) shall be paid*
20 *through withholding from benefit payments in*
21 *the manner provided under section 1840.*

22 “(B) *AGREEMENTS.—In the case where the*
23 *monthly benefit payments of an individual that*
24 *are withheld under subparagraph (A) are insuf-*
25 *ficient to pay the amount described in such sub-*

1 *paragraph, the Commissioner of Social Security*
2 *shall enter into agreements with the Secretary,*
3 *the Director of the Office of Personnel Manage-*
4 *ment, and the Railroad Retirement Board as*
5 *necessary in order to allow other agencies to col-*
6 *lect the amount described in subparagraph (A)*
7 *that was not withheld under such subpara-*
8 *graph.”.*

9 **(b) CONFORMING AMENDMENTS.—**

10 **(1) MEDICARE.—***Section 1860D–13(a)(1) of the*
11 *Social Security Act (42 U.S.C. 1395w–113(a)(1)) is*
12 *amended—*

13 **(A)** *by redesignating subparagraph (F) as*
14 *subparagraph (G);*

15 **(B)** *in subparagraph (G), as redesignated*
16 *by subparagraph (A), by striking “(D) and (E)”*
17 *and inserting “(D), (E), and (F)”;* and

18 **(C)** *by inserting after subparagraph (E) the*
19 *following new subparagraph:*

20 **“(F) INCREASE BASED ON INCOME.—***The*
21 *monthly beneficiary premium shall be increased*
22 *pursuant to paragraph (7).”.*

23 **(2) INTERNAL REVENUE CODE.—***Section*
24 *6103(l)(20) of the Internal Revenue Code of 1986 (re-*
25 *lating to disclosure of return information to carry out*

1 Medicare part B premium subsidy adjustment) is
2 amended—

3 (A) in the heading, by inserting “AND PART
4 D BASE BENEFICIARY PREMIUM INCREASE” after
5 “PART B PREMIUM SUBSIDY ADJUSTMENT”;

6 (B) in subparagraph (A)—

7 (i) in the matter preceding clause (i),
8 by inserting “or increase under section
9 1860D–13(a)(7)” after “1839(i)”; and

10 (ii) in clause (vii), by inserting after
11 “subsection (i) of such section” the fol-
12 lowing: “or increase under section 1860D–
13 13(a)(7) of such Act”; and

14 (C) in subparagraph (B)—

15 (i) by striking “Return information”
16 and inserting the following:

17 “(i) IN GENERAL.—Return informa-
18 tion”;

19 (ii) by inserting “or increase under
20 such section 1860D–13(a)(7)” before the pe-
21 riod at the end;

22 (iii) as amended by clause (i), by in-
23 serting “or for the purpose of resolving tax-
24 payer appeals with respect to any such pre-

1 *mium adjustment or increase” before the pe-*
2 *riod at the end; and*

3 *(iv) by adding at the end the following*
4 *new clause:*

5 *“(i) DISCLOSURE TO OTHER AGEN-*
6 *CIES.—Officers, employees, and contractors*
7 *of the Social Security Administration may*
8 *disclose—*

9 *“(I) the taxpayer identity infor-*
10 *mation and the amount of the pre-*
11 *mium subsidy adjustment or premium*
12 *increase with respect to a taxpayer de-*
13 *scribed in subparagraph (A) to officers,*
14 *employees, and contractors of the Cen-*
15 *ters for Medicare and Medicaid Serv-*
16 *ices, to the extent that such disclosure*
17 *is necessary for the collection of the*
18 *premium subsidy amount or the in-*
19 *creased premium amount,*

20 *“(II) the taxpayer identity infor-*
21 *mation and the amount of the pre-*
22 *mium subsidy adjustment or the in-*
23 *creased premium amount with respect*
24 *to a taxpayer described in subpara-*
25 *graph (A) to officers and employees of*

1 *the Office of Personnel Management*
2 *and the Railroad Retirement Board, to*
3 *the extent that such disclosure is nec-*
4 *essary for the collection of the premium*
5 *subsidy amount or the increased pre-*
6 *mium amount,*

7 *“(III) return information with re-*
8 *spect to a taxpayer described in sub-*
9 *paragraph (A) to officers and employ-*
10 *ees of the Department of Health and*
11 *Human Services to the extent nec-*
12 *essary to resolve administrative ap-*
13 *peals of such premium subsidy adjust-*
14 *ment or increased premium, and*

15 *“(IV) return information with re-*
16 *spect to a taxpayer described in sub-*
17 *paragraph (A) to officers and employ-*
18 *ees of the Department of Justice for use*
19 *in judicial proceedings to the extent*
20 *necessary to carry out the purposes de-*
21 *scribed in clause (i).”.*

22 **SEC. 3309. ELIMINATION OF COST SHARING FOR CERTAIN**
23 **DUAL ELIGIBLE INDIVIDUALS.**

24 *Section 1860D–14(a)(1)(D)(i) of the Social Security*
25 *Act (42 U.S.C. 1395w–114(a)(1)(D)(i)) is amended by in-*

1 *serting “or, effective on a date specified by the Secretary*
 2 *(but in no case earlier than January 1, 2012), who would*
 3 *be such an institutionalized individual or couple, if the full-*
 4 *benefit dual eligible individual were not receiving services*
 5 *under a home and community-based waiver authorized for*
 6 *a State under section 1115 or subsection (c) or (d) of section*
 7 *1915 or under a State plan amendment under subsection*
 8 *(i) of such section or services provided through enrollment*
 9 *in a medicaid managed care organization with a contract*
 10 *under section 1903(m) or under section 1932” after*
 11 *“1902(q)(1)(B))”.*

12 **SEC. 3310. REDUCING WASTEFUL DISPENSING OF OUT-**
 13 **PATIENT PRESCRIPTION DRUGS IN LONG-**
 14 **TERM CARE FACILITIES UNDER PRESCRIP-**
 15 **TION DRUG PLANS AND MA-PD PLANS.**

16 *(a) IN GENERAL.—Section 1860D–4(c) of the Social*
 17 *Security Act (42 U.S.C. 1395w–104(c)) is amended by add-*
 18 *ing at the end the following new paragraph:*

19 *“(3) REDUCING WASTEFUL DISPENSING OF OUT-*
 20 *PATIENT PRESCRIPTION DRUGS IN LONG-TERM CARE*
 21 *FACILITIES.—The Secretary shall require PDP spon-*
 22 *sors of prescription drug plans to utilize specific, uni-*
 23 *form dispensing techniques, as determined by the Sec-*
 24 *retary, in consultation with relevant stakeholders (in-*
 25 *cluding representatives of nursing facilities, residents*

1 of nursing facilities, pharmacists, the pharmacy in-
2 dustry (including retail and long-term care phar-
3 macy), prescription drug plans, MA–PD plans, and
4 any other stakeholders the Secretary determines ap-
5 propriate), such as weekly, daily, or automated dose
6 dispensing, when dispensing covered part D drugs to
7 enrollees who reside in a long-term care facility in
8 order to reduce waste associated with 30-day fills.”.

9 (b) *EFFECTIVE DATE.*—The amendment made by sub-
10 section (a) shall apply to plan years beginning on or after
11 January 1, 2012.

12 **SEC. 3311. IMPROVED MEDICARE PRESCRIPTION DRUG**
13 **PLAN AND MA–PD PLAN COMPLAINT SYSTEM.**

14 (a) *IN GENERAL.*—The Secretary shall develop and
15 maintain a complaint system, that is widely known and
16 easy to use, to collect and maintain information on MA–
17 PD plan and prescription drug plan complaints that are
18 received (including by telephone, letter, e-mail, or any other
19 means) by the Secretary (including by a regional office of
20 the Department of Health and Human Services, the Medi-
21 care Beneficiary Ombudsman, a subcontractor, a carrier,
22 a fiscal intermediary, and a Medicare administrative con-
23 tractor under section 1874A of the Social Security Act (42
24 U.S.C. 1395kk)) through the date on which the complaint
25 is resolved. The system shall be able to report and initiate

1 *appropriate interventions and monitoring based on sub-*
2 *stantial complaints and to guide quality improvement.*

3 (b) *MODEL ELECTRONIC COMPLAINT FORM.*—The Sec-
4 *retary shall develop a model electronic complaint form to*
5 *be used for reporting plan complaints under the system.*
6 *Such form shall be prominently displayed on the front page*
7 *of the Medicare.gov Internet website and on the Internet*
8 *website of the Medicare Beneficiary Ombudsman.*

9 (c) *ANNUAL REPORTS BY THE SECRETARY.*—The Sec-
10 *retary shall submit to Congress annual reports on the sys-*
11 *tem. Such reports shall include an analysis of the number*
12 *and types of complaints reported in the system, geographic*
13 *variations in such complaints, the timeliness of agency or*
14 *plan responses to such complaints, and the resolution of*
15 *such complaints.*

16 (d) *DEFINITIONS.*—In this section:

17 (1) *MA–PD PLAN.*—The term “MA–PD plan”
18 *has the meaning given such term in section 1860D–*
19 *41(a)(9) of such Act (42 U.S.C. 1395w–151(a)(9)).*

20 (2) *PRESCRIPTION DRUG PLAN.*—The term “pre-
21 *scription drug plan” has the meaning given such*
22 *term in section 1860D–41(a)(14) of such Act (42*
23 *U.S.C. 1395w–151(a)(14)).*

24 (3) *SECRETARY.*—The term “Secretary” means
25 *the Secretary of Health and Human Services.*

1 (4) *SYSTEM.*—*The term “system” means the*
2 *plan complaint system developed and maintained*
3 *under subsection (a).*

4 **SEC. 3312. UNIFORM EXCEPTIONS AND APPEALS PROCESS**
5 **FOR PRESCRIPTION DRUG PLANS AND MA-PD**
6 **PLANS.**

7 (a) *IN GENERAL.*—*Section 1860D-4(b)(3) of the So-*
8 *cial Security Act (42 U.S.C. 1395w-104(b)(3)) is amended*
9 *by adding at the end the following new subparagraph:*

10 “(H) *USE OF SINGLE, UNIFORM EXCEP-*
11 *TIONS AND APPEALS PROCESS.*—*Notwithstanding*
12 *any other provision of this part, each PDP spon-*
13 *sor of a prescription drug plan shall—*

14 “(i) *use a single, uniform exceptions*
15 *and appeals process (including, to the ex-*
16 *tent the Secretary determines feasible, a sin-*
17 *gle, uniform model form for use under such*
18 *process) with respect to the determination of*
19 *prescription drug coverage for an enrollee*
20 *under the plan; and*

21 “(ii) *provide instant access to such*
22 *process by enrollees through a toll-free tele-*
23 *phone number and an Internet website.”.*

1 (b) *EFFECTIVE DATE.*—*The amendment made by sub-*
2 *section (a) shall apply to exceptions and appeals on or after*
3 *January 1, 2012.*

4 **SEC. 3313. OFFICE OF THE INSPECTOR GENERAL STUDIES**
5 **AND REPORTS.**

6 (a) *STUDY AND ANNUAL REPORT ON PART D*
7 *FORMULARIES' INCLUSION OF DRUGS COMMONLY USED BY*
8 *DUAL ELIGIBLES.*—

9 (1) *STUDY.*—*The Inspector General of the De-*
10 *partment of Health and Human Services shall con-*
11 *duct a study of the extent to which formularies used*
12 *by prescription drug plans and MA–PD plans under*
13 *part D include drugs commonly used by full-benefit*
14 *dual eligible individuals (as defined in section*
15 *1935(c)(6) of the Social Security Act (42 U.S.C.*
16 *1396u–5(c)(6)).*

17 (2) *ANNUAL REPORTS.*—*Not later than July 1 of*
18 *each year (beginning with 2011), the Inspector Gen-*
19 *eral shall submit to Congress a report on the study*
20 *conducted under paragraph (1), together with such*
21 *recommendations as the Inspector General determines*
22 *appropriate.*

23 (b) *STUDY AND REPORT ON PRESCRIPTION DRUG*
24 *PRICES UNDER MEDICARE PART D AND MEDICAID.*—

25 (1) *STUDY.*—

1 (A) *IN GENERAL.*—*The Inspector General of*
2 *the Department of Health and Human Services*
3 *shall conduct a study on prices for covered part*
4 *D drugs under the Medicare prescription drug*
5 *program under part D of title XVIII of the So-*
6 *cial Security Act and for covered outpatient*
7 *drugs under title XIX. Such study shall include*
8 *the following:*

9 (i) *A comparison, with respect to the*
10 *200 most frequently dispensed covered part*
11 *D drugs under such program and covered*
12 *outpatient drugs under such title (as deter-*
13 *mined by the Inspector General based on*
14 *volume and expenditures), of—*

15 (I) *the prices paid for covered*
16 *part D drugs by PDP sponsors of pre-*
17 *scription drug plans and Medicare Ad-*
18 *vantage organizations offering MA–PD*
19 *plans; and*

20 (II) *the prices paid for covered*
21 *outpatient drugs by a State plan*
22 *under title XIX.*

23 (ii) *An assessment of—*

1 (I) *the financial impact of any*
2 *discrepancies in such prices on the*
3 *Federal Government; and*

4 (II) *the financial impact of any*
5 *such discrepancies on enrollees under*
6 *part D or individuals eligible for med-*
7 *ical assistance under a State plan*
8 *under title XIX.*

9 (B) *PRICE.*—*For purposes of subparagraph*
10 *(A), the price of a covered part D drug or a cov-*
11 *ered outpatient drug shall include any rebate or*
12 *discount under such program or such title, re-*
13 *spectively, including any negotiated price conces-*
14 *sion described in section 1860D–2(d)(1)(B) of the*
15 *Social Security Act (42 U.S.C. 1395w–*
16 *102(d)(1)(B)) or rebate under an agreement*
17 *under section 1927 of the Social Security Act (42*
18 *U.S.C. 1396r–8).*

19 (C) *AUTHORITY TO COLLECT ANY NEC-*
20 *CESSARY INFORMATION.*—*Notwithstanding any*
21 *other provision of law, the Inspector General of*
22 *the Department of Health and Human Services*
23 *shall be able to collect any information related to*
24 *the prices of covered part D drugs under such*
25 *program and covered outpatient drugs under*

1 *such title XIX necessary to carry out the com-*
2 *parison under subparagraph (A).*

3 (2) *REPORT.—*

4 (A) *IN GENERAL.—Not later than October 1,*
5 *2011, subject to subparagraph (B), the Inspector*
6 *General shall submit to Congress a report con-*
7 *taining the results of the study conducted under*
8 *paragraph (1), together with recommendations*
9 *for such legislation and administrative action as*
10 *the Inspector General determines appropriate.*

11 (B) *LIMITATION ON INFORMATION CON-*
12 *TAINED IN REPORT.—The report submitted under*
13 *subparagraph (A) shall not include any informa-*
14 *tion that the Inspector General determines is*
15 *proprietary or is likely to negatively impact the*
16 *ability of a PDP sponsor or a State plan under*
17 *title XIX to negotiate prices for covered part D*
18 *drugs or covered outpatient drugs, respectively.*

19 (3) *DEFINITIONS.—In this section:*

20 (A) *COVERED PART D DRUG.—The term*
21 *“covered part D drug” has the meaning given*
22 *such term in section 1860D–2(e) of the Social*
23 *Security Act (42 U.S.C. 1395w–102(e)).*

24 (B) *COVERED OUTPATIENT DRUG.—The*
25 *term “covered outpatient drug” has the meaning*

1 *given such term in section 1927(k) of such Act*
2 *(42 U.S.C. 1396r(k)).*

3 (C) *MA–PD PLAN.—The term “MA–PD*
4 *plan” has the meaning given such term in sec-*
5 *tion 1860D–41(a)(9) of such Act (42 U.S.C.*
6 *1395w–151(a)(9)).*

7 (D) *MEDICARE ADVANTAGE ORGANIZA-*
8 *TION.—The term “Medicare Advantage organiza-*
9 *tion” has the meaning given such term in section*
10 *1859(a)(1) of such Act (42 U.S.C. 1395w–*
11 *28)(a)(1)).*

12 (E) *PDP SPONSOR.—The term “PDP spon-*
13 *sor” has the meaning given such term in section*
14 *1860D–41(a)(13) of such Act (42 U.S.C. 1395w–*
15 *151(a)(13)).*

16 (F) *PRESCRIPTION DRUG PLAN.—The term*
17 *“prescription drug plan” has the meaning given*
18 *such term in section 1860D–41(a)(14) of such*
19 *Act (42 U.S.C. 1395w–151(a)(14)).*

1 **SEC. 3314. INCLUDING COSTS INCURRED BY AIDS DRUG AS-**
2 **SISTANCE PROGRAMS AND INDIAN HEALTH**
3 **SERVICE IN PROVIDING PRESCRIPTION**
4 **DRUGS TOWARD THE ANNUAL OUT-OF-POCK-**
5 **ET THRESHOLD UNDER PART D.**

6 (a) *IN GENERAL.*—Section 1860D–2(b)(4)(C) of the
7 Social Security Act (42 U.S.C. 1395w–102(b)(4)(C)) is
8 amended—

9 (1) in clause (i), by striking “and” at the end;

10 (2) in clause (ii)—

11 (A) by striking “such costs shall be treated
12 as incurred only if” and inserting “subject to
13 clause (iii), such costs shall be treated as in-
14 curred only if”;

15 (B) by striking “, under section 1860D–14,
16 or under a State Pharmaceutical Assistance Pro-
17 gram”; and

18 (C) by striking the period at the end and
19 inserting “; and”; and

20 (3) by inserting after clause (ii) the following
21 new clause:

22 “(iii) such costs shall be treated as in-
23 curred and shall not be considered to be re-
24 imbursed under clause (ii) if such costs are
25 borne or paid—

26 “(I) under section 1860D–14;

1 “(II) under a State Pharma-
 2 ceutical Assistance Program;

3 “(III) by the Indian Health Serv-
 4 ice, an Indian tribe or tribal organiza-
 5 tion, or an urban Indian organization
 6 (as defined in section 4 of the Indian
 7 Health Care Improvement Act); or

8 “(IV) under an AIDS Drug As-
 9 sistance Program under part B of title
 10 XXVI of the Public Health Service
 11 Act.”.

12 (b) *EFFECTIVE DATE.*—The amendments made by sub-
 13 section (a) shall apply to costs incurred on or after January
 14 1, 2011.

15 **SEC. 3315. IMMEDIATE REDUCTION IN COVERAGE GAP IN**
 16 **2010.**

17 Section 1860D–2(b) of the Social Security Act (42
 18 U.S.C. 1395w–102(b)) is amended—

19 (1) in paragraph (3)(A), by striking “paragraph
 20 (4)” and inserting “paragraphs (4) and (7)”; and

21 (2) by adding at the end the following new para-
 22 graph:

23 “(7) *INCREASE IN INITIAL COVERAGE LIMIT IN*
 24 2010.—

1 “(A) *IN GENERAL.*—*For the plan year be-*
2 *ginning on January 1, 2010, the initial coverage*
3 *limit described in paragraph (3)(B) otherwise*
4 *applicable shall be increased by \$500.*

5 “(B) *APPLICATION.*—*In applying subpara-*
6 *graph (A)—*

7 “(i) *except as otherwise provided in*
8 *this subparagraph, there shall be no change*
9 *in the premiums, bids, or any other param-*
10 *eters under this part or part C;*

11 “(ii) *costs that would be treated as in-*
12 *curring costs for purposes of applying para-*
13 *graph (4) but for the application of sub-*
14 *paragraph (A) shall continue to be treated*
15 *as incurred costs;*

16 “(iii) *the Secretary shall establish pro-*
17 *cedures, which may include a reconciliation*
18 *process, to fully reimburse PDP sponsors*
19 *with respect to prescription drug plans and*
20 *MA organizations with respect to MA–PD*
21 *plans for the reduction in beneficiary cost*
22 *sharing associated with the application of*
23 *subparagraph (A);*

24 “(iv) *the Secretary shall develop an es-*
25 *timate of the additional increased costs at-*

1 *tributable to the application of this para-*
2 *graph for increased drug utilization and fi-*
3 *nancing and administrative costs and shall*
4 *use such estimate to adjust payments to*
5 *PDP sponsors with respect to prescription*
6 *drug plans under this part and MA organi-*
7 *zations with respect to MA–PD plans under*
8 *part C; and*

9 *“(v) the Secretary shall establish proce-*
10 *dures for retroactive reimbursement of part*
11 *D eligible individuals who are covered*
12 *under such a plan for costs which are in-*
13 *curring before the date of initial implemen-*
14 *tation of subparagraph (A) and which*
15 *would be reimbursed under such a plan if*
16 *such implementation occurred as of Janu-*
17 *ary 1, 2010.*

18 *“(C) NO EFFECT ON SUBSEQUENT YEARS.—*
19 *The increase under subparagraph (A) shall only*
20 *apply with respect to the plan year beginning on*
21 *January 1, 2010, and the initial coverage limit*
22 *for plan years beginning on or after January 1,*
23 *2011, shall be determined as if subparagraph (A)*
24 *had never applied.”.*

1 **Subtitle E—Ensuring Medicare**
2 **Sustainability**

3 **SEC. 3401. REVISION OF CERTAIN MARKET BASKET UP-**
4 **DATES AND INCORPORATION OF PRODUC-**
5 **TIVITY IMPROVEMENTS INTO MARKET BAS-**
6 **KET UPDATES THAT DO NOT ALREADY INCOR-**
7 **PORATE SUCH IMPROVEMENTS.**

8 (a) *INPATIENT ACUTE HOSPITALS.*—Section
9 1886(b)(3)(B) of the Social Security Act (42 U.S.C.
10 1395ww(b)(3)(B)), as amended by section 3001(a)(3), is
11 further amended—

12 (1) in clause (i)(XX), by striking “clause (viii)”
13 and inserting “clauses (viii), (ix), (xi), and (xii)”;

14 (2) in the first sentence of clause (viii), by in-
15 serting “of such applicable percentage increase (deter-
16 mined without regard to clause (ix), (xi), or (xii))”
17 after “one-quarter”;

18 (3) in the first sentence of clause (ix)(I), by in-
19 serting “(determined without regard to clause (viii),
20 (xi), or (xii))” after “clause (i)” the second time it
21 appears; and

22 (4) by adding at the end the following new
23 clauses:

24 “(xi)(I) For 2012 and each subsequent fiscal year,
25 after determining the applicable percentage increase de-

1 scribed in clause (i) and after application of clauses (viii)
2 and (ix), such percentage increase shall be reduced by the
3 productivity adjustment described in subclause (II).

4 “(II) The productivity adjustment described in this
5 subclause, with respect to a percentage, factor, or update
6 for a fiscal year, year, cost reporting period, or other an-
7 nual period, is a productivity adjustment equal to the 10-
8 year moving average of changes in annual economy-wide
9 private nonfarm business multi-factor productivity (as pro-
10 jected by the Secretary for the 10-year period ending with
11 the applicable fiscal year, year, cost reporting period, or
12 other annual period).

13 “(III) The application of subclause (I) may result in
14 the applicable percentage increase described in clause (i)
15 being less than 0.0 for a fiscal year, and may result in pay-
16 ment rates under this section for a fiscal year being less
17 than such payment rates for the preceding fiscal year.

18 “(xii) After determining the applicable percentage in-
19 crease described in clause (i), and after application of
20 clauses (viii), (ix), and (xi), the Secretary shall reduce such
21 applicable percentage increase—

22 “(I) for each of fiscal years 2010 and 2011, by
23 0.25 percentage point; and

24 “(II) subject to clause (xiii), for each of fiscal
25 years 2012 through 2019, by 0.2 percentage point.

1 *The application of this clause may result in the applicable*
 2 *percentage increase described in clause (i) being less than*
 3 *0.0 for a fiscal year, and may result in payment rates*
 4 *under this section for a fiscal year being less than such pay-*
 5 *ment rates for the preceding fiscal year.*

6 “(xiii) Clause (xii) shall be applied with respect to any
 7 of fiscal years 2014 through 2019 by substituting ‘0.0 per-
 8 centage points’ for ‘0.2 percentage point’, if for such fiscal
 9 year—

10 “(I) the excess (if any) of—

11 “(aa) the total percentage of the non-elderly
 12 insured population for the preceding fiscal year
 13 (based on the most recent estimates available
 14 from the Director of the Congressional Budget
 15 Office before a vote in either House on the Pa-
 16 tient Protection and Affordable Care Act that, if
 17 determined in the affirmative, would clear such
 18 Act for enrollment); over

19 “(bb) the total percentage of the non-elderly
 20 insured population for such preceding fiscal year
 21 (as estimated by the Secretary); exceeds

22 “(II) 5 percentage points.”.

23 (b) *SKILLED NURSING FACILITIES.*—Section
 24 1888(e)(5)(B) of the Social Security Act (42 U.S.C.
 25 1395yy(e)(5)(B)) is amended—

1 (1) *by striking “PERCENTAGE.—The term” and*
2 *inserting “PERCENTAGE.—*

3 *“(i) IN GENERAL.—Subject to clause*
4 *(ii), the term”;* and

5 (2) *by adding at the end the following new*
6 *clause:*

7 *“(ii) ADJUSTMENT.—For fiscal year*
8 *2012 and each subsequent fiscal year, after*
9 *determining the percentage described in*
10 *clause (i), the Secretary shall reduce such*
11 *percentage by the productivity adjustment*
12 *described in section 1886(b)(3)(B)(xi)(II).*
13 *The application of the preceding sentence*
14 *may result in such percentage being less*
15 *than 0.0 for a fiscal year, and may result*
16 *in payment rates under this subsection for*
17 *a fiscal year being less than such payment*
18 *rates for the preceding fiscal year.”.*

19 (c) *LONG-TERM CARE HOSPITALS.—Section 1886(m)*
20 *of the Social Security Act (42 U.S.C. 1395ww(m)) is*
21 *amended by adding at the end the following new para-*
22 *graphs:*

23 *“(3) IMPLEMENTATION FOR RATE YEAR 2010 AND*
24 *SUBSEQUENT YEARS.—*

1 “(A) *IN GENERAL.*—*In implementing the*
2 *system described in paragraph (1) for rate year*
3 *2010 and each subsequent rate year, any annual*
4 *update to a standard Federal rate for discharges*
5 *for the hospital during the rate year, shall be re-*
6 *duced—*

7 “(i) *for rate year 2012 and each subse-*
8 *quent rate year, by the productivity adjust-*
9 *ment described in section*
10 *1886(b)(3)(B)(xi)(II); and*

11 “(ii) *for each of rate years 2010*
12 *through 2019, by the other adjustment de-*
13 *scribed in paragraph (4).*

14 “(B) *SPECIAL RULE.*—*The application of*
15 *this paragraph may result in such annual up-*
16 *date being less than 0.0 for a rate year, and may*
17 *result in payment rates under the system de-*
18 *scribed in paragraph (1) for a rate year being*
19 *less than such payment rates for the preceding*
20 *rate year.*

21 “(4) *OTHER ADJUSTMENT.*—

22 “(A) *IN GENERAL.*—*For purposes of para-*
23 *graph (3)(A)(ii), the other adjustment described*
24 *in this paragraph is—*

1 “(i) for each of rate years 2010 and
2 2011, 0.25 percentage point; and

3 “(ii) subject to subparagraph (B), for
4 each of rate years 2012 through 2019, 0.2
5 percentage point.

6 “(B) *REDUCTION OF OTHER ADJUST-*
7 *MENT.*—Subparagraph (A)(ii) shall be applied
8 with respect to any of rate years 2014 through
9 2019 by substituting ‘0.0 percentage points’ for
10 ‘0.2 percentage point’, if for such rate year—

11 “(i) the excess (if any) of—

12 “(I) the total percentage of the
13 non-elderly insured population for the
14 preceding rate year (based on the most
15 recent estimates available from the Di-
16 rector of the Congressional Budget Of-
17 fice before a vote in either House on
18 the Patient Protection and Affordable
19 Care Act that, if determined in the af-
20 firmative, would clear such Act for en-
21 rollment); over

22 “(II) the total percentage of the
23 non-elderly insured population for such
24 preceding rate year (as estimated by
25 the Secretary); exceeds

1 “(ii) 5 percentage points.”

2 (d) *INPATIENT REHABILITATION FACILITIES.*—Section
3 1886(j)(3) of the Social Security Act (42 U.S.C.
4 1395ww(j)(3)) is amended—

5 (1) in subparagraph (C)—

6 (A) by striking “FACTOR.—For purposes”
7 and inserting “FACTOR.—

8 “(i) *IN GENERAL.*—For purposes”;

9 (B) by inserting “subject to clause (i)” be-
10 fore the period at the end of the first sentence of
11 clause (i), as added by paragraph (1); and

12 (C) by adding at the end the following new
13 clause:

14 “(ii) *PRODUCTIVITY AND OTHER AD-*
15 *JUSTMENT.*—After establishing the increase
16 factor described in clause (i) for a fiscal
17 year, the Secretary shall reduce such in-
18 crease factor—

19 “(I) for fiscal year 2012 and each
20 subsequent fiscal year, by the produc-
21 tivity adjustment described in section
22 1886(b)(3)(B)(xi)(II); and

23 “(II) for each of fiscal years 2010
24 through 2019, by the other adjustment
25 described in subparagraph (D).

1 *The application of this clause may result in*
 2 *the increase factor under this subparagraph*
 3 *being less than 0.0 for a fiscal year, and*
 4 *may result in payment rates under this*
 5 *subsection for a fiscal year being less than*
 6 *such payment rates for the preceding fiscal*
 7 *year.”; and*

8 (2) *by adding at the end the following new sub-*
 9 *paragraph:*

10 “(D) *OTHER ADJUSTMENT.—*

11 “(i) *IN GENERAL.—For purposes of*
 12 *subparagraph (C)(i)(II), the other adjust-*
 13 *ment described in this subparagraph is—*

14 “(I) *for each of fiscal years 2010*
 15 *and 2011, 0.25 percentage point; and*

16 “(II) *subject to clause (i), for*
 17 *each of fiscal years 2012 through 2019,*
 18 *0.2 percentage point.*

19 “(ii) *REDUCTION OF OTHER ADJUST-*
 20 *MENT.—Clause (i)(II) shall be applied with*
 21 *respect to any of fiscal years 2014 through*
 22 *2019 by substituting ‘0.0 percentage points’*
 23 *for ‘0.2 percentage point’, if for such fiscal*
 24 *year—*

25 “(I) *the excess (if any) of—*

1 “(aa) the total percentage of
2 the non-elderly insured popu-
3 lation for the preceding fiscal year
4 (based on the most recent esti-
5 mates available from the Director
6 of the Congressional Budget Office
7 before a vote in either House on
8 the Patient Protection and Afford-
9 able Care Act that, if determined
10 in the affirmative, would clear
11 such Act for enrollment); over

12 “(bb) the total percentage of
13 the non-elderly insured popu-
14 lation for such preceding fiscal
15 year (as estimated by the Sec-
16 retary); exceeds

17 “(II) 5 percentage points.”.

18 (e) *HOME HEALTH AGENCIES*.—Section 1895(b)(3)(B)
19 of the Social Security Act (42 U.S.C. 1395fff(b)(3)(B)) is
20 amended—

21 (1) in clause (ii)(V), by striking “clause (v)”
22 and inserting “clauses (v) and (vi)”; and

23 (2) by adding at the end the following new
24 clause:

1 “(vi) *ADJUSTMENTS.*—After deter-
2 mining the home health market basket per-
3 centage increase under clause (iii), and
4 after application of clause (v), the Secretary
5 shall reduce such percentage—

6 “(I) for 2015 and each subsequent
7 year, by the productivity adjustment
8 described in section
9 1886(b)(3)(B)(xi)(II); and

10 “(II) for each of 2011 and 2012,
11 by 1 percentage point.

12 *The application of this clause may result in*
13 *the home health market basket percentage*
14 *increase under clause (iii) being less than*
15 *0.0 for a year, and may result in payment*
16 *rates under the system under this subsection*
17 *for a year being less than such payment*
18 *rates for the preceding year.”.*

19 (f) *PSYCHIATRIC HOSPITALS.*—Section 1886 of the So-
20 cial Security Act, as amended by sections 3001, 3008, 3025,
21 and 3133, is amended by adding at the end the following
22 new subsection:

23 “(s) *PROSPECTIVE PAYMENT FOR PSYCHIATRIC HOS-*
24 *PITALS.*—

1 “(1) *REFERENCE TO ESTABLISHMENT AND IM-*
2 *PLEMENTATION OF SYSTEM.—For provisions related*
3 *to the establishment and implementation of a prospec-*
4 *tive payment system for payments under this title for*
5 *inpatient hospital services furnished by psychiatric*
6 *hospitals (as described in clause (i) of subsection*
7 *(d)(1)(B)) and psychiatric units (as described in the*
8 *matter following clause (v) of such subsection), see*
9 *section 124 of the Medicare, Medicaid, and SCHIP*
10 *Balanced Budget Refinement Act of 1999.*

11 “(2) *IMPLEMENTATION FOR RATE YEAR BEGIN-*
12 *NING IN 2010 AND SUBSEQUENT RATE YEARS.—*

13 “(A) *IN GENERAL.—In implementing the*
14 *system described in paragraph (1) for the rate*
15 *year beginning in 2010 and any subsequent rate*
16 *year, any update to a base rate for days during*
17 *the rate year for a psychiatric hospital or unit,*
18 *respectively, shall be reduced—*

19 “(i) *for the rate year beginning in*
20 *2012 and each subsequent rate year, by the*
21 *productivity adjustment described in section*
22 *1886(b)(3)(B)(xi)(II); and*

23 “(ii) *for each of the rate years begin-*
24 *ning in 2010 through 2019, by the other ad-*
25 *justment described in paragraph (3).*

1 “(B) *SPECIAL RULE.*—*The application of*
2 *this paragraph may result in such update being*
3 *less than 0.0 for a rate year, and may result in*
4 *payment rates under the system described in*
5 *paragraph (1) for a rate year being less than*
6 *such payment rates for the preceding rate year.*

7 “(3) *OTHER ADJUSTMENT.*—

8 “(A) *IN GENERAL.*—*For purposes of para-*
9 *graph (2)(A)(ii), the other adjustment described*
10 *in this paragraph is—*

11 “(i) *for each of the rate years begin-*
12 *ning in 2010 and 2011, 0.25 percentage*
13 *point; and*

14 “(ii) *subject to subparagraph (B), for*
15 *each of the rate years beginning in 2012*
16 *through 2019, 0.2 percentage point.*

17 “(B) *REDUCTION OF OTHER ADJUST-*
18 *MENT.*—*Subparagraph (A)(ii) shall be applied*
19 *with respect to any of rate years 2014 through*
20 *2019 by substituting ‘0.0 percentage points’ for*
21 *‘0.2 percentage point’, if for such rate year—*

22 “(i) *the excess (if any) of—*

23 “(I) *the total percentage of the*
24 *non-elderly insured population for the*
25 *preceding rate year (based on the most*

1 *recent estimates available from the Di-*
2 *rector of the Congressional Budget Of-*
3 *fice before a vote in either House on*
4 *the Patient Protection and Affordable*
5 *Care Act that, if determined in the af-*
6 *firmative, would clear such Act for en-*
7 *rollment); over*

8 *“(II) the total percentage of the*
9 *non-elderly insured population for such*
10 *preceding rate year (as estimated by*
11 *the Secretary); exceeds*

12 *“(ii) 5 percentage points.”.*

13 *(g) HOSPICE CARE.—Section 1814(i)(1)(C) of the So-*
14 *cial Security Act (42 U.S.C. 1395f(i)(1)(C)), as amended*
15 *by section 3132, is amended by adding at the end the fol-*
16 *lowing new clauses:*

17 *“(iv) After determining the market basket percentage*
18 *increase under clause (ii)(VII) or (iii), as applicable, with*
19 *respect to fiscal year 2013 and each subsequent fiscal year,*
20 *the Secretary shall reduce such percentage—*

21 *“(I) for 2013 and each subsequent fiscal year, by*
22 *the productivity adjustment described in section*
23 *1886(b)(3)(B)(xi)(II); and*

24 *“(II) subject to clause (v), for each of fiscal years*
25 *2013 through 2019, by 0.5 percentage point.*

1 *The application of this clause may result in the market bas-*
2 *ket percentage increase under clause (ii)(VII) or (iii), as*
3 *applicable, being less than 0.0 for a fiscal year, and may*
4 *result in payment rates under this subsection for a fiscal*
5 *year being less than such payment rates for the preceding*
6 *fiscal year.*

7 “(v) Clause (iv)(II) shall be applied with respect to
8 any of fiscal years 2014 through 2019 by substituting ‘0.0
9 percentage points’ for ‘0.5 percentage point’, if for such fis-
10 cal year—

11 “(I) the excess (if any) of—

12 “(aa) the total percentage of the non-elderly
13 insured population for the preceding fiscal year
14 (based on the most recent estimates available
15 from the Director of the Congressional Budget
16 Office before a vote in either House on the Pa-
17 tient Protection and Affordable Care Act that, if
18 determined in the affirmative, would clear such
19 Act for enrollment); over

20 “(bb) the total percentage of the non-elderly
21 insured population for such preceding fiscal year
22 (as estimated by the Secretary); exceeds

23 “(II) 5 percentage points.”

24 (h) DIALYSIS.—Section 1881(b)(14)(F) of the Social
25 Security Act (42 U.S.C. 1395rr(b)(14)(F)) is amended—

1 (1) *in clause (i)—*

2 (A) *by inserting “(I)” after “(F)(i)”*

3 (B) *in subclause (I), as inserted by sub-*
4 *paragraph (A)—*

5 (i) *by striking “clause (ii)” and insert-*
6 *ing “subclause (II) and clause (ii)”;* and

7 (ii) *by striking “minus 1.0 percentage*
8 *point”;* and

9 (C) *by adding at the end the following new*
10 *subclause:*

11 “*(II) For 2012 and each subsequent year, after deter-*
12 *mining the increase factor described in subclause (I), the*
13 *Secretary shall reduce such increase factor by the produc-*
14 *tivity adjustment described in section*
15 *1886(b)(3)(B)(xi)(II). The application of the preceding sen-*
16 *tence may result in such increase factor being less than 0.0*
17 *for a year, and may result in payment rates under the pay-*
18 *ment system under this paragraph for a year being less*
19 *than such payment rates for the preceding year.”;* and

20 (2) *in clause (i)(II)—*

21 (A) *by striking “The” and inserting “Sub-*
22 *ject to clause (i)(II), the”;* and

23 (B) *by striking “clause (i) minus 1.0 per-*
24 *centage point” and inserting “clause (i)(I)”.*

1 (i) *OUTPATIENT HOSPITALS.*—Section 1833(t)(3) of
2 the Social Security Act (42 U.S.C. 1395l(t)(3)) is amend-
3 ed—

4 (1) in subparagraph (C)(iv), by inserting “and
5 subparagraph (F) of this paragraph” after “(17)”;
6 and

7 (2) by adding at the end the following new sub-
8 paragraphs:

9 “(F) *PRODUCTIVITY AND OTHER ADJUST-*
10 *MENT.*—After determining the OPD fee schedule
11 increase factor under subparagraph (C)(iv), the
12 Secretary shall reduce such increase factor—

13 “(i) for 2012 and subsequent years, by
14 the productivity adjustment described in
15 section 1886(b)(3)(B)(xi)(II); and

16 “(ii) for each of 2010 through 2019, by
17 the adjustment described in subparagraph
18 (G).

19 The application of this subparagraph may result
20 in the increase factor under subparagraph
21 (C)(iv) being less than 0.0 for a year, and may
22 result in payment rates under the payment sys-
23 tem under this subsection for a year being less
24 than such payment rates for the preceding year.

25 “(G) *OTHER ADJUSTMENT.*—

1 “(i) *ADJUSTMENT.*—For purposes of
2 subparagraph (F)(ii), the adjustment de-
3 scribed in this subparagraph is—

4 “(I) for each of 2010 and 2011,
5 0.25 percentage point; and

6 “(II) subject to clause (ii), for
7 each of 2012 through 2019, 0.2 percent-
8 age point.

9 “(ii) *REDUCTION OF OTHER ADJUST-*
10 *MENT.*—Clause (i)(II) shall be applied with
11 respect to any of 2014 through 2019 by sub-
12 stituting ‘0.0 percentage points’ for ‘0.2 per-
13 centage point’, if for such year—

14 “(I) the excess (if any) of—

15 “(aa) the total percentage of
16 the non-elderly insured popu-
17 lation for the preceding year
18 (based on the most recent esti-
19 mates available from the Director
20 of the Congressional Budget Office
21 before a vote in either House on
22 the Patient Protection and Afford-
23 able Care Act that, if determined
24 in the affirmative, would clear
25 such Act for enrollment); over

1 “(bb) the total percentage of
2 the non-elderly insured popu-
3 lation for such preceding year (as
4 estimated by the Secretary); ex-
5 ceeds

6 “(II) 5 percentage points.”.

7 (j) *AMBULANCE SERVICES*.—Section 1834(l)(3) of the
8 *Social Security Act (42 U.S.C. 1395m(l)(3))* is amended—

9 (1) in subparagraph (A), by striking “and” at
10 the end;

11 (2) in subparagraph (B)—

12 (A) by inserting “, subject to subparagraph
13 (C) and the succeeding sentence of this para-
14 graph,” after “increased”; and

15 (B) by striking the period at the end and
16 inserting “; and”;

17 (3) by adding at the end the following new sub-
18 paragraph:

19 “(C) for 2011 and each subsequent year,
20 after determining the percentage increase under
21 subparagraph (B) for the year, reduce such per-
22 centage increase by the productivity adjustment
23 described in section 1886(b)(3)(B)(xi)(II).”;

24 (4) by adding at the end the following flush sen-
25 tence:

1 *“The application of subparagraph (C) may result in*
2 *the percentage increase under subparagraph (B) being*
3 *less than 0.0 for a year, and may result in payment*
4 *rates under the fee schedule under this subsection for*
5 *a year being less than such payment rates for the pre-*
6 *ceding year.”.*

7 *(k) AMBULATORY SURGICAL CENTER SERVICES.—Sec-*
8 *tion 1833(i)(2)(D) of the Social Security Act (42 U.S.C.*
9 *1395l(i)(2)(D)) is amended—*

10 *(1) by redesignating clause (v) as clause (vi);*

11 *and*

12 *(2) by inserting after clause (iv) the following*
13 *new clause:*

14 *“(v) In implementing the system de-*
15 *scribed in clause (i) for 2011 and each sub-*
16 *sequent year, any annual update under*
17 *such system for the year, after application*
18 *of clause (iv), shall be reduced by the pro-*
19 *ductivity adjustment described in section*
20 *1886(b)(3)(B)(xi)(II). The application of*
21 *the preceding sentence may result in such*
22 *update being less than 0.0 for a year, and*
23 *may result in payment rates under the sys-*
24 *tem described in clause (i) for a year being*

1 *less than such payment rates for the pre-*
2 *ceding year.”.*

3 *(l) LABORATORY SERVICES.—Section 1833(h)(2)(A) of*
4 *the Social Security Act (42 U.S.C. 1395l(h)(2)(A)) is*
5 *amended—*

6 *(1) in clause (i)—*

7 *(A) by inserting “, subject to clause (iv),”*
8 *after “year) by”; and*

9 *(B) by striking “through 2013” and insert-*
10 *ing “and 2010”; and*

11 *(2) by adding at the end the following new*
12 *clause:*

13 *“(iv) After determining the adjustment*
14 *to the fee schedules under clause (i), the Sec-*
15 *retary shall reduce such adjustment—*

16 *“(I) for 2011 and each subsequent*
17 *year, by the productivity adjustment*
18 *described in section*
19 *1886(b)(3)(B)(xi)(II); and*

20 *“(II) for each of 2011 through*
21 *2015, by 1.75 percentage points.*

22 *Subclause (I) shall not apply in a year*
23 *where the adjustment to the fee schedules de-*
24 *termined under clause (i) is 0.0 or a per-*
25 *centage decrease for a year. The application*

1 of the productivity adjustment under sub-
2 clause (I) shall not result in an adjustment
3 to the fee schedules under clause (i) being
4 less than 0.0 for a year. The application of
5 subclause (II) may result in an adjustment
6 to the fee schedules under clause (i) being
7 less than 0.0 for a year, and may result in
8 payment rates for a year being less than
9 such payment rates for the preceding year.”.

10 (m) *CERTAIN DURABLE MEDICAL EQUIPMENT.*—Sec-
11 tion 1834(a)(14) of the Social Security Act (42 U.S.C.
12 1395m(a)(14)) is amended—

13 (1) in subparagraph (K)—

14 (A) by striking “2011, 2012, and 2013,”;

15 and

16 (B) by inserting “and” after the semicolon
17 at the end;

18 (2) by striking subparagraphs (L) and (M) and
19 inserting the following new subparagraph:

20 “(L) for 2011 and each subsequent year—

21 “(i) the percentage increase in the con-
22 sumer price index for all urban consumers
23 (United States city average) for the 12-
24 month period ending with June of the pre-
25 vious year, reduced by—

1 “(ii) the productivity adjustment de-
2 scribed in section 1886(b)(3)(B)(xi)(II).”;

3 and

4 (3) by adding at the end the following flush sen-
5 tence:

6 “The application of subparagraph (L)(ii) may result
7 in the covered item update under this paragraph
8 being less than 0.0 for a year, and may result in pay-
9 ment rates under this subsection for a year being less
10 than such payment rates for the preceding year.”.

11 (n) *PROSTHETIC DEVICES, ORTHOTICS, AND PROS-*
12 *THETICS.*—Section 1834(h)(4) of the Social Security Act
13 (42 U.S.C. 1395m(h)(4)) is amended—

14 (1) in subparagraph (A)—

15 (A) in clause (ix), by striking “and” at the
16 end;

17 (B) in clause (x)—

18 (i) by striking “a subsequent year”
19 and inserting “for each of 2007 through
20 2010”; and

21 (ii) by inserting “and” after the semi-
22 colon at the end;

23 (C) by adding at the end the following new
24 clause:

1 “(xi) for 2011 and each subsequent
2 year—

3 “(I) the percentage increase in the
4 consumer price index for all urban
5 consumers (United States city average)
6 for the 12-month period ending with
7 June of the previous year, reduced
8 by—

9 “(II) the productivity adjustment
10 described in section
11 1886(b)(3)(B)(xi)(II).”; and

12 (D) by adding at the end the following flush
13 sentence:

14 “The application of subparagraph (A)(xi)(II) may re-
15 sult in the applicable percentage increase under sub-
16 paragraph (A) being less than 0.0 for a year, and
17 may result in payment rates under this subsection for
18 a year being less than such payment rates for the pre-
19 ceding year.”.

20 (o) OTHER ITEMS.—Section 1842(s)(1) of the Social
21 Security Act (42 U.S.C. 1395u(s)(1)) is amended—

22 (1) in the first sentence, by striking “Subject to”
23 and inserting “(A) Subject to”;

24 (2) by striking the second sentence and inserting
25 the following new subparagraph:

1 “(B) Any fee schedule established under this
2 paragraph for such item or service shall be up-
3 dated—

4 “(i) for years before 2011—

5 “(I) subject to subclause (II), by
6 the percentage increase in the con-
7 sumer price index for all urban con-
8 sumers (United States city average) for
9 the 12-month period ending with June
10 of the preceding year; and

11 “(II) for items and services de-
12 scribed in paragraph (2)(D) for 2009,
13 section 1834(a)(14)(J) shall apply
14 under this paragraph instead of the
15 percentage increase otherwise applica-
16 ble; and

17 “(ii) for 2011 and subsequent years—

18 “(I) the percentage increase in the
19 consumer price index for all urban
20 consumers (United States city average)
21 for the 12-month period ending with
22 June of the previous year, reduced
23 by—

1 “(II) the productivity adjustment
2 described in section
3 1886(b)(3)(B)(xi)(II).”; and

4 (3) by adding at the end the following flush sen-
5 tence:

6 “The application of subparagraph (B)(ii)(II) may re-
7 sult in the update under this paragraph being less
8 than 0.0 for a year, and may result in payment rates
9 under any fee schedule established under this para-
10 graph for a year being less than such payment rates
11 for the preceding year.”.

12 (p) *NO APPLICATION PRIOR TO APRIL 1, 2010.*—Not-
13 withstanding the preceding provisions of this section, the
14 amendments made by subsections (a), (c), and (d) shall not
15 apply to discharges occurring before April 1, 2010.

16 **SEC. 3402. TEMPORARY ADJUSTMENT TO THE CALCULA-**
17 **TION OF PART B PREMIUMS.**

18 Section 1839(i) of the Social Security Act (42 U.S.C.
19 1395r(i)) is amended—

20 (1) in paragraph (2), in the matter preceding
21 subparagraph (A), by inserting “subject to paragraph
22 (6),” after “subsection,”;

23 (2) in paragraph (3)(A)(i), by striking “The ap-
24 plicable” and inserting “Subject to paragraph (6), the
25 applicable”;

1 (3) by redesignating paragraph (6) as para-
2 graph (7); and

3 (4) by inserting after paragraph (5) the fol-
4 lowing new paragraph:

5 “(6) *TEMPORARY ADJUSTMENT TO INCOME*
6 *THRESHOLDS.—Notwithstanding any other provision*
7 *of this subsection, during the period beginning on*
8 *January 1, 2011, and ending on December 31,*
9 *2019—*

10 “(A) *the threshold amount otherwise appli-*
11 *cable under paragraph (2) shall be equal to such*
12 *amount for 2010; and*

13 “(B) *the dollar amounts otherwise applica-*
14 *ble under paragraph (3)(C)(i) shall be equal to*
15 *such dollar amounts for 2010.”.*

16 **SEC. 3403. INDEPENDENT MEDICARE ADVISORY BOARD.**

17 (a) *BOARD.—*

18 (1) *IN GENERAL.—Title XVIII of the Social Se-*
19 *curity Act (42 U.S.C. 1395 et seq.), as amended by*
20 *section 3022, is amended by adding at the end the fol-*
21 *lowing new section:*

22 “*INDEPENDENT MEDICARE ADVISORY BOARD*

23 “*SEC. 1899A. (a) ESTABLISHMENT.—There is estab-*
24 *lished an independent board to be known as the ‘Inde-*
25 *pendent Medicare Advisory Board’.*

1 “(b) *PURPOSE.*—*It is the purpose of this section to,*
2 *in accordance with the following provisions of this section,*
3 *reduce the per capita rate of growth in Medicare spend-*
4 *ing—*

5 “(1) *by requiring the Chief Actuary of the Cen-*
6 *ters for Medicare & Medicaid Services to determine in*
7 *each year to which this section applies (in this section*
8 *referred to as ‘a determination year’) the projected*
9 *per capita growth rate under Medicare for the second*
10 *year following the determination year (in this section*
11 *referred to as ‘an implementation year’);*

12 “(2) *if the projection for the implementation*
13 *year exceeds the target growth rate for that year, by*
14 *requiring the Board to develop and submit during the*
15 *first year following the determination year (in this*
16 *section referred to as ‘a proposal year’) a proposal*
17 *containing recommendations to reduce the Medicare*
18 *per capita growth rate to the extent required by this*
19 *section; and*

20 “(3) *by requiring the Secretary to implement*
21 *such proposals unless Congress enacts legislation pur-*
22 *suant to this section.*

23 “(c) *BOARD PROPOSALS.*—

24 “(1) *DEVELOPMENT.*—

1 “(A) *IN GENERAL.*—*The Board shall de-*
2 *velop detailed and specific proposals related to*
3 *the Medicare program in accordance with the*
4 *succeeding provisions of this section.*

5 “(B) *ADVISORY REPORTS.*—*Beginning Jan-*
6 *uary 15, 2014, the Board may develop and sub-*
7 *mit to Congress advisory reports on matters re-*
8 *lated to the Medicare program, regardless of*
9 *whether or not the Board submitted a proposal*
10 *for such year. Such a report may, for years prior*
11 *to 2020, include recommendations regarding im-*
12 *provements to payment systems for providers of*
13 *services and suppliers who are not otherwise sub-*
14 *ject to the scope of the Board’s recommendations*
15 *in a proposal under this section. Any advisory*
16 *report submitted under this subparagraph shall*
17 *not be subject to the rules for congressional con-*
18 *sideration under subsection (d).*

19 “(2) *PROPOSALS.*—

20 “(A) *REQUIREMENTS.*—*Each proposal sub-*
21 *mitted under this section in a proposal year*
22 *shall meet each of the following requirements:*

23 “(i) *If the Chief Actuary of the Centers*
24 *for Medicare & Medicaid Services has made*
25 *a determination under paragraph (7)(A) in*

1 *the determination year, the proposal shall*
2 *include recommendations so that the pro-*
3 *posal as a whole (after taking into account*
4 *recommendations under clause (v)) will re-*
5 *sult in a net reduction in total Medicare*
6 *program spending in the implementation*
7 *year that is at least equal to the applicable*
8 *savings target established under paragraph*
9 *(7)(B) for such implementation year. In de-*
10 *termining whether a proposal meets the re-*
11 *quirement of the preceding sentence, reduc-*
12 *tions in Medicare program spending during*
13 *the 3-month period immediately preceding*
14 *the implementation year shall be counted to*
15 *the extent that such reductions are a result*
16 *of the implementation of recommendations*
17 *contained in the proposal for a change in*
18 *the payment rate for an item or service that*
19 *was effective during such period pursuant*
20 *to subsection (e)(2)(A).*

21 *“(ii) The proposal shall not include*
22 *any recommendation to ration health care,*
23 *raise revenues or Medicare beneficiary pre-*
24 *miums under section 1818, 1818A, or 1839,*
25 *increase Medicare beneficiary cost-sharing*

1 *(including deductibles, coinsurance, and co-*
2 *payments), or otherwise restrict benefits or*
3 *modify eligibility criteria.*

4 “(iii) *In the case of proposals sub-*
5 *mitted prior to December 31, 2018, the pro-*
6 *posal shall not include any recommendation*
7 *that would reduce payment rates for items*
8 *and services furnished, prior to December*
9 *31, 2019, by providers of services (as de-*
10 *defined in section 1861(u)) and suppliers (as*
11 *defined in section 1861(d)) scheduled, pur-*
12 *suant to the amendments made by section*
13 *3401 of the Patient Protection and Afford-*
14 *able Care Act, to receive a reduction to the*
15 *inflationary payment updates of such pro-*
16 *viders of services and suppliers in excess of*
17 *a reduction due to productivity in a year in*
18 *which such recommendations would take ef-*
19 *fect.*

20 “(iv) *As appropriate, the proposal*
21 *shall include recommendations to reduce*
22 *Medicare payments under parts C and D,*
23 *such as reductions in direct subsidy pay-*
24 *ments to Medicare Advantage and prescrip-*
25 *tion drug plans specified under paragraph*

1 (1) and (2) of section 1860D–15(a) that are
2 related to administrative expenses (includ-
3 ing profits) for basic coverage, denying high
4 bids or removing high bids for prescription
5 drug coverage from the calculation of the
6 national average monthly bid amount
7 under section 1860D–13(a)(4), and reduc-
8 tions in payments to Medicare Advantage
9 plans under clauses (i) and (ii) of section
10 1853(a)(1)(B) that are related to adminis-
11 trative expenses (including profits) and per-
12 formance bonuses for Medicare Advantage
13 plans under section 1853(n). Any such rec-
14 ommendation shall not affect the base bene-
15 ficiary premium percentage specified under
16 1860D–13(a).

17 “(v) The proposal shall include rec-
18 ommendations with respect to administra-
19 tive funding for the Secretary to carry out
20 the recommendations contained in the pro-
21 posal.

22 “(vi) The proposal shall only include
23 recommendations related to the Medicare
24 program.

1 “(B) *ADDITIONAL CONSIDERATIONS.—In de-*
2 *veloping and submitting each proposal under*
3 *this section in a proposal year, the Board shall,*
4 *to the extent feasible—*

5 “(i) *give priority to recommendations*
6 *that extend Medicare solvency;*

7 “(ii) *include recommendations that—*

8 “(I) *improve the health care deliv-*
9 *ery system and health outcomes, in-*
10 *cluding by promoting integrated care,*
11 *care coordination, prevention and*
12 *wellness, and quality and efficiency*
13 *improvement; and*

14 “(II) *protect and improve Medi-*
15 *care beneficiaries’ access to necessary*
16 *and evidence-based items and services,*
17 *including in rural and frontier areas;*

18 “(iii) *include recommendations that*
19 *target reductions in Medicare program*
20 *spending to sources of excess cost growth;*

21 “(iv) *consider the effects on Medicare*
22 *beneficiaries of changes in payments to pro-*
23 *viders of services (as defined in section*
24 *1861(u)) and suppliers (as defined in sec-*
25 *tion 1861(d));*

1 “(v) consider the effects of the rec-
2 ommendations on providers of services and
3 suppliers with actual or projected negative
4 cost margins or payment updates; and

5 “(vi) consider the unique needs of
6 Medicare beneficiaries who are dually eligi-
7 ble for Medicare and the Medicaid program
8 under title XIX.

9 “(C) NO INCREASE IN TOTAL MEDICARE
10 PROGRAM SPENDING.—Each proposal submitted
11 under this section shall be designed in such a
12 manner that implementation of the recommenda-
13 tions contained in the proposal would not be ex-
14 pected to result, over the 10-year period starting
15 with the implementation year, in any increase
16 in the total amount of net Medicare program
17 spending relative to the total amount of net
18 Medicare program spending that would have oc-
19 curred absent such implementation.

20 “(D) CONSULTATION WITH MEDPAC.—The
21 Board shall submit a draft copy of each proposal
22 to be submitted under this section to the Medi-
23 care Payment Advisory Commission established
24 under section 1805 for its review. The Board

1 *shall submit such draft copy by not later than*
2 *September 1 of the determination year.*

3 “(E) *REVIEW AND COMMENT BY THE SEC-*
4 *RETARY.—The Board shall submit a draft copy*
5 *of each proposal to be submitted to Congress*
6 *under this section to the Secretary for the Sec-*
7 *retary’s review and comment. The Board shall*
8 *submit such draft copy by not later than Sep-*
9 *tember 1 of the determination year. Not later*
10 *than March 1 of the submission year, the Sec-*
11 *retary shall submit a report to Congress on the*
12 *results of such review, unless the Secretary sub-*
13 *mits a proposal under paragraph (5)(A) in that*
14 *year.*

15 “(F) *CONSULTATIONS.—In carrying out its*
16 *duties under this section, the Board shall engage*
17 *in regular consultations with the Medicaid and*
18 *CHIP Payment and Access Commission under*
19 *section 1900.*

20 “(3) *TRANSMISSION OF BOARD PROPOSAL TO*
21 *PRESIDENT.—*

22 “(A) *IN GENERAL.—*

23 “(i) *IN GENERAL.—Except as provided*
24 *in clause (ii) and subsection (f)(3)(B), the*
25 *Board shall transmit a proposal under this*

1 *section to the President on January 15 of*
2 *each year (beginning with 2014).*

3 “(ii) *EXCEPTION.—The Board shall*
4 *not submit a proposal under clause (i) in a*
5 *proposal year if the year is—*

6 “(I) *a year for which the Chief*
7 *Actuary of the Centers for Medicare &*
8 *Medicaid Services makes a determina-*
9 *tion in the determination year under*
10 *paragraph (6)(A) that the growth rate*
11 *described in clause (i) of such para-*
12 *graph does not exceed the growth rate*
13 *described in clause (ii) of such para-*
14 *graph;*

15 “(II) *a year in which the Chief*
16 *Actuary of the Centers for Medicare &*
17 *Medicaid Services makes a determina-*
18 *tion in the determination year that the*
19 *projected percentage increase (if any)*
20 *for the medical care expenditure cat-*
21 *egory of the Consumer Price Index for*
22 *All Urban Consumers (United States*
23 *city average) for the implementation*
24 *year is less than the projected percent-*
25 *age increase (if any) in the Consumer*

1 *Price Index for All Urban Consumers*
2 *(all items; United States city average)*
3 *for such implementation year; or*

4 “(III) *for proposal year 2019 and*
5 *subsequent proposal years, a year in*
6 *which the Chief Actuary of the Centers*
7 *for Medicare & Medicaid Services*
8 *makes a determination in the deter-*
9 *mination year that the growth rate de-*
10 *scribed in paragraph (8) exceeds the*
11 *growth rate described in paragraph*
12 *(6)(A)(i).*

13 “(iii) *START-UP PERIOD.—The Board*
14 *may not submit a proposal under clause (i)*
15 *prior to January 15, 2014.*

16 “(B) *REQUIRED INFORMATION.—Each pro-*
17 *posal submitted by the Board under subpara-*
18 *graph (A)(i) shall include—*

19 “(i) *the recommendations described in*
20 *paragraph (2)(A)(i);*

21 “(ii) *an explanation of each rec-*
22 *ommendation contained in the proposal and*
23 *the reasons for including such recommenda-*
24 *tion;*

1 “(iii) an actuarial opinion by the
2 Chief Actuary of the Centers for Medicare &
3 Medicaid Services certifying that the pro-
4 posal meets the requirements of subpara-
5 graphs (A)(i) and (C) of paragraph (2);

6 “(iv) a legislative proposal that imple-
7 ments the recommendations; and

8 “(v) other information determined ap-
9 propriate by the Board.

10 “(4) *PRESIDENTIAL SUBMISSION TO CON-*
11 *GRESS.—Upon receiving a proposal from the Board*
12 *under paragraph (3)(A)(i) or the Secretary under*
13 *paragraph (5), the President shall immediately sub-*
14 *mit such proposal to Congress.*

15 “(5) *CONTINGENT SECRETARIAL DEVELOPMENT*
16 *OF PROPOSAL.—If, with respect to a proposal year,*
17 *the Board is required, to but fails, to submit a pro-*
18 *posal to the President by the deadline applicable*
19 *under paragraph (3)(A)(i), the Secretary shall de-*
20 *velop a detailed and specific proposal that satisfies*
21 *the requirements of subparagraphs (A) and (C) (and,*
22 *to the extent feasible, subparagraph (B)) of paragraph*
23 *(2) and contains the information required paragraph*
24 *(3)(B)). By not later than January 25 of the year,*
25 *the Secretary shall transmit—*

1 “(A) *such proposal to the President; and*

2 “(B) *a copy of such proposal to the Medi-*
3 *care Payment Advisory Commission for its re-*
4 *view.*

5 “(6) *PER CAPITA GROWTH RATE PROJECTIONS*
6 *BY CHIEF ACTUARY.—*

7 “(A) *IN GENERAL.—Subject to subsection*
8 *(f)(3)(A), not later than April 30, 2013, and an-*
9 *nually thereafter, the Chief Actuary of the Cen-*
10 *ters for Medicare & Medicaid Services shall de-*
11 *termine in each such year whether—*

12 “(i) *the projected Medicare per capita*
13 *growth rate for the implementation year (as*
14 *determined under subparagraph (B)); ex-*
15 *ceeds*

16 “(ii) *the projected Medicare per capita*
17 *target growth rate for the implementation*
18 *year (as determined under subparagraph*
19 *(C)).*

20 “(B) *MEDICARE PER CAPITA GROWTH*
21 *RATE.—*

22 “(i) *IN GENERAL.—For purposes of*
23 *this section, the Medicare per capita growth*
24 *rate for an implementation year shall be*
25 *calculated as the projected 5-year average*

1 *(ending with such year) of the growth in*
2 *Medicare program spending per*
3 *unduplicated enrollee.*

4 “(i) *REQUIREMENT.*—*The projection*
5 *under clause (i) shall—*

6 “(I) *to the extent that there is*
7 *projected to be a negative update to the*
8 *single conversion factor applicable to*
9 *payments for physicians’ services*
10 *under section 1848(d) furnished in the*
11 *proposal year or the implementation*
12 *year, assume that such update for such*
13 *services is 0 percent rather than the*
14 *negative percent that would otherwise*
15 *apply; and*

16 “(II) *take into account any deliv-*
17 *ery system reforms or other payment*
18 *changes that have been enacted or pub-*
19 *lished in final rules but not yet imple-*
20 *mented as of the making of such cal-*
21 *ulation.*

22 “(C) *MEDICARE PER CAPITA TARGET*
23 *GROWTH RATE.*—*For purposes of this section, the*
24 *Medicare per capita target growth rate for an*
25 *implementation year shall be calculated as the*

1 *projected 5-year average (ending with such year)*
2 *percentage increase in—*

3 “(i) *with respect to a determination*
4 *year that is prior to 2018, the average of*
5 *the projected percentage increase (if any)*
6 *in—*

7 “(I) *the Consumer Price Index for*
8 *All Urban Consumers (all items;*
9 *United States city average); and*

10 “(II) *the medical care expenditure*
11 *category of the Consumer Price Index*
12 *for All Urban Consumers (United*
13 *States city average); and*

14 “(ii) *with respect to a determination*
15 *year that is after 2017, the nominal gross*
16 *domestic product per capita plus 1.0 per-*
17 *centage point.*

18 “(7) *SAVINGS REQUIREMENT.—*

19 “(A) *IN GENERAL.—If, with respect to a de-*
20 *termination year, the Chief Actuary of the Cen-*
21 *ters for Medicare & Medicaid Services makes a*
22 *determination under paragraph (6)(A) that the*
23 *growth rate described in clause (i) of such para-*
24 *graph exceeds the growth rate described in clause*
25 *(ii) of such paragraph, the Chief Actuary shall*

1 *establish an applicable savings target for the im-*
2 *plementation year.*

3 “(B) *APPLICABLE SAVINGS TARGET.*—*For*
4 *purposes of this section, the applicable savings*
5 *target for an implementation year shall be an*
6 *amount equal to the product of—*

7 “(i) *the total amount of projected*
8 *Medicare program spending for the proposal*
9 *year; and*

10 “(ii) *the applicable percent for the im-*
11 *plementation year.*

12 “(C) *APPLICABLE PERCENT.*—*For purposes*
13 *of subparagraph (B), the applicable percent for*
14 *an implementation year is the lesser of—*

15 “(i) *in the case of—*

16 “(I) *implementation year 2015,*
17 *0.5 percent;*

18 “(II) *implementation year 2016,*
19 *1.0 percent;*

20 “(III) *implementation year 2017,*
21 *1.25 percent; and*

22 “(IV) *implementation year 2018*
23 *or any subsequent implementation*
24 *year, 1.5 percent; and*

1 “(ii) the projected excess for the imple-
2 mentation year (expressed as a percent) de-
3 termined under subparagraph (A).

4 “(8) *PER CAPITA RATE OF GROWTH IN NATIONAL*
5 *HEALTH EXPENDITURES.*—*In each determination*
6 *year (beginning in 2018), the Chief Actuary of the*
7 *Centers for Medicare & Medicaid Services shall*
8 *project the per capita rate of growth in national*
9 *health expenditures for the implementation year.*
10 *Such rate of growth for an implementation year shall*
11 *be calculated as the projected 5-year average (ending*
12 *with such year) percentage increase in national*
13 *health care expenditures.*

14 “(d) *CONGRESSIONAL CONSIDERATION.*—

15 “(1) *INTRODUCTION.*—

16 “(A) *IN GENERAL.*—*On the day on which a*
17 *proposal is submitted by the President to the*
18 *House of Representatives and the Senate under*
19 *subsection (c)(4), the legislative proposal (de-*
20 *scribed in subsection (c)(3)(B)(iv)) contained in*
21 *the proposal shall be introduced (by request) in*
22 *the Senate by the majority leader of the Senate*
23 *or by Members of the Senate designated by the*
24 *majority leader of the Senate and shall be intro-*
25 *duced (by request) in the House by the majority*

1 leader of the House or by Members of the House
2 designated by the majority leader of the House.

3 “(B) NOT IN SESSION.—If either House is
4 not in session on the day on which such legisla-
5 tive proposal is submitted, the legislative pro-
6 posal shall be introduced in that House, as pro-
7 vided in subparagraph (A), on the first day
8 thereafter on which that House is in session.

9 “(C) ANY MEMBER.—If the legislative pro-
10 posal is not introduced in either House within 5
11 days on which that House is in session after the
12 day on which the legislative proposal is sub-
13 mitted, then any Member of that House may in-
14 troduce the legislative proposal.

15 “(D) REFERRAL.—The legislation intro-
16 duced under this paragraph shall be referred by
17 the Presiding Officers of the respective Houses to
18 the Committee on Finance in the Senate and to
19 the Committee on Energy and Commerce and the
20 Committee on Ways and Means in the House of
21 Representatives.

22 “(2) COMMITTEE CONSIDERATION OF PRO-
23 POSAL.—

24 “(A) REPORTING BILL.—Not later than
25 April 1 of any proposal year in which a pro-

1 *posal is submitted by the President to Congress*
2 *under this section, the Committee on Ways and*
3 *Means and the Committee on Energy and Com-*
4 *merce of the House of Representatives and the*
5 *Committee on Finance of the Senate may report*
6 *the bill referred to the Committee under para-*
7 *graph (1)(D) with committee amendments re-*
8 *lated to the Medicare program.*

9 “(B) *CALCULATIONS.—In determining*
10 *whether a committee amendment meets the re-*
11 *quirement of subparagraph (A), the reductions*
12 *in Medicare program spending during the 3-*
13 *month period immediately preceding the imple-*
14 *mentation year shall be counted to the extent*
15 *that such reductions are a result of the imple-*
16 *mentation provisions in the committee amend-*
17 *ment for a change in the payment rate for an*
18 *item or service that was effective during such pe-*
19 *riod pursuant to such amendment.*

20 “(C) *COMMITTEE JURISDICTION.—Notwith-*
21 *standing rule XV of the Standing Rules of the*
22 *Senate, a committee amendment described in*
23 *subparagraph (A) may include matter not with-*
24 *in the jurisdiction of the Committee on Finance*

1 *if that matter is relevant to a proposal contained*
2 *in the bill submitted under subsection (c)(3).*

3 “(D) *DISCHARGE.*—*If, with respect to the*
4 *House involved, the committee has not reported*
5 *the bill by the date required by subparagraph*
6 *(A), the committee shall be discharged from fur-*
7 *ther consideration of the proposal.*

8 “(3) *LIMITATION ON CHANGES TO THE BOARD*
9 *RECOMMENDATIONS.*—

10 “(A) *IN GENERAL.*—*It shall not be in order*
11 *in the Senate or the House of Representatives to*
12 *consider any bill, resolution, or amendment, pur-*
13 *suant to this subsection or conference report*
14 *thereon, that fails to satisfy the requirements of*
15 *subparagraphs (A)(i) and (C) of subsection*
16 *(c)(2).*

17 “(B) *LIMITATION ON CHANGES TO THE*
18 *BOARD RECOMMENDATIONS IN OTHER LEGISLA-*
19 *TION.*—*It shall not be in order in the Senate or*
20 *the House of Representatives to consider any bill,*
21 *resolution, amendment, or conference report*
22 *(other than pursuant to this section) that would*
23 *repeal or otherwise change the recommendations*
24 *of the Board if that change would fail to satisfy*

1 *the requirements of subparagraphs (A)(i) and*
2 *(C) of subsection (c)(2).*

3 “(C) *LIMITATION ON CHANGES TO THIS*
4 *SUBSECTION.—It shall not be in order in the*
5 *Senate or the House of Representatives to con-*
6 *sider any bill, resolution, amendment, or con-*
7 *ference report that would repeal or otherwise*
8 *change this subsection.*

9 “(D) *WAIVER.—This paragraph may be*
10 *waived or suspended in the Senate only by the*
11 *affirmative vote of three-fifths of the Members,*
12 *duly chosen and sworn.*

13 “(E) *APPEALS.—An affirmative vote of*
14 *three-fifths of the Members of the Senate, duly*
15 *chosen and sworn, shall be required in the Sen-*
16 *ate to sustain an appeal of the ruling of the*
17 *Chair on a point of order raised under this*
18 *paragraph.*

19 “(4) *EXPEDITED PROCEDURE.—*

20 “(A) *CONSIDERATION.—A motion to pro-*
21 *ceed to the consideration of the bill in the Senate*
22 *is not debatable.*

23 “(B) *AMENDMENT.—*

24 “(i) *TIME LIMITATION.—Debate in the*
25 *Senate on any amendment to a bill under*

1 *this section shall be limited to 1 hour, to be*
2 *equally divided between, and controlled by,*
3 *the mover and the manager of the bill, and*
4 *debate on any amendment to an amend-*
5 *ment, debatable motion, or appeal shall be*
6 *limited to 30 minutes, to be equally divided*
7 *between, and controlled by, the mover and*
8 *the manager of the bill, except that in the*
9 *event the manager of the bill is in favor of*
10 *any such amendment, motion, or appeal,*
11 *the time in opposition thereto shall be con-*
12 *trolled by the minority leader or such lead-*
13 *er's designee.*

14 “(ii) *GERMANE.*—*No amendment that*
15 *is not germane to the provisions of such bill*
16 *shall be received.*

17 “(iii) *ADDITIONAL TIME.*—*The leaders,*
18 *or either of them, may, from the time under*
19 *their control on the passage of the bill, allot*
20 *additional time to any Senator during the*
21 *consideration of any amendment, debatable*
22 *motion, or appeal.*

23 “(iv) *AMENDMENT NOT IN ORDER.*—*It*
24 *shall not be in order to consider an amend-*
25 *ment that would cause the bill to result in*

1 *a net reduction in total Medicare program*
2 *spending in the implementation year that is*
3 *less than the applicable savings target estab-*
4 *lished under subsection (c)(7)(B) for such*
5 *implementation year.*

6 “(v) *WAIVER AND APPEALS.—This*
7 *paragraph may be waived or suspended in*
8 *the Senate only by the affirmative vote of*
9 *three-fifths of the Members, duly chosen and*
10 *sworn. An affirmative vote of three-fifths of*
11 *the Members of the Senate, duly chosen and*
12 *sworn, shall be required in the Senate to*
13 *sustain an appeal of the ruling of the Chair*
14 *on a point of order raised under this sec-*
15 *tion.*

16 “(C) *CONSIDERATION BY THE OTHER*
17 *HOUSE.—*

18 “(i) *IN GENERAL.—The expedited pro-*
19 *cedures provided in this subsection for the*
20 *consideration of a bill introduced pursuant*
21 *to paragraph (1) shall not apply to such a*
22 *bill that is received by one House from the*
23 *other House if such a bill was not intro-*
24 *duced in the receiving House.*

1 “(i) *BEFORE PASSAGE.*—If a bill that
2 is introduced pursuant to paragraph (1) is
3 received by one House from the other House,
4 after introduction but before disposition of
5 such a bill in the receiving House, then the
6 following shall apply:

7 “(I) The receiving House shall
8 consider the bill introduced in that
9 House through all stages of consider-
10 ation up to, but not including, pas-
11 sage.

12 “(II) The question on passage
13 shall be put on the bill of the other
14 House as amended by the language of
15 the receiving House.

16 “(iii) *AFTER PASSAGE.*—If a bill in-
17 troduced pursuant to paragraph (1) is re-
18 ceived by one House from the other House,
19 after such a bill is passed by the receiving
20 House, then the vote on passage of the bill
21 that originates in the receiving House shall
22 be considered to be the vote on passage of
23 the bill received from the other House as
24 amended by the language of the receiving
25 House.

1 “(iv) *DISPOSITION.*—Upon disposition
2 of a bill introduced pursuant to paragraph
3 (1) that is received by one House from the
4 other House, it shall no longer be in order
5 to consider the bill that originates in the re-
6 ceiving House.

7 “(v) *LIMITATION.*—Clauses (ii), (iii),
8 and (iv) shall apply only to a bill received
9 by one House from the other House if the
10 bill—

11 “(I) is related only to the pro-
12 gram under this title; and

13 “(II) satisfies the requirements of
14 subparagraphs (A)(i) and (C) of sub-
15 section (c)(2).

16 “(D) *SENATE LIMITS ON DEBATE.*—

17 “(i) *IN GENERAL.*—In the Senate, con-
18 sideration of the bill and on all debatable
19 motions and appeals in connection there-
20 with shall not exceed a total of 30 hours,
21 which shall be divided equally between the
22 majority and minority leaders or their des-
23 ignees.

1 “(ii) *MOTION TO FURTHER LIMIT DE-*
2 *BATE.—A motion to further limit debate on*
3 *the bill is in order and is not debatable.*

4 “(iii) *MOTION OR APPEAL.—Any de-*
5 *batable motion or appeal is debatable for*
6 *not to exceed 1 hour, to be divided equally*
7 *between those favoring and those opposing*
8 *the motion or appeal.*

9 “(iv) *FINAL DISPOSITION.—After 30*
10 *hours of consideration, the Senate shall pro-*
11 *ceed, without any further debate on any*
12 *question, to vote on the final disposition*
13 *thereof to the exclusion of all amendments*
14 *not then pending before the Senate at that*
15 *time and to the exclusion of all motions, ex-*
16 *cept a motion to table, or to reconsider and*
17 *one quorum call on demand to establish the*
18 *presence of a quorum (and motions required*
19 *to establish a quorum) immediately before*
20 *the final vote begins.*

21 “(E) *CONSIDERATION IN CONFERENCE.—*

22 “(i) *IN GENERAL.—Consideration in*
23 *the Senate and the House of Representatives*
24 *on the conference report or any messages be-*
25 *tween Houses shall be limited to 10 hours,*

1 *equally divided and controlled by the major-*
2 *ity and minority leaders of the Senate or*
3 *their designees and the Speaker of the*
4 *House of Representatives and the minority*
5 *leader of the House of Representatives or*
6 *their designees.*

7 *“(ii) TIME LIMITATION.—Debate in the*
8 *Senate on any amendment under this sub-*
9 *paragraph shall be limited to 1 hour, to be*
10 *equally divided between, and controlled by,*
11 *the mover and the manager of the bill, and*
12 *debate on any amendment to an amend-*
13 *ment, debatable motion, or appeal shall be*
14 *limited to 30 minutes, to be equally divided*
15 *between, and controlled by, the mover and*
16 *the manager of the bill, except that in the*
17 *event the manager of the bill is in favor of*
18 *any such amendment, motion, or appeal,*
19 *the time in opposition thereto shall be con-*
20 *trolled by the minority leader or such lead-*
21 *er’s designee.*

22 *“(iii) FINAL DISPOSITION.—After 10*
23 *hours of consideration, the Senate shall pro-*
24 *ceed, without any further debate on any*
25 *question, to vote on the final disposition*

1 *thereof to the exclusion of all motions not*
2 *then pending before the Senate at that time*
3 *or necessary to resolve the differences be-*
4 *tween the Houses and to the exclusion of all*
5 *other motions, except a motion to table, or*
6 *to reconsider and one quorum call on de-*
7 *mand to establish the presence of a quorum*
8 *(and motions required to establish a*
9 *quorum) immediately before the final vote*
10 *begins.*

11 “(iv) *LIMITATION.*—*Clauses (i) through*
12 *(iii) shall only apply to a conference report,*
13 *message or the amendments thereto if the*
14 *conference report, message, or an amend-*
15 *ment thereto—*

16 “(I) *is related only to the pro-*
17 *gram under this title; and*

18 “(II) *satisfies the requirements of*
19 *subparagraphs (A)(i) and (C) of sub-*
20 *section (c)(2).*

21 “(F) *VETO.*—*If the President vetoes the bill*
22 *debate on a veto message in the Senate under*
23 *this subsection shall be 1 hour equally divided*
24 *between the majority and minority leaders or*
25 *their designees.*

1 “(5) *RULES OF THE SENATE AND HOUSE OF*
2 *REPRESENTATIVES.—This subsection and subsection*
3 *(f)(2) are enacted by Congress—*

4 “(A) *as an exercise of the rulemaking power*
5 *of the Senate and the House of Representatives,*
6 *respectively, and is deemed to be part of the rules*
7 *of each House, respectively, but applicable only*
8 *with respect to the procedure to be followed in*
9 *that House in the case of bill under this section,*
10 *and it supersedes other rules only to the extent*
11 *that it is inconsistent with such rules; and*

12 “(B) *with full recognition of the constitu-*
13 *tional right of either House to change the rules*
14 *(so far as they relate to the procedure of that*
15 *House) at any time, in the same manner, and*
16 *to the same extent as in the case of any other*
17 *rule of that House.*

18 “(e) *IMPLEMENTATION OF PROPOSAL.—*

19 “(1) *IN GENERAL.—Notwithstanding any other*
20 *provision of law, the Secretary shall, except as pro-*
21 *vided in paragraph (3), implement the recommenda-*
22 *tions contained in a proposal submitted by the Presi-*
23 *dent to Congress pursuant to this section on August*
24 *15 of the year in which the proposal is so submitted.*

25 “(2) *APPLICATION.—*

1 “(A) *IN GENERAL.*—A recommendation de-
2 scribed in paragraph (1) shall apply as follows:

3 “(i) *In the case of a recommendation*
4 *that is a change in the payment rate for an*
5 *item or service under Medicare in which*
6 *payment rates change on a fiscal year basis*
7 *(or a cost reporting period basis that relates*
8 *to a fiscal year), on a calendar year basis*
9 *(or a cost reporting period basis that relates*
10 *to a calendar year), or on a rate year basis*
11 *(or a cost reporting period basis that relates*
12 *to a rate year), such recommendation shall*
13 *apply to items and services furnished on the*
14 *first day of the first fiscal year, calendar*
15 *year, or rate year (as the case may be) that*
16 *begins after such August 15.*

17 “(ii) *In the case of a recommendation*
18 *relating to payments to plans under parts*
19 *C and D, such recommendation shall apply*
20 *to plan years beginning on the first day of*
21 *the first calendar year that begins after*
22 *such August 15.*

23 “(iii) *In the case of any other rec-*
24 *ommendation, such recommendation shall*
25 *be addressed in the regular regulatory proc-*

1 *ess timeframe and shall apply as soon as*
2 *practicable.*

3 “(B) *INTERIM FINAL RULEMAKING.—The*
4 *Secretary may use interim final rulemaking to*
5 *implement any recommendation described in*
6 *paragraph (1).*

7 “(3) *EXCEPTION.—The Secretary shall not be re-*
8 *quired to implement the recommendations contained*
9 *in a proposal submitted in a proposal year by the*
10 *President to Congress pursuant to this section if—*

11 “(A) *prior to August 15 of the proposal*
12 *year, Federal legislation is enacted that includes*
13 *the following provision: ‘This Act supercedes the*
14 *recommendations of the Board contained in the*
15 *proposal submitted, in the year which includes*
16 *the date of enactment of this Act, to Congress*
17 *under section 1899A of the Social Security Act.’;*
18 *and*

19 “(B) *in the case of implementation year*
20 *2020 and subsequent implementation years, a*
21 *joint resolution described in subsection (f)(1) is*
22 *enacted not later than August 15, 2017.*

23 “(4) *NO AFFECT ON AUTHORITY TO IMPLEMENT*
24 *CERTAIN PROVISIONS.—Nothing in paragraph (3)*
25 *shall be construed to affect the authority of the Sec-*

1 retary to implement any recommendation contained
2 in a proposal or advisory report under this section to
3 the extent that the Secretary otherwise has the author-
4 ity to implement such recommendation administra-
5 tively.

6 “(5) *LIMITATION ON REVIEW.*—There shall be no
7 administrative or judicial review under section 1869,
8 section 1878, or otherwise of the implementation by
9 the Secretary under this subsection of the rec-
10 ommendations contained in a proposal.

11 “(f) *JOINT RESOLUTION REQUIRED TO DISCONTINUE*
12 *THE BOARD.*—

13 “(1) *IN GENERAL.*—For purposes of subsection
14 (e)(3)(B), a joint resolution described in this para-
15 graph means only a joint resolution—

16 “(A) that is introduced in 2017 by not later
17 than February 1 of such year;

18 “(B) which does not have a preamble;

19 “(C) the title of which is as follows: ‘Joint
20 resolution approving the discontinuation of the
21 process for consideration and automatic imple-
22 mentation of the annual proposal of the Inde-
23 pendent Medicare Advisory Board under section
24 1899A of the Social Security Act’; and

1 “(D) *the matter after the resolving clause of*
2 *which is as follows: ‘That Congress approves the*
3 *discontinuation of the process for consideration*
4 *and automatic implementation of the annual*
5 *proposal of the Independent Medicare Advisory*
6 *Board under section 1899A of the Social Secu-*
7 *rity Act.’.*

8 “(2) *PROCEDURE.—*

9 “(A) *REFERRAL.—A joint resolution de-*
10 *scribed in paragraph (1) shall be referred to the*
11 *Committee on Ways and Means and the Com-*
12 *mittee on Energy and Commerce of the House of*
13 *Representatives and the Committee on Finance*
14 *of the Senate.*

15 “(B) *DISCHARGE.—In the Senate, if the*
16 *committee to which is referred a joint resolution*
17 *described in paragraph (1) has not reported such*
18 *joint resolution (or an identical joint resolution)*
19 *at the end of 20 days after the joint resolution*
20 *described in paragraph (1) is introduced, such*
21 *committee may be discharged from further con-*
22 *sideration of such joint resolution upon a peti-*
23 *tion supported in writing by 30 Members of the*
24 *Senate, and such joint resolution shall be placed*
25 *on the calendar.*

1 “(C) *CONSIDERATION.*—

2 “(i) *IN GENERAL.*—*In the Senate,*
3 *when the committee to which a joint resolu-*
4 *tion is referred has reported, or when a*
5 *committee is discharged (under subpara-*
6 *graph (C)) from further consideration of a*
7 *joint resolution described in paragraph (1),*
8 *it is at any time thereafter in order (even*
9 *though a previous motion to the same effect*
10 *has been disagreed to) for a motion to pro-*
11 *ceed to the consideration of the joint resolu-*
12 *tion to be made, and all points of order*
13 *against the joint resolution (and against*
14 *consideration of the joint resolution) are*
15 *waived, except for points of order under the*
16 *Congressional Budget act of 1974 or under*
17 *budget resolutions pursuant to that Act. The*
18 *motion is not debatable. A motion to recon-*
19 *sider the vote by which the motion is agreed*
20 *to or disagreed to shall not be in order. If*
21 *a motion to proceed to the consideration of*
22 *the joint resolution is agreed to, the joint*
23 *resolution shall remain the unfinished busi-*
24 *ness of the Senate until disposed of.*

1 “(ii) *DEBATE LIMITATION.*—*In the*
2 *Senate, consideration of the joint resolution,*
3 *and on all debatable motions and appeals*
4 *in connection therewith, shall be limited to*
5 *not more than 10 hours, which shall be di-*
6 *vided equally between the majority leader*
7 *and the minority leader, or their designees.*
8 *A motion further to limit debate is in order*
9 *and not debatable. An amendment to, or a*
10 *motion to postpone, or a motion to proceed*
11 *to the consideration of other business, or a*
12 *motion to recommit the joint resolution is*
13 *not in order.*

14 “(iii) *PASSAGE.*—*In the Senate, imme-*
15 *diately following the conclusion of the de-*
16 *bate on a joint resolution described in para-*
17 *graph (1), and a single quorum call at the*
18 *conclusion of the debate if requested in ac-*
19 *cordance with the rules of the Senate, the*
20 *vote on passage of the joint resolution shall*
21 *occur.*

22 “(iv) *APPEALS.*—*Appeals from the de-*
23 *isions of the Chair relating to the applica-*
24 *tion of the rules of the Senate to the proce-*
25 *dure relating to a joint resolution described*

1 *in paragraph (1) shall be decided without*
2 *debate.*

3 “(D) *OTHER HOUSE ACTS FIRST.*—*If, before*
4 *the passage by 1 House of a joint resolution of*
5 *that House described in paragraph (1), that*
6 *House receives from the other House a joint reso-*
7 *lution described in paragraph (1), then the fol-*
8 *lowing procedures shall apply:*

9 “(i) *The joint resolution of the other*
10 *House shall not be referred to a committee.*

11 “(ii) *With respect to a joint resolution*
12 *described in paragraph (1) of the House re-*
13 *ceiving the joint resolution—*

14 “(I) *the procedure in that House*
15 *shall be the same as if no joint resolu-*
16 *tion had been received from the other*
17 *House; but*

18 “(II) *the vote on final passage*
19 *shall be on the joint resolution of the*
20 *other House.*

21 “(E) *EXCLUDED DAYS.*—*For purposes of de-*
22 *termining the period specified in subparagraph*
23 *(B), there shall be excluded any days either*
24 *House of Congress is adjourned for more than 3*
25 *days during a session of Congress.*

1 “(F) *MAJORITY REQUIRED FOR ADOPTION.—A joint resolution considered under this*
2 *subsection shall require an affirmative vote of*
3 *three-fifths of the Members, duly chosen and*
4 *sworn, for adoption.*

6 “(3) *TERMINATION.—If a joint resolution de-*
7 *scribed in paragraph (1) is enacted not later than*
8 *August 15, 2017—*

9 “(A) *the Chief Actuary of the Medicare &*
10 *Medicaid Services shall not—*

11 “(i) *make any determinations under*
12 *subsection (c)(6) after May 1, 2017; or*

13 “(ii) *provide any opinion pursuant to*
14 *subsection (c)(3)(B)(iii) after January 16,*
15 *2018;*

16 “(B) *the Board shall not submit any pro-*
17 *posals or advisory reports to Congress under this*
18 *section after January 16, 2018; and*

19 “(C) *the Board and the consumer advisory*
20 *council under subsection (k) shall terminate on*
21 *August 16, 2018.*

22 “(g) *BOARD MEMBERSHIP; TERMS OF OFFICE; CHAIR-*
23 *PERSON; REMOVAL.—*

24 “(1) *MEMBERSHIP.—*

1 “(A) *IN GENERAL.*—*The Board shall be*
2 *composed of—*

3 “(i) *15 members appointed by the*
4 *President, by and with the advice and con-*
5 *sent of the Senate; and*

6 “(ii) *the Secretary, the Administrator*
7 *of the Center for Medicare & Medicaid Serv-*
8 *ices, and the Administrator of the Health*
9 *Resources and Services Administration, all*
10 *of whom shall serve ex officio as nonvoting*
11 *members of the Board.*

12 “(B) *QUALIFICATIONS.*—

13 “(i) *IN GENERAL.*—*The appointed*
14 *membership of the Board shall include indi-*
15 *viduals with national recognition for their*
16 *expertise in health finance and economics,*
17 *actuarial science, health facility manage-*
18 *ment, health plans and integrated delivery*
19 *systems, reimbursement of health facilities,*
20 *allopathic and osteopathic physicians, and*
21 *other providers of health services, and other*
22 *related fields, who provide a mix of different*
23 *professionals, broad geographic representa-*
24 *tion, and a balance between urban and*
25 *rural representatives.*

1 “(ii) *INCLUSION.*—*The appointed*
2 *membership of the Board shall include (but*
3 *not be limited to) physicians and other*
4 *health professionals, experts in the area of*
5 *pharmaco-economics or prescription drug*
6 *benefit programs, employers, third-party*
7 *payers, individuals skilled in the conduct*
8 *and interpretation of biomedical, health*
9 *services, and health economics research and*
10 *expertise in outcomes and effectiveness re-*
11 *search and technology assessment. Such*
12 *membership shall also include representa-*
13 *tives of consumers and the elderly.*

14 “(iii) *MAJORITY NONPROVIDERS.*—*In-*
15 *dividuals who are directly involved in the*
16 *provision or management of the delivery of*
17 *items and services covered under this title*
18 *shall not constitute a majority of the ap-*
19 *pointed membership of the Board.*

20 “(C) *ETHICAL DISCLOSURE.*—*The President*
21 *shall establish a system for public disclosure by*
22 *appointed members of the Board of financial and*
23 *other potential conflicts of interest relating to*
24 *such members. Appointed members of the Board*
25 *shall be treated as officers in the executive*

1 *branch for purposes of applying title I of the*
2 *Ethics in Government Act of 1978 (Public Law*
3 *95-521).*

4 “(D) *CONFLICTS OF INTEREST.*—*No indi-*
5 *vidual may serve as an appointed member if*
6 *that individual engages in any other business,*
7 *vocation, or employment.*

8 “(E) *CONSULTATION WITH CONGRESS.*—*In*
9 *selecting individuals for nominations for ap-*
10 *pointments to the Board, the President shall con-*
11 *sult with—*

12 “(i) *the majority leader of the Senate*
13 *concerning the appointment of 3 members;*

14 “(ii) *the Speaker of the House of Rep-*
15 *resentatives concerning the appointment of*
16 *3 members;*

17 “(iii) *the minority leader of the Senate*
18 *concerning the appointment of 3 members;*
19 *and*

20 “(iv) *the minority leader of the House*
21 *of Representatives concerning the appoint-*
22 *ment of 3 members.*

23 “(2) *TERM OF OFFICE.*—*Each appointed member*
24 *shall hold office for a term of 6 years except that—*

1 “(A) a member may not serve more than 2
2 full consecutive terms (but may be reappointed to
3 2 full consecutive terms after being appointed to
4 fill a vacancy on the Board);

5 “(B) a member appointed to fill a vacancy
6 occurring prior to the expiration of the term for
7 which that member’s predecessor was appointed
8 shall be appointed for the remainder of such
9 term;

10 “(C) a member may continue to serve after
11 the expiration of the member’s term until a suc-
12 cessor has taken office; and

13 “(D) of the members first appointed under
14 this section, 5 shall be appointed for a term of
15 1 year, 5 shall be appointed for a term of 3
16 years, and 5 shall be appointed for a term of 6
17 years, the term of each to be designated by the
18 President at the time of nomination.

19 “(3) CHAIRPERSON.—

20 “(A) IN GENERAL.—The Chairperson shall
21 be appointed by the President, by and with the
22 advice and consent of the Senate, from among
23 the members of the Board.

24 “(B) DUTIES.—The Chairperson shall be
25 the principal executive officer of the Board, and

1 shall exercise all of the executive and administra-
2 tive functions of the Board, including functions
3 of the Board with respect to—

4 “(i) the appointment and supervision
5 of personnel employed by the Board;

6 “(ii) the distribution of business
7 among personnel appointed and supervised
8 by the Chairperson and among administra-
9 tive units of the Board; and

10 “(iii) the use and expenditure of funds.

11 “(C) GOVERNANCE.—In carrying out any of
12 the functions under subparagraph (B), the
13 Chairperson shall be governed by the general
14 policies established by the Board and by the deci-
15 sions, findings, and determinations the Board
16 shall by law be authorized to make.

17 “(D) REQUESTS FOR APPROPRIATIONS.—
18 Requests or estimates for regular, supplemental,
19 or deficiency appropriations on behalf of the
20 Board may not be submitted by the Chairperson
21 without the prior approval of a majority vote of
22 the Board.

23 “(4) REMOVAL.—Any appointed member may be
24 removed by the President for neglect of duty or mal-
25 feasance in office, but for no other cause.

1 “(h) *VACANCIES; QUORUM; SEAL; VICE CHAIRPERSON;*
2 *VOTING ON REPORTS.*—

3 “(1) *VACANCIES.*—*No vacancy on the Board*
4 *shall impair the right of the remaining members to*
5 *exercise all the powers of the Board.*

6 “(2) *QUORUM.*—*A majority of the appointed*
7 *members of the Board shall constitute a quorum for*
8 *the transaction of business, but a lesser number of*
9 *members may hold hearings.*

10 “(3) *SEAL.*—*The Board shall have an official*
11 *seal, of which judicial notice shall be taken.*

12 “(4) *VICE CHAIRPERSON.*—*The Board shall an-*
13 *nually elect a Vice Chairperson to act in the absence*
14 *or disability of the Chairperson or in case of a va-*
15 *cancy in the office of the Chairperson.*

16 “(5) *VOTING ON PROPOSALS.*—*Any proposal of*
17 *the Board must be approved by the majority of ap-*
18 *pointed members present.*

19 “(i) *POWERS OF THE BOARD.*—

20 “(1) *HEARINGS.*—*The Board may hold such*
21 *hearings, sit and act at such times and places, take*
22 *such testimony, and receive such evidence as the*
23 *Board considers advisable to carry out this section.*

24 “(2) *AUTHORITY TO INFORM RESEARCH PRIOR-*
25 *ITIES FOR DATA COLLECTION.*—*The Board may ad-*

1 *advise the Secretary on priorities for health services re-*
2 *search, particularly as such priorities pertain to nec-*
3 *essary changes and issues regarding payment reforms*
4 *under Medicare.*

5 *“(3) OBTAINING OFFICIAL DATA.—The Board*
6 *may secure directly from any department or agency*
7 *of the United States information necessary to enable*
8 *it to carry out this section. Upon request of the*
9 *Chairperson, the head of that department or agency*
10 *shall furnish that information to the Board on an*
11 *agreed upon schedule.*

12 *“(4) POSTAL SERVICES.—The Board may use the*
13 *United States mails in the same manner and under*
14 *the same conditions as other departments and agen-*
15 *cies of the Federal Government.*

16 *“(5) GIFTS.—The Board may accept, use, and*
17 *dispose of gifts or donations of services or property.*

18 *“(6) OFFICES.—The Board shall maintain a*
19 *principal office and such field offices as it determines*
20 *necessary, and may meet and exercise any of its pow-*
21 *ers at any other place.*

22 *“(j) PERSONNEL MATTERS.—*

23 *“(1) COMPENSATION OF MEMBERS AND CHAIR-*
24 *PERSON.—Each appointed member, other than the*
25 *Chairperson, shall be compensated at a rate equal to*

1 *the annual rate of basic pay prescribed for level III*
2 *of the Executive Schedule under section 5315 of title*
3 *5, United States Code. The Chairperson shall be com-*
4 *pensated at a rate equal to the daily equivalent of the*
5 *annual rate of basic pay prescribed for level II of the*
6 *Executive Schedule under section 5315 of title 5,*
7 *United States Code.*

8 “(2) *TRAVEL EXPENSES.*—*The appointed mem-*
9 *bers shall be allowed travel expenses, including per*
10 *diem in lieu of subsistence, at rates authorized for*
11 *employees of agencies under subchapter I of chapter*
12 *57 of title 5, United States Code, while away from*
13 *their homes or regular places of business in the per-*
14 *formance of services for the Board.*

15 “(3) *STAFF.*—

16 “(A) *IN GENERAL.*—*The Chairperson may,*
17 *without regard to the civil service laws and regu-*
18 *lations, appoint and terminate an executive di-*
19 *rector and such other additional personnel as*
20 *may be necessary to enable the Board to perform*
21 *its duties. The employment of an executive direc-*
22 *tor shall be subject to confirmation by the Board.*

23 “(B) *COMPENSATION.*—*The Chairperson*
24 *may fix the compensation of the executive direc-*
25 *tor and other personnel without regard to chap-*

1 *ter 51 and subchapter III of chapter 53 of title*
2 *5, United States Code, relating to classification*
3 *of positions and General Schedule pay rates, ex-*
4 *cept that the rate of pay for the executive direc-*
5 *tor and other personnel may not exceed the rate*
6 *payable for level V of the Executive Schedule*
7 *under section 5316 of such title.*

8 “(4) *DETAIL OF GOVERNMENT EMPLOYEES.—*
9 *Any Federal Government employee may be detailed to*
10 *the Board without reimbursement, and such detail*
11 *shall be without interruption or loss of civil service*
12 *status or privilege.*

13 “(5) *PROCUREMENT OF TEMPORARY AND INTER-*
14 *MITTENT SERVICES.—The Chairperson may procure*
15 *temporary and intermittent services under section*
16 *3109(b) of title 5, United States Code, at rates for in-*
17 *dividuals which do not exceed the daily equivalent of*
18 *the annual rate of basic pay prescribed for level V of*
19 *the Executive Schedule under section 5316 of such*
20 *title.*

21 “(k) *CONSUMER ADVISORY COUNCIL.—*

22 “(1) *IN GENERAL.—There is established a con-*
23 *sumer advisory council to advise the Board on the*
24 *impact of payment policies under this title on con-*
25 *sumers.*

1 “(2) *MEMBERSHIP.*—

2 “(A) *NUMBER AND APPOINTMENT.*—*The*
3 *consumer advisory council shall be composed of*
4 *10 consumer representatives appointed by the*
5 *Comptroller General of the United States, 1 from*
6 *among each of the 10 regions established by the*
7 *Secretary as of the date of enactment of this sec-*
8 *tion.*

9 “(B) *QUALIFICATIONS.*—*The membership of*
10 *the council shall represent the interests of con-*
11 *sumers and particular communities.*

12 “(3) *DUTIES.*—*The consumer advisory council*
13 *shall, subject to the call of the Board, meet not less*
14 *frequently than 2 times each year in the District of*
15 *Columbia.*

16 “(4) *OPEN MEETINGS.*—*Meetings of the consumer*
17 *advisory council shall be open to the public.*

18 “(5) *ELECTION OF OFFICERS.*—*Members of the*
19 *consumer advisory council shall elect their own offi-*
20 *cers.*

21 “(6) *APPLICATION OF FACA.*—*The Federal Advi-*
22 *sory Committee Act (5 U.S.C. App.) shall apply to*
23 *the consumer advisory council except that section 14*
24 *of such Act shall not apply.*

25 “(l) *DEFINITIONS.*—*In this section:*

1 “(1) *BOARD; CHAIRPERSON; MEMBER.*—*The*
2 *terms ‘Board’, ‘Chairperson’, and ‘Member’ mean the*
3 *Independent Medicare Advisory Board established*
4 *under subsection (a) and the Chairperson and any*
5 *Member thereof, respectively.*

6 “(2) *MEDICARE.*—*The term ‘Medicare’ means the*
7 *program established under this title, including parts*
8 *A, B, C, and D.*

9 “(3) *MEDICARE BENEFICIARY.*—*The term ‘Medi-*
10 *care beneficiary’ means an individual who is entitled*
11 *to, or enrolled for, benefits under part A or enrolled*
12 *for benefits under part B.*

13 “(4) *MEDICARE PROGRAM SPENDING.*—*The term*
14 *‘Medicare program spending’ means program spend-*
15 *ing under parts A, B, and D net of premiums.*

16 “(m) *FUNDING.*—

17 “(1) *IN GENERAL.*—*There are appropriated to*
18 *the Board to carry out its duties and functions—*

19 “(A) *for fiscal year 2012, \$15,000,000; and*

20 “(B) *for each subsequent fiscal year, the*
21 *amount appropriated under this paragraph for*
22 *the previous fiscal year increased by the annual*
23 *percentage increase in the Consumer Price Index*
24 *for All Urban Consumers (all items; United*

1 *States city average) as of June of the previous*
2 *fiscal year.*

3 “(2) *FROM TRUST FUNDS.—Sixty percent of*
4 *amounts appropriated under paragraph (1) shall be*
5 *derived by transfer from the Federal Hospital Insur-*
6 *ance Trust Fund under section 1817 and 40 percent*
7 *of amounts appropriated under such paragraph shall*
8 *be derived by transfer from the Federal Supple-*
9 *mentary Medical Insurance Trust Fund under section*
10 *1841.”.*

11 (2) *LOBBYING COOLING-OFF PERIOD FOR MEM-*
12 *BERS OF THE INDEPENDENT MEDICARE ADVISORY*
13 *BOARD.—Section 207(c) of title 18, United States*
14 *Code, is amended by inserting at the end the fol-*
15 *lowing:*

16 “(3) *MEMBERS OF THE INDEPENDENT MEDICARE*
17 *ADVISORY BOARD.—*

18 “(A) *IN GENERAL.—Paragraph (1) shall*
19 *apply to a member of the Independent Medicare*
20 *Advisory Board under section 1899A.*

21 “(B) *AGENCIES AND CONGRESS.—For pur-*
22 *poses of paragraph (1), the agency in which the*
23 *individual described in subparagraph (A) served*
24 *shall be considered to be the Independent Medi-*
25 *care Advisory Board, the Department of Health*

1 *and Human Services, and the relevant commit-*
2 *tees of jurisdiction of Congress, including the*
3 *Committee on Ways and Means and the Com-*
4 *mittee on Energy and Commerce of the House of*
5 *Representatives and the Committee on Finance*
6 *of the Senate.”.*

7 ***(b) GAO STUDY AND REPORT ON DETERMINATION***
8 ***AND IMPLEMENTATION OF PAYMENT AND COVERAGE POLI-***
9 ***CIES UNDER THE MEDICARE PROGRAM.—***

10 ***(1) INITIAL STUDY AND REPORT.—***

11 ***(A) STUDY.—****The Comptroller General of*
12 *the United States (in this section referred to as*
13 *the “Comptroller General”) shall conduct a study*
14 *on changes to payment policies, methodologies,*
15 *and rates and coverage policies and methodolo-*
16 *gies under the Medicare program under title*
17 *XVIII of the Social Security Act as a result of*
18 *the recommendations contained in the proposals*
19 *made by the Independent Medicare Advisory*
20 *Board under section 1899A of such Act (as added*
21 *by subsection (a)), including an analysis of the*
22 *effect of such recommendations on—*

23 ***(i) Medicare beneficiary access to pro-***
24 ***viders and items and services;***

1 (ii) the affordability of Medicare pre-
2 miums and cost-sharing (including
3 deductibles, coinsurance, and copayments);

4 (iii) the potential impact of changes on
5 other government or private-sector pur-
6 chasers and payers of care; and

7 (iv) quality of patient care, including
8 patient experience, outcomes, and other
9 measures of care.

10 (B) *REPORT.*—Not later than July 1, 2015,
11 the Comptroller General shall submit to Congress
12 a report containing the results of the study con-
13 ducted under subparagraph (A), together with
14 recommendations for such legislation and ad-
15 ministrative action as the Comptroller General
16 determines appropriate.

17 (2) *SUBSEQUENT STUDIES AND REPORTS.*—The
18 Comptroller General shall periodically conduct such
19 additional studies and submit reports to Congress on
20 changes to Medicare payments policies, methodologies,
21 and rates and coverage policies and methodologies as
22 the Comptroller General determines appropriate, in
23 consultation with the Committee on Ways and Means
24 and the Committee on Energy and Commerce of the

1 *House of Representatives and the Committee on Fi-*
2 *nance of the Senate.*

3 (c) *CONFORMING AMENDMENTS.*—Section 1805(b) of
4 *the Social Security Act (42 U.S.C. 1395b–6(b)) is amend-*
5 *ed—*

6 (1) *by redesignating paragraphs (4) through (8)*
7 *as paragraphs (5) through (9), respectively; and*

8 (2) *by inserting after paragraph (3) the fol-*
9 *lowing:*

10 “(4) *REVIEW AND COMMENT ON THE INDE-*
11 *PENDENT MEDICARE ADVISORY BOARD OR SECRE-*
12 *TARIAL PROPOSAL.*—*If the Independent Medicare Ad-*
13 *visory Board (as established under subsection (a) of*
14 *section 1899A) or the Secretary submits a proposal to*
15 *the Commission under such section in a year, the*
16 *Commission shall review the proposal and, not later*
17 *than March 1 of that year, submit to the Committee*
18 *on Ways and Means and the Committee on Energy*
19 *and Commerce of the House of Representatives and*
20 *the Committee on Finance of the Senate written com-*
21 *ments on such proposal. Such comments may include*
22 *such recommendations as the Commission deems ap-*
23 *propriate.”.*

1 **Subtitle F—Health Care Quality**
2 **Improvements**

3 **SEC. 3501. HEALTH CARE DELIVERY SYSTEM RESEARCH;**
4 **QUALITY IMPROVEMENT TECHNICAL ASSIST-**
5 **ANCE.**

6 *Part D of title IX of the Public Health Service Act,*
7 *as amended by section 3013, is further amended by adding*
8 *at the end the following:*

9 **“Subpart II—Health Care Quality Improvement**
10 **Programs**

11 **“SEC. 933. HEALTH CARE DELIVERY SYSTEM RESEARCH.**

12 “(a) *PURPOSE.—The purposes of this section are to—*

13 “(1) *enable the Director to identify, develop,*
14 *evaluate, disseminate, and provide training in inno-*
15 *vative methodologies and strategies for quality im-*
16 *provement practices in the delivery of health care*
17 *services that represent best practices (referred to as*
18 *‘best practices’) in health care quality, safety, and*
19 *value; and*

20 “(2) *ensure that the Director is accountable for*
21 *implementing a model to pursue such research in a*
22 *collaborative manner with other related Federal agen-*
23 *cies.*

24 “(b) *GENERAL FUNCTIONS OF THE CENTER.—The*
25 *Center for Quality Improvement and Patient Safety of the*

1 *Agency for Healthcare Research and Quality (referred to*
2 *in this section as the ‘Center’), or any other relevant agency*
3 *or department designated by the Director, shall—*

4 “(1) *carry out its functions using research from*
5 *a variety of disciplines, which may include epidemi-*
6 *ology, health services, sociology, psychology, human*
7 *factors engineering, biostatistics, health economics,*
8 *clinical research, and health informatics;*

9 “(2) *conduct or support activities consistent with*
10 *the purposes described in subsection (a), and for—*

11 “(A) *best practices for quality improvement*
12 *practices in the delivery of health care services;*
13 *and*

14 “(B) *that include changes in processes of*
15 *care and the redesign of systems used by pro-*
16 *viders that will reliably result in intended health*
17 *outcomes, improve patient safety, and reduce*
18 *medical errors (such as skill development for*
19 *health care providers in team-based health care*
20 *delivery and rapid cycle process improvement)*
21 *and facilitate adoption of improved workflow;*

22 “(3) *identify health care providers, including*
23 *health care systems, single institutions, and indi-*
24 *vidual providers, that—*

1 “(A) deliver consistently high-quality, effi-
2 cient health care services (as determined by the
3 Secretary); and

4 “(B) employ best practices that are adapt-
5 able and scalable to diverse health care settings
6 or effective in improving care across diverse set-
7 tings;

8 “(4) assess research, evidence, and knowledge
9 about what strategies and methodologies are most ef-
10 fective in improving health care delivery;

11 “(5) find ways to translate such information
12 rapidly and effectively into practice, and document
13 the sustainability of those improvements;

14 “(6) create strategies for quality improvement
15 through the development of tools, methodologies, and
16 interventions that can successfully reduce variations
17 in the delivery of health care;

18 “(7) identify, measure, and improve organiza-
19 tional, human, or other causative factors, including
20 those related to the culture and system design of a
21 health care organization, that contribute to the success
22 and sustainability of specific quality improvement
23 and patient safety strategies;

24 “(8) provide for the development of best practices
25 in the delivery of health care services that—

1 “(A) have a high likelihood of success, based
2 on structured review of empirical evidence;

3 “(B) are specified with sufficient detail of
4 the individual processes, steps, training, skills,
5 and knowledge required for implementation and
6 incorporation into workflow of health care prac-
7 titioners in a variety of settings;

8 “(C) are designed to be readily adapted by
9 health care providers in a variety of settings;
10 and

11 “(D) where applicable, assist health care
12 providers in working with other health care pro-
13 viders across the continuum of care and in en-
14 gaging patients and their families in improving
15 the care and patient health outcomes;

16 “(9) provide for the funding of the activities of
17 organizations with recognized expertise and excellence
18 in improving the delivery of health care services, in-
19 cluding children’s health care, by involving multiple
20 disciplines, managers of health care entities, broad de-
21 velopment and training, patients, caregivers and fam-
22 ilies, and frontline health care workers, including ac-
23 tivities for the examination of strategies to share best
24 quality improvement practices and to promote excel-
25 lence in the delivery of health care services; and

1 “(10) *build capacity at the State and commu-*
2 *nity level to lead quality and safety efforts through*
3 *education, training, and mentoring programs to*
4 *carry out the activities under paragraphs (1) through*
5 *(9).*

6 “(c) *RESEARCH FUNCTIONS OF CENTER.*—

7 “(1) *IN GENERAL.*—*The Center shall support,*
8 *such as through a contract or other mechanism, re-*
9 *search on health care delivery system improvement*
10 *and the development of tools to facilitate adoption of*
11 *best practices that improve the quality, safety, and ef-*
12 *iciency of health care delivery services. Such support*
13 *may include establishing a Quality Improvement Net-*
14 *work Research Program for the purpose of testing,*
15 *scaling, and disseminating of interventions to im-*
16 *prove quality and efficiency in health care. Recipients*
17 *of funding under the Program may include national,*
18 *State, multi-State, or multi-site quality improvement*
19 *networks.*

20 “(2) *RESEARCH REQUIREMENTS.*—*The research*
21 *conducted pursuant to paragraph (1) shall—*

22 “(A) *address the priorities identified by the*
23 *Secretary in the national strategic plan estab-*
24 *lished under section 399HH;*

1 “(B) identify areas in which evidence is in-
2 sufficient to identify strategies and methodolo-
3 gies, taking into consideration areas of insuffi-
4 cient evidence identified by the entity with a
5 contract under section 1890(a) of the Social Se-
6 curity Act in the report required under section
7 399JJ;

8 “(C) address concerns identified by health
9 care institutions and providers and commu-
10 nicated through the Center pursuant to sub-
11 section (d);

12 “(D) reduce preventable morbidity, mor-
13 tality, and associated costs of morbidity and
14 mortality by building capacity for patient safety
15 research;

16 “(E) support the discovery of processes for
17 the reliable, safe, efficient, and responsive deliv-
18 ery of health care, taking into account discov-
19 eries from clinical research and comparative ef-
20 fectiveness research;

21 “(F) allow communication of research find-
22 ings and translate evidence into practice rec-
23 ommendations that are adaptable to a variety of
24 settings, and which, as soon as practicable after
25 the establishment of the Center, shall include—

1 “(i) the implementation of a national
2 application of Intensive Care Unit improve-
3 ment projects relating to the adult (includ-
4 ing geriatric), pediatric, and neonatal pa-
5 tient populations;

6 “(ii) practical methods for addressing
7 health care associated infections, including
8 Methicillin-Resistant *Staphylococcus Aureus*
9 and Vancomycin-Resistant *Enterococcus in-*
10 *fections* and other emerging infections; and

11 “(iii) practical methods for reducing
12 preventable hospital admissions and re-
13 admissions;

14 “(G) expand demonstration projects for im-
15 proving the quality of children’s health care and
16 the use of health information technology, such as
17 through Pediatric Quality Improvement
18 Collaboratives and Learning Networks, consistent
19 with provisions of section 1139A of the Social
20 Security Act for assessing and improving qual-
21 ity, where applicable;

22 “(H) identify and mitigate hazards by—

23 “(i) analyzing events reported to pa-
24 tient safety reporting systems and patient
25 safety organizations; and

1 “(ii) using the results of such analyses
2 to develop scientific methods of response to
3 such events;

4 “(I) include the conduct of systematic re-
5 views of existing practices that improve the qual-
6 ity, safety, and efficiency of health care delivery,
7 as well as new research on improving such prac-
8 tices; and

9 “(J) include the examination of how to
10 measure and evaluate the progress of quality and
11 patient safety activities.

12 “(d) DISSEMINATION OF RESEARCH FINDINGS.—

13 “(1) PUBLIC AVAILABILITY.—The Director shall
14 make the research findings of the Center available to
15 the public through multiple media and appropriate
16 formats to reflect the varying needs of health care pro-
17 viders and consumers and diverse levels of health lit-
18 eracy.

19 “(2) LINKAGE TO HEALTH INFORMATION TECH-
20 NOLOGY.—The Secretary shall ensure that research
21 findings and results generated by the Center are
22 shared with the Office of the National Coordinator of
23 Health Information Technology and used to inform
24 the activities of the health information technology ex-
25 tension program under section 3012, as well as any

1 *relevant standards, certification criteria, or imple-*
2 *mentation specifications.*

3 “(e) *PRIORITIZATION.—The Director shall identify*
4 *and regularly update a list of processes or systems on which*
5 *to focus research and dissemination activities of the Center,*
6 *taking into account—*

7 “(1) *the cost to Federal health programs;*

8 “(2) *consumer assessment of health care experi-*
9 *ence;*

10 “(3) *provider assessment of such processes or sys-*
11 *tems and opportunities to minimize distress and in-*
12 *jury to the health care workforce;*

13 “(4) *the potential impact of such processes or*
14 *systems on health status and function of patients, in-*
15 *cluding vulnerable populations including children;*

16 “(5) *the areas of insufficient evidence identified*
17 *under subsection (c)(2)(B); and*

18 “(6) *the evolution of meaningful use of health in-*
19 *formation technology, as defined in section 3000.*

20 “(f) *COORDINATION.—The Center shall coordinate its*
21 *activities with activities conducted by the Center for Medi-*
22 *care and Medicaid Innovation established under section*
23 *1115A of the Social Security Act.*

1 “(g) *FUNDING.*—*There is authorized to be appro-*
2 *priated to carry out this section \$20,000,000 for fiscal years*
3 *2010 through 2014.*

4 “**SEC. 934. QUALITY IMPROVEMENT TECHNICAL ASSIST-**
5 **ANCE AND IMPLEMENTATION.**

6 “(a) *IN GENERAL.*—*The Director, through the Center*
7 *for Quality Improvement and Patient Safety of the Agency*
8 *for Healthcare Research and Quality (referred to in this*
9 *section as the ‘Center’), shall award—*

10 “(1) *technical assistance grants or contracts to*
11 *eligible entities to provide technical support to insti-*
12 *tutions that deliver health care and health care pro-*
13 *viders (including rural and urban providers of serv-*
14 *ices and suppliers with limited infrastructure and fi-*
15 *nancial resources to implement and support quality*
16 *improvement activities, providers of services and sup-*
17 *pliers with poor performance scores, and providers of*
18 *services and suppliers for which there are disparities*
19 *in care among subgroups of patients) so that such in-*
20 *stitutions and providers understand, adapt, and im-*
21 *plement the models and practices identified in the re-*
22 *search conducted by the Center, including the Quality*
23 *Improvement Networks Research Program; and*

1 “(2) *implementation grants or contracts to eligi-*
2 *ble entities to implement the models and practices de-*
3 *scribed under paragraph (1).*

4 “(b) *ELIGIBLE ENTITIES.—*

5 “(1) *TECHNICAL ASSISTANCE AWARD.—To be eli-*
6 *gible to receive a technical assistance grant or con-*
7 *tract under subsection (a)(1), an entity—*

8 “(A) *may be a health care provider, health*
9 *care provider association, professional society,*
10 *health care worker organization, Indian health*
11 *organization, quality improvement organization,*
12 *patient safety organization, local quality im-*
13 *provement collaborative, the Joint Commission,*
14 *academic health center, university, physician-*
15 *based research network, primary care extension*
16 *program established under section 399W, a Fed-*
17 *eral Indian Health Service program or a health*
18 *program operated by an Indian tribe (as defined*
19 *in section 4 of the Indian Health Care Improve-*
20 *ment Act), or any other entity identified by the*
21 *Secretary; and*

22 “(B) *shall have demonstrated expertise in*
23 *providing information and technical support*
24 *and assistance to health care providers regarding*
25 *quality improvement.*

1 “(2) *IMPLEMENTATION AWARD.*—*To be eligible to*
2 *receive an implementation grant or contract under*
3 *subsection (a)(2), an entity—*

4 “(A) *may be a hospital or other health care*
5 *provider or consortium or providers, as deter-*
6 *mined by the Secretary; and*

7 “(B) *shall have demonstrated expertise in*
8 *providing information and technical support*
9 *and assistance to health care providers regarding*
10 *quality improvement.*

11 “(c) *APPLICATION.*—

12 “(1) *TECHNICAL ASSISTANCE AWARD.*—*To re-*
13 *ceive a technical assistance grant or contract under*
14 *subsection (a)(1), an eligible entity shall submit an*
15 *application to the Secretary at such time, in such*
16 *manner, and containing—*

17 “(A) *a plan for a sustainable business*
18 *model that may include a system of—*

19 “(i) *charging fees to institutions and*
20 *providers that receive technical support*
21 *from the entity; and*

22 “(ii) *reducing or eliminating such fees*
23 *for such institutions and providers that*
24 *serve low-income populations; and*

1 “(B) such other information as the Director
2 may require.

3 “(2) *IMPLEMENTATION AWARD.*—To receive a
4 grant or contract under subsection (a)(2), an eligible
5 entity shall submit an application to the Secretary at
6 such time, in such manner, and containing—

7 “(A) a plan for implementation of a model
8 or practice identified in the research conducted
9 by the Center including—

10 “(i) financial cost, staffing require-
11 ments, and timeline for implementation;
12 and

13 “(ii) pre- and projected post-implemen-
14 tation quality measure performance data in
15 targeted improvement areas identified by
16 the Secretary; and

17 “(B) such other information as the Director
18 may require.

19 “(d) *MATCHING FUNDS.*—The Director may not
20 award a grant or contract under this section to an entity
21 unless the entity agrees that it will make available (directly
22 or through contributions from other public or private enti-
23 ties) non-Federal contributions toward the activities to be
24 carried out under the grant or contract in an amount equal
25 to \$1 for each \$5 of Federal funds provided under the grant

1 *or contract. Such non-Federal matching funds may be pro-*
2 *vided directly or through donations from public or private*
3 *entities and may be in cash or in-kind, fairly evaluated,*
4 *including plant, equipment, or services.*

5 “(e) *EVALUATION.*—

6 “(1) *IN GENERAL.*—*The Director shall evaluate*
7 *the performance of each entity that receives a grant*
8 *or contract under this section. The evaluation of an*
9 *entity shall include a study of—*

10 “(A) *the success of such entity in achieving*
11 *the implementation, by the health care institu-*
12 *tions and providers assisted by such entity, of*
13 *the models and practices identified in the re-*
14 *search conducted by the Center under section*
15 *933;*

16 “(B) *the perception of the health care insti-*
17 *tutions and providers assisted by such entity re-*
18 *garding the value of the entity; and*

19 “(C) *where practicable, better patient health*
20 *outcomes and lower cost resulting from the as-*
21 *sistance provided by such entity.*

22 “(2) *EFFECT OF EVALUATION.*—*Based on the*
23 *outcome of the evaluation of the entity under para-*
24 *graph (1), the Director shall determine whether to*

1 *renew a grant or contract with such entity under this*
2 *section.*

3 “(f) *COORDINATION.*—*The entities that receive a grant*
4 *or contract under this section shall coordinate with health*
5 *information technology regional extension centers under*
6 *section 3012(c) and the primary care extension program*
7 *established under section 399W regarding the dissemination*
8 *of quality improvement, system delivery reform, and best*
9 *practices information.”.*

10 **SEC. 3502. ESTABLISHING COMMUNITY HEALTH TEAMS TO**
11 **SUPPORT THE PATIENT-CENTERED MEDICAL**
12 **HOME.**

13 (a) *IN GENERAL.*—*The Secretary of Health and*
14 *Human Services (referred to in this section as the “Sec-*
15 *retary”)* shall establish a program to provide grants to or
16 *enter into contracts with eligible entities to establish com-*
17 *munity-based interdisciplinary, interprofessional teams*
18 *(referred to in this section as “health teams”) to support*
19 *primary care practices, including obstetrics and gynecology*
20 *practices, within the hospital service areas served by the*
21 *eligible entities. Grants or contracts shall be used to—*

22 (1) *establish health teams to provide support*
23 *services to primary care providers; and*

24 (2) *provide capitated payments to primary care*
25 *providers as determined by the Secretary.*

1 (b) *ELIGIBLE ENTITIES.*—*To be eligible to receive a*
2 *grant or contract under subsection (a), an entity shall—*

3 (1)(A) *be a State or State-designated entity; or*

4 (B) *be an Indian tribe or tribal organization, as*
5 *defined in section 4 of the Indian Health Care Im-*
6 *provement Act;*

7 (2) *submit a plan for achieving long-term finan-*
8 *cial sustainability within 3 years;*

9 (3) *submit a plan for incorporating prevention*
10 *initiatives and patient education and care manage-*
11 *ment resources into the delivery of health care that is*
12 *integrated with community-based prevention and*
13 *treatment resources, where available;*

14 (4) *ensure that the health team established by the*
15 *entity includes an interdisciplinary, interprofessional*
16 *team of health care providers, as determined by the*
17 *Secretary; such team may include medical specialists,*
18 *nurses, pharmacists, nutritionists, dieticians, social*
19 *workers, behavioral and mental health providers (in-*
20 *cluding substance use disorder prevention and treat-*
21 *ment providers), doctors of chiropractic, licensed com-*
22 *plementary and alternative medicine practitioners,*
23 *and physicians' assistants;*

24 (5) *agree to provide services to eligible individ-*
25 *uals with chronic conditions, as described in section*

1 *1945 of the Social Security Act (as added by section*
2 *2703), in accordance with the payment methodology*
3 *established under subsection (c) of such section; and*

4 *(6) submit to the Secretary an application at*
5 *such time, in such manner, and containing such in-*
6 *formation as the Secretary may require.*

7 *(c) REQUIREMENTS FOR HEALTH TEAMS.—A health*
8 *team established pursuant to a grant or contract under sub-*
9 *section (a) shall—*

10 *(1) establish contractual agreements with pri-*
11 *mary care providers to provide support services;*

12 *(2) support patient-centered medical homes, de-*
13 *finied as a mode of care that includes—*

14 *(A) personal physicians;*

15 *(B) whole person orientation;*

16 *(C) coordinated and integrated care;*

17 *(D) safe and high-quality care through evi-*
18 *dence-informed medicine, appropriate use of*
19 *health information technology, and continuous*
20 *quality improvements;*

21 *(E) expanded access to care; and*

22 *(F) payment that recognizes added value*
23 *from additional components of patient-centered*
24 *care;*

1 (3) *collaborate with local primary care providers*
2 *and existing State and community based resources to*
3 *coordinate disease prevention, chronic disease man-*
4 *agement, transitioning between health care providers*
5 *and settings and case management for patients, in-*
6 *cluding children, with priority given to those ame-*
7 *nable to prevention and with chronic diseases or con-*
8 *ditions identified by the Secretary;*

9 (4) *in collaboration with local health care pro-*
10 *viders, develop and implement interdisciplinary,*
11 *interprofessional care plans that integrate clinical*
12 *and community preventive and health promotion*
13 *services for patients, including children, with a pri-*
14 *ority given to those amenable to prevention and with*
15 *chronic diseases or conditions identified by the Sec-*
16 *retary;*

17 (5) *incorporate health care providers, patients,*
18 *caregivers, and authorized representatives in program*
19 *design and oversight;*

20 (6) *provide support necessary for local primary*
21 *care providers to—*

22 (A) *coordinate and provide access to high-*
23 *quality health care services;*

24 (B) *coordinate and provide access to pre-*
25 *ventive and health promotion services;*

1 (C) provide access to appropriate specialty
2 care and inpatient services;

3 (D) provide quality-driven, cost-effective,
4 culturally appropriate, and patient- and family-
5 centered health care;

6 (E) provide access to pharmacist-delivered
7 medication management services, including
8 medication reconciliation;

9 (F) provide coordination of the appropriate
10 use of complementary and alternative (CAM)
11 services to those who request such services;

12 (G) promote effective strategies for treat-
13 ment planning, monitoring health outcomes and
14 resource use, sharing information, treatment de-
15 cision support, and organizing care to avoid du-
16 plication of service and other medical manage-
17 ment approaches intended to improve quality
18 and value of health care services;

19 (H) provide local access to the continuum of
20 health care services in the most appropriate set-
21 ting, including access to individuals that imple-
22 ment the care plans of patients and coordinate
23 care, such as integrative health care practi-
24 tioners;

1 (I) collect and report data that permits
2 evaluation of the success of the collaborative ef-
3 fort on patient outcomes, including collection of
4 data on patient experience of care, and identi-
5 fication of areas for improvement; and

6 (J) establish a coordinated system of early
7 identification and referral for children at risk
8 for developmental or behavioral problems such as
9 through the use of infolines, health information
10 technology, or other means as determined by the
11 Secretary;

12 (7) provide 24-hour care management and sup-
13 port during transitions in care settings including—

14 (A) a transitional care program that pro-
15 vides onsite visits from the care coordinator, as-
16 sists with the development of discharge plans and
17 medication reconciliation upon admission to and
18 discharge from the hospitals, nursing home, or
19 other institution setting;

20 (B) discharge planning and counseling sup-
21 port to providers, patients, caregivers, and au-
22 thorized representatives;

23 (C) assuring that post-discharge care plans
24 include medication management, as appropriate;

1 (D) referrals for mental and behavioral
2 health services, which may include the use of
3 infolines; and

4 (E) transitional health care needs from ado-
5 lescence to adulthood;

6 (8) serve as a liaison to community prevention
7 and treatment programs;

8 (9) demonstrate a capacity to implement and
9 maintain health information technology that meets
10 the requirements of certified EHR technology (as de-
11 fined in section 3000 of the Public Health Service Act
12 (42 U.S.C. 300jj)) to facilitate coordination among
13 members of the applicable care team and affiliated
14 primary care practices; and

15 (10) where applicable, report to the Secretary in-
16 formation on quality measures used under section
17 399JJ of the Public Health Service Act.

18 (d) *REQUIREMENT FOR PRIMARY CARE PROVIDERS.*—

19 *A provider who contracts with a care team shall—*

20 (1) provide a care plan to the care team for each
21 patient participant;

22 (2) provide access to participant health records;
23 and

24 (3) meet regularly with the care team to ensure
25 integration of care.

1 (e) *REPORTING TO SECRETARY.*—An entity that re-
2 ceives a grant or contract under subsection (a) shall submit
3 to the Secretary a report that describes and evaluates, as
4 requested by the Secretary, the activities carried out by the
5 entity under subsection (c).

6 (f) *DEFINITION OF PRIMARY CARE.*—In this section,
7 the term “primary care” means the provision of integrated,
8 accessible health care services by clinicians who are ac-
9 countable for addressing a large majority of personal health
10 care needs, developing a sustained partnership with pa-
11 tients, and practicing in the context of family and commu-
12 nity.

13 **SEC. 3503. MEDICATION MANAGEMENT SERVICES IN TREAT-**
14 **MENT OF CHRONIC DISEASE.**

15 Title IX of the Public Health Service Act (42 U.S.C.
16 299 *et seq.*), as amended by section 3501, is further amend-
17 ed by inserting after section 934 the following:

18 **“SEC. 935. GRANTS OR CONTRACTS TO IMPLEMENT MEDICA-**
19 **TION MANAGEMENT SERVICES IN TREAT-**
20 **MENT OF CHRONIC DISEASES.**

21 “(a) *IN GENERAL.*—The Secretary, acting through the
22 Patient Safety Research Center established in section 933
23 (referred to in this section as the ‘Center’), shall establish
24 a program to provide grants or contracts to eligible entities
25 to implement medication management (referred to in this

1 *section as ‘MTM’) services provided by licensed phar-*
2 *macists, as a collaborative, multidisciplinary, inter-profes-*
3 *sional approach to the treatment of chronic diseases for tar-*
4 *geted individuals, to improve the quality of care and reduce*
5 *overall cost in the treatment of such diseases. The Secretary*
6 *shall commence the program under this section not later*
7 *than May 1, 2010.*

8 “(b) *ELIGIBLE ENTITIES.*—*To be eligible to receive a*
9 *grant or contract under subsection (a), an entity shall—*

10 “(1) *provide a setting appropriate for MTM*
11 *services, as recommended by the experts described in*
12 *subsection (e);*

13 “(2) *submit to the Secretary a plan for achieving*
14 *long-term financial sustainability;*

15 “(3) *where applicable, submit a plan for coordi-*
16 *nating MTM services through local community health*
17 *teams established in section 3502 of the Patient Pro-*
18 *tection and Affordable Care Act or in collaboration*
19 *with primary care extension programs established in*
20 *section 399W;*

21 “(4) *submit a plan for meeting the requirements*
22 *under subsection (c); and*

23 “(5) *submit to the Secretary such other informa-*
24 *tion as the Secretary may require.*

1 “(c) *MTM SERVICES TO TARGETED INDIVIDUALS.*—
2 *The MTM services provided with the assistance of a grant*
3 *or contract awarded under subsection (a) shall, as allowed*
4 *by State law including applicable collaborative pharmacy*
5 *practice agreements, include—*

6 “(1) *performing or obtaining necessary assess-*
7 *ments of the health and functional status of each pa-*
8 *tient receiving such MTM services;*

9 “(2) *formulating a medication treatment plan*
10 *according to therapeutic goals agreed upon by the*
11 *prescriber and the patient or caregiver or authorized*
12 *representative of the patient;*

13 “(3) *selecting, initiating, modifying, recom-*
14 *mending changes to, or administering medication*
15 *therapy;*

16 “(4) *monitoring, which may include access to,*
17 *ordering, or performing laboratory assessments, and*
18 *evaluating the response of the patient to therapy, in-*
19 *cluding safety and effectiveness;*

20 “(5) *performing an initial comprehensive medi-*
21 *cation review to identify, resolve, and prevent medica-*
22 *tion-related problems, including adverse drug events,*
23 *quarterly targeted medication reviews for ongoing*
24 *monitoring, and additional followup interventions on*

1 *a schedule developed collaboratively with the pre-*
2 *scriber;*

3 *“(6) documenting the care delivered and commu-*
4 *nicating essential information about such care, in-*
5 *cluding a summary of the medication review, and the*
6 *recommendations of the pharmacist to other appro-*
7 *prate health care providers of the patient in a timely*
8 *fashion;*

9 *“(7) providing education and training designed*
10 *to enhance the understanding and appropriate use of*
11 *the medications by the patient, caregiver, and other*
12 *authorized representative;*

13 *“(8) providing information, support services,*
14 *and resources and strategies designed to enhance pa-*
15 *tient adherence with therapeutic regimens;*

16 *“(9) coordinating and integrating MTM services*
17 *within the broader health care management services*
18 *provided to the patient; and*

19 *“(10) such other patient care services allowed*
20 *under pharmacist scopes of practice in use in other*
21 *Federal programs that have implemented MTM serv-*
22 *ices.*

23 *“(d) TARGETED INDIVIDUALS.—MTM services pro-*
24 *vided by licensed pharmacists under a grant or contract*

1 *awarded under subsection (a) shall be offered to targeted*
2 *individuals who—*

3 “(1) *take 4 or more prescribed medications (in-*
4 *cluding over-the-counter medications and dietary sup-*
5 *plements);*

6 “(2) *take any ‘high risk’ medications;*

7 “(3) *have 2 or more chronic diseases, as identi-*
8 *fied by the Secretary; or*

9 “(4) *have undergone a transition of care, or*
10 *other factors, as determined by the Secretary, that are*
11 *likely to create a high risk of medication-related prob-*
12 *lems.*

13 “(e) *CONSULTATION WITH EXPERTS.—In designing*
14 *and implementing MTM services provided under grants or*
15 *contracts awarded under subsection (a), the Secretary shall*
16 *consult with Federal, State, private, public-private, and*
17 *academic entities, pharmacy and pharmacist organiza-*
18 *tions, health care organizations, consumer advocates, chron-*
19 *ic disease groups, and other stakeholders involved with the*
20 *research, dissemination, and implementation of phar-*
21 *macist-delivered MTM services, as the Secretary determines*
22 *appropriate. The Secretary, in collaboration with this*
23 *group, shall determine whether it is possible to incorporate*
24 *rapid cycle process improvement concepts in use in other*
25 *Federal programs that have implemented MTM services.*

1 “(f) *REPORTING TO THE SECRETARY.*—An entity that
2 receives a grant or contract under subsection (a) shall sub-
3 mit to the Secretary a report that describes and evaluates,
4 as requested by the Secretary, the activities carried out
5 under subsection (c), including quality measures endorsed
6 by the entity with a contract under section 1890 of the So-
7 cial Security Act, as determined by the Secretary.

8 “(g) *EVALUATION AND REPORT.*—The Secretary shall
9 submit to the relevant committees of Congress a report
10 which shall—

11 “(1) assess the clinical effectiveness of phar-
12 macist-provided services under the MTM services pro-
13 gram, as compared to usual care, including an eval-
14 uation of whether enrollees maintained better health
15 with fewer hospitalizations and emergency room visits
16 than similar patients not enrolled in the program;

17 “(2) assess changes in overall health care re-
18 source use by targeted individuals;

19 “(3) assess patient and prescriber satisfaction
20 with MTM services;

21 “(4) assess the impact of patient-cost sharing re-
22 quirements on medication adherence and rec-
23 ommendations for modifications;

24 “(5) identify and evaluate other factors that may
25 impact clinical and economic outcomes, including de-

1 *mographic characteristics, clinical characteristics,*
2 *and health services use of the patient, as well as char-*
3 *acteristics of the regimen, pharmacy benefit, and*
4 *MTM services provided; and*

5 *“(6) evaluate the extent to which participating*
6 *pharmacists who maintain a dispensing role have a*
7 *conflict of interest in the provision of MTM services,*
8 *and if such conflict is found, provide recommenda-*
9 *tions on how such a conflict might be appropriately*
10 *addressed.*

11 *“(h) GRANTS OR CONTRACTS TO FUND DEVELOPMENT*
12 *OF PERFORMANCE MEASURES.—The Secretary may,*
13 *through the quality measure development program under*
14 *section 931 of the Public Health Service Act, award grants*
15 *or contracts to eligible entities for the purpose of funding*
16 *the development of performance measures that assess the use*
17 *and effectiveness of medication therapy management serv-*
18 *ices.”.*

19 **SEC. 3504. DESIGN AND IMPLEMENTATION OF REGIONAL-**
20 **IZED SYSTEMS FOR EMERGENCY CARE.**

21 *(a) IN GENERAL.—Title XII of the Public Health Serv-*
22 *ice Act (42 U.S.C. 300d et seq.) is amended—*

23 *(1) in section 1203—*

1 (A) in the section heading, by inserting
 2 “**FOR TRAUMA SYSTEMS**” after “**GRANTS**”;
 3 and

4 (B) in subsection (a), by striking “Adminis-
 5 trator of the Health Resources and Services Ad-
 6 ministration” and inserting “Assistant Sec-
 7 retary for Preparedness and Response”;

8 (2) by inserting after section 1203 the following:

9 “**SEC. 1204. COMPETITIVE GRANTS FOR REGIONALIZED SYS-**
 10 **TEMS FOR EMERGENCY CARE RESPONSE.**”

11 “(a) *IN GENERAL.*—The Secretary, acting through the
 12 Assistant Secretary for Preparedness and Response, shall
 13 award not fewer than 4 multiyear contracts or competitive
 14 grants to eligible entities to support pilot projects that de-
 15 sign, implement, and evaluate innovative models of region-
 16 alized, comprehensive, and accountable emergency care and
 17 trauma systems.

18 “(b) *ELIGIBLE ENTITY; REGION.*—In this section:

19 “(1) *ELIGIBLE ENTITY.*—The term ‘eligible enti-
 20 ty’ means—

21 “(A) a State or a partnership of 1 or more
 22 States and 1 or more local governments; or

23 “(B) an Indian tribe (as defined in section
 24 4 of the Indian Health Care Improvement Act)
 25 or a partnership of 1 or more Indian tribes.

1 “(2) *REGION*.—The term ‘region’ means an area
2 within a State, an area that lies within multiple
3 States, or a similar area (such as a multicounty
4 area), as determined by the Secretary.

5 “(3) *EMERGENCY SERVICES*.—The term ‘emer-
6 gency services’ includes acute, prehospital, and trau-
7 ma care.

8 “(c) *PILOT PROJECTS*.—The Secretary shall award a
9 contract or grant under subsection (a) to an eligible entity
10 that proposes a pilot project to design, implement, and
11 evaluate an emergency medical and trauma system that—

12 “(1) coordinates with public health and safety
13 services, emergency medical services, medical facili-
14 ties, trauma centers, and other entities in a region to
15 develop an approach to emergency medical and trau-
16 ma system access throughout the region, including 9–
17 1–1 Public Safety Answering Points and emergency
18 medical dispatch;

19 “(2) includes a mechanism, such as a regional
20 medical direction or transport communications sys-
21 tem, that operates throughout the region to ensure
22 that the patient is taken to the medically appropriate
23 facility (whether an initial facility or a higher-level
24 facility) in a timely fashion;

1 “(3) allows for the tracking of prehospital and
2 hospital resources, including inpatient bed capacity,
3 emergency department capacity, trauma center capac-
4 ity, on-call specialist coverage, ambulance diversion
5 status, and the coordination of such tracking with re-
6 gional communications and hospital destination deci-
7 sions; and

8 “(4) includes a consistent region-wide
9 prehospital, hospital, and interfacility data manage-
10 ment system that—

11 “(A) submits data to the National EMS In-
12 formation System, the National Trauma Data
13 Bank, and others;

14 “(B) reports data to appropriate Federal
15 and State databanks and registries; and

16 “(C) contains information sufficient to
17 evaluate key elements of prehospital care, hos-
18 pital destination decisions, including initial hos-
19 pital and interfacility decisions, and relevant
20 health outcomes of hospital care.

21 “(d) APPLICATION.—

22 “(1) IN GENERAL.—An eligible entity that seeks
23 a contract or grant described in subsection (a) shall
24 submit to the Secretary an application at such time
25 and in such manner as the Secretary may require.

1 “(2) *APPLICATION INFORMATION.*—*Each appli-*
2 *cation shall include—*

3 “(A) *an assurance from the eligible entity*
4 *that the proposed system—*

5 “(i) *has been coordinated with the ap-*
6 *plicable State Office of Emergency Medical*
7 *Services (or equivalent State office);*

8 “(ii) *includes consistent indirect and*
9 *direct medical oversight of prehospital, hos-*
10 *pital, and interfacility transport throughout*
11 *the region;*

12 “(iii) *coordinates prehospital treat-*
13 *ment and triage, hospital destination, and*
14 *interfacility transport throughout the re-*
15 *gion;*

16 “(iv) *includes a categorization or des-*
17 *ignation system for special medical facili-*
18 *ties throughout the region that is integrated*
19 *with transport and destination protocols;*

20 “(v) *includes a regional medical direc-*
21 *tion, patient tracking, and resource alloca-*
22 *tion system that supports day-to-day emer-*
23 *gency care and surge capacity and is inte-*
24 *grated with other components of the na-*

1 *tional and State emergency preparedness*
2 *system; and*

3 *“(vi) addresses pediatric concerns re-*
4 *lated to integration, planning, prepared-*
5 *ness, and coordination of emergency med-*
6 *ical services for infants, children and ado-*
7 *lescents; and*

8 *“(B) such other information as the Sec-*
9 *retary may require.*

10 *“(e) REQUIREMENT OF MATCHING FUNDS.—*

11 *“(1) IN GENERAL.—The Secretary may not make*
12 *a grant under this section unless the State (or con-*
13 *sortia of States) involved agrees, with respect to the*
14 *costs to be incurred by the State (or consortia) in car-*
15 *rying out the purpose for which such grant was made,*
16 *to make available non-Federal contributions (in cash*
17 *or in kind under paragraph (2)) toward such costs in*
18 *an amount equal to not less than \$1 for each \$3 of*
19 *Federal funds provided in the grant. Such contribu-*
20 *tions may be made directly or through donations from*
21 *public or private entities.*

22 *“(2) NON-FEDERAL CONTRIBUTIONS.—Non-Fed-*
23 *eral contributions required in paragraph (1) may be*
24 *in cash or in kind, fairly evaluated, including equip-*
25 *ment or services (and excluding indirect or overhead*

1 *costs). Amounts provided by the Federal Government,*
2 *or services assisted or subsidized to any significant*
3 *extent by the Federal Government, may not be in-*
4 *cluded in determining the amount of such non-Fed-*
5 *eral contributions.*

6 *“(f) PRIORITY.—The Secretary shall give priority for*
7 *the award of the contracts or grants described in subsection*
8 *(a) to any eligible entity that serves a population in a*
9 *medically underserved area (as defined in section*
10 *330(b)(3)).*

11 *“(g) REPORT.—Not later than 90 days after the com-*
12 *pletion of a pilot project under subsection (a), the recipient*
13 *of such contract or grant described in shall submit to the*
14 *Secretary a report containing the results of an evaluation*
15 *of the program, including an identification of—*

16 *“(1) the impact of the regional, accountable*
17 *emergency care and trauma system on patient health*
18 *outcomes for various critical care categories, such as*
19 *trauma, stroke, cardiac emergencies, neurological*
20 *emergencies, and pediatric emergencies;*

21 *“(2) the system characteristics that contribute to*
22 *the effectiveness and efficiency of the program (or lack*
23 *thereof);*

1 “(3) *methods of assuring the long-term financial*
2 *sustainability of the emergency care and trauma sys-*
3 *tem;*

4 “(4) *the State and local legislation necessary to*
5 *implement and to maintain the system;*

6 “(5) *the barriers to developing regionalized, ac-*
7 *countable emergency care and trauma systems, as*
8 *well as the methods to overcome such barriers; and*

9 “(6) *recommendations on the utilization of avail-*
10 *able funding for future regionalization efforts.*

11 “(h) *DISSEMINATION OF FINDINGS.—The Secretary*
12 *shall, as appropriate, disseminate to the public and to the*
13 *appropriate Committees of the Congress, the information*
14 *contained in a report made under subsection (g).”;* and

15 (3) *in section 1232—*

16 (A) *in subsection (a), by striking “appro-*
17 *propriated” and all that follows through the period*
18 *at the end and inserting “appropriated*
19 *\$24,000,000 for each of fiscal years 2010 through*
20 *2014.”;* and

21 (B) *by inserting after subsection (c) the fol-*
22 *lowing:*

23 “(d) *AUTHORITY.—For the purpose of carrying out*
24 *parts A through C, beginning on the date of enactment of*
25 *the Patient Protection and Affordable Care Act, the Sec-*

1 *retary shall transfer authority in administering grants and*
2 *related authorities under such parts from the Administrator*
3 *of the Health Resources and Services Administration to the*
4 *Assistant Secretary for Preparedness and Response.”.*

5 (b) *SUPPORT FOR EMERGENCY MEDICINE RE-*
6 *SEARCH.—Part H of title IV of the Public Health Service*
7 *Act (42 U.S.C. 289 et seq.) is amended by inserting after*
8 *the section 498C the following:*

9 **“SEC. 498D. SUPPORT FOR EMERGENCY MEDICINE RE-**
10 **SEARCH.**

11 *“(a) EMERGENCY MEDICAL RESEARCH.—The Sec-*
12 *retary shall support Federal programs administered by the*
13 *National Institutes of Health, the Agency for Healthcare*
14 *Research and Quality, the Health Resources and Services*
15 *Administration, the Centers for Disease Control and Pre-*
16 *vention, and other agencies involved in improving the emer-*
17 *gency care system to expand and accelerate research in*
18 *emergency medical care systems and emergency medicine,*
19 *including—*

20 *“(1) the basic science of emergency medicine;*

21 *“(2) the model of service delivery and the compo-*
22 *nents of such models that contribute to enhanced pa-*
23 *tient health outcomes;*

24 *“(3) the translation of basic scientific research*
25 *into improved practice; and*

1 “(4) the development of timely and efficient de-
2 livery of health services.

3 “(b) *PEDIATRIC EMERGENCY MEDICAL RESEARCH.*—
4 *The Secretary shall support Federal programs administered*
5 *by the National Institutes of Health, the Agency for*
6 *Healthcare Research and Quality, the Health Resources and*
7 *Services Administration, the Centers for Disease Control*
8 *and Prevention, and other agencies to coordinate and ex-*
9 *pand research in pediatric emergency medical care systems*
10 *and pediatric emergency medicine, including—*

11 “(1) an examination of the gaps and opportuni-
12 ties in pediatric emergency care research and a strat-
13 egy for the optimal organization and funding of such
14 research;

15 “(2) the role of pediatric emergency services as
16 an integrated component of the overall health system;

17 “(3) system-wide pediatric emergency care plan-
18 ning, preparedness, coordination, and funding;

19 “(4) pediatric training in professional edu-
20 cation; and

21 “(5) research in pediatric emergency care, spe-
22 cifically on the efficacy, safety, and health outcomes
23 of medications used for infants, children, and adoles-
24 cents in emergency care settings in order to improve
25 patient safety.

1 “(c) *IMPACT RESEARCH.*—*The Secretary shall support*
2 *research to determine the estimated economic impact of, and*
3 *savings that result from, the implementation of coordinated*
4 *emergency care systems.*”

5 “(d) *AUTHORIZATION OF APPROPRIATIONS.*—*There*
6 *are authorized to be appropriated to carry out this section*
7 *such sums as may be necessary for each of fiscal years 2010*
8 *through 2014.*”.

9 **SEC. 3505. TRAUMA CARE CENTERS AND SERVICE AVAIL-**
10 **ABILITY.**

11 “(a) *TRAUMA CARE CENTERS.*—

12 “(1) *GRANTS FOR TRAUMA CARE CENTERS.*—*Sec-*
13 *tion 1241 of the Public Health Service Act (42 U.S.C.*
14 *300d–41) is amended by striking subsections (a) and*
15 *(b) and inserting the following:*

16 “(a) *IN GENERAL.*—*The Secretary shall establish 3*
17 *programs to award grants to qualified public, nonprofit In-*
18 *dian Health Service, Indian tribal, and urban Indian trau-*
19 *ma centers—*

20 “(1) *to assist in defraying substantial uncom-*
21 *pensated care costs;*

22 “(2) *to further the core missions of such trauma*
23 *centers, including by addressing costs associated with*
24 *patient stabilization and transfer, trauma education*
25 *and outreach, coordination with local and regional*

1 *trauma systems, essential personnel and other fixed*
2 *costs, and expenses associated with employee and non-*
3 *employee physician services; and*

4 *“(3) to provide emergency relief to ensure the*
5 *continued and future availability of trauma services.*

6 *“(b) MINIMUM QUALIFICATIONS OF TRAUMA CEN-*
7 *TERS.—*

8 *“(1) PARTICIPATION IN TRAUMA CARE SYSTEM*
9 *OPERATING UNDER CERTAIN PROFESSIONAL GUIDE-*
10 *LINES.—Except as provided in paragraph (2), the*
11 *Secretary may not award a grant to a trauma center*
12 *under subsection (a) unless the trauma center is a*
13 *participant in a trauma system that substantially*
14 *complies with section 1213.*

15 *“(2) EXEMPTION.—Paragraph (1) shall not*
16 *apply to trauma centers that are located in States*
17 *with no existing trauma care system.*

18 *“(3) QUALIFICATION FOR SUBSTANTIAL UNCOM-*
19 *PENSATED CARE COSTS.—The Secretary shall award*
20 *substantial uncompensated care grants under sub-*
21 *section (a)(1) only to trauma centers meeting at least*
22 *1 of the criteria in 1 of the following 3 categories:*

23 *“(A) CATEGORY A.—The criteria for cat-*
24 *egory A are as follows:*

1 “(i) *At least 40 percent of the visits in*
2 *the emergency department of the hospital in*
3 *which the trauma center is located were*
4 *charity or self-pay patients.*

5 “(ii) *At least 50 percent of the visits in*
6 *such emergency department were Medicaid*
7 *(under title XIX of the Social Security Act*
8 *(42 U.S.C. 1396 et seq.)) and charity and*
9 *self-pay patients combined.*

10 “(B) *CATEGORY B.—The criteria for cat-*
11 *egory B are as follows:*

12 “(i) *At least 35 percent of the visits in*
13 *the emergency department were charity or*
14 *self-pay patients.*

15 “(ii) *At least 50 percent of the visits in*
16 *the emergency department were Medicaid*
17 *and charity and self-pay patients combined.*

18 “(C) *CATEGORY C.—The criteria for cat-*
19 *egory C are as follows:*

20 “(i) *At least 20 percent of the visits in*
21 *the emergency department were charity or*
22 *self-pay patients.*

23 “(ii) *At least 30 percent of the visits in*
24 *the emergency department were Medicaid*
25 *and charity and self-pay patients combined.*

1 “(4) *TRAUMA CENTERS IN 1115 WAIVER*
2 *STATES.—Notwithstanding paragraph (3), the Sec-*
3 *retary may award a substantial uncompensated care*
4 *grant to a trauma center under subsection (a)(1) if*
5 *the trauma center qualifies for funds under a Low In-*
6 *come Pool or Safety Net Care Pool established through*
7 *a waiver approved under section 1115 of the Social*
8 *Security Act (42 U.S.C. 1315).*

9 “(5) *DESIGNATION.—The Secretary may not*
10 *award a grant to a trauma center unless such trauma*
11 *center is verified by the American College of Surgeons*
12 *or designated by an equivalent State or local agency.*

13 “(c) *ADDITIONAL REQUIREMENTS.—The Secretary*
14 *may not award a grant to a trauma center under subsection*
15 *(a)(1) unless such trauma center—*

16 *“(1) submits to the Secretary a plan satisfactory*
17 *to the Secretary that demonstrates a continued com-*
18 *mitment to serving trauma patients regardless of*
19 *their ability to pay; and*

20 *“(2) has policies in place to assist patients who*
21 *cannot pay for part or all of the care they receive, in-*
22 *cluding a sliding fee scale, and to ensure fair billing*
23 *and collection practices.”.*

24 “(2) *CONSIDERATIONS IN MAKING GRANTS.—Sec-*
25 *tion 1242 of the Public Health Service Act (42 U.S.C.*

1 300d–42) is amended by striking subsections (a) and
2 (b) and inserting the following:

3 “(a) SUBSTANTIAL UNCOMPENSATED CARE
4 AWARDS.—

5 “(1) *IN GENERAL.*—The Secretary shall establish
6 an award basis for each eligible trauma center for
7 grants under section 1241(a)(1) according to the per-
8 centage described in paragraph (2), subject to the re-
9 quirements of section 1241(b)(3).

10 “(2) *PERCENTAGES.*—The applicable percentages
11 are as follows:

12 “(A) With respect to a category A trauma
13 center, 100 percent of the uncompensated care
14 costs.

15 “(B) With respect to a category B trauma
16 center, not more than 75 percent of the uncom-
17 pensated care costs.

18 “(C) With respect to a category C trauma
19 center, not more than 50 percent of the uncom-
20 pensated care costs.

21 “(b) *CORE MISSION AWARDS.*—

22 “(1) *IN GENERAL.*—In awarding grants under
23 section 1241(a)(2), the Secretary shall—

1 “(A) reserve 25 percent of the amount allo-
2 cated for core mission awards for Level III and
3 Level IV trauma centers; and

4 “(B) reserve 25 percent of the amount allo-
5 cated for core mission awards for large urban
6 Level I and II trauma centers—

7 “(i) that have at least 1 graduate med-
8 ical education fellowship in trauma or
9 trauma related specialties for which de-
10 mand is exceeding supply;

11 “(ii) for which—

12 “(I) annual uncompensated care
13 costs exceed \$10,000,000; or

14 “(II) at least 20 percent of emer-
15 gency department visits are charity or
16 self-pay or Medicaid patients; and

17 “(iii) that are not eligible for substan-
18 tial uncompensated care awards under sec-
19 tion 1241(a)(1).

20 “(c) *EMERGENCY AWARDS.*—In awarding grants
21 under section 1241(a)(3), the Secretary shall—

22 “(1) give preference to any application submitted
23 by a trauma center that provides trauma care in a
24 geographic area in which the availability of trauma
25 care has significantly decreased or will significantly

1 *decrease if the center is forced to close or downgrade*
2 *service or growth in demand for trauma services ex-*
3 *ceeds capacity; and*

4 “(2) *reallocate any emergency awards funds not*
5 *obligated due to insufficient, or a lack of qualified,*
6 *applications to the significant uncompensated care*
7 *award program.”.*

8 (3) *CERTAIN AGREEMENTS.—Section 1243 of the*
9 *Public Health Service Act (42 U.S.C. 300d–43) is*
10 *amended by striking subsections (a), (b), and (c) and*
11 *inserting the following:*

12 “(a) *MAINTENANCE OF FINANCIAL SUPPORT.—The*
13 *Secretary may require a trauma center receiving a grant*
14 *under section 1241(a) to maintain access to trauma services*
15 *at comparable levels to the prior year during the grant pe-*
16 *riod.*

17 “(b) *TRAUMA CARE REGISTRY.—The Secretary may*
18 *require the trauma center receiving a grant under section*
19 *1241(a) to provide data to a national and centralized reg-*
20 *istry of trauma cases, in accordance with guidelines devel-*
21 *oped by the American College of Surgeons, and as the Sec-*
22 *retary may otherwise require.”.*

23 (4) *GENERAL PROVISIONS.—Section 1244 of the*
24 *Public Health Service Act (42 U.S.C. 300d–44) is*

1 *amended by striking subsections (a), (b), and (c) and*
2 *inserting the following:*

3 “(a) *APPLICATION.—The Secretary may not award a*
4 *grant to a trauma center under section 1241(a) unless such*
5 *center submits an application for the grant to the Secretary*
6 *and the application is in such form, is made in such man-*
7 *ner, and contains such agreements, assurances, and infor-*
8 *mation as the Secretary determines to be necessary to carry*
9 *out this part.*

10 “(b) *LIMITATION ON DURATION OF SUPPORT.—The pe-*
11 *riod during which a trauma center receives payments under*
12 *a grant under section 1241(a)(3) shall be for 3 fiscal years,*
13 *except that the Secretary may waive such requirement for*
14 *a center and authorize such center to receive such payments*
15 *for 1 additional fiscal year.*

16 “(c) *LIMITATION ON AMOUNT OF GRANT.—Notwith-*
17 *standing section 1242(a), a grant under section 1241 may*
18 *not be made in an amount exceeding \$2,000,000 for each*
19 *fiscal year.*

20 “(d) *ELIGIBILITY.—Except as provided in section*
21 *1242(b)(1)(B)(iii), acquisition of, or eligibility for, a grant*
22 *under section 1241(a) shall not preclude a trauma center*
23 *from being eligible for other grants described in such sec-*
24 *tion.*

1 “(e) *FUNDING DISTRIBUTION.*—Of the total amount
2 appropriated for a fiscal year under section 1245, 70 per-
3 cent shall be used for substantial uncompensated care
4 awards under section 1241(a)(1), 20 percent shall be used
5 for core mission awards under section 1241(a)(2), and 10
6 percent shall be used for emergency awards under section
7 1241(a)(3).

8 “(f) *MINIMUM ALLOWANCE.*—Notwithstanding sub-
9 section (e), if the amount appropriated for a fiscal year
10 under section 1245 is less than \$25,000,000, all available
11 funding for such fiscal year shall be used for substantial
12 uncompensated care awards under section 1241(a)(1).

13 “(g) *SUBSTANTIAL UNCOMPENSATED CARE AWARD*
14 *DISTRIBUTION AND PROPORTIONAL SHARE.*—Notwith-
15 standing section 1242(a), of the amount appropriated for
16 substantial uncompensated care grants for a fiscal year, the
17 Secretary shall—

18 “(1) make available—

19 “(A) 50 percent of such funds for category
20 A trauma center grantees;

21 “(B) 35 percent of such funds for category
22 B trauma center grantees; and

23 “(C) 15 percent of such funds for category
24 C trauma center grantees; and

1 “(2) provide available funds within each cat-
2 egory in a manner proportional to the award basis
3 specified in section 1242(a)(2) to each eligible trauma
4 center.

5 “(h) REPORT.—Beginning 2 years after the date of en-
6 actment of the Patient Protection and Affordable Care Act,
7 and every 2 years thereafter, the Secretary shall biennially
8 report to Congress regarding the status of the grants made
9 under section 1241 and on the overall financial stability
10 of trauma centers.”.

11 (5) AUTHORIZATION OF APPROPRIATIONS.—Sec-
12 tion 1245 of the Public Health Service Act (42 U.S.C.
13 300d–45) is amended to read as follows:

14 **“SEC. 1245. AUTHORIZATION OF APPROPRIATIONS.**

15 *“For the purpose of carrying out this part, there are*
16 *authorized to be appropriated \$100,000,000 for fiscal year*
17 *2009, and such sums as may be necessary for each of fiscal*
18 *years 2010 through 2015. Such authorization of appropria-*
19 *tions is in addition to any other authorization of appropria-*
20 *tions or amounts that are available for such purpose.”.*

21 (6) DEFINITION.—Part D of title XII of the Pub-
22 lic Health Service Act (42 U.S.C. 300d–41 et seq.) is
23 amended by adding at the end the following:

1 **“SEC. 1246. DEFINITION.**

2 *“In this part, the term ‘uncompensated care costs’*
3 *means unreimbursed costs from serving self-pay, charity,*
4 *or Medicaid patients, without regard to payment under sec-*
5 *tion 1923 of the Social Security Act, all of which are attrib-*
6 *utable to emergency care and trauma care, including costs*
7 *related to subsequent inpatient admissions to the hospital.”.*

8 **(b) TRAUMA SERVICE AVAILABILITY.**—*Title XII of the*
9 *Public Health Service Act (42 U.S.C. 300d et seq.) is*
10 *amended by adding at the end the following:*

11 **“PART H—TRAUMA SERVICE AVAILABILITY**

12 **“SEC. 1281. GRANTS TO STATES.**

13 **“(a) ESTABLISHMENT.**—*To promote universal access*
14 *to trauma care services provided by trauma centers and*
15 *trauma-related physician specialties, the Secretary shall*
16 *provide funding to States to enable such States to award*
17 *grants to eligible entities for the purposes described in this*
18 *section.*

19 **“(b) AWARDING OF GRANTS BY STATES.**—*Each State*
20 *may award grants to eligible entities within the State for*
21 *the purposes described in subparagraph (d).*

22 **“(c) ELIGIBILITY.**—

23 **“(1) IN GENERAL.**—*To be eligible to receive a*
24 *grant under subsection (b) an entity shall—*

25 **“(A) be—**

1 “(i) a public or nonprofit trauma cen-
2 ter or consortium thereof that meets that re-
3 quirements of paragraphs (1), (2), and (5)
4 of section 1241(b);

5 “(ii) a safety net public or nonprofit
6 trauma center that meets the requirements
7 of paragraphs (1) through (5) of section
8 1241(b); or

9 “(iii) a hospital in an underserved
10 area (as defined by the State) that seeks to
11 establish new trauma services; and

12 “(B) submit to the State an application at
13 such time, in such manner, and containing such
14 information as the State may require.

15 “(2) *LIMITATION.*—A State shall use at least 40
16 percent of the amount available to the State under
17 this part for a fiscal year to award grants to safety
18 net trauma centers described in paragraph (1)(A)(ii).

19 “(d) *USE OF FUNDS.*—The recipient of a grant under
20 subsection (b) shall carry out 1 or more of the following
21 activities consistent with subsection (b):

22 “(1) Providing trauma centers with funding to
23 support physician compensation in trauma-related
24 physician specialties where shortages exist in the re-

1 *gion involved, with priority provided to safety net*
2 *trauma centers described in subsection (c)(1)(A)(ii).*

3 *“(2) Providing for individual safety net trauma*
4 *center fiscal stability and costs related to having serv-*
5 *ice that is available 24 hours a day, 7 days a week,*
6 *with priority provided to safety net trauma centers*
7 *described in subsection (c)(1)(A)(ii) located in urban,*
8 *border, and rural areas.*

9 *“(3) Reducing trauma center overcrowding at*
10 *specific trauma centers related to throughput of trau-*
11 *ma patients.*

12 *“(4) Establishing new trauma services in under-*
13 *served areas as defined by the State.*

14 *“(5) Enhancing collaboration between trauma*
15 *centers and other hospitals and emergency medical*
16 *services personnel related to trauma service avail-*
17 *ability.*

18 *“(6) Making capital improvements to enhance*
19 *access and expedite trauma care, including providing*
20 *helipads and associated safety infrastructure.*

21 *“(7) Enhancing trauma surge capacity at spe-*
22 *cific trauma centers.*

23 *“(8) Ensuring expedient receipt of trauma pa-*
24 *tients transported by ground or air to the appropriate*
25 *trauma center.*

1 “(9) *Enhancing interstate trauma center collabora-*
2 *tion.*

3 “(e) *LIMITATION.*—

4 “(1) *IN GENERAL.*—*A State may use not more*
5 *than 20 percent of the amount available to the State*
6 *under this part for a fiscal year for administrative*
7 *costs associated with awarding grants and related*
8 *costs.*

9 “(2) *MAINTENANCE OF EFFORT.*—*The Secretary*
10 *may not provide funding to a State under this part*
11 *unless the State agrees that such funds will be used*
12 *to supplement and not supplant State funding other-*
13 *wise available for the activities and costs described in*
14 *this part.*

15 “(f) *DISTRIBUTION OF FUNDS.*—*The following shall*
16 *apply with respect to grants provided in this part:*

17 “(1) *LESS THAN \$10,000,000.*—*If the amount of*
18 *appropriations for this part in a fiscal year is less*
19 *than \$10,000,000, the Secretary shall divide such*
20 *funding evenly among only those States that have 1*
21 *or more trauma centers eligible for funding under sec-*
22 *tion 1241(b)(3)(A).*

23 “(2) *LESS THAN \$20,000,000.*—*If the amount of*
24 *appropriations in a fiscal year is less than*
25 *\$20,000,000, the Secretary shall divide such funding*

1 *evenly among only those States that have 1 or more*
2 *trauma centers eligible for funding under subpara-*
3 *graphs (A) and (B) of section 1241(b)(3).*

4 “(3) *LESS THAN \$30,000,000.—If the amount of*
5 *appropriations for this part in a fiscal year is less*
6 *than \$30,000,000, the Secretary shall divide such*
7 *funding evenly among only those States that have 1*
8 *or more trauma centers eligible for funding under sec-*
9 *tion 1241(b)(3).*

10 “(4) *\$30,000,000 OR MORE.—If the amount of*
11 *appropriations for this part in a fiscal year is*
12 *\$30,000,000 or more, the Secretary shall divide such*
13 *funding evenly among all States.*

14 **“SEC. 1282. AUTHORIZATION OF APPROPRIATIONS.**

15 *“For the purpose of carrying out this part, there is*
16 *authorized to be appropriated \$100,000,000 for each of fis-*
17 *cal years 2010 through 2015.”.*

18 **SEC. 3506. PROGRAM TO FACILITATE SHARED DECISION-**
19 **MAKING.**

20 *Part D of title IX of the Public Health Service Act,*
21 *as amended by section 3503, is further amended by adding*
22 *at the end the following:*

1 **“SEC. 936. PROGRAM TO FACILITATE SHARED DECISION-**
2 **MAKING.**

3 “(a) *PURPOSE.*—*The purpose of this section is to fa-*
4 *cilitate collaborative processes between patients, caregivers*
5 *or authorized representatives, and clinicians that engages*
6 *the patient, caregiver or authorized representative in deci-*
7 *sionmaking, provides patients, caregivers or authorized rep-*
8 *resentatives with information about trade-offs among treat-*
9 *ment options, and facilitates the incorporation of patient*
10 *preferences and values into the medical plan.*

11 “(b) *DEFINITIONS.*—*In this section:*

12 “(1) *PATIENT DECISION AID.*—*The term ‘patient*
13 *decision aid’ means an educational tool that helps pa-*
14 *tients, caregivers or authorized representatives under-*
15 *stand and communicate their beliefs and preferences*
16 *related to their treatment options, and to decide with*
17 *their health care provider what treatments are best for*
18 *them based on their treatment options, scientific evi-*
19 *dence, circumstances, beliefs, and preferences.*

20 “(2) *PREFERENCE SENSITIVE CARE.*—*The term*
21 *‘preference sensitive care’ means medical care for*
22 *which the clinical evidence does not clearly support*
23 *one treatment option such that the appropriate course*
24 *of treatment depends on the values of the patient or*
25 *the preferences of the patient, caregivers or authorized*
26 *representatives regarding the benefits, harms and sci-*

1 *entific evidence for each treatment option, the use of*
2 *such care should depend on the informed patient*
3 *choice among clinically appropriate treatment op-*
4 *tions.*

5 *“(c) ESTABLISHMENT OF INDEPENDENT STANDARDS*
6 *FOR PATIENT DECISION AIDS FOR PREFERENCE SENSITIVE*
7 *CARE.—*

8 *“(1) CONTRACT WITH ENTITY TO ESTABLISH*
9 *STANDARDS AND CERTIFY PATIENT DECISION AIDS.—*

10 *“(A) IN GENERAL.—For purposes of sup-*
11 *porting consensus-based standards for patient de-*
12 *cision aids for preference sensitive care and a*
13 *certification process for patient decision aids for*
14 *use in the Federal health programs and by other*
15 *interested parties, the Secretary shall have in ef-*
16 *fect a contract with the entity with a contract*
17 *under section 1890 of the Social Security Act.*
18 *Such contract shall provide that the entity per-*
19 *form the duties described in paragraph (2).*

20 *“(B) TIMING FOR FIRST CONTRACT.—As*
21 *soon as practicable after the date of the enact-*
22 *ment of this section, the Secretary shall enter*
23 *into the first contract under subparagraph (A).*

24 *“(C) PERIOD OF CONTRACT.—A contract*
25 *under subparagraph (A) shall be for a period of*

1 18 months (except such contract may be renewed
2 after a subsequent bidding process).

3 “(2) DUTIES.—The following duties are de-
4 scribed in this paragraph:

5 “(A) DEVELOP AND IDENTIFY STANDARDS
6 FOR PATIENT DECISION AIDS.—The entity shall
7 synthesize evidence and convene a broad range of
8 experts and key stakeholders to develop and iden-
9 tify consensus-based standards to evaluate pa-
10 tient decision aids for preference sensitive care.

11 “(B) ENDORSE PATIENT DECISION AIDS.—
12 The entity shall review patient decision aids and
13 develop a certification process whether patient
14 decision aids meet the standards developed and
15 identified under subparagraph (A). The entity
16 shall give priority to the review and certification
17 of patient decision aids for preference sensitive
18 care.

19 “(d) PROGRAM TO DEVELOP, UPDATE AND PATIENT
20 DECISION AIDS TO ASSIST HEALTH CARE PROVIDERS AND
21 PATIENTS.—

22 “(1) IN GENERAL.—The Secretary, acting
23 through the Director, and in coordination with heads
24 of other relevant agencies, such as the Director of the
25 Centers for Disease Control and Prevention and the

1 *Director of the National Institutes of Health, shall es-*
2 *tablish a program to award grants or contracts—*

3 *“(A) to develop, update, and produce pa-*
4 *tient decision aids for preference sensitive care to*
5 *assist health care providers in educating pa-*
6 *tients, caregivers, and authorized representatives*
7 *concerning the relative safety, relative effective-*
8 *ness (including possible health outcomes and im-*
9 *portant on functional status), and relative cost of*
10 *treatment or, where appropriate, palliative care*
11 *options;*

12 *“(B) to test such materials to ensure such*
13 *materials are balanced and evidence based in*
14 *aiding health care providers and patients, care-*
15 *givers, and authorized representatives to make*
16 *informed decisions about patient care and can be*
17 *easily incorporated into a broad array of prac-*
18 *tice settings; and*

19 *“(C) to educate providers on the use of such*
20 *materials, including through academic curricula.*

21 *“(2) REQUIREMENTS FOR PATIENT DECISION*
22 *AIDS.—Patient decision aids developed and produced*
23 *pursuant to a grant or contract under paragraph*
24 *(1)—*

1 “(A) shall be designed to engage patients,
2 caregivers, and authorized representatives in in-
3 formed decisionmaking with health care pro-
4 viders;

5 “(B) shall present up-to-date clinical evi-
6 dence about the risks and benefits of treatment
7 options in a form and manner that is age-appro-
8 priate and can be adapted for patients, care-
9 givers, and authorized representatives from a va-
10 riety of cultural and educational backgrounds to
11 reflect the varying needs of consumers and di-
12 verse levels of health literacy;

13 “(C) shall, where appropriate, explain why
14 there is a lack of evidence to support one treat-
15 ment option over another; and

16 “(D) shall address health care decisions
17 across the age span, including those affecting
18 vulnerable populations including children.

19 “(3) *DISTRIBUTION.*—The Director shall ensure
20 that patient decision aids produced with grants or
21 contracts under this section are available to the pub-
22 lic.

23 “(4) *NONDUPLICATION OF EFFORTS.*—The Direc-
24 tor shall ensure that the activities under this section
25 of the Agency and other agencies, including the Cen-

1 *ters for Disease Control and Prevention and the Na-*
2 *tional Institutes of Health, are free of unnecessary du-*
3 *plication of effort.*

4 “(e) *GRANTS TO SUPPORT SHARED DECISIONMAKING*
5 *IMPLEMENTATION.—*

6 “(1) *IN GENERAL.—The Secretary shall establish*
7 *a program to provide for the phased-in development,*
8 *implementation, and evaluation of shared decision-*
9 *making using patient decision aids to meet the objec-*
10 *tive of improving the understanding of patients of*
11 *their medical treatment options.*

12 “(2) *SHARED DECISIONMAKING RESOURCE CEN-*
13 *TERS.—*

14 “(A) *IN GENERAL.—The Secretary shall*
15 *provide grants for the establishment and support*
16 *of Shared Decisionmaking Resource Centers (re-*
17 *ferred to in this subsection as ‘Centers’) to pro-*
18 *vide technical assistance to providers and to de-*
19 *velop and disseminate best practices and other*
20 *information to support and accelerate adoption,*
21 *implementation, and effective use of patient deci-*
22 *sion aids and shared decisionmaking by pro-*
23 *viders.*

24 “(B) *OBJECTIVES.—The objective of a Cen-*
25 *ter is to enhance and promote the adoption of*

1 *patient decision aids and shared decisionmaking*
2 *through—*

3 “(i) *providing assistance to eligible*
4 *providers with the implementation and ef-*
5 *fective use of, and training on, patient deci-*
6 *sion aids; and*

7 “(ii) *the dissemination of best practices*
8 *and research on the implementation and ef-*
9 *fective use of patient decision aids.*

10 “(3) *SHARED DECISIONMAKING PARTICIPATION*
11 *GRANTS.—*

12 “(A) *IN GENERAL.—The Secretary shall*
13 *provide grants to health care providers for the*
14 *development and implementation of shared deci-*
15 *sionmaking techniques and to assess the use of*
16 *such techniques.*

17 “(B) *PREFERENCE.—In order to facilitate*
18 *the use of best practices, the Secretary shall pro-*
19 *vide a preference in making grants under this*
20 *subsection to health care providers who partici-*
21 *pate in training by Shared Decisionmaking Re-*
22 *source Centers or comparable training.*

23 “(C) *LIMITATION.—Funds under this para-*
24 *graph shall not be used to purchase or imple-*
25 *ment use of patient decision aids other than*

1 *those certified under the process identified in*
2 *subsection (c).*

3 “(4) *GUIDANCE.*—*The Secretary may issue guid-*
4 *ance to eligible grantees under this subsection on the*
5 *use of patient decision aids.*

6 “(f) *FUNDING.*—*For purposes of carrying out this sec-*
7 *tion there are authorized to be appropriated such sums as*
8 *may be necessary for fiscal year 2010 and each subsequent*
9 *fiscal year.”.*

10 **SEC. 3507. PRESENTATION OF PRESCRIPTION DRUG BEN-**
11 **EFIT AND RISK INFORMATION.**

12 (a) *IN GENERAL.*—*The Secretary of Health and*
13 *Human Services (referred to in this section as the “Sec-*
14 *retary”), acting through the Commissioner of Food and*
15 *Drugs, shall determine whether the addition of quantitative*
16 *summaries of the benefits and risks of prescription drugs*
17 *in a standardized format (such as a table or drug facts box)*
18 *to the promotional labeling or print advertising of such*
19 *drugs would improve health care decisionmaking by clini-*
20 *cians and patients and consumers.*

21 (b) *REVIEW AND CONSULTATION.*—*In making the de-*
22 *termination under subsection (a), the Secretary shall review*
23 *all available scientific evidence and research on decision-*
24 *making and social and cognitive psychology and consult*
25 *with drug manufacturers, clinicians, patients and con-*

1 *sumers, experts in health literacy, representatives of racial*
2 *and ethnic minorities, and experts in women's and pedi-*
3 *atric health.*

4 *(c) REPORT.—Not later than 1 year after the date of*
5 *enactment of this Act, the Secretary shall submit to Con-*
6 *gress a report that provides—*

7 *(1) the determination by the Secretary under*
8 *subsection (a); and*

9 *(2) the reasoning and analysis underlying that*
10 *determination.*

11 *(d) AUTHORITY.—If the Secretary determines under*
12 *subsection (a) that the addition of quantitative summaries*
13 *of the benefits and risks of prescription drugs in a stand-*
14 *ardized format (such as a table or drug facts box) to the*
15 *promotional labeling or print advertising of such drugs*
16 *would improve health care decisionmaking by clinicians*
17 *and patients and consumers, then the Secretary, not later*
18 *than 3 years after the date of submission of the report under*
19 *subsection (c), shall promulgate proposed regulations as*
20 *necessary to implement such format.*

21 *(e) CLARIFICATION.—Nothing in this section shall be*
22 *construed to restrict the existing authorities of the Secretary*
23 *with respect to benefit and risk information.*

1 **SEC. 3508. DEMONSTRATION PROGRAM TO INTEGRATE**
2 **QUALITY IMPROVEMENT AND PATIENT SAFE-**
3 **TY TRAINING INTO CLINICAL EDUCATION OF**
4 **HEALTH PROFESSIONALS.**

5 (a) *IN GENERAL.*—*The Secretary may award grants*
6 *to eligible entities or consortia under this section to carry*
7 *out demonstration projects to develop and implement aca-*
8 *demic curricula that integrates quality improvement and*
9 *patient safety in the clinical education of health profes-*
10 *sionals. Such awards shall be made on a competitive basis*
11 *and pursuant to peer review.*

12 (b) *ELIGIBILITY.*—*To be eligible to receive a grant*
13 *under subsection (a), an entity or consortium shall—*

14 (1) *submit to the Secretary an application at*
15 *such time, in such manner, and containing such in-*
16 *formation as the Secretary may require;*

17 (2) *be or include—*

18 (A) *a health professions school;*

19 (B) *a school of public health;*

20 (C) *a school of social work;*

21 (D) *a school of nursing;*

22 (E) *a school of pharmacy;*

23 (F) *an institution with a graduate medical*
24 *education program; or*

25 (G) *a school of health care administration;*

1 (3) *collaborate in the development of curricula*
2 *described in subsection (a) with an organization that*
3 *accredits such school or institution;*

4 (4) *provide for the collection of data regarding*
5 *the effectiveness of the demonstration project; and*

6 (5) *provide matching funds in accordance with*
7 *subsection (c).*

8 (c) *MATCHING FUNDS.—*

9 (1) *IN GENERAL.—The Secretary may award a*
10 *grant to an entity or consortium under this section*
11 *only if the entity or consortium agrees to make avail-*
12 *able non-Federal contributions toward the costs of the*
13 *program to be funded under the grant in an amount*
14 *that is not less than \$1 for each \$5 of Federal funds*
15 *provided under the grant.*

16 (2) *DETERMINATION OF AMOUNT CONTRIB-*
17 *UTED.—Non-Federal contributions under paragraph*
18 *(1) may be in cash or in-kind, fairly evaluated, in-*
19 *cluding equipment or services. Amounts provided by*
20 *the Federal Government, or services assisted or sub-*
21 *sidized to any significant extent by the Federal Gov-*
22 *ernment, may not be included in determining the*
23 *amount of such contributions.*

24 (d) *EVALUATION.—The Secretary shall take such ac-*
25 *tion as may be necessary to evaluate the projects funded*

1 *under this section and publish, make publicly available,*
 2 *and disseminate the results of such evaluations on as wide*
 3 *a basis as is practicable.*

4 *(e) REPORTS.—Not later than 2 years after the date*
 5 *of enactment of this section, and annually thereafter, the*
 6 *Secretary shall submit to the Committee on Health, Edu-*
 7 *cation, Labor, and Pensions and the Committee on Finance*
 8 *of the Senate and the Committee on Energy and Commerce*
 9 *and the Committee on Ways and Means of the House of*
 10 *Representatives a report that—*

11 *(1) describes the specific projects supported*
 12 *under this section; and*

13 *(2) contains recommendations for Congress based*
 14 *on the evaluation conducted under subsection (d).*

15 **SEC. 3509. IMPROVING WOMEN'S HEALTH.**

16 *(a) HEALTH AND HUMAN SERVICES OFFICE ON*
 17 *WOMEN'S HEALTH.—*

18 *(1) ESTABLISHMENT.—Part A of title II of the*
 19 *Public Health Service Act (42 U.S.C. 202 et seq.) is*
 20 *amended by adding at the end the following:*

21 **“SEC. 229. HEALTH AND HUMAN SERVICES OFFICE ON WOM-**
 22 **EN'S HEALTH.**

23 *“(a) ESTABLISHMENT OF OFFICE.—There is estab-*
 24 *lished within the Office of the Secretary, an Office on Wom-*
 25 *en's Health (referred to in this section as the ‘Office’). The*

1 *Office shall be headed by a Deputy Assistant Secretary for*
2 *Women's Health who may report to the Secretary.*

3 “(b) *DUTIES.—The Secretary, acting through the Of-*
4 *fice, with respect to the health concerns of women, shall—*

5 “(1) *establish short-range and long-range goals*
6 *and objectives within the Department of Health and*
7 *Human Services and, as relevant and appropriate,*
8 *coordinate with other appropriate offices on activities*
9 *within the Department that relate to disease preven-*
10 *tion, health promotion, service delivery, research, and*
11 *public and health care professional education, for*
12 *issues of particular concern to women throughout*
13 *their lifespan;*

14 “(2) *provide expert advice and consultation to*
15 *the Secretary concerning scientific, legal, ethical, and*
16 *policy issues relating to women's health;*

17 “(3) *monitor the Department of Health and*
18 *Human Services' offices, agencies, and regional ac-*
19 *tivities regarding women's health and identify needs*
20 *regarding the coordination of activities, including in-*
21 *tramural and extramural multidisciplinary activi-*
22 *ties;*

23 “(4) *establish a Department of Health and*
24 *Human Services Coordinating Committee on Wom-*
25 *en's Health, which shall be chaired by the Deputy As-*

1 *sistant Secretary for Women’s Health and composed*
2 *of senior level representatives from each of the agen-*
3 *cies and offices of the Department of Health and*
4 *Human Services;*

5 *“(5) establish a National Women’s Health Infor-*
6 *mation Center to—*

7 *“(A) facilitate the exchange of information*
8 *regarding matters relating to health information,*
9 *health promotion, preventive health services, re-*
10 *search advances, and education in the appro-*
11 *priate use of health care;*

12 *“(B) facilitate access to such information;*

13 *“(C) assist in the analysis of issues and*
14 *problems relating to the matters described in this*
15 *paragraph; and*

16 *“(D) provide technical assistance with re-*
17 *spect to the exchange of information (including*
18 *facilitating the development of materials for such*
19 *technical assistance);*

20 *“(6) coordinate efforts to promote women’s health*
21 *programs and policies with the private sector; and*

22 *“(7) through publications and any other means*
23 *appropriate, provide for the exchange of information*
24 *between the Office and recipients of grants, contracts,*

1 *and agreements under subsection (c), and between the*
2 *Office and health professionals and the general public.*

3 “(c) *GRANTS AND CONTRACTS REGARDING DUTIES.—*

4 “(1) *AUTHORITY.—In carrying out subsection*
5 *(b), the Secretary may make grants to, and enter into*
6 *cooperative agreements, contracts, and interagency*
7 *agreements with, public and private entities, agencies,*
8 *and organizations.*

9 “(2) *EVALUATION AND DISSEMINATION.—The*
10 *Secretary shall directly or through contracts with*
11 *public and private entities, agencies, and organiza-*
12 *tions, provide for evaluations of projects carried out*
13 *with financial assistance provided under paragraph*
14 *(1) and for the dissemination of information devel-*
15 *oped as a result of such projects.*

16 “(d) *REPORTS.—Not later than 1 year after the date*
17 *of enactment of this section, and every second year there-*
18 *after, the Secretary shall prepare and submit to the appro-*
19 *priate committees of Congress a report describing the activi-*
20 *ties carried out under this section during the period for*
21 *which the report is being prepared.*

22 “(e) *AUTHORIZATION OF APPROPRIATIONS.—For the*
23 *purpose of carrying out this section, there are authorized*
24 *to be appropriated such sums as may be necessary for each*
25 *of the fiscal years 2010 through 2014.”.*

1 (2) *TRANSFER OF FUNCTIONS.*—*There are trans-*
2 *ferred to the Office on Women’s Health (established*
3 *under section 229 of the Public Health Service Act,*
4 *as added by this section), all functions exercised by*
5 *the Office on Women’s Health of the Public Health*
6 *Service prior to the date of enactment of this section,*
7 *including all personnel and compensation authority,*
8 *all delegation and assignment authority, and all re-*
9 *maining appropriations. All orders, determinations,*
10 *rules, regulations, permits, agreements, grants, con-*
11 *tracts, certificates, licenses, registrations, privileges,*
12 *and other administrative actions that—*

13 (A) *have been issued, made, granted, or al-*
14 *lowed to become effective by the President, any*
15 *Federal agency or official thereof, or by a court*
16 *of competent jurisdiction, in the performance of*
17 *functions transferred under this paragraph; and*

18 (B) *are in effect at the time this section*
19 *takes effect, or were final before the date of enact-*
20 *ment of this section and are to become effective*
21 *on or after such date,*

22 *shall continue in effect according to their terms until*
23 *modified, terminated, superseded, set aside, or revoked*
24 *in accordance with law by the President, the Sec-*

1 retary, or other authorized official, a court of com-
2 petent jurisdiction, or by operation of law.

3 (b) *CENTERS FOR DISEASE CONTROL AND PREVEN-*
4 *TION OFFICE OF WOMEN’S HEALTH.*—Part A of title III
5 of the Public Health Service Act (42 U.S.C. 241 et seq.)
6 is amended by adding at the end the following:

7 **“SEC. 310A. CENTERS FOR DISEASE CONTROL AND PREVEN-**
8 **TION OFFICE OF WOMEN’S HEALTH.**

9 “(a) *ESTABLISHMENT.*—There is established within
10 the Office of the Director of the Centers for Disease Control
11 and Prevention, an office to be known as the Office of Wom-
12 en’s Health (referred to in this section as the ‘Office’). The
13 Office shall be headed by a director who shall be appointed
14 by the Director of such Centers.

15 “(b) *PURPOSE.*—The Director of the Office shall—

16 “(1) report to the Director of the Centers for Dis-
17 ease Control and Prevention on the current level of
18 the Centers’ activity regarding women’s health condi-
19 tions across, where appropriate, age, biological, and
20 sociocultural contexts, in all aspects of the Centers’
21 work, including prevention programs, public and pro-
22 fessional education, services, and treatment;

23 “(2) establish short-range and long-range goals
24 and objectives within the Centers for women’s health
25 and, as relevant and appropriate, coordinate with

1 *other appropriate offices on activities within the Cen-*
2 *ters that relate to prevention, research, education and*
3 *training, service delivery, and policy development, for*
4 *issues of particular concern to women;*

5 *“(3) identify projects in women’s health that*
6 *should be conducted or supported by the Centers;*

7 *“(4) consult with health professionals, non-*
8 *governmental organizations, consumer organizations,*
9 *women’s health professionals, and other individuals*
10 *and groups, as appropriate, on the policy of the Cen-*
11 *ters with regard to women; and*

12 *“(5) serve as a member of the Department of*
13 *Health and Human Services Coordinating Committee*
14 *on Women’s Health (established under section*
15 *229(b)(4)).*

16 *“(c) DEFINITION.—As used in this section, the term*
17 *‘women’s health conditions’, with respect to women of all*
18 *age, ethnic, and racial groups, means diseases, disorders,*
19 *and conditions—*

20 *“(1) unique to, significantly more serious for, or*
21 *significantly more prevalent in women; and*

22 *“(2) for which the factors of medical risk or type*
23 *of medical intervention are different for women, or for*
24 *which there is reasonable evidence that indicates that*
25 *such factors or types may be different for women.*

1 “(d) *AUTHORIZATION OF APPROPRIATIONS.*—*For the*
2 *purpose of carrying out this section, there are authorized*
3 *to be appropriated such sums as may be necessary for each*
4 *of the fiscal years 2010 through 2014.*”.

5 (c) *OFFICE OF WOMEN’S HEALTH RESEARCH.*—*Sec-*
6 *tion 486(a) of the Public Health Service Act (42 U.S.C.*
7 *287d(a)) is amended by inserting “and who shall report*
8 *directly to the Director” before the period at the end thereof.*

9 (d) *SUBSTANCE ABUSE AND MENTAL HEALTH SERV-*
10 *ICES ADMINISTRATION.*—*Section 501(f) of the Public*
11 *Health Service Act (42 U.S.C. 290aa(f)) is amended—*

12 (1) *in paragraph (1), by inserting “who shall re-*
13 *port directly to the Administrator” before the period;*

14 (2) *by redesignating paragraph (4) as para-*
15 *graph (5); and*

16 (3) *by inserting after paragraph (3), the fol-*
17 *lowing:*

18 “(4) *OFFICE.*—*Nothing in this subsection shall*
19 *be construed to preclude the Secretary from estab-*
20 *lishing within the Substance Abuse and Mental*
21 *Health Administration an Office of Women’s*
22 *Health.*”.

23 (e) *AGENCY FOR HEALTHCARE RESEARCH AND QUAL-*
24 *ITY ACTIVITIES REGARDING WOMEN’S HEALTH.*—*Part C*

1 of title IX of the Public Health Service Act (42 U.S.C. 299c
2 et seq.) is amended—

3 (1) by redesignating sections 925 and 926 as sec-
4 tions 926 and 927, respectively; and

5 (2) by inserting after section 924 the following:

6 **“SEC. 925. ACTIVITIES REGARDING WOMEN’S HEALTH.**

7 “(a) *ESTABLISHMENT.*—There is established within
8 the Office of the Director, an Office of Women’s Health and
9 Gender-Based Research (referred to in this section as the
10 ‘Office’). The Office shall be headed by a director who shall
11 be appointed by the Director of Healthcare and Research
12 Quality.

13 “(b) *PURPOSE.*—The official designated under sub-
14 section (a) shall—

15 “(1) report to the Director on the current Agency
16 level of activity regarding women’s health, across,
17 where appropriate, age, biological, and sociocultural
18 contexts, in all aspects of Agency work, including the
19 development of evidence reports and clinical practice
20 protocols and the conduct of research into patient out-
21 comes, delivery of health care services, quality of care,
22 and access to health care;

23 “(2) establish short-range and long-range goals
24 and objectives within the Agency for research impor-
25 tant to women’s health and, as relevant and appro-

1 *appropriate, coordinate with other appropriate offices on*
2 *activities within the Agency that relate to health serv-*
3 *ices and medical effectiveness research, for issues of*
4 *particular concern to women;*

5 *“(3) identify projects in women’s health that*
6 *should be conducted or supported by the Agency;*

7 *“(4) consult with health professionals, non-*
8 *governmental organizations, consumer organizations,*
9 *women’s health professionals, and other individuals*
10 *and groups, as appropriate, on Agency policy with*
11 *regard to women; and*

12 *“(5) serve as a member of the Department of*
13 *Health and Human Services Coordinating Committee*
14 *on Women’s Health (established under section*
15 *229(b)(4)).”.*

16 *“(c) AUTHORIZATION OF APPROPRIATIONS.—For the*
17 *purpose of carrying out this section, there are authorized*
18 *to be appropriated such sums as may be necessary for each*
19 *of the fiscal years 2010 through 2014.”.*

20 *(f) HEALTH RESOURCES AND SERVICES ADMINISTRA-*
21 *TION OFFICE OF WOMEN’S HEALTH.—Title VII of the So-*
22 *cial Security Act (42 U.S.C. 901 et seq.) is amended by*
23 *adding at the end the following:*

1 **“SEC. 713. OFFICE OF WOMEN’S HEALTH.**

2 “(a) *ESTABLISHMENT.*—*The Secretary shall establish*
3 *within the Office of the Administrator of the Health Re-*
4 *sources and Services Administration, an office to be known*
5 *as the Office of Women’s Health. The Office shall be headed*
6 *by a director who shall be appointed by the Administrator.*

7 “(b) *PURPOSE.*—*The Director of the Office shall—*

8 “(1) *report to the Administrator on the current*
9 *Administration level of activity regarding women’s*
10 *health across, where appropriate, age, biological, and*
11 *sociocultural contexts;*

12 “(2) *establish short-range and long-range goals*
13 *and objectives within the Health Resources and Serv-*
14 *ices Administration for women’s health and, as rel-*
15 *evant and appropriate, coordinate with other appro-*
16 *priate offices on activities within the Administration*
17 *that relate to health care provider training, health*
18 *service delivery, research, and demonstration projects,*
19 *for issues of particular concern to women;*

20 “(3) *identify projects in women’s health that*
21 *should be conducted or supported by the bureaus of*
22 *the Administration;*

23 “(4) *consult with health professionals, non-*
24 *governmental organizations, consumer organizations,*
25 *women’s health professionals, and other individuals*

1 *and groups, as appropriate, on Administration policy*
2 *with regard to women; and*

3 “(5) *serve as a member of the Department of*
4 *Health and Human Services Coordinating Committee*
5 *on Women’s Health (established under section*
6 *229(b)(4) of the Public Health Service Act).*

7 “(c) *CONTINUED ADMINISTRATION OF EXISTING PRO-*
8 *GRAMS.—The Director of the Office shall assume the author-*
9 *ity for the development, implementation, administration,*
10 *and evaluation of any projects carried out through the*
11 *Health Resources and Services Administration relating to*
12 *women’s health on the date of enactment of this section.*

13 “(d) *DEFINITIONS.—For purposes of this section:*

14 “(1) *ADMINISTRATION.—The term ‘Administra-*
15 *tion’ means the Health Resources and Services Ad-*
16 *ministration.*

17 “(2) *ADMINISTRATOR.—The term ‘Adminis-*
18 *trator’ means the Administrator of the Health Re-*
19 *sources and Services Administration.*

20 “(3) *OFFICE.—The term ‘Office’ means the Office*
21 *of Women’s Health established under this section in*
22 *the Administration.*

23 “(e) *AUTHORIZATION OF APPROPRIATIONS.—For the*
24 *purpose of carrying out this section, there are authorized*

1 *to be appropriated such sums as may be necessary for each*
2 *of the fiscal years 2010 through 2014.”.*

3 *(g) FOOD AND DRUG ADMINISTRATION OFFICE OF*
4 *WOMEN’S HEALTH.—Chapter X of the Federal Food, Drug,*
5 *and Cosmetic Act (21 U.S.C. 391 et seq.) is amended by*
6 *adding at the end the following:*

7 **“SEC. 1011. OFFICE OF WOMEN’S HEALTH.**

8 *“(a) ESTABLISHMENT.—There is established within*
9 *the Office of the Commissioner, an office to be known as*
10 *the Office of Women’s Health (referred to in this section*
11 *as the ‘Office’). The Office shall be headed by a director who*
12 *shall be appointed by the Commissioner of Food and Drugs.*

13 *“(b) PURPOSE.—The Director of the Office shall—*

14 *“(1) report to the Commissioner of Food and*
15 *Drugs on current Food and Drug Administration (re-*
16 *ferred to in this section as the ‘Administration’) levels*
17 *of activity regarding women’s participation in clin-*
18 *ical trials and the analysis of data by sex in the test-*
19 *ing of drugs, medical devices, and biological products*
20 *across, where appropriate, age, biological, and*
21 *sociocultural contexts;*

22 *“(2) establish short-range and long-range goals*
23 *and objectives within the Administration for issues of*
24 *particular concern to women’s health within the juris-*
25 *isdiction of the Administration, including, where rel-*

1 *evant and appropriate, adequate inclusion of women*
2 *and analysis of data by sex in Administration proto-*
3 *cols and policies;*

4 “(3) *provide information to women and health*
5 *care providers on those areas in which differences be-*
6 *tween men and women exist;*

7 “(4) *consult with pharmaceutical, biologics, and*
8 *device manufacturers, health professionals with exper-*
9 *tise in women’s issues, consumer organizations, and*
10 *women’s health professionals on Administration pol-*
11 *icy with regard to women;*

12 “(5) *make annual estimates of funds needed to*
13 *monitor clinical trials and analysis of data by sex in*
14 *accordance with needs that are identified; and*

15 “(6) *serve as a member of the Department of*
16 *Health and Human Services Coordinating Committee*
17 *on Women’s Health (established under section*
18 *229(b)(4) of the Public Health Service Act).*

19 “(c) *AUTHORIZATION OF APPROPRIATIONS.—For the*
20 *purpose of carrying out this section, there are authorized*
21 *to be appropriated such sums as may be necessary for each*
22 *of the fiscal years 2010 through 2014.”.*

23 (h) *NO NEW REGULATORY AUTHORITY.—Nothing in*
24 *this section and the amendments made by this section may*

1 *be construed as establishing regulatory authority or modi-*
2 *fying any existing regulatory authority.*

3 (i) *LIMITATION ON TERMINATION.*—*Notwithstanding*
4 *any other provision of law, a Federal office of women’s*
5 *health (including the Office of Research on Women’s Health*
6 *of the National Institutes of Health) or Federal appointive*
7 *position with primary responsibility over women’s health*
8 *issues (including the Associate Administrator for Women’s*
9 *Services under the Substance Abuse and Mental Health*
10 *Services Administration) that is in existence on the date*
11 *of enactment of this section shall not be terminated, reorga-*
12 *nized, or have any of its powers or duties transferred unless*
13 *such termination, reorganization, or transfer is approved*
14 *by Congress through the adoption of a concurrent resolution*
15 *of approval.*

16 (j) *RULE OF CONSTRUCTION.*—*Nothing in this section*
17 *(or the amendments made by this section) shall be construed*
18 *to limit the authority of the Secretary of Health and*
19 *Human Services with respect to women’s health, or with*
20 *respect to activities carried out through the Department of*
21 *Health and Human Services on the date of enactment of*
22 *this section.*

23 **SEC. 3510. PATIENT NAVIGATOR PROGRAM.**

24 *Section 340A of the Public Health Service Act (42*
25 *U.S.C. 256a) is amended—*

1 (1) *by striking subsection (d)(3) and inserting*
2 *the following:*

3 “(3) *LIMITATIONS ON GRANT PERIOD.*—*In car-*
4 *rying out this section, the Secretary shall ensure that*
5 *the total period of a grant does not exceed 4 years.”;*

6 (2) *in subsection (e), by adding at the end the*
7 *following:*

8 “(3) *MINIMUM CORE PROFICIENCIES.*—*The Sec-*
9 *retary shall not award a grant to an entity under*
10 *this section unless such entity provides assurances*
11 *that patient navigators recruited, assigned, trained,*
12 *or employed using grant funds meet minimum core*
13 *proficiencies, as defined by the entity that submits the*
14 *application, that are tailored for the main focus or*
15 *intervention of the navigator involved.”; and*

16 (3) *in subsection (m)—*

17 (A) *in paragraph (1), by striking “and*
18 *\$3,500,000 for fiscal year 2010.” and inserting*
19 *“\$3,500,000 for fiscal year 2010, and such sums*
20 *as may be necessary for each of fiscal years 2011*
21 *through 2015.”; and*

22 (B) *in paragraph (2), by striking “2010”*
23 *and inserting “2015”.*

1 **SEC. 3511. AUTHORIZATION OF APPROPRIATIONS.**

2 *Except where otherwise provided in this subtitle (or*
3 *an amendment made by this subtitle), there is authorized*
4 *to be appropriated such sums as may be necessary to carry*
5 *out this subtitle (and such amendments made by this sub-*
6 *title).*

7 ***Subtitle G—Protecting and Improv-***
8 ***ing Guaranteed Medicare Bene-***
9 ***fits***

10 **SEC. 3601. PROTECTING AND IMPROVING GUARANTEED**
11 **MEDICARE BENEFITS.**

12 (a) *PROTECTING GUARANTEED MEDICARE BENE-*
13 *FITS.—Nothing in the provisions of, or amendments made*
14 *by, this Act shall result in a reduction of guaranteed bene-*
15 *fits under title XVIII of the Social Security Act.*

16 (b) *ENSURING THAT MEDICARE SAVINGS BENEFIT*
17 *THE MEDICARE PROGRAM AND MEDICARE BENE-*
18 *FICIARIES.—Savings generated for the Medicare program*
19 *under title XVIII of the Social Security Act under the pro-*
20 *visions of, and amendments made by, this Act shall extend*
21 *the solvency of the Medicare trust funds, reduce Medicare*
22 *premiums and other cost-sharing for beneficiaries, and im-*
23 *prove or expand guaranteed Medicare benefits and protect*
24 *access to Medicare providers.*

1 **SEC. 3602. NO CUTS IN GUARANTEED BENEFITS.**

2 *Nothing in this Act shall result in the reduction or*
3 *elimination of any benefits guaranteed by law to partici-*
4 *pants in Medicare Advantage plans.*

5 **TITLE IV—PREVENTION OF**
6 **CHRONIC DISEASE AND IM-**
7 **PROVING PUBLIC HEALTH**

8 **Subtitle A—Modernizing Disease**
9 **Prevention and Public Health**
10 **Systems**

11 **SEC. 4001. NATIONAL PREVENTION, HEALTH PROMOTION**
12 **AND PUBLIC HEALTH COUNCIL.**

13 *(a) ESTABLISHMENT.—The President shall establish,*
14 *within the Department of Health and Human Services, a*
15 *council to be known as the “National Prevention, Health*
16 *Promotion and Public Health Council” (referred to in this*
17 *section as the “Council”).*

18 *(b) CHAIRPERSON.—The President shall appoint the*
19 *Surgeon General to serve as the chairperson of the Council.*

20 *(c) COMPOSITION.—The Council shall be composed*
21 *of—*

22 *(1) the Secretary of Health and Human Serv-*
23 *ices;*

24 *(2) the Secretary of Agriculture;*

25 *(3) the Secretary of Education;*

1 (4) *the Chairman of the Federal Trade Commis-*
2 *sion;*

3 (5) *the Secretary of Transportation;*

4 (6) *the Secretary of Labor;*

5 (7) *the Secretary of Homeland Security;*

6 (8) *the Administrator of the Environmental Pro-*
7 *tection Agency;*

8 (9) *the Director of the Office of National Drug*
9 *Control Policy;*

10 (10) *the Director of the Domestic Policy Council;*

11 (11) *the Assistant Secretary for Indian Affairs;*

12 (12) *the Chairman of the Corporation for Na-*
13 *tional and Community Service; and*

14 (13) *the head of any other Federal agency that*
15 *the chairperson determines is appropriate.*

16 (d) *PURPOSES AND DUTIES.—The Council shall—*

17 (1) *provide coordination and leadership at the*
18 *Federal level, and among all Federal departments and*
19 *agencies, with respect to prevention, wellness and*
20 *health promotion practices, the public health system,*
21 *and integrative health care in the United States;*

22 (2) *after obtaining input from relevant stake-*
23 *holders, develop a national prevention, health pro-*
24 *motion, public health, and integrative health care*
25 *strategy that incorporates the most effective and*

1 *achievable means of improving the health status of*
2 *Americans and reducing the incidence of preventable*
3 *illness and disability in the United States;*

4 (3) *provide recommendations to the President*
5 *and Congress concerning the most pressing health*
6 *issues confronting the United States and changes in*
7 *Federal policy to achieve national wellness, health*
8 *promotion, and public health goals, including the re-*
9 *duction of tobacco use, sedentary behavior, and poor*
10 *nutrition;*

11 (4) *consider and propose evidence-based models,*
12 *policies, and innovative approaches for the promotion*
13 *of transformative models of prevention, integrative*
14 *health, and public health on individual and commu-*
15 *nity levels across the United States;*

16 (5) *establish processes for continual public input,*
17 *including input from State, regional, and local lead-*
18 *ership communities and other relevant stakeholders,*
19 *including Indian tribes and tribal organizations;*

20 (6) *submit the reports required under subsection*
21 *(g); and*

22 (7) *carry out other activities determined appro-*
23 *priate by the President.*

24 (e) *MEETINGS.*—*The Council shall meet at the call of*
25 *the Chairperson.*

1 (f) *ADVISORY GROUP.*—

2 (1) *IN GENERAL.*—*The President shall establish*
3 *an Advisory Group to the Council to be known as the*
4 *“Advisory Group on Prevention, Health Promotion,*
5 *and Integrative and Public Health” (hereafter re-*
6 *ferred to in this section as the “Advisory Group”).*
7 *The Advisory Group shall be within the Department*
8 *of Health and Human Services and report to the Sur-*
9 *geon General.*

10 (2) *COMPOSITION.*—

11 (A) *IN GENERAL.*—*The Advisory Group*
12 *shall be composed of not more than 25 non-Fed-*
13 *eral members to be appointed by the President.*

14 (B) *REPRESENTATION.*—*In appointing*
15 *members under subparagraph (A), the President*
16 *shall ensure that the Advisory Group includes a*
17 *diverse group of licensed health professionals, in-*
18 *cluding integrative health practitioners who have*
19 *expertise in—*

20 (i) *worksite health promotion;*

21 (ii) *community services, including*
22 *community health centers;*

23 (iii) *preventive medicine;*

24 (iv) *health coaching;*

25 (v) *public health education;*

1 (vi) geriatrics; and

2 (vii) rehabilitation medicine.

3 (3) *PURPOSES AND DUTIES.*—*The Advisory*
4 *Group shall develop policy and program recommenda-*
5 *tions and advise the Council on lifestyle-based chronic*
6 *disease prevention and management, integrative*
7 *health care practices, and health promotion.*

8 (g) *NATIONAL PREVENTION AND HEALTH PROMOTION*
9 *STRATEGY.*—*Not later than 1 year after the date of enact-*
10 *ment of this Act, the Chairperson, in consultation with the*
11 *Council, shall develop and make public a national preven-*
12 *tion, health promotion and public health strategy, and shall*
13 *review and revise such strategy periodically. Such strategy*
14 *shall—*

15 (1) *set specific goals and objectives for improving*
16 *the health of the United States through federally-sup-*
17 *ported prevention, health promotion, and public*
18 *health programs, consistent with ongoing goal setting*
19 *efforts conducted by specific agencies;*

20 (2) *establish specific and measurable actions and*
21 *timelines to carry out the strategy, and determine ac-*
22 *countability for meeting those timelines, within and*
23 *across Federal departments and agencies; and*

24 (3) *make recommendations to improve Federal*
25 *efforts relating to prevention, health promotion, pub-*

1 *lic health, and integrative health care practices to en-*
2 *sure Federal efforts are consistent with available*
3 *standards and evidence.*

4 *(h) REPORT.—Not later than July 1, 2010, and annu-*
5 *ally thereafter through January 1, 2015, the Council shall*
6 *submit to the President and the relevant committees of Con-*
7 *gress, a report that—*

8 *(1) describes the activities and efforts on preven-*
9 *tion, health promotion, and public health and activi-*
10 *ties to develop a national strategy conducted by the*
11 *Council during the period for which the report is pre-*
12 *pared;*

13 *(2) describes the national progress in meeting*
14 *specific prevention, health promotion, and public*
15 *health goals defined in the strategy and further de-*
16 *scribes corrective actions recommended by the Council*
17 *and taken by relevant agencies and organizations to*
18 *meet these goals;*

19 *(3) contains a list of national priorities on*
20 *health promotion and disease prevention to address*
21 *lifestyle behavior modification (smoking cessation,*
22 *proper nutrition, appropriate exercise, mental health,*
23 *behavioral health, substance use disorder, and domes-*
24 *tic violence screenings) and the prevention measures*
25 *for the 5 leading disease killers in the United States;*

1 (4) contains specific science-based initiatives to
2 achieve the measurable goals of Healthy People 2010
3 regarding nutrition, exercise, and smoking cessation,
4 and targeting the 5 leading disease killers in the
5 United States;

6 (5) contains specific plans for consolidating Fed-
7 eral health programs and Centers that exist to pro-
8 mote healthy behavior and reduce disease risk (includ-
9 ing eliminating programs and offices determined to
10 be ineffective in meeting the priority goals of Healthy
11 People 2010);

12 (6) contains specific plans to ensure that all
13 Federal health care programs are fully coordinated
14 with science-based prevention recommendations by the
15 Director of the Centers for Disease Control and Pre-
16 vention; and

17 (7) contains specific plans to ensure that all
18 non-Department of Health and Human Services pre-
19 vention programs are based on the science-based
20 guidelines developed by the Centers for Disease Con-
21 trol and Prevention under paragraph (4).

22 (i) *PERIODIC REVIEWS.*—The Secretary and the
23 Comptroller General of the United States shall jointly con-
24 duct periodic reviews, not less than every 5 years, and eval-
25 uations of every Federal disease prevention and health pro-

1 *motion initiative, program, and agency. Such reviews shall*
2 *be evaluated based on effectiveness in meeting metrics-based*
3 *goals with an analysis posted on such agencies' public*
4 *Internet websites.*

5 **SEC. 4002. PREVENTION AND PUBLIC HEALTH FUND.**

6 (a) *PURPOSE.*—*It is the purpose of this section to es-*
7 *tablish a Prevention and Public Health Fund (referred to*
8 *in this section as the “Fund”), to be administered through*
9 *the Department of Health and Human Services, Office of*
10 *the Secretary, to provide for expanded and sustained na-*
11 *tional investment in prevention and public health programs*
12 *to improve health and help restrain the rate of growth in*
13 *private and public sector health care costs.*

14 (b) *FUNDING.*—*There are hereby authorized to be ap-*
15 *propriated, and appropriated, to the Fund, out of any mon-*
16 *ies in the Treasury not otherwise appropriated—*

17 (1) *for fiscal year 2010, \$500,000,000;*

18 (2) *for fiscal year 2011, \$750,000,000;*

19 (3) *for fiscal year 2012, \$1,000,000,000;*

20 (4) *for fiscal year 2013, \$1,250,000,000;*

21 (5) *for fiscal year 2014, \$1,500,000,000; and*

22 (6) *for fiscal year 2015, and each fiscal year*
23 *thereafter, \$2,000,000,000.*

24 (c) *USE OF FUND.*—*The Secretary shall transfer*
25 *amounts in the Fund to accounts within the Department*

1 of Health and Human Services to increase funding, over
2 the fiscal year 2008 level, for programs authorized by the
3 Public Health Service Act, for prevention, wellness, and
4 public health activities including prevention research and
5 health screenings, such as the Community Transformation
6 grant program, the Education and Outreach Campaign for
7 Preventive Benefits, and immunization programs.

8 (d) *TRANSFER AUTHORITY.*—The Committee on Ap-
9 propriations of the Senate and the Committee on Appro-
10 priations of the House of Representatives may provide for
11 the transfer of funds in the Fund to eligible activities under
12 this section, subject to subsection (c).

13 **SEC. 4003. CLINICAL AND COMMUNITY PREVENTIVE SERV-**
14 **ICES.**

15 (a) *PREVENTIVE SERVICES TASK FORCE.*—Section
16 915 of the Public Health Service Act (42 U.S.C. 299b–4)
17 is amended by striking subsection (a) and inserting the fol-
18 lowing:

19 “(a) *PREVENTIVE SERVICES TASK FORCE.*—

20 “(1) *ESTABLISHMENT AND PURPOSE.*—The Di-
21 rector shall convene an independent Preventive Serv-
22 ices Task Force (referred to in this subsection as the
23 ‘Task Force’) to be composed of individuals with ap-
24 propriate expertise. Such Task Force shall review the
25 scientific evidence related to the effectiveness, appro-

1 *priateness, and cost-effectiveness of clinical preventive*
2 *services for the purpose of developing recommenda-*
3 *tions for the health care community, and updating*
4 *previous clinical preventive recommendations, to be*
5 *published in the Guide to Clinical Preventive Services*
6 *(referred to in this section as the ‘Guide’), for individ-*
7 *uals and organizations delivering clinical services, in-*
8 *cluding primary care professionals, health care sys-*
9 *tems, professional societies, employers, community or-*
10 *ganizations, non-profit organizations, Congress and*
11 *other policy-makers, governmental public health agen-*
12 *cies, health care quality organizations, and organiza-*
13 *tions developing national health objectives. Such rec-*
14 *ommendations shall consider clinical preventive best*
15 *practice recommendations from the Agency for*
16 *Healthcare Research and Quality, the National Insti-*
17 *tutes of Health, the Centers for Disease Control and*
18 *Prevention, the Institute of Medicine, specialty med-*
19 *ical associations, patient groups, and scientific soci-*
20 *eties.*

21 *“(2) DUTIES.—The duties of the Task Force shall*
22 *include—*

23 *“(A) the development of additional topic*
24 *areas for new recommendations and interven-*
25 *tions related to those topic areas, including those*

1 *related to specific sub-populations and age*
2 *groups;*

3 “(B) *at least once during every 5-year pe-*
4 *riod, review interventions and update rec-*
5 *ommendations related to existing topic areas, in-*
6 *cluding new or improved techniques to assess the*
7 *health effects of interventions;*

8 “(C) *improved integration with Federal*
9 *Government health objectives and related target*
10 *setting for health improvement;*

11 “(D) *the enhanced dissemination of rec-*
12 *ommendations;*

13 “(E) *the provision of technical assistance to*
14 *those health care professionals, agencies and or-*
15 *ganizations that request help in implementing*
16 *the Guide recommendations; and*

17 “(F) *the submission of yearly reports to*
18 *Congress and related agencies identifying gaps*
19 *in research, such as preventive services that re-*
20 *ceive an insufficient evidence statement, and rec-*
21 *ommending priority areas that deserve further*
22 *examination, including areas related to popu-*
23 *lations and age groups not adequately addressed*
24 *by current recommendations.*

1 “(3) *ROLE OF AGENCY.*—*The Agency shall pro-*
2 *vide ongoing administrative, research, and technical*
3 *support for the operations of the Task Force, includ-*
4 *ing coordinating and supporting the dissemination of*
5 *the recommendations of the Task Force, ensuring ade-*
6 *quate staff resources, and assistance to those organiza-*
7 *tions requesting it for implementation of the Guide’s*
8 *recommendations.*

9 “(4) *COORDINATION WITH COMMUNITY PREVEN-*
10 *TIVE SERVICES TASK FORCE.*—*The Task Force shall*
11 *take appropriate steps to coordinate its work with the*
12 *Community Preventive Services Task Force and the*
13 *Advisory Committee on Immunization Practices, in-*
14 *cluding the examination of how each task force’s rec-*
15 *ommendations interact at the nexus of clinic and*
16 *community.*

17 “(5) *OPERATION.*—*Operation. In carrying out*
18 *the duties under paragraph (2), the Task Force is not*
19 *subject to the provisions of Appendix 2 of title 5,*
20 *United States Code.*

21 “(6) *INDEPENDENCE.*—*All members of the Task*
22 *Force convened under this subsection, and any rec-*
23 *ommendations made by such members, shall be inde-*
24 *pendent and, to the extent practicable, not subject to*
25 *political pressure.*

1 “(7) *AUTHORIZATION OF APPROPRIATIONS.*—
2 *There are authorized to be appropriated such sums as*
3 *may be necessary for each fiscal year to carry out the*
4 *activities of the Task Force.*”.

5 (b) *COMMUNITY PREVENTIVE SERVICES TASK*
6 *FORCE.*—

7 (1) *IN GENERAL.*—*Part P of title III of the Pub-*
8 *lic Health Service Act, as amended by paragraph (2),*
9 *is amended by adding at the end the following:*

10 **“SEC. 399U. COMMUNITY PREVENTIVE SERVICES TASK**
11 **FORCE.**

12 “(a) *ESTABLISHMENT AND PURPOSE.*—*The Director of*
13 *the Centers for Disease Control and Prevention shall con-*
14 *vene an independent Community Preventive Services Task*
15 *Force (referred to in this subsection as the ‘Task Force’)*
16 *to be composed of individuals with appropriate expertise.*
17 *Such Task Force shall review the scientific evidence related*
18 *to the effectiveness, appropriateness, and cost-effectiveness*
19 *of community preventive interventions for the purpose of*
20 *developing recommendations, to be published in the Guide*
21 *to Community Preventive Services (referred to in this sec-*
22 *tion as the ‘Guide’), for individuals and organizations de-*
23 *livering population-based services, including primary care*
24 *professionals, health care systems, professional societies, em-*
25 *ployers, community organizations, non-profit organiza-*

1 tions, schools, governmental public health agencies, Indian
2 tribes, tribal organizations and urban Indian organiza-
3 tions, medical groups, Congress and other policy-makers.
4 Community preventive services include any policies, pro-
5 grams, processes or activities designed to affect or otherwise
6 affecting health at the population level.

7 “(b) DUTIES.—The duties of the Task Force shall in-
8 clude—

9 “(1) the development of additional topic areas
10 for new recommendations and interventions related to
11 those topic areas, including those related to specific
12 populations and age groups, as well as the social, eco-
13 nomic and physical environments that can have
14 broad effects on the health and disease of populations
15 and health disparities among sub-populations and
16 age groups;

17 “(2) at least once during every 5-year period, re-
18 view interventions and update recommendations re-
19 lated to existing topic areas, including new or im-
20 proved techniques to assess the health effects of inter-
21 ventions, including health impact assessment and
22 population health modeling;

23 “(3) improved integration with Federal Govern-
24 ment health objectives and related target setting for
25 health improvement;

1 “(4) the enhanced dissemination of recommenda-
2 tions;

3 “(5) the provision of technical assistance to those
4 health care professionals, agencies, and organizations
5 that request help in implementing the Guide rec-
6 ommendations; and

7 “(6) providing yearly reports to Congress and
8 related agencies identifying gaps in research and rec-
9 ommending priority areas that deserve further exam-
10 ination, including areas related to populations and
11 age groups not adequately addressed by current rec-
12 ommendations.

13 “(c) *ROLE OF AGENCY.*—The Director shall provide
14 ongoing administrative, research, and technical support for
15 the operations of the Task Force, including coordinating
16 and supporting the dissemination of the recommendations
17 of the Task Force, ensuring adequate staff resources, and
18 assistance to those organizations requesting it for imple-
19 mentation of Guide recommendations.

20 “(d) *COORDINATION WITH PREVENTIVE SERVICES*
21 *TASK FORCE.*—The Task Force shall take appropriate steps
22 to coordinate its work with the U.S. Preventive Services
23 Task Force and the Advisory Committee on Immunization
24 Practices, including the examination of how each task

1 *force's recommendations interact at the nexus of clinic and*
2 *community.*

3 “(e) *OPERATION.*—*In carrying out the duties under*
4 *subsection (b), the Task Force shall not be subject to the*
5 *provisions of Appendix 2 of title 5, United States Code.*

6 “(f) *AUTHORIZATION OF APPROPRIATIONS.*—*There are*
7 *authorized to be appropriated such sums as may be nec-*
8 *essary for each fiscal year to carry out the activities of the*
9 *Task Force.*”.

10 (2) *TECHNICAL AMENDMENTS.*—

11 (A) *Section 399R of the Public Health Serv-*
12 *ice Act (as added by section 2 of the ALS Reg-*
13 *istry Act (Public Law 110–373; 122 Stat. 4047))*
14 *is redesignated as section 399S.*

15 (B) *Section 399R of such Act (as added by*
16 *section 3 of the Prenatally and Postnatally Di-*
17 *agnosed Conditions Awareness Act (Public Law*
18 *110–374; 122 Stat. 4051)) is redesignated as sec-*
19 *tion 399T.*

20 **SEC. 4004. EDUCATION AND OUTREACH CAMPAIGN RE-**
21 **GARDING PREVENTIVE BENEFITS.**

22 (a) *IN GENERAL.*—*The Secretary of Health and*
23 *Human Services (referred to in this section as the “Sec-*
24 *retary”)* shall provide for the planning and implementation
25 *of a national public–private partnership for a prevention*

1 *and health promotion outreach and education campaign to*
2 *raise public awareness of health improvement across the life*
3 *span. Such campaign shall include the dissemination of in-*
4 *formation that—*

5 (1) *describes the importance of utilizing preven-*
6 *tive services to promote wellness, reduce health dis-*
7 *parities, and mitigate chronic disease;*

8 (2) *promotes the use of preventive services rec-*
9 *ommended by the United States Preventive Services*
10 *Task Force and the Community Preventive Services*
11 *Task Force;*

12 (3) *encourages healthy behaviors linked to the*
13 *prevention of chronic diseases;*

14 (4) *explains the preventive services covered under*
15 *health plans offered through a Gateway;*

16 (5) *describes additional preventive care sup-*
17 *ported by the Centers for Disease Control and Preven-*
18 *tion, the Health Resources and Services Administra-*
19 *tion, the Substance Abuse and Mental Health Services*
20 *Administration, the Advisory Committee on Immuni-*
21 *zation Practices, and other appropriate agencies; and*

22 (6) *includes general health promotion informa-*
23 *tion.*

24 (b) *CONSULTATION.—In coordinating the campaign*
25 *under subsection (a), the Secretary shall consult with the*

1 *Institute of Medicine to provide ongoing advice on evidence-*
2 *based scientific information for policy, program develop-*
3 *ment, and evaluation.*

4 *(c) MEDIA CAMPAIGN.—*

5 *(1) IN GENERAL.—Not later than 1 year after*
6 *the date of enactment of this Act, the Secretary, act-*
7 *ing through the Director of the Centers for Disease*
8 *Control and Prevention, shall establish and imple-*
9 *ment a national science-based media campaign on*
10 *health promotion and disease prevention.*

11 *(2) REQUIREMENT OF CAMPAIGN.—The cam-*
12 *campaign implemented under paragraph (1)—*

13 *(A) shall be designed to address proper nu-*
14 *trition, regular exercise, smoking cessation, obe-*
15 *sity reduction, the 5 leading disease killers in the*
16 *United States, and secondary prevention through*
17 *disease screening promotion;*

18 *(B) shall be carried out through competi-*
19 *tively bid contracts awarded to entities pro-*
20 *viding for the professional production and design*
21 *of such campaign;*

22 *(C) may include the use of television, radio,*
23 *Internet, and other commercial marketing venues*
24 *and may be targeted to specific age groups based*
25 *on peer-reviewed social research;*

1 (D) shall not be duplicative of any other
2 Federal efforts relating to health promotion and
3 disease prevention; and

4 (E) may include the use of humor and na-
5 tionally recognized positive role models.

6 (3) *EVALUATION.*—The Secretary shall ensure
7 that the campaign implemented under paragraph (1)
8 is subject to an independent evaluation every 2 years
9 and shall report every 2 years to Congress on the ef-
10 fectiveness of such campaigns towards meeting
11 science-based metrics.

12 (d) *WEBSITE.*—The Secretary, in consultation with
13 private-sector experts, shall maintain or enter into a con-
14 tract to maintain an Internet website to provide science-
15 based information on guidelines for nutrition, regular exer-
16 cise, obesity reduction, smoking cessation, and specific
17 chronic disease prevention. Such website shall be designed
18 to provide information to health care providers and con-
19 sumers.

20 (e) *DISSEMINATION OF INFORMATION THROUGH PRO-*
21 *VIDERS.*—The Secretary, acting through the Centers for
22 Disease Control and Prevention, shall develop and imple-
23 ment a plan for the dissemination of health promotion and
24 disease prevention information consistent with national
25 priorities, to health care providers who participate in Fed-

1 eral programs, including programs administered by the In-
2 dian Health Service, the Department of Veterans Affairs,
3 the Department of Defense, and the Health Resources and
4 Services Administration, and Medicare and Medicaid.

5 (f) *PERSONALIZED PREVENTION PLANS.*—

6 (1) *CONTRACT.*—The Secretary, acting through
7 the Director of the Centers for Disease Control and
8 Prevention, shall enter into a contract with a quali-
9 fied entity for the development and operation of a
10 Federal Internet website personalized prevention plan
11 tool.

12 (2) *USE.*—The website developed under para-
13 graph (1) shall be designed to be used as a source of
14 the most up-to-date scientific evidence relating to dis-
15 ease prevention for use by individuals. Such website
16 shall contain a component that enables an individual
17 to determine their disease risk (based on personal
18 health and family history, BMI, and other relevant
19 information) relating to the 5 leading diseases in the
20 United States, and obtain personalized suggestions for
21 preventing such diseases.

22 (g) *INTERNET PORTAL.*—The Secretary shall establish
23 an Internet portal for accessing risk-assessment tools devel-
24 oped and maintained by private and academic entities.

1 (h) *PRIORITY FUNDING.*—*Funding for the activities*
2 *authorized under this section shall take priority over fund-*
3 *ing provided through the Centers for Disease Control and*
4 *Prevention for grants to States and other entities for simi-*
5 *lar purposes and goals as provided for in this section. Not*
6 *to exceed \$500,000,000 shall be expended on the campaigns*
7 *and activities required under this section.*

8 (i) *PUBLIC AWARENESS OF PREVENTIVE AND OBE-*
9 *SITY-RELATED SERVICES.*—

10 (1) *INFORMATION TO STATES.*—*The Secretary of*
11 *Health and Human Services shall provide guidance*
12 *and relevant information to States and health care*
13 *providers regarding preventive and obesity-related*
14 *services that are available to Medicaid enrollees, in-*
15 *cluding obesity screening and counseling for children*
16 *and adults.*

17 (2) *INFORMATION TO ENROLLEES.*—*Each State*
18 *shall design a public awareness campaign to educate*
19 *Medicaid enrollees regarding availability and cov-*
20 *erage of such services, with the goal of reducing*
21 *incidences of obesity.*

22 (3) *REPORT.*—*Not later than January 1, 2011,*
23 *and every 3 years thereafter through January 1,*
24 *2017, the Secretary of Health and Human Services*
25 *shall report to Congress on the status and effectiveness*

1 of efforts under paragraphs (1) and (2), including
2 summaries of the States' efforts to increase awareness
3 of coverage of obesity-related services.

4 (j) *AUTHORIZATION OF APPROPRIATIONS.*—There are
5 authorized to be appropriated such sums as may be nec-
6 essary to carry out this section.

7 ***Subtitle B—Increasing Access to***
8 ***Clinical Preventive Services***

9 ***SEC. 4101. SCHOOL-BASED HEALTH CENTERS.***

10 (a) *GRANTS FOR THE ESTABLISHMENT OF SCHOOL-*
11 *BASED HEALTH CENTERS.*—

12 (1) *PROGRAM.*—The Secretary of Health and
13 Human Services (in this subsection referred to as the
14 “Secretary”) shall establish a program to award
15 grants to eligible entities to support the operation of
16 school-based health centers.

17 (2) *ELIGIBILITY.*—To be eligible for a grant
18 under this subsection, an entity shall—

19 (A) be a school-based health center or a
20 sponsoring facility of a school-based health cen-
21 ter; and

22 (B) submit an application at such time, in
23 such manner, and containing such information
24 as the Secretary may require, including at a
25 minimum an assurance that funds awarded

1 *under the grant shall not be used to provide any*
2 *service that is not authorized or allowed by Fed-*
3 *eral, State, or local law.*

4 (3) *PREFERENCE.*—*In awarding grants under*
5 *this section, the Secretary shall give preference to*
6 *awarding grants for school-based health centers that*
7 *serve a large population of children eligible for med-*
8 *ical assistance under the State Medicaid plan under*
9 *title XIX of the Social Security Act or under a waiver*
10 *of such plan or children eligible for child health as-*
11 *sistance under the State child health plan under title*
12 *XXI of that Act (42 U.S.C. 1397aa et seq.).*

13 (4) *LIMITATION ON USE OF FUNDS.*—*An eligible*
14 *entity shall use funds provided under a grant award-*
15 *ed under this subsection only for expenditures for fa-*
16 *cilities (including the acquisition or improvement of*
17 *land, or the acquisition, construction, expansion, re-*
18 *placement, or other improvement of any building or*
19 *other facility), equipment, or similar expenditures, as*
20 *specified by the Secretary. No funds provided under*
21 *a grant awarded under this section shall be used for*
22 *expenditures for personnel or to provide health serv-*
23 *ices.*

24 (5) *APPROPRIATIONS.*—*Out of any funds in the*
25 *Treasury not otherwise appropriated, there is appro-*

1 *appropriated for each of fiscal years 2010 through 2013,*
 2 *\$50,000,000 for the purpose of carrying out this sub-*
 3 *section. Funds appropriated under this paragraph*
 4 *shall remain available until expended.*

5 (6) *DEFINITIONS.—In this subsection, the terms*
 6 *“school-based health center” and “sponsoring facility”*
 7 *have the meanings given those terms in section*
 8 *2110(c)(9) of the Social Security Act (42 U.S.C.*
 9 *1397jj(c)(9)).*

10 (b) *GRANTS FOR THE OPERATION OF SCHOOL-BASED*
 11 *HEALTH CENTERS.—Part Q of title III of the Public*
 12 *Health Service Act (42 U.S.C. 280h et seq.) is amended by*
 13 *adding at the end the following:*

14 **“SEC. 399Z-1. SCHOOL-BASED HEALTH CENTERS.**

15 *“(a) DEFINITIONS; ESTABLISHMENT OF CRITERIA.—*
 16 *In this section:*

17 *“(1) COMPREHENSIVE PRIMARY HEALTH SERV-*
 18 *ICES.—The term ‘comprehensive primary health serv-*
 19 *ices’ means the core services offered by school-based*
 20 *health centers, which shall include the following:*

21 *“(A) PHYSICAL.—Comprehensive health as-*
 22 *sessments, diagnosis, and treatment of minor,*
 23 *acute, and chronic medical conditions, and refer-*
 24 *rals to, and follow-up for, specialty care and oral*
 25 *health services.*

1 “(B) *MENTAL HEALTH.*—*Mental health and*
2 *substance use disorder assessments, crisis inter-*
3 *vention, counseling, treatment, and referral to a*
4 *continuum of services including emergency psy-*
5 *chiatric care, community support programs, in-*
6 *patient care, and outpatient programs.*

7 “(2) *MEDICALLY UNDERSERVED CHILDREN AND*
8 *ADOLESCENTS.*—

9 “(A) *IN GENERAL.*—*The term ‘medically*
10 *underserved children and adolescents’ means a*
11 *population of children and adolescents who are*
12 *residents of an area designated as a medically*
13 *underserved area or a health professional short-*
14 *age area by the Secretary.*

15 “(B) *CRITERIA.*—*The Secretary shall pre-*
16 *scribe criteria for determining the specific short-*
17 *ages of personal health services for medically un-*
18 *derserved children and adolescents under sub-*
19 *paragraph (A) that shall—*

20 “(i) *take into account any comments*
21 *received by the Secretary from the chief ex-*
22 *ecutive officer of a State and local officials*
23 *in a State; and*

24 “(ii) *include factors indicative of the*
25 *health status of such children and adoles-*

1 *cents of an area, including the ability of the*
2 *residents of such area to pay for health serv-*
3 *ices, the accessibility of such services, the*
4 *availability of health professionals to such*
5 *children and adolescents, and other factors*
6 *as determined appropriate by the Secretary.*

7 “(3) *SCHOOL-BASED HEALTH CENTER.*—*The*
8 *term ‘school-based health center’ means a health clinic*
9 *that—*

10 “(A) *meets the definition of a school-based*
11 *health center under section 2110(c)(9)(A) of the*
12 *Social Security Act and is administered by a*
13 *sponsoring facility (as defined in section*
14 *2110(c)(9)(B) of the Social Security Act);*

15 “(B) *provides, at a minimum, comprehen-*
16 *sive primary health services during school hours*
17 *to children and adolescents by health profes-*
18 *sionals in accordance with established standards,*
19 *community practice, reporting laws, and other*
20 *State laws, including parental consent and noti-*
21 *fication laws that are not inconsistent with Fed-*
22 *eral law; and*

23 “(C) *does not perform abortion services.*

24 “(b) *AUTHORITY TO AWARD GRANTS.*—*The Secretary*
25 *shall award grants for the costs of the operation of school-*

1 *based health centers (referred to in this section as ‘SBHCs’)*
2 *that meet the requirements of this section.*

3 “(c) *APPLICATIONS.—To be eligible to receive a grant*
4 *under this section, an entity shall—*

5 “(1) *be an SBHC (as defined in subsection*
6 *(a)(3)); and*

7 “(2) *submit to the Secretary an application at*
8 *such time, in such manner, and containing—*

9 “(A) *evidence that the applicant meets all*
10 *criteria necessary to be designated an SBHC;*

11 “(B) *evidence of local need for the services*
12 *to be provided by the SBHC;*

13 “(C) *an assurance that—*

14 “(i) *SBHC services will be provided to*
15 *those children and adolescents for whom pa-*
16 *rental or guardian consent has been ob-*
17 *tained in cooperation with Federal, State,*
18 *and local laws governing health care service*
19 *provision to children and adolescents;*

20 “(ii) *the SBHC has made and will*
21 *continue to make every reasonable effort to*
22 *establish and maintain collaborative rela-*
23 *tionships with other health care providers*
24 *in the catchment area of the SBHC;*

1 “(iii) the SBHC will provide on-site
2 access during the academic day when school
3 is in session and 24-hour coverage through
4 an on-call system and through its backup
5 health providers to ensure access to services
6 on a year-round basis when the school or
7 the SBHC is closed;

8 “(iv) the SBHC will be integrated into
9 the school environment and will coordinate
10 health services with school personnel, such
11 as administrators, teachers, nurses, coun-
12 selors, and support personnel, as well as
13 with other community providers co-located
14 at the school;

15 “(v) the SBHC sponsoring facility as-
16 sumes all responsibility for the SBHC ad-
17 ministration, operations, and oversight; and

18 “(vi) the SBHC will comply with Fed-
19 eral, State, and local laws concerning pa-
20 tient privacy and student records, including
21 regulations promulgated under the Health
22 Insurance Portability and Accountability
23 Act of 1996 and section 444 of the General
24 Education Provisions Act; and

1 “(D) *such other information as the Sec-*
2 *retary may require.*

3 “(d) *PREFERENCES AND CONSIDERATION.—In review-*
4 *ing applications:*

5 “(1) *The Secretary may give preference to appli-*
6 *cants who demonstrate an ability to serve the fol-*
7 *lowing:*

8 “(A) *Communities that have evidenced bar-*
9 *riers to primary health care and mental health*
10 *and substance use disorder prevention services*
11 *for children and adolescents.*

12 “(B) *Communities with high per capita*
13 *numbers of children and adolescents who are un-*
14 *insured, underinsured, or enrolled in public*
15 *health insurance programs.*

16 “(C) *Populations of children and adoles-*
17 *cents that have historically demonstrated dif-*
18 *ficulty in accessing health and mental health*
19 *and substance use disorder prevention services.*

20 “(2) *The Secretary may give consideration to*
21 *whether an applicant has received a grant under sub-*
22 *section (a) of section 4101 of the Patient Protection*
23 *and Affordable Care Act.*

24 “(e) *WAIVER OF REQUIREMENTS.—The Secretary*
25 *may—*

1 “(1) under appropriate circumstances, waive the
2 application of all or part of the requirements of this
3 subsection with respect to an SBHC for not to exceed
4 2 years; and

5 “(2) upon a showing of good cause, waive the re-
6 quirement that the SBHC provide all required com-
7 prehensive primary health services for a designated
8 period of time to be determined by the Secretary.

9 “(f) USE OF FUNDS.—

10 “(1) FUNDS.—Funds awarded under a grant
11 under this section—

12 “(A) may be used for—

13 “(i) acquiring and leasing equipment
14 (including the costs of amortizing the prin-
15 ciple of, and paying interest on, loans for
16 such equipment);

17 “(ii) providing training related to the
18 provision of required comprehensive pri-
19 mary health services and additional health
20 services;

21 “(iii) the management and operation
22 of health center programs;

23 “(iv) the payment of salaries for physi-
24 cians, nurses, and other personnel of the
25 SBHC; and

1 “(B) may not be used to provide abortions.

2 “(2) CONSTRUCTION.—The Secretary may award
3 grants which may be used to pay the costs associated
4 with expanding and modernizing existing buildings
5 for use as an SBHC, including the purchase of trail-
6 ers or manufactured buildings to install on the school
7 property.

8 “(3) LIMITATIONS.—

9 “(A) IN GENERAL.—Any provider of serv-
10 ices that is determined by a State to be in viola-
11 tion of a State law described in subsection
12 (a)(3)(B) with respect to activities carried out at
13 a SBHC shall not be eligible to receive addi-
14 tional funding under this section.

15 “(B) NO OVERLAPPING GRANT PERIOD.—No
16 entity that has received funding under section
17 330 for a grant period shall be eligible for a
18 grant under this section for with respect to the
19 same grant period.

20 “(g) MATCHING REQUIREMENT.—

21 “(1) IN GENERAL.—Each eligible entity that re-
22 ceives a grant under this section shall provide, from
23 non-Federal sources, an amount equal to 20 percent
24 of the amount of the grant (which may be provided

1 *in cash or in-kind) to carry out the activities sup-*
2 *ported by the grant.*

3 “(2) *WAIVER.—The Secretary may waive all or*
4 *part of the matching requirement described in para-*
5 *graph (1) for any fiscal year for the SBHC if the Sec-*
6 *retary determines that applying the matching re-*
7 *quirement to the SBHC would result in serious hard-*
8 *ship or an inability to carry out the purposes of this*
9 *section.*

10 “(h) *SUPPLEMENT, NOT SUPPLANT.—Grant funds*
11 *provided under this section shall be used to supplement, not*
12 *supplant, other Federal or State funds.*

13 “(i) *EVALUATION.—The Secretary shall develop and*
14 *implement a plan for evaluating SBHCs and monitoring*
15 *quality performance under the awards made under this sec-*
16 *tion.*

17 “(j) *AGE APPROPRIATE SERVICES.—An eligible entity*
18 *receiving funds under this section shall only provide age*
19 *appropriate services through a SBHC funded under this*
20 *section to an individual.*

21 “(k) *PARENTAL CONSENT.—An eligible entity receiv-*
22 *ing funds under this section shall not provide services*
23 *through a SBHC funded under this section to an individual*
24 *without the consent of the parent or guardian of such indi-*

1 *vidual if such individual is considered a minor under ap-*
 2 *plicable State law.*

3 “(l) *AUTHORIZATION OF APPROPRIATIONS.—For pur-*
 4 *poses of carrying out this section, there are authorized to*
 5 *be appropriated such sums as may be necessary for each*
 6 *of the fiscal years 2010 through 2014.”.*

7 **SEC. 4102. ORAL HEALTHCARE PREVENTION ACTIVITIES.**

8 “(a) *IN GENERAL.—Title III of the Public Health Serv-*
 9 *ice Act (42 U.S.C. 241 et seq.), as amended by section 3025,*
 10 *is amended by adding at the end the following:*

11 **“PART T—ORAL HEALTHCARE PREVENTION**
 12 **ACTIVITIES**

13 **“SEC. 399LL. ORAL HEALTHCARE PREVENTION EDUCATION**
 14 **CAMPAIGN.**

15 “(a) *ESTABLISHMENT.—The Secretary, acting through*
 16 *the Director of the Centers for Disease Control and Preven-*
 17 *tion and in consultation with professional oral health orga-*
 18 *nizations, shall, subject to the availability of appropri-*
 19 *ations, establish a 5-year national, public education cam-*
 20 *paign (referred to in this section as the ‘campaign’) that*
 21 *is focused on oral healthcare prevention and education, in-*
 22 *cluding prevention of oral disease such as early childhood*
 23 *and other caries, periodontal disease, and oral cancer.*

24 “(b) *REQUIREMENTS.—In establishing the campaign,*
 25 *the Secretary shall—*

1 “(1) ensure that activities are targeted towards
2 specific populations such as children, pregnant
3 women, parents, the elderly, individuals with disabili-
4 ties, and ethnic and racial minority populations, in-
5 cluding Indians, Alaska Natives and Native Hawai-
6 ians (as defined in section 4(c) of the Indian Health
7 Care Improvement Act) in a culturally and linguis-
8 tically appropriate manner; and

9 “(2) utilize science-based strategies to convey
10 oral health prevention messages that include, but are
11 not limited to, community water fluoridation and
12 dental sealants.

13 “(c) *PLANNING AND IMPLEMENTATION.*—Not later
14 than 2 years after the date of enactment of this section, the
15 Secretary shall begin implementing the 5-year campaign.
16 During the 2-year period referred to in the previous sen-
17 tence, the Secretary shall conduct planning activities with
18 respect to the campaign.

19 “**SEC. 399LL-1. RESEARCH-BASED DENTAL CARIES DISEASE**
20 **MANAGEMENT.**

21 “(a) *IN GENERAL.*—The Secretary, acting through the
22 Director of the Centers for Disease Control and Prevention,
23 shall award demonstration grants to eligible entities to
24 demonstrate the effectiveness of research-based dental caries
25 disease management activities.

1 “(b) *ELIGIBILITY.*—*To be eligible for a grant under*
2 *this section, an entity shall—*

3 “(1) *be a community-based provider of dental*
4 *services (as defined by the Secretary), including a*
5 *Federally-qualified health center, a clinic of a hos-*
6 *pital owned or operated by a State (or by an instru-*
7 *mentality or a unit of government within a State), a*
8 *State or local department of health, a dental program*
9 *of the Indian Health Service, an Indian tribe or trib-*
10 *al organization, or an urban Indian organization (as*
11 *such terms are defined in section 4 of the Indian*
12 *Health Care Improvement Act), a health system pro-*
13 *vider, a private provider of dental services, medical,*
14 *dental, public health, nursing, nutrition educational*
15 *institutions, or national organizations involved in*
16 *improving children’s oral health; and*

17 “(2) *submit to the Secretary an application at*
18 *such time, in such manner, and containing such in-*
19 *formation as the Secretary may require.*

20 “(c) *USE OF FUNDS.*—*A grantee shall use amounts re-*
21 *ceived under a grant under this section to demonstrate the*
22 *effectiveness of research-based dental caries disease manage-*
23 *ment activities.*

24 “(d) *USE OF INFORMATION.*—*The Secretary shall uti-*
25 *lize information generated from grantees under this section*

1 *in planning and implementing the public education cam-*
2 *paign under section 399LL.*

3 **“SEC. 399LL-2. AUTHORIZATION OF APPROPRIATIONS.**

4 *“There is authorized to be appropriated to carry out*
5 *this part, such sums as may be necessary.”*

6 *(b) SCHOOL-BASED SEALANT PROGRAMS.—Section*
7 *317M(c)(1) of the Public Health Service Act (42 U.S.C.*
8 *247b-14(c)(1)) is amended by striking “may award grants*
9 *to States and Indian tribes” and inserting “shall award*
10 *a grant to each of the 50 States and territories and to Indi-*
11 *ans, Indian tribes, tribal organizations and urban Indian*
12 *organizations (as such terms are defined in section 4 of the*
13 *Indian Health Care Improvement Act)”*.

14 *(c) ORAL HEALTH INFRASTRUCTURE.—Section 317M*
15 *of the Public Health Service Act (42 U.S.C. 247b-14) is*
16 *amended—*

17 *(1) by redesignating subsections (d) and (e) as*
18 *subsections (e) and (f), respectively; and*

19 *(2) by inserting after subsection (c), the fol-*
20 *lowing:*

21 *“(d) ORAL HEALTH INFRASTRUCTURE.—*

22 *“(1) COOPERATIVE AGREEMENTS.—The Sec-*
23 *retary, acting through the Director of the Centers for*
24 *Disease Control and Prevention, shall enter into coop-*
25 *erative agreements with State, territorial, and Indian*

1 *tribes or tribal organizations (as those terms are de-*
2 *defined in section 4 of the Indian Health Care Improve-*
3 *ment Act) to establish oral health leadership and pro-*
4 *gram guidance, oral health data collection and inter-*
5 *pretation, (including determinants of poor oral health*
6 *among vulnerable populations), a multi-dimensional*
7 *delivery system for oral health, and to implement*
8 *science-based programs (including dental sealants and*
9 *community water fluoridation) to improve oral*
10 *health.*

11 *“(2) AUTHORIZATION OF APPROPRIATIONS.—*
12 *There is authorized to be appropriated such sums as*
13 *necessary to carry out this subsection for fiscal years*
14 *2010 through 2014.”.*

15 *(d) UPDATING NATIONAL ORAL HEALTHCARE SUR-*
16 *VEILLANCE ACTIVITIES.—*

17 *(1) PRAMS.—*

18 *(A) IN GENERAL.—The Secretary of Health*
19 *and Human Services (referred to in this sub-*
20 *section as the “Secretary”) shall carry out ac-*
21 *tivities to update and improve the Pregnancy*
22 *Risk Assessment Monitoring System (referred to*
23 *in this section as “PRAMS”) as it relates to oral*
24 *healthcare.*

1 (B) *STATE REPORTS AND MANDATORY*
2 *MEASUREMENTS.*—

3 (i) *IN GENERAL.*—*Not later than 5*
4 *years after the date of enactment of this Act,*
5 *and every 5 years thereafter, a State shall*
6 *submit to the Secretary a report concerning*
7 *activities conducted within the State under*
8 *PRAMS.*

9 (ii) *MEASUREMENTS.*—*The oral*
10 *healthcare measurements developed by the*
11 *Secretary for use under PRAMS shall be*
12 *mandatory with respect to States for pur-*
13 *poses of the State reports under clause (i).*

14 (C) *FUNDING.*—*There is authorized to be*
15 *appropriated to carry out this paragraph, such*
16 *sums as may be necessary.*

17 (2) *NATIONAL HEALTH AND NUTRITION EXAMINA-*
18 *TION SURVEY.*—*The Secretary shall develop oral*
19 *healthcare components that shall include tooth-level*
20 *surveillance for inclusion in the National Health and*
21 *Nutrition Examination Survey. Such components*
22 *shall be updated by the Secretary at least every 6*
23 *years. For purposes of this paragraph, the term*
24 *“tooth-level surveillance” means a clinical examina-*
25 *tion where an examiner looks at each dental surface,*

1 *on each tooth in the mouth and as expanded by the*
2 *Division of Oral Health of the Centers for Disease*
3 *Control and Prevention.*

4 (3) *MEDICAL EXPENDITURES PANEL SURVEY.—*
5 *The Secretary shall ensure that the Medical Expendi-*
6 *tures Panel Survey by the Agency for Healthcare Re-*
7 *search and Quality includes the verification of dental*
8 *utilization, expenditure, and coverage findings*
9 *through conduct of a look-back analysis.*

10 (4) *NATIONAL ORAL HEALTH SURVEILLANCE SYS-*
11 *TEM.—*

12 (A) *APPROPRIATIONS.—There is authorized*
13 *to be appropriated, such sums as may be nec-*
14 *essary for each of fiscal years 2010 through 2014*
15 *to increase the participation of States in the Na-*
16 *tional Oral Health Surveillance System from 16*
17 *States to all 50 States, territories, and District*
18 *of Columbia.*

19 (B) *REQUIREMENTS.—The Secretary shall*
20 *ensure that the National Oral Health Surveil-*
21 *lance System include the measurement of early*
22 *childhood caries.*

1 **SEC. 4103. MEDICARE COVERAGE OF ANNUAL WELLNESS**
2 **VISIT PROVIDING A PERSONALIZED PREVEN-**
3 **TION PLAN.**

4 (a) *COVERAGE OF PERSONALIZED PREVENTION PLAN*
5 *SERVICES.*—

6 (1) *IN GENERAL.*—*Section 1861(s)(2) of the So-*
7 *cial Security Act (42 U.S.C. 1395x(s)(2)) is amend-*
8 *ed—*

9 (A) *in subparagraph (DD), by striking*
10 *“and” at the end;*

11 (B) *in subparagraph (EE), by adding*
12 *“and” at the end; and*

13 (C) *by adding at the end the following new*
14 *subparagraph:*

15 *“(FF) personalized prevention plan services (as*
16 *defined in subsection (hhh));”.*

17 (2) *CONFORMING AMENDMENTS.*—*Clauses (i) and*
18 *(ii) of section 1861(s)(2)(K) of the Social Security*
19 *Act (42 U.S.C. 1395x(s)(2)(K)) are each amended by*
20 *striking “subsection (ww)(1)” and inserting “sub-*
21 *sections (ww)(1) and (hhh)”.*

22 (b) *PERSONALIZED PREVENTION PLAN SERVICES DE-*
23 *FINED.*—*Section 1861 of the Social Security Act (42 U.S.C.*
24 *1395x) is amended by adding at the end the following new*
25 *subsection:*

1 *“Annual Wellness Visit*

2 *“(hhh)(1) The term ‘personalized prevention plan serv-*
3 *ices’ means the creation of a plan for an individual—*

4 *“(A) that includes a health risk assessment (that*
5 *meets the guidelines established by the Secretary*
6 *under paragraph (4)(A)) of the individual that is*
7 *completed prior to or as part of the same visit with*
8 *a health professional described in paragraph (3); and*

9 *“(B) that—*

10 *“(i) takes into account the results of the*
11 *health risk assessment; and*

12 *“(ii) may contain the elements described in*
13 *paragraph (2).*

14 *“(2) Subject to paragraph (4)(H), the elements de-*
15 *scribed in this paragraph are the following:*

16 *“(A) The establishment of, or an update to, the*
17 *individual’s medical and family history.*

18 *“(B) A list of current providers and suppliers*
19 *that are regularly involved in providing medical care*
20 *to the individual (including a list of all prescribed*
21 *medications).*

22 *“(C) A measurement of height, weight, body*
23 *mass index (or waist circumference, if appropriate),*
24 *blood pressure, and other routine measurements.*

25 *“(D) Detection of any cognitive impairment.*

1 “(E) *The establishment of, or an update to, the*
2 *following:*

3 “(i) *A screening schedule for the next 5 to*
4 *10 years, as appropriate, based on recommenda-*
5 *tions of the United States Preventive Services*
6 *Task Force and the Advisory Committee on Im-*
7 *munization Practices, and the individual’s*
8 *health status, screening history, and age-appro-*
9 *priate preventive services covered under this title.*

10 “(ii) *A list of risk factors and conditions for*
11 *which primary, secondary, or tertiary preven-*
12 *tion interventions are recommended or are un-*
13 *derway, including any mental health conditions*
14 *or any such risk factors or conditions that have*
15 *been identified through an initial preventive*
16 *physical examination (as described under sub-*
17 *section (ww)(1)), and a list of treatment options*
18 *and their associated risks and benefits.*

19 “(F) *The furnishing of personalized health advice*
20 *and a referral, as appropriate, to health education or*
21 *preventive counseling services or programs aimed at*
22 *reducing identified risk factors and improving self-*
23 *management, or community-based lifestyle interven-*
24 *tions to reduce health risks and promote self-manage-*
25 *ment and wellness, including weight loss, physical ac-*

1 *tivity, smoking cessation, fall prevention, and nutri-*
2 *tion.*

3 *“(G) Any other element determined appropriate*
4 *by the Secretary.*

5 *“(3) A health professional described in this paragraph*
6 *is—*

7 *“(A) a physician;*

8 *“(B) a practitioner described in clause (i) of sec-*
9 *tion 1842(b)(18)(C); or*

10 *“(C) a medical professional (including a health*
11 *educator, registered dietitian, or nutrition profes-*
12 *sional) or a team of medical professionals, as deter-*
13 *mined appropriate by the Secretary, under the super-*
14 *vision of a physician.*

15 *“(4)(A) For purposes of paragraph (1)(A), the Sec-*
16 *retary, not later than 1 year after the date of enactment*
17 *of this subsection, shall establish publicly available guide-*
18 *lines for health risk assessments. Such guidelines shall be*
19 *developed in consultation with relevant groups and entities*
20 *and shall provide that a health risk assessment—*

21 *“(i) identify chronic diseases, injury risks, modi-*
22 *ifiable risk factors, and urgent health needs of the in-*
23 *dividual; and*

24 *“(ii) may be furnished—*

1 “(I) through an interactive telephonic or
2 web-based program that meets the standards es-
3 tablished under subparagraph (B);

4 “(II) during an encounter with a health
5 care professional;

6 “(III) through community-based prevention
7 programs; or

8 “(IV) through any other means the Sec-
9 retary determines appropriate to maximize ac-
10 cessibility and ease of use by beneficiaries, while
11 ensuring the privacy of such beneficiaries.

12 “(B) Not later than 1 year after the date of enactment
13 of this subsection, the Secretary shall establish standards
14 for interactive telephonic or web-based programs used to
15 furnish health risk assessments under subparagraph
16 (A)(ii)(I). The Secretary may utilize any health risk assess-
17 ment developed under section 4004(f) of the Patient Protec-
18 tion and Affordable Care Act as part of the requirement
19 to develop a personalized prevention plan to comply with
20 this subparagraph.

21 “(C)(i) Not later than 18 months after the date of en-
22 actment of this subsection, the Secretary shall develop and
23 make available to the public a health risk assessment model.
24 Such model shall meet the guidelines under subparagraph

1 (A) and may be used to meet the requirement under para-
2 graph (1)(A).

3 “(ii) Any health risk assessment that meets the guide-
4 lines under subparagraph (A) and is approved by the Sec-
5 retary may be used to meet the requirement under para-
6 graph (1)(A).

7 “(D) The Secretary may coordinate with community-
8 based entities (including State Health Insurance Programs,
9 Area Agencies on Aging, Aging and Disability Resource
10 Centers, and the Administration on Aging) to—

11 “(i) ensure that health risk assessments are ac-
12 cessible to beneficiaries; and

13 “(ii) provide appropriate support for the comple-
14 tion of health risk assessments by beneficiaries.

15 “(E) The Secretary shall establish procedures to make
16 beneficiaries and providers aware of the requirement that
17 a beneficiary complete a health risk assessment prior to or
18 at the same time as receiving personalized prevention plan
19 services.

20 “(F) To the extent practicable, the Secretary shall en-
21 courage the use of, integration with, and coordination of
22 health information technology (including use of technology
23 that is compatible with electronic medical records and per-
24 sonal health records) and may experiment with the use of
25 personalized technology to aid in the development of self-

1 *management skills and management of and adherence to*
2 *provider recommendations in order to improve the health*
3 *status of beneficiaries.*

4 “(G)(i) *A beneficiary shall only be eligible to receive*
5 *an initial preventive physical examination (as defined*
6 *under subsection (ww)(1)) at any time during the 12-month*
7 *period after the date that the beneficiary’s coverage begins*
8 *under part B and shall be eligible to receive personalized*
9 *prevention plan services under this subsection provided that*
10 *the beneficiary has not received such services within the pre-*
11 *ceding 12-month period.*

12 “(ii) *The Secretary shall establish procedures to make*
13 *beneficiaries aware of the option to select an initial preven-*
14 *tive physical examination or personalized prevention plan*
15 *services during the period of 12 months after the date that*
16 *a beneficiary’s coverage begins under part B, which shall*
17 *include information regarding any relevant differences be-*
18 *tween such services.*

19 “(H) *The Secretary shall issue guidance that—*

20 “(i) *identifies elements under paragraph (2) that*
21 *are required to be provided to a beneficiary as part*
22 *of their first visit for personalized prevention plan*
23 *services; and*

24 “(ii) *establishes a yearly schedule for appro-*
25 *prate provision of such elements thereafter.”.*

1 (c) *PAYMENT AND ELIMINATION OF COST-SHARING.*—

2 (1) *PAYMENT AND ELIMINATION OF COINSUR-*
3 *ANCE.*—Section 1833(a)(1) of the Social Security Act
4 (42 U.S.C. 1395l(a)(1)) is amended—

5 (A) in subparagraph (N), by inserting
6 “other than personalized prevention plan services
7 (as defined in section 1861(hhh)(1))” after “(as
8 defined in section 1848(j)(3))”;

9 (B) by striking “and” before “(W)”; and

10 (C) by inserting before the semicolon at the
11 end the following: “, and (X) with respect to per-
12 sonalized prevention plan services (as defined in
13 section 1861(hhh)(1)), the amount paid shall be
14 100 percent of the lesser of the actual charge for
15 the services or the amount determined under the
16 payment basis determined under section 1848”.

17 (2) *PAYMENT UNDER PHYSICIAN FEE SCHED-*
18 *ULE.*—Section 1848(j)(3) of the Social Security Act
19 (42 U.S.C. 1395w-4(j)(3)) is amended by inserting
20 “(2)(FF) (including administration of the health risk
21 assessment) ,” after “(2)(EE),”.

22 (3) *ELIMINATION OF COINSURANCE IN OUT-*
23 *PATIENT HOSPITAL SETTINGS.*—

24 (A) *EXCLUSION FROM OPD FEE SCHED-*
25 *ULE.*—Section 1833(t)(1)(B)(iv) of the Social

1 *Security Act (42 U.S.C. 1395l(t)(1)(B)(iv)) is*
2 *amended by striking “and diagnostic mammog-*
3 *raphy” and inserting “, diagnostic mammog-*
4 *raphy, or personalized prevention plan services*
5 *(as defined in section 1861(hhh)(1))”.*

6 (B) *CONFORMING AMENDMENTS.—Section*
7 *1833(a)(2) of the Social Security Act (42 U.S.C.*
8 *1395l(a)(2)) is amended—*

9 (i) *in subparagraph (F), by striking*
10 *“and” at the end;*

11 (ii) *in subparagraph (G)(ii), by strik-*
12 *ing the comma at the end and inserting “;*
13 *and”;* and

14 (iii) *by inserting after subparagraph*
15 *(G)(ii) the following new subparagraph:*

16 “(H) *with respect to personalized preven-*
17 *tion plan services (as defined in section*
18 *1861(hhh)(1)) furnished by an outpatient de-*
19 *partment of a hospital, the amount determined*
20 *under paragraph (1)(X),”.*

21 (4) *WAIVER OF APPLICATION OF DEDUCTIBLE.—*
22 *The first sentence of section 1833(b) of the Social Se-*
23 *curity Act (42 U.S.C. 1395l(b)) is amended—*

24 (A) *by striking “and” before “(9)”;* and

1 (B) by inserting before the period the fol-
2 lowing: “, and (10) such deductible shall not
3 apply with respect to personalized prevention
4 plan services (as defined in section
5 1861(hhh)(1))”.

6 (d) *FREQUENCY LIMITATION*.—Section 1862(a) of the
7 Social Security Act (42 U.S.C. 1395y(a)) is amended—

8 (1) in paragraph (1)—

9 (A) in subparagraph (N), by striking “and”
10 at the end;

11 (B) in subparagraph (O), by striking the
12 semicolon at the end and inserting “, and”; and

13 (C) by adding at the end the following new
14 subparagraph:

15 “(P) in the case of personalized prevention plan
16 services (as defined in section 1861(hhh)(1)), which
17 are performed more frequently than is covered under
18 such section;”; and

19 (2) in paragraph (7), by striking “or (K)” and
20 inserting “(K), or (P)”.

21 (e) *EFFECTIVE DATE*.—The amendments made by this
22 section shall apply to services furnished on or after January
23 1, 2011.

1 **SEC. 4104. REMOVAL OF BARRIERS TO PREVENTIVE SERV-**
 2 **ICES IN MEDICARE.**

3 (a) *DEFINITION OF PREVENTIVE SERVICES.*—Section
 4 1861(ddd) of the Social Security Act (42 U.S.C.
 5 1395x(ddd)) is amended—

6 (1) in the heading, by inserting “; Preventive
 7 Services” after “Services”;

8 (2) in paragraph (1), by striking “not otherwise
 9 described in this title” and inserting “not described
 10 in subparagraph (A) or (C) of paragraph (3)”;

11 (3) by adding at the end the following new para-
 12 graph:

13 “(3) The term ‘preventive services’ means the fol-
 14 lowing:

15 “(A) The screening and preventive services de-
 16 scribed in subsection (ww)(2) (other than the service
 17 described in subparagraph (M) of such subsection).

18 “(B) An initial preventive physical examination
 19 (as defined in subsection (ww)).

20 “(C) Personalized prevention plan services (as
 21 defined in subsection (hhh)(1)).”.

22 (b) *COINSURANCE.*—

23 (1) *GENERAL APPLICATION.*—

24 (A) *IN GENERAL.*—Section 1833(a)(1) of the
 25 Social Security Act (42 U.S.C. 1395l(a)(1)), as
 26 amended by section 4103(c)(1), is amended—

1 (i) in subparagraph (T), by inserting
2 “(or 100 percent if such services are rec-
3 ommended with a grade of A or B by the
4 United States Preventive Services Task
5 Force for any indication or population and
6 are appropriate for the individual)” after
7 “80 percent”;

8 (ii) in subparagraph (W)—

9 (I) in clause (i), by inserting “(if
10 such subparagraph were applied, by
11 substituting ‘100 percent’ for ‘80 per-
12 cent’)” after “subparagraph (D)”; and

13 (II) in clause (ii), by striking “80
14 percent” and inserting “100 percent”;

15 (iii) by striking “and” before “(X)”;

16 and

17 (iv) by inserting before the semicolon
18 at the end the following: “, and (Y) with re-
19 spect to preventive services described in sub-
20 paragraphs (A) and (B) of section
21 1861(ddd)(3) that are appropriate for the
22 individual and, in the case of such services
23 described in subparagraph (A), are rec-
24 ommended with a grade of A or B by the
25 United States Preventive Services Task

1 *Force for any indication or population, the*
2 *amount paid shall be 100 percent of the*
3 *lesser of the actual charge for the services or*
4 *the amount determined under the fee sched-*
5 *ule that applies to such services under this*
6 *part”.*

7 (2) *ELIMINATION OF COINSURANCE IN OUT-*
8 *PATIENT HOSPITAL SETTINGS.—*

9 (A) *EXCLUSION FROM OPD FEE SCHED-*
10 *ULE.—Section 1833(t)(1)(B)(iv) of the Social*
11 *Security Act (42 U.S.C. 1395l(t)(1)(B)(iv)), as*
12 *amended by section 4103(c)(3)(A), is amended—*

13 (i) *by striking “or” before “personal-*
14 *ized prevention plan services”; and*

15 (ii) *by inserting before the period the*
16 *following: “, or preventive services described*
17 *in subparagraphs (A) and (B) of section*
18 *1861(ddd)(3) that are appropriate for the*
19 *individual and, in the case of such services*
20 *described in subparagraph (A), are rec-*
21 *ommended with a grade of A or B by the*
22 *United States Preventive Services Task*
23 *Force for any indication or population”.*

24 (B) *CONFORMING AMENDMENTS.—Section*
25 *1833(a)(2) of the Social Security Act (42 U.S.C.*

1 1395l(a)(2)), as amended by section
2 4103(c)(3)(B), is amended—

3 (i) in subparagraph (G)(ii), by strik-
4 ing “and” after the semicolon at the end;

5 (ii) in subparagraph (H), by striking
6 the comma at the end and inserting “;
7 and”; and

8 (iii) by inserting after subparagraph
9 (H) the following new subparagraph:

10 “(I) with respect to preventive services de-
11 scribed in subparagraphs (A) and (B) of section
12 1861(ddd)(3) that are appropriate for the indi-
13 vidual and are furnished by an outpatient de-
14 partment of a hospital and, in the case of such
15 services described in subparagraph (A), are rec-
16 ommended with a grade of A or B by the United
17 States Preventive Services Task Force for any
18 indication or population, the amount determined
19 under paragraph (1)(W) or (1)(Y).”.

20 (c) *WAIVER OF APPLICATION OF DEDUCTIBLE FOR*
21 *PREVENTIVE SERVICES AND COLORECTAL CANCER*
22 *SCREENING TESTS.*—Section 1833(b) of the Social Security
23 Act (42 U.S.C. 1395l(b)), as amended by section 4103(c)(4),
24 is amended—

1 (1) *in paragraph (1), by striking “items and*
2 *services described in section 1861(s)(10)(A)” and in-*
3 *serting “preventive services described in subparagraph*
4 *(A) of section 1861(ddd)(3) that are recommended*
5 *with a grade of A or B by the United States Preven-*
6 *tive Services Task Force for any indication or popu-*
7 *lation and are appropriate for the individual.”; and*

8 (2) *by adding at the end the following new sen-*
9 *tence: “Paragraph (1) of the first sentence of this sub-*
10 *section shall apply with respect to a colorectal cancer*
11 *screening test regardless of the code that is billed for*
12 *the establishment of a diagnosis as a result of the test,*
13 *or for the removal of tissue or other matter or other*
14 *procedure that is furnished in connection with, as a*
15 *result of, and in the same clinical encounter as the*
16 *screening test.”.*

17 (d) *EFFECTIVE DATE.—The amendments made by this*
18 *section shall apply to items and services furnished on or*
19 *after January 1, 2011.*

20 **SEC. 4105. EVIDENCE-BASED COVERAGE OF PREVENTIVE**
21 **SERVICES IN MEDICARE.**

22 (a) *AUTHORITY TO MODIFY OR ELIMINATE COVERAGE*
23 *OF CERTAIN PREVENTIVE SERVICES.—Section 1834 of the*
24 *Social Security Act (42 U.S.C. 1395m) is amended by add-*
25 *ing at the end the following new subsection:*

1 “(n) *AUTHORITY TO MODIFY OR ELIMINATE COV-*
2 *ERAGE OF CERTAIN PREVENTIVE SERVICES.*—*Notwith-*
3 *standing any other provision of this title, effective begin-*
4 *ning on January 1, 2010, if the Secretary determines ap-*
5 *propriate, the Secretary may—*

6 “(1) *modify—*

7 “(A) *the coverage of any preventive service*
8 *described in subparagraph (A) of section*
9 *1861(ddd)(3) to the extent that such modification*
10 *is consistent with the recommendations of the*
11 *United States Preventive Services Task Force;*
12 *and*

13 “(B) *the services included in the initial pre-*
14 *ventive physical examination described in sub-*
15 *paragraph (B) of such section; and*

16 “(2) *provide that no payment shall be made*
17 *under this title for a preventive service described in*
18 *subparagraph (A) of such section that has not re-*
19 *ceived a grade of A, B, C, or I by such Task Force.”.*

20 “(b) *CONSTRUCTION.*—*Nothing in the amendment made*
21 *by paragraph (1) shall be construed to affect the coverage*
22 *of diagnostic or treatment services under title XVIII of the*
23 *Social Security Act.*

1 **SEC. 4106. IMPROVING ACCESS TO PREVENTIVE SERVICES**
2 **FOR ELIGIBLE ADULTS IN MEDICAID.**

3 (a) *CLARIFICATION OF INCLUSION OF SERVICES.*—*Sec-*
4 *tion 1905(a)(13) of the Social Security Act (42 U.S.C.*
5 *1396d(a)(13)) is amended to read as follows:*

6 “(13) *other diagnostic, screening, preventive, and*
7 *rehabilitative services, including—*

8 “(A) *any clinical preventive services that*
9 *are assigned a grade of A or B by the United*
10 *States Preventive Services Task Force;*

11 “(B) *with respect to an adult individual,*
12 *approved vaccines recommended by the Advisory*
13 *Committee on Immunization Practices (an advi-*
14 *sory committee established by the Secretary, act-*
15 *ing through the Director of the Centers for Dis-*
16 *ease Control and Prevention) and their adminis-*
17 *tration; and*

18 “(C) *any medical or remedial services (pro-*
19 *vided in a facility, a home, or other setting) rec-*
20 *ommended by a physician or other licensed prac-*
21 *titioner of the healing arts within the scope of*
22 *their practice under State law, for the maximum*
23 *reduction of physical or mental disability and*
24 *restoration of an individual to the best possible*
25 *functional level;”.*

1 (b) *INCREASED FMAP.*—Section 1905(b) of the Social
2 Security Act (42 U.S.C. 1396d(b)), as amended by sections
3 2001(a)(3)(A) and 2004(c)(1), is amended in the first sen-
4 tence—

5 (1) by striking “, and (4)” and inserting “, (4)”;
6 and

7 (2) by inserting before the period the following:
8 “, and (5) in the case of a State that provides medical
9 assistance for services and vaccines described in sub-
10 paragraphs (A) and (B) of subsection (a)(13), and
11 prohibits cost-sharing for such services and vaccines,
12 the Federal medical assistance percentage, as deter-
13 mined under this subsection and subsection (y) (with-
14 out regard to paragraph (1)(C) of such subsection),
15 shall be increased by 1 percentage point with respect
16 to medical assistance for such services and vaccines
17 and for items and services described in subsection
18 (a)(4)(D)”.

19 (c) *EFFECTIVE DATE.*—The amendments made under
20 this section shall take effect on January 1, 2013.

21 **SEC. 4107. COVERAGE OF COMPREHENSIVE TOBACCO CES-**
22 **SATION SERVICES FOR PREGNANT WOMEN IN**
23 **MEDICAID.**

24 (a) *REQUIRING COVERAGE OF COUNSELING AND*
25 *PHARMACOTHERAPY FOR CESSATION OF TOBACCO USE BY*

1 *PREGNANT WOMEN.—Section 1905 of the Social Security*
2 *Act (42 U.S.C. 1396d), as amended by sections*
3 *2001(a)(3)(B) and 2303, is further amended—*

4 *(1) in subsection (a)(4)—*

5 *(A) by striking “and” before “(C)”;* and

6 *(B) by inserting before the semicolon at the*
7 *end the following new subparagraph: “; and (D)*
8 *counseling and pharmacotherapy for cessation of*
9 *tobacco use by pregnant women (as defined in*
10 *subsection (bb))”;* and

11 *(2) by adding at the end the following:*

12 *“(bb)(1) For purposes of this title, the term ‘counseling*
13 *and pharmacotherapy for cessation of tobacco use by preg-*
14 *nant women’ means diagnostic, therapy, and counseling*
15 *services and pharmacotherapy (including the coverage of*
16 *prescription and nonprescription tobacco cessation agents*
17 *approved by the Food and Drug Administration) for ces-*
18 *sation of tobacco use by pregnant women who use tobacco*
19 *products or who are being treated for tobacco use that is*
20 *furnished—*

21 *“(A) by or under the supervision of a physician;*

22 *or*

23 *“(B) by any other health care professional who—*

24 *“(i) is legally authorized to furnish such*
25 *services under State law (or the State regulatory*

1 *mechanism provided by State law) of the State*
2 *in which the services are furnished; and*

3 “(i) *is authorized to receive payment for*
4 *other services under this title or is designated by*
5 *the Secretary for this purpose.*

6 “(2) *Subject to paragraph (3), such term is limited*
7 *to—*

8 “(A) *services recommended with respect to preg-*
9 *nant women in ‘Treating Tobacco Use and Depend-*
10 *ence: 2008 Update: A Clinical Practice Guideline’,*
11 *published by the Public Health Service in May 2008,*
12 *or any subsequent modification of such Guideline;*
13 *and*

14 “(B) *such other services that the Secretary recog-*
15 *nizes to be effective for cessation of tobacco use by*
16 *pregnant women.*

17 “(3) *Such term shall not include coverage for drugs*
18 *or biologicals that are not otherwise covered under this*
19 *title.”.*

20 (b) *EXCEPTION FROM OPTIONAL RESTRICTION UNDER*
21 *MEDICAID PRESCRIPTION DRUG COVERAGE.—Section*
22 *1927(d)(2)(F) of the Social Security Act (42 U.S.C. 1396r-*
23 *8(d)(2)(F)), as redesignated by section 2502(a), is amended*
24 *by inserting before the period at the end the following: “,*
25 *except, in the case of pregnant women when recommended*

1 *in accordance with the Guideline referred to in section*
2 *1905(bb)(2)(A), agents approved by the Food and Drug Ad-*
3 *ministration under the over-the-counter monograph process*
4 *for purposes of promoting, and when used to promote, to-*
5 *bacco cessation”.*

6 *(c) REMOVAL OF COST-SHARING FOR COUNSELING*
7 *AND PHARMACOTHERAPY FOR CESSATION OF TOBACCO USE*
8 *BY PREGNANT WOMEN.—*

9 *(1) GENERAL COST-SHARING LIMITATIONS.—Sec-*
10 *tion 1916 of the Social Security Act (42 U.S.C.*
11 *1396o) is amended in each of subsections (a)(2)(B)*
12 *and (b)(2)(B) by inserting “, and counseling and*
13 *pharmacotherapy for cessation of tobacco use by preg-*
14 *nant women (as defined in section 1905(bb)) and cov-*
15 *ered outpatient drugs (as defined in subsection (k)(2)*
16 *of section 1927 and including nonprescription drugs*
17 *described in subsection (d)(2) of such section) that are*
18 *prescribed for purposes of promoting, and when used*
19 *to promote, tobacco cessation by pregnant women in*
20 *accordance with the Guideline referred to in section*
21 *1905(bb)(2)(A)” after “complicate the pregnancy”.*

22 *(2) APPLICATION TO ALTERNATIVE COST-SHAR-*
23 *ING.—Section 1916A(b)(3)(B)(iii) of such Act (42*
24 *U.S.C. 1396o–1(b)(3)(B)(iii)) is amended by insert-*
25 *ing “, and counseling and pharmacotherapy for ces-*

1 *sation of tobacco use by pregnant women (as defined*
2 *in section 1905(bb))” after “complicate the pregn-*
3 *nancy”.*

4 *(d) EFFECTIVE DATE.—The amendments made by this*
5 *section shall take effect on October 1, 2010.*

6 **SEC. 4108. INCENTIVES FOR PREVENTION OF CHRONIC DIS-**
7 **EASES IN MEDICAID.**

8 *(a) INITIATIVES.—*

9 *(1) ESTABLISHMENT.—*

10 *(A) IN GENERAL.—The Secretary shall*
11 *award grants to States to carry out initiatives*
12 *to provide incentives to Medicaid beneficiaries*
13 *who—*

14 *(i) successfully participate in a pro-*
15 *gram described in paragraph (3); and*

16 *(ii) upon completion of such participa-*
17 *tion, demonstrate changes in health risk*
18 *and outcomes, including the adoption and*
19 *maintenance of healthy behaviors by meet-*
20 *ing specific targets (as described in sub-*
21 *section (c)(2)).*

22 *(B) PURPOSE.—The purpose of the initia-*
23 *tives under this section is to test approaches that*
24 *may encourage behavior modification and deter-*
25 *mine scalable solutions.*

1 (2) *DURATION.*—

2 (A) *INITIATION OF PROGRAM; RE-*
3 *SOURCES.*—*The Secretary shall awards grants to*
4 *States beginning on January 1, 2011, or begin-*
5 *ning on the date on which the Secretary develops*
6 *program criteria, whichever is earlier. The Sec-*
7 *retary shall develop program criteria for initia-*
8 *tives under this section using relevant evidence-*
9 *based research and resources, including the*
10 *Guide to Community Preventive Services, the*
11 *Guide to Clinical Preventive Services, and the*
12 *National Registry of Evidence-Based Programs*
13 *and Practices.*

14 (B) *DURATION OF PROGRAM.*—*A State*
15 *awarded a grant to carry out initiatives under*
16 *this section shall carry out such initiatives with-*
17 *in the 5-year period beginning on January 1,*
18 *2011, or beginning on the date on which the Sec-*
19 *retary develops program criteria, whichever is*
20 *earlier. Initiatives under this section shall be*
21 *carried out by a State for a period of not less*
22 *than 3 years.*

23 (3) *PROGRAM DESCRIBED.*—

24 (A) *IN GENERAL.*—*A program described in*
25 *this paragraph is a comprehensive, evidence-*

1 *based, widely available, and easily accessible*
2 *program, proposed by the State and approved by*
3 *the Secretary, that is designed and uniquely*
4 *suited to address the needs of Medicaid bene-*
5 *ficiaries and has demonstrated success in helping*
6 *individuals achieve one or more of the following:*

7 *(i) Ceasing use of tobacco products.*

8 *(ii) Controlling or reducing their*
9 *weight.*

10 *(iii) Lowering their cholesterol.*

11 *(iv) Lowering their blood pressure.*

12 *(v) Avoiding the onset of diabetes or,*
13 *in the case of a diabetic, improving the*
14 *management of that condition.*

15 *(B) CO-MORBIDITIES.—A program under*
16 *this section may also address co-morbidities (in-*
17 *cluding depression) that are related to any of the*
18 *conditions described in subparagraph (A).*

19 *(C) WAIVER AUTHORITY.—The Secretary*
20 *may waive the requirements of section*
21 *1902(a)(1) (relating to statewideness) of the So-*
22 *cial Security Act for a State awarded a grant to*
23 *conduct an initiative under this section and*
24 *shall ensure that a State makes any program de-*

1 *scribed in subparagraph (A) available and acces-*
2 *sible to Medicaid beneficiaries.*

3 *(D) FLEXIBILITY IN IMPLEMENTATION.—A*
4 *State may enter into arrangements with pro-*
5 *viders participating in Medicaid, community-*
6 *based organizations, faith-based organizations,*
7 *public-private partnerships, Indian tribes, or*
8 *similar entities or organizations to carry out*
9 *programs described in subparagraph (A).*

10 *(4) APPLICATION.—Following the development of*
11 *program criteria by the Secretary, a State may sub-*
12 *mit an application, in such manner and containing*
13 *such information as the Secretary may require, that*
14 *shall include a proposal for programs described in*
15 *paragraph (3)(A) and a plan to make Medicaid bene-*
16 *ficiaries and providers participating in Medicaid who*
17 *reside in the State aware and informed about such*
18 *programs.*

19 *(b) EDUCATION AND OUTREACH CAMPAIGN.—*

20 *(1) STATE AWARENESS.—The Secretary shall*
21 *conduct an outreach and education campaign to make*
22 *States aware of the grants under this section.*

23 *(2) PROVIDER AND BENEFICIARY EDUCATION.—A*
24 *State awarded a grant to conduct an initiative under*
25 *this section shall conduct an outreach and education*

1 *campaign to make Medicaid beneficiaries and pro-*
2 *viders participating in Medicaid who reside in the*
3 *State aware of the programs described in subsection*
4 *(a)(3) that are to be carried out by the State under*
5 *the grant.*

6 *(c) IMPACT.—A State awarded a grant to conduct an*
7 *initiative under this section shall develop and implement*
8 *a system to—*

9 *(1) track Medicaid beneficiary participation in*
10 *the program and validate changes in health risk and*
11 *outcomes with clinical data, including the adoption*
12 *and maintenance of health behaviors by such bene-*
13 *ficiaries;*

14 *(2) to the extent practicable, establish standards*
15 *and health status targets for Medicaid beneficiaries*
16 *participating in the program and measure the degree*
17 *to which such standards and targets are met;*

18 *(3) evaluate the effectiveness of the program and*
19 *provide the Secretary with such evaluations;*

20 *(4) report to the Secretary on processes that have*
21 *been developed and lessons learned from the program;*
22 *and*

23 *(5) report on preventive services as part of re-*
24 *porting on quality measures for Medicaid managed*
25 *care programs.*

1 (d) *EVALUATIONS AND REPORTS.*—

2 (1) *INDEPENDENT ASSESSMENT.*—*The Secretary*
3 *shall enter into a contract with an independent entity*
4 *or organization to conduct an evaluation and assess-*
5 *ment of the initiatives carried out by States under*
6 *this section, for the purpose of determining—*

7 (A) *the effect of such initiatives on the use*
8 *of health care services by Medicaid beneficiaries*
9 *participating in the program;*

10 (B) *the extent to which special populations*
11 *(including adults with disabilities, adults with*
12 *chronic illnesses, and children with special*
13 *health care needs) are able to participate in the*
14 *program;*

15 (C) *the level of satisfaction of Medicaid*
16 *beneficiaries with respect to the accessibility and*
17 *quality of health care services provided through*
18 *the program; and*

19 (D) *the administrative costs incurred by*
20 *State agencies that are responsible for adminis-*
21 *tration of the program.*

22 (2) *STATE REPORTING.*—*A State awarded a*
23 *grant to carry out initiatives under this section shall*
24 *submit reports to the Secretary, on a semi-annual*
25 *basis, regarding the programs that are supported by*

1 *the grant funds. Such report shall include informa-*
2 *tion, as specified by the Secretary, regarding—*

3 *(A) the specific uses of the grant funds;*

4 *(B) an assessment of program implementa-*
5 *tion and lessons learned from the programs;*

6 *(C) an assessment of quality improvements*
7 *and clinical outcomes under such programs; and*

8 *(D) estimates of cost savings resulting from*
9 *such programs.*

10 *(3) INITIAL REPORT.—Not later than January 1,*
11 *2014, the Secretary shall submit to Congress an ini-*
12 *tial report on such initiatives based on information*
13 *provided by States through reports required under*
14 *paragraph (2). The initial report shall include an in-*
15 *terim evaluation of the effectiveness of the initiatives*
16 *carried out with grants awarded under this section*
17 *and a recommendation regarding whether funding for*
18 *expanding or extending the initiatives should be ex-*
19 *tended beyond January 1, 2016.*

20 *(4) FINAL REPORT.—Not later than July 1,*
21 *2016, the Secretary shall submit to Congress a final*
22 *report on the program that includes the results of the*
23 *independent assessment required under paragraph*
24 *(1), together with recommendations for such legisla-*

1 *tion and administrative action as the Secretary deter-*
2 *mines appropriate.*

3 *(e) NO EFFECT ON ELIGIBILITY FOR, OR AMOUNT OF,*
4 *MEDICAID OR OTHER BENEFITS.—Any incentives provided*
5 *to a Medicaid beneficiary participating in a program de-*
6 *scribed in subsection (a)(3) shall not be taken into account*
7 *for purposes of determining the beneficiary’s eligibility for,*
8 *or amount of, benefits under the Medicaid program or any*
9 *program funded in whole or in part with Federal funds.*

10 *(f) FUNDING.—Out of any funds in the Treasury not*
11 *otherwise appropriated, there are appropriated for the 5-*
12 *year period beginning on January 1, 2011, \$100,000,000*
13 *to the Secretary to carry out this section. Amounts appro-*
14 *riated under this subsection shall remain available until*
15 *expended.*

16 *(g) DEFINITIONS.—In this section:*

17 *(1) MEDICAID BENEFICIARY.—The term “Med-*
18 *icaid beneficiary” means an individual who is eligi-*
19 *ble for medical assistance under a State plan or*
20 *waiver under title XIX of the Social Security Act (42*
21 *U.S.C. 1396 et seq.) and is enrolled in such plan or*
22 *waiver.*

23 *(2) STATE.—The term “State” has the meaning*
24 *given that term for purposes of title XIX of the Social*
25 *Security Act (42 U.S.C. 1396 et seq.).*

1 **Subtitle C—Creating Healthier**
2 **Communities**

3 **SEC. 4201. COMMUNITY TRANSFORMATION GRANTS.**

4 (a) *IN GENERAL.*—*The Secretary of Health and*
5 *Human Services (referred to in this section as the “Sec-*
6 *retary”), acting through the Director of the Centers for Dis-*
7 *ease Control and Prevention (referred to in this section as*
8 *the “Director”), shall award competitive grants to State*
9 *and local governmental agencies and community-based or-*
10 *ganizations for the implementation, evaluation, and dis-*
11 *semination of evidence-based community preventive health*
12 *activities in order to reduce chronic disease rates, prevent*
13 *the development of secondary conditions, address health dis-*
14 *parities, and develop a stronger evidence-base of effective*
15 *prevention programming.*

16 (b) *ELIGIBILITY.*—*To be eligible to receive a grant*
17 *under subsection (a), an entity shall—*

18 (1) *be—*

19 (A) *a State governmental agency;*

20 (B) *a local governmental agency;*

21 (C) *a national network of community-based*
22 *organizations;*

23 (D) *a State or local non-profit organiza-*
24 *tion; or*

25 (E) *an Indian tribe; and*

1 (2) *submit to the Director an application at such*
2 *time, in such a manner, and containing such infor-*
3 *mation as the Director may require, including a de-*
4 *scription of the program to be carried out under the*
5 *grant; and*

6 (3) *demonstrate a history or capacity, if funded,*
7 *to develop relationships necessary to engage key stake-*
8 *holders from multiple sectors within and beyond*
9 *health care and across a community, such as healthy*
10 *futures corps and health care providers.*

11 (c) *USE OF FUNDS.—*

12 (1) *IN GENERAL.—An eligible entity shall use*
13 *amounts received under a grant under this section to*
14 *carry out programs described in this subsection.*

15 (2) *COMMUNITY TRANSFORMATION PLAN.—*

16 (A) *IN GENERAL.—An eligible entity that*
17 *receives a grant under this section shall submit*
18 *to the Director (for approval) a detailed plan*
19 *that includes the policy, environmental, pro-*
20 *grammatic, and as appropriate infrastructure*
21 *changes needed to promote healthy living and re-*
22 *duce disparities.*

23 (B) *ACTIVITIES.—Activities within the plan*
24 *may focus on (but not be limited to)—*

1 (i) *creating healthier school environ-*
2 *ments, including increasing healthy food*
3 *options, physical activity opportunities,*
4 *promotion of healthy lifestyle, emotional*
5 *wellness, and prevention curricula, and ac-*
6 *tivities to prevent chronic diseases;*

7 (ii) *creating the infrastructure to sup-*
8 *port active living and access to nutritious*
9 *foods in a safe environment;*

10 (iii) *developing and promoting pro-*
11 *grams targeting a variety of age levels to*
12 *increase access to nutrition, physical activ-*
13 *ity and smoking cessation, improve social*
14 *and emotional wellness, enhance safety in a*
15 *community, or address any other chronic*
16 *disease priority area identified by the*
17 *grantee;*

18 (iv) *assessing and implementing work-*
19 *site wellness programming and incentives;*

20 (v) *working to highlight healthy op-*
21 *tions at restaurants and other food venues;*

22 (vi) *prioritizing strategies to reduce*
23 *racial and ethnic disparities, including so-*
24 *cial, economic, and geographic determinants*
25 *of health; and*

1 (vii) *addressing special populations*
2 *needs, including all age groups and individ-*
3 *uals with disabilities, and individuals in*
4 *both urban and rural areas.*

5 (3) *COMMUNITY-BASED PREVENTION HEALTH AC-*
6 *TIVITIES.—*

7 (A) *IN GENERAL.—An eligible entity shall*
8 *use amounts received under a grant under this*
9 *section to implement a variety of programs, poli-*
10 *cies, and infrastructure improvements to pro-*
11 *mote healthier lifestyles.*

12 (B) *ACTIVITIES.—An eligible entity shall*
13 *implement activities detailed in the community*
14 *transformation plan under paragraph (2).*

15 (C) *IN-KIND SUPPORT.—An eligible entity*
16 *may provide in-kind resources such as staff,*
17 *equipment, or office space in carrying out activi-*
18 *ties under this section.*

19 (4) *EVALUATION.—*

20 (A) *IN GENERAL.—An eligible entity shall*
21 *use amounts provided under a grant under this*
22 *section to conduct activities to measure changes*
23 *in the prevalence of chronic disease risk factors*
24 *among community members participating in*
25 *preventive health activities*

1 (B) *TYPES OF MEASURES.*—*In carrying out*
2 *subparagraph (A), the eligible entity shall, with*
3 *respect to residents in the community, meas-*
4 *ure—*

5 (i) *changes in weight;*

6 (ii) *changes in proper nutrition;*

7 (iii) *changes in physical activity;*

8 (iv) *changes in tobacco use prevalence;*

9 (v) *changes in emotional well-being*

10 *and overall mental health;*

11 (vi) *other factors using community-*
12 *specific data from the Behavioral Risk Fac-*
13 *tor Surveillance Survey; and*

14 (vii) *other factors as determined by the*
15 *Secretary.*

16 (C) *REPORTING.*—*An eligible entity shall*
17 *annually submit to the Director a report con-*
18 *taining an evaluation of activities carried out*
19 *under the grant.*

20 (5) *DISSEMINATION.*—*A grantee under this sec-*
21 *tion shall—*

22 (A) *meet at least annually in regional or*
23 *national meetings to discuss challenges, best*
24 *practices, and lessons learned with respect to ac-*
25 *tivities carried out under the grant; and*

1 (B) *develop models for the replication of*
2 *successful programs and activities and the men-*
3 *toring of other eligible entities.*

4 (d) *TRAINING.—*

5 (1) *IN GENERAL.—The Director shall develop a*
6 *program to provide training for eligible entities on ef-*
7 *fective strategies for the prevention and control of*
8 *chronic disease and the link between physical, emo-*
9 *tional, and social well-being.*

10 (2) *COMMUNITY TRANSFORMATION PLAN.—The*
11 *Director shall provide appropriate feedback and tech-*
12 *nical assistance to grantees to establish community*
13 *transformation plans*

14 (3) *EVALUATION.—The Director shall provide a*
15 *literature review and framework for the evaluation of*
16 *programs conducted as part of the grant program*
17 *under this section, in addition to working with aca-*
18 *demie institutions or other entities with expertise in*
19 *outcome evaluation.*

20 (e) *PROHIBITION.—A grantee shall not use funds pro-*
21 *vided under a grant under this section to create video games*
22 *or to carry out any other activities that may lead to higher*
23 *rates of obesity or inactivity.*

24 (f) *AUTHORIZATION OF APPROPRIATIONS.—There are*
25 *authorized to be appropriated to carry out this section, such*

1 *sums as may be necessary for each fiscal years 2010 through*
2 *2014.*

3 **SEC. 4202. HEALTHY AGING, LIVING WELL; EVALUATION OF**
4 **COMMUNITY-BASED PREVENTION AND**
5 **WELLNESS PROGRAMS FOR MEDICARE BENE-**
6 **FICIARIES.**

7 *(a) HEALTHY AGING, LIVING WELL.—*

8 *(1) IN GENERAL.—The Secretary of Health and*
9 *Human Services (referred to in this section as the*
10 *“Secretary”), acting through the Director of the Cen-*
11 *ters for Disease Control and Prevention, shall award*
12 *grants to State or local health departments and In-*
13 *dian tribes to carry out 5-year pilot programs to pro-*
14 *vide public health community interventions,*
15 *screenings, and where necessary, clinical referrals for*
16 *individuals who are between 55 and 64 years of age.*

17 *(2) ELIGIBILITY.—To be eligible to receive a*
18 *grant under paragraph (1), an entity shall—*

19 *(A) be—*

20 *(i) a State health department;*

21 *(ii) a local health department; or*

22 *(iii) an Indian tribe;*

23 *(B) submit to the Secretary an application*
24 *at such time, in such manner, and containing*
25 *such information as the Secretary may require*

1 including a description of the program to be car-
2 ried out under the grant;

3 (C) design a strategy for improving the
4 health of the 55-to-64 year-old population
5 through community-based public health interven-
6 tions; and

7 (D) demonstrate the capacity, if funded, to
8 develop the relationships necessary with relevant
9 health agencies, health care providers, commu-
10 nity-based organizations, and insurers to carry
11 out the activities described in paragraph (3),
12 such relationships to include the identification of
13 a community-based clinical partner, such as a
14 community health center or rural health clinic.

15 (3) *USE OF FUNDS.*—

16 (A) *IN GENERAL.*—A State or local health
17 department shall use amounts received under a
18 grant under this subsection to carry out a pro-
19 gram to provide the services described in this
20 paragraph to individuals who are between 55
21 and 64 years of age.

22 (B) *PUBLIC HEALTH INTERVENTIONS.*—

23 (i) *IN GENERAL.*—In developing and
24 implementing such activities, a grantee
25 shall collaborate with the Centers for Dis-

1 *ease Control and Prevention and the Ad-*
2 *ministration on Aging, and relevant local*
3 *agencies and organizations.*

4 *(ii) TYPES OF INTERVENTION ACTIVI-*
5 *TIES.—Intervention activities conducted*
6 *under this subparagraph may include ef-*
7 *forts to improve nutrition, increase physical*
8 *activity, reduce tobacco use and substance*
9 *abuse, improve mental health, and promote*
10 *healthy lifestyles among the target popu-*
11 *lation.*

12 *(C) COMMUNITY PREVENTIVE*
13 *SCREENINGS.—*

14 *(i) IN GENERAL.—In addition to com-*
15 *munity-wide public health interventions, a*
16 *State or local health department shall use*
17 *amounts received under a grant under this*
18 *subsection to conduct ongoing health screen-*
19 *ing to identify risk factors for cardio-*
20 *vascular disease, cancer, stroke, and diabe-*
21 *tes among individuals in both urban and*
22 *rural areas who are between 55 and 64*
23 *years of age.*

1 (ii) *TYPES OF SCREENING ACTIVITIES.*—Screening activities conducted under
2 this subparagraph may include—
3

4 (I) *mental health/behavioral*
5 *health and substance use disorders;*

6 (II) *physical activity, smoking,*
7 *and nutrition; and*

8 (III) *any other measures deemed*
9 *appropriate by the Secretary.*

10 (iii) *MONITORING.*—Grantees under
11 this section shall maintain records of
12 screening results under this subparagraph
13 to establish the baseline data for monitoring
14 the targeted population

15 (D) *CLINICAL REFERRAL/TREATMENT FOR*
16 *CHRONIC DISEASES.*—

17 (i) *IN GENERAL.*—A State or local
18 health department shall use amounts re-
19 ceived under a grant under this subsection
20 to ensure that individuals between 55 and
21 64 years of age who are found to have
22 chronic disease risk factors through the
23 screening activities described in subpara-
24 graph (C)(ii), receive clinical referral/treat-

1 *ment for follow-up services to reduce such*
2 *risk.*

3 (ii) *MECHANISM.—*

4 (I) *IDENTIFICATION AND DETER-*
5 *MINATION OF STATUS.—With respect to*
6 *each individual with risk factors for or*
7 *having heart disease, stroke, diabetes,*
8 *or any other condition for which such*
9 *individual was screened under sub-*
10 *paragraph (C), a grantee under this*
11 *section shall determine whether or not*
12 *such individual is covered under any*
13 *public or private health insurance pro-*
14 *gram.*

15 (II) *INSURED INDIVIDUALS.—An*
16 *individual determined to be covered*
17 *under a health insurance program*
18 *under subclause (I) shall be referred by*
19 *the grantee to the existing providers*
20 *under such program or, if such indi-*
21 *vidual does not have a current pro-*
22 *vider, to a provider who is in-network*
23 *with respect to the program involved.*

24 (III) *UNINSURED INDIVIDUALS.—*
25 *With respect to an individual deter-*

1 *mined to be uninsured under subclause*
2 *(I), the grantee’s community-based*
3 *clinical partner described in para-*
4 *graph (4)(D) shall assist the indi-*
5 *vidual in determining eligibility for*
6 *available public coverage options and*
7 *identify other appropriate community*
8 *health care resources and assistance*
9 *programs.*

10 *(iii) PUBLIC HEALTH INTERVENTION*
11 *PROGRAM.—A State or local health depart-*
12 *ment shall use amounts received under a*
13 *grant under this subsection to enter into*
14 *contracts with community health centers or*
15 *rural health clinics and mental health and*
16 *substance use disorder service providers to*
17 *assist in the referral/treatment of at risk*
18 *patients to community resources for clinical*
19 *follow-up and help determine eligibility for*
20 *other public programs.*

21 *(E) GRANTEE EVALUATION.—An eligible en-*
22 *tity shall use amounts provided under a grant*
23 *under this subsection to conduct activities to*
24 *measure changes in the prevalence of chronic dis-*
25 *ease risk factors among participants.*

1 (4) *PILOT PROGRAM EVALUATION.*—*The Sec-*
2 *retary shall conduct an annual evaluation of the effec-*
3 *tiveness of the pilot program under this subsection. In*
4 *determining such effectiveness, the Secretary shall*
5 *consider changes in the prevalence of uncontrolled*
6 *chronic disease risk factors among new Medicare en-*
7 *rollees (or individuals nearing enrollment, including*
8 *those who are 63 and 64 years of age) who reside in*
9 *States or localities receiving grants under this section*
10 *as compared with national and historical data for*
11 *those States and localities for the same population.*

12 (5) *AUTHORIZATION OF APPROPRIATIONS.*—
13 *There are authorized to be appropriated to carry out*
14 *this subsection, such sums as may be necessary for*
15 *each of fiscal years 2010 through 2014.*

16 (b) *EVALUATION AND PLAN FOR COMMUNITY-BASED*
17 *PREVENTION AND WELLNESS PROGRAMS FOR MEDICARE*
18 *BENEFICIARIES.*—

19 (1) *IN GENERAL.*—*The Secretary shall conduct*
20 *an evaluation of community-based prevention and*
21 *wellness programs and develop a plan for promoting*
22 *healthy lifestyles and chronic disease self-management*
23 *for Medicare beneficiaries.*

24 (2) *MEDICARE EVALUATION OF PREVENTION AND*
25 *WELLNESS PROGRAMS.*—

1 (A) *IN GENERAL.*—*The Secretary shall*
2 *evaluate community prevention and wellness*
3 *programs including those that are sponsored by*
4 *the Administration on Aging, are evidence-based,*
5 *and have demonstrated potential to help Medi-*
6 *care beneficiaries (particularly beneficiaries that*
7 *have attained 65 years of age) reduce their risk*
8 *of disease, disability, and injury by making*
9 *healthy lifestyle choices, including exercise, diet,*
10 *and self-management of chronic diseases.*

11 (B) *EVALUATION.*—*The evaluation under*
12 *subparagraph (A) shall consist of the following:*

13 (i) *EVIDENCE REVIEW.*—*The Secretary*
14 *shall review available evidence, literature,*
15 *best practices, and resources that are rel-*
16 *evant to programs that promote healthy life-*
17 *styles and reduce risk factors for the Medi-*
18 *care population. The Secretary may deter-*
19 *mine the scope of the evidence review and*
20 *such issues to be considered, which shall in-*
21 *clude, at a minimum—*

22 (I) *physical activity, nutrition,*
23 *and obesity;*

24 (II) *falls;*

1 (III) chronic disease self-manage-
2 ment; and

3 (IV) mental health.

4 (ii) *INDEPENDENT EVALUATION OF*
5 *EVIDENCE-BASED COMMUNITY PREVENTION*
6 *AND WELLNESS PROGRAMS.—The Adminis-*
7 *trator of the Centers for Medicare & Med-*
8 *icaid Services, in consultation with the As-*
9 *stant Secretary for Aging, shall, to the ex-*
10 *tent feasible and practicable, conduct an*
11 *evaluation of existing community preven-*
12 *tion and wellness programs that are spon-*
13 *sored by the Administration on Aging to as-*
14 *sess the extent to which Medicare bene-*
15 *ficiaries who participate in such pro-*
16 *grams—*

17 (I) reduce their health risks, im-
18 prove their health outcomes, and adopt
19 and maintain healthy behaviors;

20 (II) improve their ability to man-
21 age their chronic conditions; and

22 (III) reduce their utilization of
23 health services and associated costs
24 under the Medicare program for condi-

1 *tions that are amenable to improve-*
2 *ment under such programs.*

3 (3) *REPORT.*—*Not later than September 30,*
4 *2013, the Secretary shall submit to Congress a report*
5 *that includes—*

6 (A) *recommendations for such legislation*
7 *and administrative action as the Secretary de-*
8 *termines appropriate to promote healthy life-*
9 *styles and chronic disease self-management for*
10 *Medicare beneficiaries;*

11 (B) *any relevant findings relating to the*
12 *evidence review under paragraph (2)(B)(i); and*

13 (C) *the results of the evaluation under para-*
14 *graph (2)(B)(ii).*

15 (4) *FUNDING.*—*For purposes of carrying out this*
16 *subsection, the Secretary shall provide for the trans-*
17 *fer, from the Federal Hospital Insurance Trust Fund*
18 *under section 1817 of the Social Security Act (42*
19 *U.S.C. 1395i) and the Federal Supplemental Medical*
20 *Insurance Trust Fund under section 1841 of such Act*
21 *(42 U.S.C. 1395t), in such proportion as the Sec-*
22 *retary determines appropriate, of \$50,000,000 to the*
23 *Centers for Medicare & Medicaid Services Program*
24 *Management Account. Amounts transferred under the*

1 preceding sentence shall remain available until ex-
2 pended.

3 (5) *ADMINISTRATION.*—Chapter 35 of title 44,
4 United States Code shall not apply to the this sub-
5 section.

6 (6) *MEDICARE BENEFICIARY.*—In this subsection,
7 the term “Medicare beneficiary” means an individual
8 who is entitled to benefits under part A of title XVIII
9 of the Social Security Act and enrolled under part B
10 of such title.

11 **SEC. 4203. REMOVING BARRIERS AND IMPROVING ACCESS**
12 **TO WELLNESS FOR INDIVIDUALS WITH DIS-**
13 **ABILITIES.**

14 Title V of the Rehabilitation Act of 1973 (29 U.S.C.
15 791 et seq.) is amended by adding at the end of the fol-
16 lowing:

17 **“SEC. 510. ESTABLISHMENT OF STANDARDS FOR ACCES-**
18 **SIBLE MEDICAL DIAGNOSTIC EQUIPMENT.**

19 “(a) *STANDARDS.*—Not later than 24 months after the
20 date of enactment of the Affordable Health Choices Act, the
21 Architectural and Transportation Barriers Compliance
22 Board shall, in consultation with the Commissioner of the
23 Food and Drug Administration, promulgate regulatory
24 standards in accordance with the Administrative Procedure
25 Act (2 U.S.C. 551 et seq.) setting forth the minimum tech-

1 *nical criteria for medical diagnostic equipment used in (or*
2 *in conjunction with) physician's offices, clinics, emergency*
3 *rooms, hospitals, and other medical settings. The standards*
4 *shall ensure that such equipment is accessible to, and usable*
5 *by, individuals with accessibility needs, and shall allow*
6 *independent entry to, use of, and exit from the equipment*
7 *by such individuals to the maximum extent possible.*

8 “(b) *MEDICAL DIAGNOSTIC EQUIPMENT COVERED.—*
9 *The standards issued under subsection (a) for medical diag-*
10 *nostic equipment shall apply to equipment that includes ex-*
11 *amination tables, examination chairs (including chairs*
12 *used for eye examinations or procedures, and dental exami-*
13 *nations or procedures), weight scales, mammography equip-*
14 *ment, x-ray machines, and other radiological equipment*
15 *commonly used for diagnostic purposes by health profes-*
16 *sionals.*

17 “(c) *REVIEW AND AMENDMENT.—The Architectural*
18 *and Transportation Barriers Compliance Board, in con-*
19 *sultation with the Commissioner of the Food and Drug Ad-*
20 *ministration, shall periodically review and, as appropriate,*
21 *amend the standards in accordance with the Administrative*
22 *Procedure Act (2 U.S.C. 551 et seq.).”.*

23 **SEC. 4204. IMMUNIZATIONS.**

24 “(a) *STATE AUTHORITY TO PURCHASE RECOMMENDED*
25 *VACCINES FOR ADULTS.—Section 317 of the Public Health*

1 *Service Act (42 U.S.C. 247b) is amended by adding at the*
2 *end the following:*

3 “(l) *AUTHORITY TO PURCHASE RECOMMENDED VAC-*
4 *CINES FOR ADULTS.—*

5 “(1) *IN GENERAL.—The Secretary may negotiate*
6 *and enter into contracts with manufacturers of vac-*
7 *cines for the purchase and delivery of vaccines for*
8 *adults as provided for under subsection (e).*

9 “(2) *STATE PURCHASE.—A State may obtain*
10 *additional quantities of such adult vaccines (subject*
11 *to amounts specified to the Secretary by the State in*
12 *advance of negotiations) through the purchase of vac-*
13 *cines from manufacturers at the applicable price ne-*
14 *gotiated by the Secretary under this subsection.”.*

15 “(b) *DEMONSTRATION PROGRAM TO IMPROVE IMMUNI-*
16 *ZATION COVERAGE.—Section 317 of the Public Health*
17 *Service Act (42 U.S.C. 247b), as amended by subsection (a),*
18 *is further amended by adding at the end the following:*

19 “(m) *DEMONSTRATION PROGRAM TO IMPROVE IMMU-*
20 *NIZATION COVERAGE.—*

21 “(1) *IN GENERAL.—The Secretary, acting*
22 *through the Director of the Centers for Disease Con-*
23 *trol and Prevention, shall establish a demonstration*
24 *program to award grants to States to improve the*
25 *provision of recommended immunizations for chil-*

1 *dren, adolescents, and adults through the use of evi-*
2 *dence-based, population-based interventions for high-*
3 *risk populations.*

4 *“(2) STATE PLAN.—To be eligible for a grant*
5 *under paragraph (1), a State shall submit to the Sec-*
6 *retary an application at such time, in such manner,*
7 *and containing such information as the Secretary*
8 *may require, including a State plan that describes the*
9 *interventions to be implemented under the grant and*
10 *how such interventions match with local needs and*
11 *capabilities, as determined through consultation with*
12 *local authorities.*

13 *“(3) USE OF FUNDS.—Funds received under a*
14 *grant under this subsection shall be used to imple-*
15 *ment interventions that are recommended by the Task*
16 *Force on Community Preventive Services (as estab-*
17 *lished by the Secretary, acting through the Director of*
18 *the Centers for Disease Control and Prevention) or*
19 *other evidence-based interventions, including—*

20 *“(A) providing immunization reminders or*
21 *recalls for target populations of clients, patients,*
22 *and consumers;*

23 *“(B) educating targeted populations and*
24 *health care providers concerning immunizations*

1 *in combination with one or more other interven-*
2 *tions;*

3 “(C) *reducing out-of-pocket costs for fami-*
4 *lies for vaccines and their administration;*

5 “(D) *carrying out immunization-promoting*
6 *strategies for participants or clients of public*
7 *programs, including assessments of immuniza-*
8 *tion status, referrals to health care providers,*
9 *education, provision of on-site immunizations, or*
10 *incentives for immunization;*

11 “(E) *providing for home visits that promote*
12 *immunization through education, assessments of*
13 *need, referrals, provision of immunizations, or*
14 *other services;*

15 “(F) *providing reminders or recalls for im-*
16 *munization providers;*

17 “(G) *conducting assessments of, and pro-*
18 *viding feedback to, immunization providers;*

19 “(H) *any combination of one or more inter-*
20 *ventions described in this paragraph; or*

21 “(I) *immunization information systems to*
22 *allow all States to have electronic databases for*
23 *immunization records.*

24 “(4) *CONSIDERATION.—In awarding grants*
25 *under this subsection, the Secretary shall consider*

1 *any reviews or recommendations of the Task Force on*
2 *Community Preventive Services.*

3 “(5) *EVALUATION.*—*Not later than 3 years after*
4 *the date on which a State receives a grant under this*
5 *subsection, the State shall submit to the Secretary an*
6 *evaluation of progress made toward improving immu-*
7 *nization coverage rates among high-risk populations*
8 *within the State.*

9 “(6) *REPORT TO CONGRESS.*—*Not later than 4*
10 *years after the date of enactment of the Affordable*
11 *Health Choices Act, the Secretary shall submit to*
12 *Congress a report concerning the effectiveness of the*
13 *demonstration program established under this sub-*
14 *section together with recommendations on whether to*
15 *continue and expand such program.*

16 “(7) *AUTHORIZATION OF APPROPRIATIONS.*—
17 *There is authorized to be appropriated to carry out*
18 *this subsection, such sums as may be necessary for*
19 *each of fiscal years 2010 through 2014.”.*

20 (c) *REAUTHORIZATION OF IMMUNIZATION PRO-*
21 *GRAM.*—*Section 317(j) of the Public Health Service Act (42*
22 *U.S.C. 247b(j)) is amended—*

23 (1) *in paragraph (1), by striking “for each of the*
24 *fiscal years 1998 through 2005”; and*

1 (2) in paragraph (2), by striking “after October
2 1, 1997,”.

3 (d) *RULE OF CONSTRUCTION REGARDING ACCESS TO*
4 *IMMUNIZATIONS.*—Nothing in this section (including the
5 amendments made by this section), or any other provision
6 of this Act (including any amendments made by this Act)
7 shall be construed to decrease children’s access to immuniza-
8 tions.

9 (e) *GAO STUDY AND REPORT ON MEDICARE BENE-*
10 *FICIARY ACCESS TO VACCINES.*—

11 (1) *STUDY.*—The Comptroller General of the
12 United States (in this section referred to as the
13 “Comptroller General”) shall conduct a study on the
14 ability of Medicare beneficiaries who were 65 years of
15 age or older to access routinely recommended vaccines
16 covered under the prescription drug program under
17 part D of title XVIII of the Social Security Act over
18 the period since the establishment of such program.
19 Such study shall include the following:

20 (A) An analysis and determination of—

21 (i) the number of Medicare bene-
22 ficiaries who were 65 years of age or older
23 and were eligible for a routinely rec-
24 ommended vaccination that was covered
25 under part D;

1 (ii) the number of such beneficiaries
2 who actually received a routinely rec-
3 ommended vaccination that was covered
4 under part D; and

5 (iii) any barriers to access by such
6 beneficiaries to routinely recommended vac-
7 cinations that were covered under part D.

8 (B) A summary of the findings and rec-
9 ommendations by government agencies, depart-
10 ments, and advisory bodies (as well as relevant
11 professional organizations) on the impact of cov-
12 erage under part D of routinely recommended
13 adult immunizations for access to such immuni-
14 zations by Medicare beneficiaries.

15 (2) *REPORT.*—Not later than June 1, 2011, the
16 Comptroller General shall submit to the appropriate
17 committees of jurisdiction of the House of Representa-
18 tives and the Senate a report containing the results
19 of the study conducted under paragraph (1), together
20 with recommendations for such legislation and ad-
21 ministrative action as the Comptroller General deter-
22 mines appropriate.

23 (3) *FUNDING.*—Out of any funds in the Treas-
24 ury not otherwise appropriated, there are appro-

1 *priated \$1,000,000 for fiscal year 2010 to carry out*
2 *this subsection.*

3 **SEC. 4205. NUTRITION LABELING OF STANDARD MENU**

4 **ITEMS AT CHAIN RESTAURANTS.**

5 *(a) TECHNICAL AMENDMENTS.—Section 403(q)(5)(A)*
6 *of the Federal Food, Drug, and Cosmetic Act (21 U.S.C.*
7 *343(q)(5)(A)) is amended—*

8 *(1) in subitem (i), by inserting at the beginning*
9 *“except as provided in clause (H)(ii)(III),”; and*

10 *(2) in subitem (ii), by inserting at the beginning*
11 *“except as provided in clause (H)(ii)(III),”.*

12 *(b) LABELING REQUIREMENTS.—Section 403(q)(5) of*
13 *the Federal Food, Drug, and Cosmetic Act (21 U.S.C.*
14 *343(q)(5)) is amended by adding at the end the following:*

15 *“(H) RESTAURANTS, RETAIL FOOD ESTABLISHMENTS,*
16 *AND VENDING MACHINES.—*

17 *“(i) GENERAL REQUIREMENTS FOR RES-*
18 *TAURANTS AND SIMILAR RETAIL FOOD ESTABLISH-*
19 *MENTS.—Except for food described in subclause (vii),*
20 *in the case of food that is a standard menu item that*
21 *is offered for sale in a restaurant or similar retail*
22 *food establishment that is part of a chain with 20 or*
23 *more locations doing business under the same name*
24 *(regardless of the type of ownership of the locations)*
25 *and offering for sale substantially the same menu*

1 *items, the restaurant or similar retail food establish-*
2 *ment shall disclose the information described in sub-*
3 *clauses (ii) and (iii).*

4 *“(ii) INFORMATION REQUIRED TO BE DISCLOSED*
5 *BY RESTAURANTS AND RETAIL FOOD ESTABLISH-*
6 *MENTS.—Except as provided in subclause (vii), the*
7 *restaurant or similar retail food establishment shall*
8 *disclose in a clear and conspicuous manner—*

9 *“(I)(aa) in a nutrient content disclosure*
10 *statement adjacent to the name of the standard*
11 *menu item, so as to be clearly associated with the*
12 *standard menu item, on the menu listing the*
13 *item for sale, the number of calories contained in*
14 *the standard menu item, as usually prepared*
15 *and offered for sale; and*

16 *“(bb) a succinct statement concerning sug-*
17 *gested daily caloric intake, as specified by the*
18 *Secretary by regulation and posted prominently*
19 *on the menu and designed to enable the public*
20 *to understand, in the context of a total daily*
21 *diet, the significance of the caloric information*
22 *that is provided on the menu;*

23 *“(II)(aa) in a nutrient content disclosure*
24 *statement adjacent to the name of the standard*
25 *menu item, so as to be clearly associated with the*

1 *standard menu item, on the menu board, includ-*
2 *ing a drive-through menu board, the number of*
3 *calories contained in the standard menu item, as*
4 *usually prepared and offered for sale; and*

5 *“(bb) a succinct statement concerning sug-*
6 *gested daily caloric intake, as specified by the*
7 *Secretary by regulation and posted prominently*
8 *on the menu board, designed to enable the public*
9 *to understand, in the context of a total daily*
10 *diet, the significance of the nutrition informa-*
11 *tion that is provided on the menu board;*

12 *“(III) in a written form, available on the prem-*
13 *ises of the restaurant or similar retail establishment*
14 *and to the consumer upon request, the nutrition infor-*
15 *mation required under clauses (C) and (D) of sub-*
16 *paragraph (1); and*

17 *“(IV) on the menu or menu board, a prominent,*
18 *clear, and conspicuous statement regarding the avail-*
19 *ability of the information described in item (III).*

20 *“(iii) SELF-SERVICE FOOD AND FOOD ON DIS-*
21 *PLAY.—Except as provided in subclause (vii), in the*
22 *case of food sold at a salad bar, buffet line, cafeteria*
23 *line, or similar self-service facility, and for self-service*
24 *beverages or food that is on display and that is visible*
25 *to customers, a restaurant or similar retail food es-*

1 *tablissement shall place adjacent to each food offered*
2 *a sign that lists calories per displayed food item or*
3 *per serving.*

4 *“(iv) REASONABLE BASIS.—For the purposes of*
5 *this clause, a restaurant or similar retail food estab-*
6 *lishment shall have a reasonable basis for its nutrient*
7 *content disclosures, including nutrient databases,*
8 *cookbooks, laboratory analyses, and other reasonable*
9 *means, as described in section 101.10 of title 21, Code*
10 *of Federal Regulations (or any successor regulation)*
11 *or in a related guidance of the Food and Drug Ad-*
12 *ministration.*

13 *“(v) MENU VARIABILITY AND COMBINATION*
14 *MEALS.—The Secretary shall establish by regulation*
15 *standards for determining and disclosing the nutrient*
16 *content for standard menu items that come in dif-*
17 *ferent flavors, varieties, or combinations, but which*
18 *are listed as a single menu item, such as soft drinks,*
19 *ice cream, pizza, doughnuts, or children’s combina-*
20 *tion meals, through means determined by the Sec-*
21 *retary, including ranges, averages, or other methods.*

22 *“(vi) ADDITIONAL INFORMATION.—If the Sec-*
23 *retary determines that a nutrient, other than a nutri-*
24 *ent required under subclause (ii)(III), should be dis-*
25 *closed for the purpose of providing information to as-*

1 *sist consumers in maintaining healthy dietary prac-*
2 *tices, the Secretary may require, by regulation, disclo-*
3 *sure of such nutrient in the written form required*
4 *under subclause (ii)(III).*

5 *“(vii) NONAPPLICABILITY TO CERTAIN FOOD.—*

6 *“(I) IN GENERAL.—Subclauses (i) through*
7 *(vi) do not apply to—*

8 *“(aa) items that are not listed on a*
9 *menu or menu board (such as condiments*
10 *and other items placed on the table or*
11 *counter for general use);*

12 *“(bb) daily specials, temporary menu*
13 *items appearing on the menu for less than*
14 *60 days per calendar year, or custom or-*
15 *ders; or*

16 *“(cc) such other food that is part of a*
17 *customary market test appearing on the*
18 *menu for less than 90 days, under terms*
19 *and conditions established by the Secretary.*

20 *“(II) WRITTEN FORMS.—Subparagraph*
21 *(5)(C) shall apply to any regulations promul-*
22 *gated under subclauses (ii)(III) and (vi).*

23 *“(viii) VENDING MACHINES.—*

24 *“(I) IN GENERAL.—In the case of an article*
25 *of food sold from a vending machine that—*

1 “(aa) does not permit a prospective
2 purchaser to examine the Nutrition Facts
3 Panel before purchasing the article or does
4 not otherwise provide visible nutrition in-
5 formation at the point of purchase; and

6 “(bb) is operated by a person who is
7 engaged in the business of owning or oper-
8 ating 20 or more vending machines,
9 the vending machine operator shall provide a
10 sign in close proximity to each article of food or
11 the selection button that includes a clear and
12 conspicuous statement disclosing the number of
13 calories contained in the article.

14 “(ix) VOLUNTARY PROVISION OF NUTRITION IN-
15 FORMATION.—

16 “(I) IN GENERAL.—An authorized official of
17 any restaurant or similar retail food establish-
18 ment or vending machine operator not subject to
19 the requirements of this clause may elect to be
20 subject to the requirements of such clause, by reg-
21 istering biannually the name and address of
22 such restaurant or similar retail food establish-
23 ment or vending machine operator with the Sec-
24 retary, as specified by the Secretary by regula-
25 tion.

1 “(II) *REGISTRATION.*—*Within 120 days of*
2 *enactment of this clause, the Secretary shall pub-*
3 *lish a notice in the Federal Register specifying*
4 *the terms and conditions for implementation of*
5 *item (I), pending promulgation of regulations.*

6 “(III) *RULE OF CONSTRUCTION.*—*Nothing*
7 *in this subclause shall be construed to authorize*
8 *the Secretary to require an application, review,*
9 *or licensing process for any entity to register*
10 *with the Secretary, as described in such item.*

11 “(x) *REGULATIONS.*—

12 “(I) *PROPOSED REGULATION.*—*Not later*
13 *than 1 year after the date of enactment of this*
14 *clause, the Secretary shall promulgate proposed*
15 *regulations to carry out this clause.*

16 “(II) *CONTENTS.*—*In promulgating regula-*
17 *tions, the Secretary shall—*

18 “(aa) *consider standardization of rec-*
19 *ipes and methods of preparation, reasonable*
20 *variation in serving size and formulation of*
21 *menu items, space on menus and menu*
22 *boards, inadvertent human error, training*
23 *of food service workers, variations in ingre-*
24 *dients, and other factors, as the Secretary*
25 *determines; and*

1 “(bb) specify the format and manner of
2 the nutrient content disclosure requirements
3 under this subclause.

4 “(III) REPORTING.—The Secretary shall
5 submit to the Committee on Health, Education,
6 Labor, and Pensions of the Senate and the Com-
7 mittee on Energy and Commerce of the House of
8 Representatives a quarterly report that describes
9 the Secretary’s progress toward promulgating
10 final regulations under this subparagraph.

11 “(xi) DEFINITION.—In this clause, the term
12 ‘menu’ or ‘menu board’ means the primary writing of
13 the restaurant or other similar retail food establish-
14 ment from which a consumer makes an order selec-
15 tion.”

16 “(c) NATIONAL UNIFORMITY.—Section 403A(a)(4) of
17 the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343–
18 1(a)(4)) is amended by striking “except a requirement for
19 nutrition labeling of food which is exempt under subclause
20 (i) or (ii) of section 403(q)(5)(A)” and inserting “except
21 that this paragraph does not apply to food that is offered
22 for sale in a restaurant or similar retail food establishment
23 that is not part of a chain with 20 or more locations doing
24 business under the same name (regardless of the type of
25 ownership of the locations) and offering for sale substan-

1 *tially the same menu items unless such restaurant or simi-*
2 *lar retail food establishment complies with the voluntary*
3 *provision of nutrition information requirements under sec-*
4 *tion 403(q)(5)(H)(ix)”.*

5 *(d) RULE OF CONSTRUCTION.—Nothing in the amend-*
6 *ments made by this section shall be construed—*

7 *(1) to preempt any provision of State or local*
8 *law, unless such provision establishes or continues*
9 *into effect nutrient content disclosures of the type re-*
10 *quired under section 403(q)(5)(H) of the Federal*
11 *Food, Drug, and Cosmetic Act (as added by sub-*
12 *section (b)) and is expressly preempted under sub-*
13 *section (a)(4) of such section;*

14 *(2) to apply to any State or local requirement*
15 *respecting a statement in the labeling of food that*
16 *provides for a warning concerning the safety of the*
17 *food or component of the food; or*

18 *(3) except as provided in section*
19 *403(q)(5)(H)(ix) of the Federal Food, Drug, and Cos-*
20 *metic Act (as added by subsection (b)), to apply to*
21 *any restaurant or similar retail food establishment*
22 *other than a restaurant or similar retail food estab-*
23 *lishment described in section 403(q)(5)(H)(i) of such*
24 *Act.*

1 **SEC. 4206. DEMONSTRATION PROJECT CONCERNING INDI-**
2 **VIDUALIZED WELLNESS PLAN.**

3 *Section 330 of the Public Health Service Act (42*
4 *U.S.C. 245b) is amended by adding at the end the following:*

5 *“(s) DEMONSTRATION PROGRAM FOR INDIVIDUALIZED*
6 *WELLNESS PLANS.—*

7 *“(1) IN GENERAL.—The Secretary shall establish*
8 *a pilot program to test the impact of providing at-*
9 *risk populations who utilize community health centers*
10 *funded under this section an individualized wellness*
11 *plan that is designed to reduce risk factors for pre-*
12 *ventable conditions as identified by a comprehensive*
13 *risk-factor assessment.*

14 *“(2) AGREEMENTS.—The Secretary shall enter*
15 *into agreements with not more than 10 community*
16 *health centers funded under this section to conduct ac-*
17 *tivities under the pilot program under paragraph (1).*

18 *“(3) WELLNESS PLANS.—*

19 *“(A) IN GENERAL.—An individualized*
20 *wellness plan prepared under the pilot program*
21 *under this subsection may include one or more*
22 *of the following as appropriate to the individ-*
23 *ual’s identified risk factors:*

24 *“(i) Nutritional counseling.*

25 *“(ii) A physical activity plan.*

1 “(iii) *Alcohol and smoking cessation*
2 *counseling and services.*

3 “(iv) *Stress management.*

4 “(v) *Dietary supplements that have*
5 *health claims approved by the Secretary.*

6 “(vi) *Compliance assistance provided*
7 *by a community health center employee.*

8 “(B) *RISK FACTORS.—Wellness plan risk*
9 *factors shall include—*

10 “(i) *weight;*

11 “(ii) *tobacco and alcohol use;*

12 “(iii) *exercise rates;*

13 “(iv) *nutritional status; and*

14 “(v) *blood pressure.*

15 “(C) *COMPARISONS.—Individualized*
16 *wellness plans shall make comparisons between*
17 *the individual involved and a control group of*
18 *individuals with respect to the risk factors de-*
19 *scribed in subparagraph (B).*

20 “(4) *AUTHORIZATION OF APPROPRIATIONS.—*
21 *There is authorized to be appropriated to carry out*
22 *this subsection, such sums as may be necessary.”.*

1 **SEC. 4207. REASONABLE BREAK TIME FOR NURSING MOTH-**
2 **ERS.**

3 *Section 7 of the Fair Labor Standards Act of 1938*
4 *(29 U.S.C. 207) is amended by adding at the end the fol-*
5 *lowing:*

6 “(r)(1) *An employer shall provide—*

7 “(A) *a reasonable break time for an employee to*
8 *express breast milk for her nursing child for 1 year*
9 *after the child’s birth each time such employee has*
10 *need to express the milk; and*

11 “(B) *a place, other than a bathroom, that is*
12 *shielded from view and free from intrusion from co-*
13 *workers and the public, which may be used by an em-*
14 *ployee to express breast milk.*

15 “(2) *An employer shall not be required to compensate*
16 *an employee receiving reasonable break time under para-*
17 *graph (1) for any work time spent for such purpose.*

18 “(3) *An employer that employs less than 50 employees*
19 *shall not be subject to the requirements of this subsection,*
20 *if such requirements would impose an undue hardship by*
21 *causing the employer significant difficulty or expense when*
22 *considered in relation to the size, financial resources, na-*
23 *ture, or structure of the employer’s business.*

24 “(4) *Nothing in this subsection shall preempt a State*
25 *law that provides greater protections to employees than the*
26 *protections provided for under this subsection.”.*

1 ***Subtitle D—Support for Prevention***
2 ***and Public Health Innovation***

3 ***SEC. 4301. RESEARCH ON OPTIMIZING THE DELIVERY OF***
4 ***PUBLIC HEALTH SERVICES.***

5 (a) *IN GENERAL.*—*The Secretary of Health and*
6 *Human Services (referred to in this section as the “Sec-*
7 *retary”), acting through the Director of the Centers for Dis-*
8 *ease Control and Prevention, shall provide funding for re-*
9 *search in the area of public health services and systems.*

10 (b) *REQUIREMENTS OF RESEARCH.*—*Research sup-*
11 *ported under this section shall include—*

12 (1) *examining evidence-based practices relating*
13 *to prevention, with a particular focus on high pri-*
14 *ority areas as identified by the Secretary in the Na-*
15 *tional Prevention Strategy or Healthy People 2020,*
16 *and including comparing community-based public*
17 *health interventions in terms of effectiveness and cost;*

18 (2) *analyzing the translation of interventions*
19 *from academic settings to real world settings; and*

20 (3) *identifying effective strategies for organizing,*
21 *financing, or delivering public health services in real*
22 *world community settings, including comparing State*
23 *and local health department structures and systems*
24 *in terms of effectiveness and cost.*

1 (c) *EXISTING PARTNERSHIPS.*—Research supported
 2 under this section shall be coordinated with the Community
 3 Preventive Services Task Force and carried out by building
 4 on existing partnerships within the Federal Government
 5 while also considering initiatives at the State and local lev-
 6 els and in the private sector.

7 (d) *ANNUAL REPORT.*—The Secretary shall, on an an-
 8 nual basis, submit to Congress a report concerning the ac-
 9 tivities and findings with respect to research supported
 10 under this section.

11 **SEC. 4302. UNDERSTANDING HEALTH DISPARITIES: DATA**
 12 **COLLECTION AND ANALYSIS.**

13 (a) *UNIFORM CATEGORIES AND COLLECTION RE-*
 14 *QUIREMENTS.*—The Public Health Service Act (42 U.S.C.
 15 201 et seq.) is amended by adding at the end the following:

16 **“TITLE XXXI—DATA COLLEC-**
 17 **TION, ANALYSIS, AND QUAL-**
 18 **ITY**

19 **“SEC. 3101. DATA COLLECTION, ANALYSIS, AND QUALITY.**

20 “(a) *DATA COLLECTION.*—

21 “(1) *IN GENERAL.*—The Secretary shall ensure
 22 that, by not later than 2 years after the date of enact-
 23 ment of this title, any federally conducted or sup-
 24 ported health care or public health program, activity
 25 or survey (including Current Population Surveys and

1 *American Community Surveys conducted by the Bu-*
2 *reau of Labor Statistics and the Bureau of the Cen-*
3 *sus) collects and reports, to the extent practicable—*

4 *“(A) data on race, ethnicity, sex, primary*
5 *language, and disability status for applicants,*
6 *recipients, or participants;*

7 *“(B) data at the smallest geographic level*
8 *such as State, local, or institutional levels if such*
9 *data can be aggregated;*

10 *“(C) sufficient data to generate statistically*
11 *reliable estimates by racial, ethnic, sex, primary*
12 *language, and disability status subgroups for ap-*
13 *plicants, recipients or participants using, if*
14 *needed, statistical oversamples of these sub-*
15 *populations; and*

16 *“(D) any other demographic data as deemed*
17 *appropriate by the Secretary regarding health*
18 *disparities.*

19 *“(2) COLLECTION STANDARDS.—In collecting*
20 *data described in paragraph (1), the Secretary or des-*
21 *ignee shall—*

22 *“(A) use Office of Management and Budget*
23 *standards, at a minimum, for race and ethnicity*
24 *measures;*

1 “(B) develop standards for the measurement
2 of sex, primary language, and disability status;

3 “(C) develop standards for the collection of
4 data described in paragraph (1) that, at a min-
5 imum—

6 “(i) collects self-reported data by the
7 applicant, recipient, or participant; and

8 “(ii) collects data from a parent or
9 legal guardian if the applicant, recipient,
10 or participant is a minor or legally inca-
11 pacitated;

12 “(D) survey health care providers and es-
13 tablish other procedures in order to assess access
14 to care and treatment for individuals with dis-
15 abilities and to identify—

16 “(i) locations where individuals with
17 disabilities access primary, acute (including
18 intensive), and long-term care;

19 “(ii) the number of providers with ac-
20 cessible facilities and equipment to meet the
21 needs of the individuals with disabilities,
22 including medical diagnostic equipment
23 that meets the minimum technical criteria
24 set forth in section 510 of the Rehabilitation
25 Act of 1973; and

1 “(iii) the number of employees of
2 health care providers trained in disability
3 awareness and patient care of individuals
4 with disabilities; and

5 “(E) require that any reporting require-
6 ment imposed for purposes of measuring quality
7 under any ongoing or federally conducted or
8 supported health care or public health program,
9 activity, or survey includes requirements for the
10 collection of data on individuals receiving health
11 care items or services under such programs ac-
12 tivities by race, ethnicity, sex, primary language,
13 and disability status.

14 “(3) DATA MANAGEMENT.—In collecting data de-
15 scribed in paragraph (1), the Secretary, acting
16 through the National Coordinator for Health Infor-
17 mation Technology shall—

18 “(A) develop national standards for the
19 management of data collected; and

20 “(B) develop interoperability and security
21 systems for data management.

22 “(b) DATA ANALYSIS.—

23 “(1) IN GENERAL.—For each federally conducted
24 or supported health care or public health program or
25 activity, the Secretary shall analyze data collected

1 *under paragraph (a) to detect and monitor trends in*
2 *health disparities (as defined for purposes of section*
3 *485E) at the Federal and State levels.*

4 *“(c) DATA REPORTING AND DISSEMINATION.—*

5 *“(1) IN GENERAL.—The Secretary shall make the*
6 *analyses described in (b) available to—*

7 *“(A) the Office of Minority Health;*

8 *“(B) the National Center on Minority*
9 *Health and Health Disparities;*

10 *“(C) the Agency for Healthcare Research*
11 *and Quality;*

12 *“(D) the Centers for Disease Control and*
13 *Prevention;*

14 *“(E) the Centers for Medicare & Medicaid*
15 *Services;*

16 *“(F) the Indian Health Service and epide-*
17 *miology centers funded under the Indian Health*
18 *Care Improvement Act;*

19 *“(G) the Office of Rural health;*

20 *“(H) other agencies within the Department*
21 *of Health and Human Services; and*

22 *“(I) other entities as determined appro-*
23 *priate by the Secretary.*

1 “(2) *REPORTING OF DATA.*—*The Secretary shall*
2 *report data and analyses described in (a) and (b)*
3 *through—*

4 “(A) *public postings on the Internet*
5 *websites of the Department of Health and*
6 *Human Services; and*

7 “(B) *any other reporting or dissemination*
8 *mechanisms determined appropriate by the Sec-*
9 *retary.*

10 “(3) *AVAILABILITY OF DATA.*—*The Secretary*
11 *may make data described in (a) and (b) available for*
12 *additional research, analyses, and dissemination to*
13 *other Federal agencies, non-governmental entities,*
14 *and the public, in accordance with any Federal agen-*
15 *cy’s data user agreements.*

16 “(d) *LIMITATIONS ON USE OF DATA.*—*Nothing in this*
17 *section shall be construed to permit the use of information*
18 *collected under this section in a manner that would ad-*
19 *versely affect any individual.*

20 “(e) *PROTECTION AND SHARING OF DATA.*—

21 “(1) *PRIVACY AND OTHER SAFEGUARDS.*—*The*
22 *Secretary shall ensure (through the promulgation of*
23 *regulations or otherwise) that—*

24 “(A) *all data collected pursuant to sub-*
25 *section (a) is protected—*

1 “(i) under privacy protections that are
2 at least as broad as those that the Secretary
3 applies to other health data under the regu-
4 lations promulgated under section 264(c) of
5 the Health Insurance Portability and Ac-
6 countability Act of 1996 (Public Law 104-
7 191; 110 Stat. 2033); and

8 “(ii) from all inappropriate internal
9 use by any entity that collects, stores, or re-
10 ceives the data, including use of such data
11 in determinations of eligibility (or contin-
12 ued eligibility) in health plans, and from
13 other inappropriate uses, as defined by the
14 Secretary; and

15 “(B) all appropriate information security
16 safeguards are used in the collection, analysis,
17 and sharing of data collected pursuant to sub-
18 section (a).

19 “(2) DATA SHARING.—The Secretary shall estab-
20 lish procedures for sharing data collected pursuant to
21 subsection (a), measures relating to such data, and
22 analyses of such data, with other relevant Federal
23 and State agencies including the agencies, centers,
24 and entities within the Department of Health and
25 Human Services specified in subsection (c)(1)..

1 “(f) *DATA ON RURAL UNDERSERVED POPULATIONS.*—
2 *The Secretary shall ensure that any data collected in ac-*
3 *cordance with this section regarding racial and ethnic mi-*
4 *nority groups are also collected regarding underserved rural*
5 *and frontier populations.*

6 “(g) *AUTHORIZATION OF APPROPRIATIONS.*—*For the*
7 *purpose of carrying out this section, there are authorized*
8 *to be appropriated such sums as may be necessary for each*
9 *of fiscal years 2010 through 2014.*

10 “(h) *REQUIREMENT FOR IMPLEMENTATION.*—*Notwith-*
11 *standing any other provision of this section, data may not*
12 *be collected under this section unless funds are directly ap-*
13 *propriated for such purpose in an appropriations Act.*

14 “(i) *CONSULTATION.*—*The Secretary shall consult with*
15 *the Director of the Office of Personnel Management, the Sec-*
16 *retary of Defense, the Secretary of Veterans Affairs, the Di-*
17 *rector of the Bureau of the Census, the Commissioner of So-*
18 *cial Security, and the head of other appropriate Federal*
19 *agencies in carrying out this section.”.*

20 (b) *ADDRESSING HEALTH CARE DISPARITIES IN MED-*
21 *ICAID AND CHIP.*—

22 (1) *STANDARDIZED COLLECTION REQUIREMENTS*
23 *INCLUDED IN STATE PLANS.*—

1 (A) *MEDICAID*.—Section 1902(a) of the So-
2 cial Security Act (42 U.S.C. 1396a(a)), as
3 amended by section 2001(d), is amended—

4 (i) in paragraph 4), by striking “and”
5 at the end;

6 (ii) in paragraph (75), by striking the
7 period at the end and inserting “; and”;
8 and

9 (iii) by inserting after paragraph (75)
10 the following new paragraph:

11 “(76) provide that any data collected under the
12 State plan meets the requirements of section 3101 of
13 the Public Health Service Act.”.

14 (B) *CHIP*.—Section 2108(e) of the Social
15 Security Act (42 U.S.C. 1397hh(e)) is amended
16 by adding at the end the following new para-
17 graph:

18 “(7) Data collected and reported in accordance
19 with section 3101 of the Public Health Service Act,
20 with respect to individuals enrolled in the State child
21 health plan (and, in the case of enrollees under 19
22 years of age, their parents or legal guardians), in-
23 cluding data regarding the primary language of such
24 individuals, parents, and legal guardians.”.

1 (2) *EXTENDING MEDICARE REQUIREMENT TO AD-*
2 *DRESS HEALTH DISPARITIES DATA COLLECTION TO*
3 *MEDICAID AND CHIP.*—*Title XIX of the Social Secu-*
4 *rity Act (42 U.S.C. 1396 et seq.), as amended by sec-*
5 *tion 2703 is amended by adding at the end the fol-*
6 *lowing new section:*

7 **“SEC. 1946. ADDRESSING HEALTH CARE DISPARITIES.**

8 “(a) *EVALUATING DATA COLLECTION APPROACHES.*—
9 *The Secretary shall evaluate approaches for the collection*
10 *of data under this title and title XXI, to be performed in*
11 *conjunction with existing quality reporting requirements*
12 *and programs under this title and title XXI, that allow for*
13 *the ongoing, accurate, and timely collection and evaluation*
14 *of data on disparities in health care services and perform-*
15 *ance on the basis of race, ethnicity, sex, primary language,*
16 *and disability status. In conducting such evaluation, the*
17 *Secretary shall consider the following objectives:*

18 “(1) *Protecting patient privacy.*

19 “(2) *Minimizing the administrative burdens of*
20 *data collection and reporting on States, providers,*
21 *and health plans participating under this title or title*
22 *XXI.*

23 “(3) *Improving program data under this title*
24 *and title XXI on race, ethnicity, sex, primary lan-*
25 *guage, and disability status.*

1 “(b) *REPORTS TO CONGRESS.*—

2 “(1) *REPORT ON EVALUATION.*—*Not later than*
3 *18 months after the date of the enactment of this sec-*
4 *tion, the Secretary shall submit to Congress a report*
5 *on the evaluation conducted under subsection (a).*
6 *Such report shall, taking into consideration the re-*
7 *sults of such evaluation—*

8 “(A) *identify approaches (including defin-*
9 *ing methodologies) for identifying and collecting*
10 *and evaluating data on health care disparities*
11 *on the basis of race, ethnicity, sex, primary lan-*
12 *guage, and disability status for the programs*
13 *under this title and title XXI; and*

14 “(B) *include recommendations on the most*
15 *effective strategies and approaches to reporting*
16 *HEDIS quality measures as required under sec-*
17 *tion 1852(e)(3) and other nationally recognized*
18 *quality performance measures, as appropriate,*
19 *on such bases.*

20 “(2) *REPORTS ON DATA ANALYSES.*—*Not later*
21 *than 4 years after the date of the enactment of this*
22 *section, and 4 years thereafter, the Secretary shall*
23 *submit to Congress a report that includes rec-*
24 *ommendations for improving the identification of*
25 *health care disparities for beneficiaries under this*

1 *title and under title XXI based on analyses of the*
 2 *data collected under subsection (c).*

3 “(c) *IMPLEMENTING EFFECTIVE APPROACHES.—Not*
 4 *later than 24 months after the date of the enactment of this*
 5 *section, the Secretary shall implement the approaches iden-*
 6 *tified in the report submitted under subsection (b)(1) for*
 7 *the ongoing, accurate, and timely collection and evaluation*
 8 *of data on health care disparities on the basis of race, eth-*
 9 *nicity, sex, primary language, and disability status.”.*

10 **SEC. 4303. CDC AND EMPLOYER-BASED WELLNESS PRO-**
 11 **GRAMS.**

12 *Title III of the Public Health Service Act (42 U.S.C.*
 13 *241 et seq.), by section 4102, is further amended by adding*
 14 *at the end the following:*

15 **“PART U—EMPLOYER-BASED WELLNESS**
 16 **PROGRAM**

17 **“SEC. 399MM. TECHNICAL ASSISTANCE FOR EMPLOYER-**
 18 **BASED WELLNESS PROGRAMS.**

19 *“In order to expand the utilization of evidence-based*
 20 *prevention and health promotion approaches in the work-*
 21 *place, the Director shall—*

22 “(1) *provide employers (including small, me-*
 23 *dium, and large employers, as determined by the Di-*
 24 *rector) with technical assistance, consultation, tools,*

1 *and other resources in evaluating such employers' em-*
2 *ployer-based wellness programs, including—*

3 *“(A) measuring the participation and meth-*
4 *ods to increase participation of employees in*
5 *such programs;*

6 *“(B) developing standardized measures that*
7 *assess policy, environmental and systems changes*
8 *necessary to have a positive health impact on*
9 *employees' health behaviors, health outcomes, and*
10 *health care expenditures; and*

11 *“(C) evaluating such programs as they re-*
12 *late to changes in the health status of employees,*
13 *the absenteeism of employees, the productivity of*
14 *employees, the rate of workplace injury, and the*
15 *medical costs incurred by employees; and*

16 *“(2) build evaluation capacity among workplace*
17 *staff by training employers on how to evaluate em-*
18 *ployer-based wellness programs by ensuring evalua-*
19 *tion resources, technical assistance, and consultation*
20 *are available to workplace staff as needed through*
21 *such mechanisms as web portals, call centers, or other*
22 *means.*

1 **“SEC. 399MM-1. NATIONAL WORKSITE HEALTH POLICIES**
2 **AND PROGRAMS STUDY.**

3 *“(a) IN GENERAL.—In order to assess, analyze, and*
4 *monitor over time data about workplace policies and pro-*
5 *grams, and to develop instruments to assess and evaluate*
6 *comprehensive workplace chronic disease prevention and*
7 *health promotion programs, policies and practices, not later*
8 *than 2 years after the date of enactment of this part, and*
9 *at regular intervals (to be determined by the Director)*
10 *thereafter, the Director shall conduct a national worksite*
11 *health policies and programs survey to assess employer-*
12 *based health policies and programs.*

13 *“(b) REPORT.—Upon the completion of each study*
14 *under subsection (a), the Director shall submit to Congress*
15 *a report that includes the recommendations of the Director*
16 *for the implementation of effective employer-based health*
17 *policies and programs.*

18 **“SEC. 399MM-2. PRIORITIZATION OF EVALUATION BY SEC-**
19 **RETARY.**

20 *“The Secretary shall evaluate, in accordance with this*
21 *part, all programs funded through the Centers for Disease*
22 *Control and Prevention before conducting such an evalua-*
23 *tion of privately funded programs unless an entity with a*
24 *privately funded wellness program requests such an evalua-*
25 *tion.*

1 **“SEC. 399MM-3. PROHIBITION OF FEDERAL WORKPLACE**
2 **WELLNESS REQUIREMENTS.**

3 *“Notwithstanding any other provision of this part,*
4 *any recommendations, data, or assessments carried out*
5 *under this part shall not be used to mandate requirements*
6 *for workplace wellness programs.”.*

7 **SEC. 4304. EPIDEMIOLOGY-LABORATORY CAPACITY**
8 **GRANTS.**

9 *Title XXVIII of the Public Health Service Act (42*
10 *U.S.C. 300hh et seq.) is amended by adding at the end the*
11 *following:*

12 **“Subtitle C—Strengthening Public**
13 **Health Surveillance Systems**

14 **“SEC. 2821. EPIDEMIOLOGY-LABORATORY CAPACITY**
15 **GRANTS.**

16 *“(a) IN GENERAL.—Subject to the availability of ap-*
17 *propriations, the Secretary, acting through the Director of*
18 *the Centers for Disease Control and Prevention, shall estab-*
19 *lish an Epidemiology and Laboratory Capacity Grant Pro-*
20 *gram to award grants to State health departments as well*
21 *as local health departments and tribal jurisdictions that*
22 *meet such criteria as the Director determines appropriate.*
23 *Academic centers that assist State and eligible local and*
24 *tribal health departments may also be eligible for funding*
25 *under this section as the Director determines appropriate.*
26 *Grants shall be awarded under this section to assist public*

1 *health agencies in improving surveillance for, and response*
2 *to, infectious diseases and other conditions of public health*
3 *importance by—*

4 “(1) *strengthening epidemiologic capacity to*
5 *identify and monitor the occurrence of infectious dis-*
6 *eases and other conditions of public health impor-*
7 *tance;*

8 “(2) *enhancing laboratory practice as well as*
9 *systems to report test orders and results electronically;*

10 “(3) *improving information systems including*
11 *developing and maintaining an information exchange*
12 *using national guidelines and complying with capac-*
13 *ities and functions determined by an advisory council*
14 *established and appointed by the Director; and*

15 “(4) *developing and implementing prevention*
16 *and control strategies.*

17 “(b) *AUTHORIZATION OF APPROPRIATIONS.—There*
18 *are authorized to be appropriated to carry out this section*
19 *\$190,000,000 for each of fiscal years 2010 through 2013,*
20 *of which—*

21 “(1) *not less than \$95,000,000 shall be made*
22 *available each such fiscal year for activities under*
23 *paragraphs (1) and (4) of subsection (a);*

1 “(2) not less than \$60,000,000 shall be made
2 available each such fiscal year for activities under
3 subsection (a)(3); and

4 “(3) not less than \$32,000,000 shall be made
5 available each such fiscal year for activities under
6 subsection (a)(2).”.

7 **SEC. 4305. ADVANCING RESEARCH AND TREATMENT FOR**
8 **PAIN CARE MANAGEMENT.**

9 (a) *INSTITUTE OF MEDICINE CONFERENCE ON PAIN.*—

10 (1) *CONVENING.*—Not later than 1 year after
11 funds are appropriated to carry out this subsection,
12 the Secretary of Health and Human Services shall
13 seek to enter into an agreement with the Institute of
14 Medicine of the National Academies to convene a Con-
15 ference on Pain (in this subsection referred to as “the
16 Conference”).

17 (2) *PURPOSES.*—The purposes of the Conference
18 shall be to—

19 (A) increase the recognition of pain as a
20 significant public health problem in the United
21 States;

22 (B) evaluate the adequacy of assessment, di-
23 agnosis, treatment, and management of acute
24 and chronic pain in the general population, and
25 in identified racial, ethnic, gender, age, and

1 *other demographic groups that may be dis-*
2 *proportionately affected by inadequacies in the*
3 *assessment, diagnosis, treatment, and manage-*
4 *ment of pain;*

5 *(C) identify barriers to appropriate pain*
6 *care;*

7 *(D) establish an agenda for action in both*
8 *the public and private sectors that will reduce*
9 *such barriers and significantly improve the state*
10 *of pain care research, education, and clinical*
11 *care in the United States.*

12 *(3) OTHER APPROPRIATE ENTITY.—If the Insti-*
13 *tute of Medicine declines to enter into an agreement*
14 *under paragraph (1), the Secretary of Health and*
15 *Human Services may enter into such agreement with*
16 *another appropriate entity.*

17 *(4) REPORT.—A report summarizing the Con-*
18 *ference's findings and recommendations shall be sub-*
19 *mitted to the Congress not later than June 30, 2011.*

20 *(5) AUTHORIZATION OF APPROPRIATIONS.—For*
21 *the purpose of carrying out this subsection, there is*
22 *authorized to be appropriated such sums as may be*
23 *necessary for each of fiscal years 2010 and 2011.*

24 *(b) PAIN RESEARCH AT NATIONAL INSTITUTES OF*
25 *HEALTH.—Part B of title IV of the Public Health Service*

1 *Act (42 U.S.C. 284 et seq.) is amended by adding at the*
2 *end the following:*

3 **“SEC. 409J. PAIN RESEARCH.**

4 “(a) *RESEARCH INITIATIVES.*—

5 “(1) *IN GENERAL.*—*The Director of NIH is en-*
6 *couraged to continue and expand, through the Pain*
7 *Consortium, an aggressive program of basic and clin-*
8 *ical research on the causes of and potential treatments*
9 *for pain.*

10 “(2) *ANNUAL RECOMMENDATIONS.*—*Not less than*
11 *annually, the Pain Consortium, in consultation with*
12 *the Division of Program Coordination, Planning, and*
13 *Strategic Initiatives, shall develop and submit to the*
14 *Director of NIH recommendations on appropriate*
15 *pain research initiatives that could be undertaken*
16 *with funds reserved under section 402A(c)(1) for the*
17 *Common Fund or otherwise available for such initia-*
18 *tives.*

19 “(3) *DEFINITION.*—*In this subsection, the term*
20 *‘Pain Consortium’ means the Pain Consortium of the*
21 *National Institutes of Health or a similar trans-Na-*
22 *tional Institutes of Health coordinating entity des-*
23 *ignated by the Secretary for purposes of this sub-*
24 *section.*

1 “(b) *INTERAGENCY PAIN RESEARCH COORDINATING*
2 *COMMITTEE.*—

3 “(1) *ESTABLISHMENT.*—*The Secretary shall es-*
4 *tablish not later than 1 year after the date of the en-*
5 *actment of this section and as necessary maintain a*
6 *committee, to be known as the Interagency Pain Re-*
7 *search Coordinating Committee (in this section re-*
8 *ferred to as the ‘Committee’), to coordinate all efforts*
9 *within the Department of Health and Human Serv-*
10 *ices and other Federal agencies that relate to pain re-*
11 *search.*

12 “(2) *MEMBERSHIP.*—

13 “(A) *IN GENERAL.*—*The Committee shall be*
14 *composed of the following voting members:*

15 “(i) *Not more than 7 voting Federal*
16 *representatives appoint by the Secretary*
17 *from agencies that conduct pain care re-*
18 *search and treatment.*

19 “(ii) *12 additional voting members ap-*
20 *pointed under subparagraph (B).*

21 “(B) *ADDITIONAL MEMBERS.*—*The Com-*
22 *mittee shall include additional voting members*
23 *appointed by the Secretary as follows:*

1 “(i) 6 non-Federal members shall be
2 appointed from among scientists, physi-
3 cians, and other health professionals.

4 “(ii) 6 members shall be appointed
5 from members of the general public, who are
6 representatives of leading research, advo-
7 cacy, and service organizations for individ-
8 uals with pain-related conditions.

9 “(C) NONVOTING MEMBERS.—The Com-
10 mittee shall include such nonvoting members as
11 the Secretary determines to be appropriate.

12 “(3) CHAIRPERSON.—The voting members of the
13 Committee shall select a chairperson from among such
14 members. The selection of a chairperson shall be sub-
15 ject to the approval of the Director of NIH.

16 “(4) MEETINGS.—The Committee shall meet at
17 the call of the chairperson of the Committee or upon
18 the request of the Director of NIH, but in no case less
19 often than once each year.

20 “(5) DUTIES.—The Committee shall—

21 “(A) develop a summary of advances in
22 pain care research supported or conducted by the
23 Federal agencies relevant to the diagnosis, pre-
24 vention, and treatment of pain and diseases and
25 disorders associated with pain;

1 “(B) identify critical gaps in basic and
2 clinical research on the symptoms and causes of
3 pain;

4 “(C) make recommendations to ensure that
5 the activities of the National Institutes of Health
6 and other Federal agencies are free of unneces-
7 sary duplication of effort;

8 “(D) make recommendations on how best to
9 disseminate information on pain care; and

10 “(E) make recommendations on how to ex-
11 pand partnerships between public entities and
12 private entities to expand collaborative, cross-
13 cutting research.

14 “(6) REVIEW.—The Secretary shall review the
15 necessity of the Committee at least once every 2
16 years.”.

17 (c) PAIN CARE EDUCATION AND TRAINING.—Part D
18 of title VII of the Public Health Service Act (42 U.S.C. 294
19 et seq.) is amended by adding at the end the following new
20 section:

21 **“SEC. 759. PROGRAM FOR EDUCATION AND TRAINING IN**
22 **PAIN CARE.**

23 “(a) IN GENERAL.—The Secretary may make awards
24 of grants, cooperative agreements, and contracts to health
25 professions schools, hospices, and other public and private

1 *entities for the development and implementation of pro-*
2 *grams to provide education and training to health care pro-*
3 *essionals in pain care.*

4 “(b) *CERTAIN TOPICS.*—*An award may be made under*
5 *subsection (a) only if the applicant for the award agrees*
6 *that the program carried out with the award will include*
7 *information and education on—*

8 “(1) *recognized means for assessing, diagnosing,*
9 *treating, and managing pain and related signs and*
10 *symptoms, including the medically appropriate use of*
11 *controlled substances;*

12 “(2) *applicable laws, regulations, rules, and poli-*
13 *cies on controlled substances, including the degree to*
14 *which misconceptions and concerns regarding such*
15 *laws, regulations, rules, and policies, or the enforce-*
16 *ment thereof, may create barriers to patient access to*
17 *appropriate and effective pain care;*

18 “(3) *interdisciplinary approaches to the delivery*
19 *of pain care, including delivery through specialized*
20 *centers providing comprehensive pain care treatment*
21 *expertise;*

22 “(4) *cultural, linguistic, literacy, geographic,*
23 *and other barriers to care in underserved populations;*
24 *and*

1 “(5) recent findings, developments, and improve-
2 ments in the provision of pain care.

3 “(c) *EVALUATION OF PROGRAMS.*—*The Secretary shall*
4 *(directly or through grants or contracts) provide for the*
5 *evaluation of programs implemented under subsection (a)*
6 *in order to determine the effect of such programs on knowl-*
7 *edge and practice of pain care.*

8 “(d) *PAIN CARE DEFINED.*—*For purposes of this sec-*
9 *tion the term ‘pain care’ means the assessment, diagnosis,*
10 *treatment, or management of acute or chronic pain regard-*
11 *less of causation or body location.*

12 “(e) *AUTHORIZATION OF APPROPRIATIONS.*—*There is*
13 *authorized to be appropriated to carry out this section, such*
14 *sums as may be necessary for each of the fiscal years 2010*
15 *through 2012. Amounts appropriated under this subsection*
16 *shall remain available until expended.”.*

17 **SEC. 4306. FUNDING FOR CHILDHOOD OBESITY DEM-**
18 **ONSTRATION PROJECT.**

19 *Section 1139A(e)(8) of the Social Security Act (42*
20 *U.S.C. 1320b–9a(e)(8)) is amended to read as follows:*

21 “(8) *APPROPRIATION.*—*Out of any funds in the*
22 *Treasury not otherwise appropriated, there is appro-*
23 *priated to carry out this subsection, \$25,000,000 for*
24 *the period of fiscal years 2010 through 2014.”.*

1 **Subtitle E—Miscellaneous**
2 **Provisions**

3 **SEC. 4401. SENSE OF THE SENATE CONCERNING CBO SCOR-**
4 **ING.**

5 (a) *FINDING.*—*The Senate finds that the costs of pre-*
6 *vention programs are difficult to estimate due in part be-*
7 *cause prevention initiatives are hard to measure and results*
8 *may occur outside the 5 and 10 year budget windows.*

9 (b) *SENSE OF CONGRESS.*—*It is the sense of the Senate*
10 *that Congress should work with the Congressional Budget*
11 *Office to develop better methodologies for scoring progress*
12 *to be made in prevention and wellness programs.*

13 **SEC. 4402. EFFECTIVENESS OF FEDERAL HEALTH AND**
14 **WELLNESS INITIATIVES.**

15 *To determine whether existing Federal health and*
16 *wellness initiatives are effective in achieving their stated*
17 *goals, the Secretary of Health and Human Services shall—*

18 (1) *conduct an evaluation of such programs as*
19 *they relate to changes in health status of the Amer-*
20 *ican public and specifically on the health status of the*
21 *Federal workforce, including absenteeism of employ-*
22 *ees, the productivity of employees, the rate of work-*
23 *place injury, and the medical costs incurred by em-*
24 *ployees, and health conditions, including workplace*

1 *fitness, healthy food and beverages, and incentives in*
2 *the Federal Employee Health Benefits Program; and*

3 *(2) submit to Congress a report concerning such*
4 *evaluation, which shall include conclusions con-*
5 *cerning the reasons that such existing programs have*
6 *proven successful or not successful and what factors*
7 *contributed to such conclusions.*

8 ***TITLE V—HEALTH CARE***
9 ***WORKFORCE***

10 ***Subtitle A—Purpose and***
11 ***Definitions***

12 ***SEC. 5001. PURPOSE.***

13 *The purpose of this title is to improve access to and*
14 *the delivery of health care services for all individuals, par-*
15 *ticularly low income, underserved, uninsured, minority,*
16 *health disparity, and rural populations by—*

17 *(1) gathering and assessing comprehensive data*
18 *in order for the health care workforce to meet the*
19 *health care needs of individuals, including research*
20 *on the supply, demand, distribution, diversity, and*
21 *skills needs of the health care workforce;*

22 *(2) increasing the supply of a qualified health*
23 *care workforce to improve access to and the delivery*
24 *of health care services for all individuals;*

1 (3) *enhancing health care workforce education*
2 *and training to improve access to and the delivery of*
3 *health care services for all individuals; and*

4 (4) *providing support to the existing health care*
5 *workforce to improve access to and the delivery of*
6 *health care services for all individuals.*

7 **SEC. 5002. DEFINITIONS.**

8 (a) *THIS TITLE.—In this title:*

9 (1) *ALLIED HEALTH PROFESSIONAL.—The term*
10 *“allied health professional” means an allied health*
11 *professional as defined in section 799B(5) of the Pub-*
12 *lic Health Service Act (42 U.S.C. 295p(5)) who—*

13 (A) *has graduated and received an allied*
14 *health professions degree or certificate from an*
15 *institution of higher education; and*

16 (B) *is employed with a Federal, State, local*
17 *or tribal public health agency, or in a setting*
18 *where patients might require health care services,*
19 *including acute care facilities, ambulatory care*
20 *facilities, personal residences, and other settings*
21 *located in health professional shortage areas,*
22 *medically underserved areas, or medically under-*
23 *served populations, as recognized by the Sec-*
24 *retary of Health and Human Services.*

1 (2) *HEALTH CARE CAREER PATHWAY.*—*The term*
2 *“healthcare career pathway” means a rigorous, en-*
3 *gaging, and high quality set of courses and services*
4 *that—*

5 (A) *includes an articulated sequence of aca-*
6 *demically and career courses, including 21st century*
7 *skills;*

8 (B) *is aligned with the needs of healthcare*
9 *industries in a region or State;*

10 (C) *prepares students for entry into the full*
11 *range of postsecondary education options, in-*
12 *cluding registered apprenticeships, and careers;*

13 (D) *provides academic and career coun-*
14 *seling in student-to-counselor ratios that allow*
15 *students to make informed decisions about aca-*
16 *demically and career options;*

17 (E) *meets State academic standards, State*
18 *requirements for secondary school graduation*
19 *and is aligned with requirements for entry into*
20 *postsecondary education, and applicable indus-*
21 *try standards; and*

22 (F) *leads to 2 or more credentials, includ-*
23 *ing—*

24 (i) *a secondary school diploma; and*

1 (ii) a postsecondary degree, an appren-
2 ticeship or other occupational certification,
3 a certificate, or a license.

4 (3) *INSTITUTION OF HIGHER EDUCATION.*—The
5 term “institution of higher education” has the mean-
6 ing given the term in sections 101 and 102 of the
7 Higher Education Act of 1965 (20 U.S.C. 1001 and
8 1002).

9 (4) *LOW INCOME INDIVIDUAL, STATE WORK-*
10 *FORCE INVESTMENT BOARD, AND LOCAL WORKFORCE*
11 *INVESTMENT BOARD.*—

12 (A) *LOW-INCOME INDIVIDUAL.*—The term
13 “low-income individual” has the meaning given
14 that term in section 101 of the Workforce invest-
15 ment Act of 1998 (29 U.S.C. 2801).

16 (B) *STATE WORKFORCE INVESTMENT*
17 *BOARD; LOCAL WORKFORCE INVESTMENT*
18 *BOARD.*—The terms “State workforce investment
19 board” and “local workforce investment board”,
20 refer to a State workforce investment board es-
21 tablished under section 111 of the Workforce In-
22 vestment Act of 1998 (29 U.S.C. 2821) and a
23 local workforce investment board established
24 under section 117 of such Act (29 U.S.C. 2832),
25 respectively.

1 (5) *POSTSECONDARY EDUCATION.*—*The term*
2 “*postsecondary education*” *means—*

3 (A) *a 4-year program of instruction, or not*
4 *less than a 1-year program of instruction that is*
5 *acceptable for credit toward an associate or a*
6 *baccalaureate degree, offered by an institution of*
7 *higher education; or*

8 (B) *a certificate or registered apprentice-*
9 *ship program at the postsecondary level offered*
10 *by an institution of higher education or a non-*
11 *profit educational institution.*

12 (6) *REGISTERED APPRENTICESHIP PROGRAM.*—
13 *The term “registered apprenticeship program” means*
14 *an industry skills training program at the postsec-*
15 *ondary level that combines technical and theoretical*
16 *training through structure on the job learning with*
17 *related instruction (in a classroom or through dis-*
18 *tance learning) while an individual is employed,*
19 *working under the direction of qualified personnel or*
20 *a mentor, and earning incremental wage increases*
21 *aligned to enhance job proficiency, resulting in the*
22 *acquisition of a nationally recognized and portable*
23 *certificate, under a plan approved by the Office of*
24 *Apprenticeship or a State agency recognized by the*
25 *Department of Labor.*

1 (b) *TITLE VII OF THE PUBLIC HEALTH SERVICE*
2 *ACT.*—Section 799B of the Public Health Service Act (42
3 *U.S.C. 295p*) is amended—

4 (1) *by striking paragraph (3) and inserting the*
5 *following:*

6 “(3) *PHYSICIAN ASSISTANT EDUCATION PRO-*
7 *GRAM.*—The term ‘physician assistant education pro-

8 *gram*’ means an educational program in a public or
9 *private institution in a State that—*

10 “(A) *has as its objective the education of in-*
11 *dividuals who, upon completion of their studies*
12 *in the program, be qualified to provide primary*
13 *care medical services with the supervision of a*
14 *physician; and*

15 “(B) *is accredited by the Accreditation Re-*
16 *view Commission on Education for the Physi-*
17 *cian Assistant.*”; and

18 (2) *by adding at the end the following:*

19 “(12) *AREA HEALTH EDUCATION CENTER.*—The
20 *term ‘area health education center’ means a public or*
21 *nonprofit private organization that has a cooperative*
22 *agreement or contract in effect with an entity that*
23 *has received an award under subsection (a)(1) or*
24 *(a)(2) of section 751, satisfies the requirements in sec-*
25 *tion 751(d)(1), and has as one of its principal func-*

1 *tions the operation of an area health education center.*
2 *Appropriate organizations may include hospitals,*
3 *health organizations with accredited primary care*
4 *training programs, accredited physician assistant*
5 *educational programs associated with a college or*
6 *university, and universities or colleges not operating*
7 *a school of medicine or osteopathic medicine.*

8 *“(13) AREA HEALTH EDUCATION CENTER PRO-*
9 *GRAM.—The term ‘area health education center pro-*
10 *gram’ means cooperative program consisting of an*
11 *entity that has received an award under subsection*
12 *(a)(1) or (a)(2) of section 751 for the purpose of plan-*
13 *ning, developing, operating, and evaluating an area*
14 *health education center program and one or more*
15 *area health education centers, which carries out the*
16 *required activities described in section 751(c), satis-*
17 *fies the program requirements in such section, has as*
18 *one of its principal functions identifying and imple-*
19 *menting strategies and activities that address health*
20 *care workforce needs in its service area, in coordina-*
21 *tion with the local workforce investment boards.*

22 *“(14) CLINICAL SOCIAL WORKER.—The term*
23 *‘clinical social worker’ has the meaning given the*
24 *term in section 1861(hh)(1) of the Social Security Act*
25 *(42 U.S.C. 1395x(hh)(1)).*

1 “(15) *CULTURAL COMPETENCY*.—The term ‘cul-
2 tural competency’ shall be defined by the Secretary in
3 a manner consistent with section 1707(d)(3).

4 “(16) *DIRECT CARE WORKER*.—The term ‘direct
5 care worker’ has the meaning given that term in the
6 2010 Standard Occupational Classifications of the
7 Department of Labor for Home Health Aides [31-
8 1011], Psychiatric Aides [31-1013], Nursing Assist-
9 ants [31-1014], and Personal Care Aides [39-9021].

10 “(17) *FEDERALLY QUALIFIED HEALTH CEN-
11 TER*.—The term ‘Federally qualified health center’
12 has the meaning given that term in section 1861(aa)
13 of the Social Security Act (42 U.S.C. 1395x(aa)).

14 “(18) *FRONTIER HEALTH PROFESSIONAL SHORT-
15 AGE AREA*.—The term ‘frontier health professional
16 shortage area’ means an area—

17 “(A) with a population density less than 6
18 persons per square mile within the service area;
19 and

20 “(B) with respect to which the distance or
21 time for the population to access care is exces-
22 sive.

23 “(19) *GRADUATE PSYCHOLOGY*.—The term ‘grad-
24 uate psychology’ means an accredited program in
25 professional psychology.

1 “(20) *HEALTH DISPARITY POPULATION*.—The
2 term ‘health disparity population’ has the meaning
3 given such term in section 903(d)(1).

4 “(21) *HEALTH LITERACY*.—The term ‘health lit-
5 eracy’ means the degree to which an individual has
6 the capacity to obtain, communicate, process, and un-
7 derstand health information and services in order to
8 make appropriate health decisions.

9 “(22) *MENTAL HEALTH SERVICE PROFES-*
10 *SIONAL*.—The term ‘mental health service profes-
11 sional’ means an individual with a graduate or post-
12 graduate degree from an accredited institution of
13 higher education in psychiatry, psychology, school
14 psychology, behavioral pediatrics, psychiatric nurs-
15 ing, social work, school social work, substance abuse
16 disorder prevention and treatment, marriage and
17 family counseling, school counseling, or professional
18 counseling.

19 “(23) *ONE-STOP DELIVERY SYSTEM CENTER*.—
20 The term ‘one-stop delivery system’ means a one-stop
21 delivery system described in section 134(c) of the
22 Workforce Investment Act of 1998 (29 U.S.C.
23 2864(c)).

24 “(24) *PARAPROFESSIONAL CHILD AND ADOLES-*
25 *CENT MENTAL HEALTH WORKER*.—The term ‘para-

1 *professional child and adolescent mental health work-*
2 *er’ means an individual who is not a mental or be-*
3 *havioral health service professional, but who works at*
4 *the first stage of contact with children and families*
5 *who are seeking mental or behavioral health services,*
6 *including substance abuse prevention and treatment*
7 *services.*

8 “(25) *RACIAL AND ETHNIC MINORITY GROUP; RA-*
9 *CIAL AND ETHNIC MINORITY POPULATION.—The terms*
10 *‘racial and ethnic minority group’ and ‘racial and*
11 *ethnic minority population’ have the meaning given*
12 *the term ‘racial and ethnic minority group’ in section*
13 *1707.*

14 “(26) *RURAL HEALTH CLINIC.—The term ‘rural*
15 *health clinic’ has the meaning given that term in sec-*
16 *tion 1861(aa) of the Social Security Act (42 U.S.C.*
17 *1395x(aa)).”.*

18 (c) *TITLE VIII OF THE PUBLIC HEALTH SERVICE*
19 *ACT.—Section 801 of the Public Health Service Act (42*
20 *U.S.C. 296) is amended—*

21 (1) *in paragraph (2)—*

22 (A) *by striking “means a” and inserting*
23 *“means an accredited (as defined in paragraph*
24 *6)”;* and

1 (B) by striking the period as inserting the
2 following: “where graduates are—

3 “(A) authorized to sit for the National
4 Council Licensure EXamination-Registered
5 Nurse (NCLEX–RN); or

6 “(B) licensed registered nurses who will re-
7 ceive a graduate or equivalent degree or training
8 to become an advanced education nurse as de-
9 fined by section 811(b).”; and

10 (2) by adding at the end the following:

11 “(16) ACCELERATED NURSING DEGREE PRO-
12 GRAM.—The term ‘accelerated nursing degree pro-
13 gram’ means a program of education in professional
14 nursing offered by an accredited school of nursing in
15 which an individual holding a bachelors degree in an-
16 other discipline receives a BSN or MSN degree in an
17 accelerated time frame as determined by the accred-
18 ited school of nursing.

19 “(17) BRIDGE OR DEGREE COMPLETION PRO-
20 GRAM.—The term ‘bridge or degree completion pro-
21 gram’ means a program of education in professional
22 nursing offered by an accredited school of nursing, as
23 defined in paragraph (2), that leads to a bacca-
24 laureate degree in nursing. Such programs may in-
25 clude, Registered Nurse (RN) to Bachelor’s of Science

1 of Nursing (BSN) programs, RN to MSN (Master of
2 Science of Nursing) programs, or BSN to Doctoral
3 programs.”.

4 ***Subtitle B—Innovations in the***
5 ***Health Care Workforce***

6 **SEC. 5101. NATIONAL HEALTH CARE WORKFORCE COMMIS-**
7 **SION.**

8 (a) *PURPOSE.—It is the purpose of this section to es-*
9 *tablish a National Health Care Workforce Commission*
10 *that—*

11 (1) *serves as a national resource for Congress,*
12 *the President, States, and localities;*

13 (2) *communicates and coordinates with the De-*
14 *partments of Health and Human Services, Labor,*
15 *Veterans Affairs, Homeland Security, and Education*
16 *on related activities administered by one or more of*
17 *such Departments;*

18 (3) *develops and commissions evaluations of edu-*
19 *cation and training activities to determine whether*
20 *the demand for health care workers is being met;*

21 (4) *identifies barriers to improved coordination*
22 *at the Federal, State, and local levels and recommend*
23 *ways to address such barriers; and*

1 (5) *encourages innovations to address population*
2 *needs, constant changes in technology, and other envi-*
3 *ronmental factors.*

4 (b) *ESTABLISHMENT.*—*There is hereby established the*
5 *National Health Care Workforce Commission (in this sec-*
6 *tion referred to as the “Commission”).*

7 (c) *MEMBERSHIP.*—

8 (1) *NUMBER AND APPOINTMENT.*—*The Commis-*
9 *sion shall be composed of 15 members to be appointed*
10 *by the Comptroller General, without regard to section*
11 *5 of the Federal Advisory Committee Act (5 U.S.C.*
12 *App.).*

13 (2) *QUALIFICATIONS.*—

14 (A) *IN GENERAL.*—*The membership of the*
15 *Commission shall include individuals—*

16 (i) *with national recognition for their*
17 *expertise in health care labor market anal-*
18 *ysis, including health care workforce anal-*
19 *ysis; health care finance and economics;*
20 *health care facility management; health care*
21 *plans and integrated delivery systems;*
22 *health care workforce education and train-*
23 *ing; health care philanthropy; providers of*
24 *health care services; and other related fields;*
25 *and*

1 (ii) who will provide a combination of
2 professional perspectives, broad geographic
3 representation, and a balance between
4 urban, suburban, rural, and frontier rep-
5 resentatives.

6 (B) INCLUSION.—

7 (i) IN GENERAL.—The membership of
8 the Commission shall include no less than
9 one representative of—

10 (I) the health care workforce and
11 health professionals;

12 (II) employers;

13 (III) third-party payers;

14 (IV) individuals skilled in the
15 conduct and interpretation of health
16 care services and health economics re-
17 search;

18 (V) representatives of consumers;

19 (VI) labor unions;

20 (VII) State or local workforce in-
21 vestment boards; and

22 (VIII) educational institutions
23 (which may include elementary and
24 secondary institutions, institutions of
25 higher education, including 2 and 4

1 *year institutions, or registered appren-*
2 *ticeship programs).*

3 *(ii) ADDITIONAL MEMBERS.—The re-*
4 *maining membership may include addi-*
5 *tional representatives from clause (i) and*
6 *other individuals as determined appropriate*
7 *by the Comptroller General of the United*
8 *States.*

9 *(C) MAJORITY NON-PROVIDERS.—Individ-*
10 *uals who are directly involved in health profes-*
11 *sions education or practice shall not constitute a*
12 *majority of the membership of the Commission.*

13 *(D) ETHICAL DISCLOSURE.—The Comp-*
14 *troller General shall establish a system for public*
15 *disclosure by members of the Commission of fi-*
16 *nancial and other potential conflicts of interest*
17 *relating to such members. Members of the Com-*
18 *mission shall be treated as employees of Congress*
19 *for purposes of applying title I of the Ethics in*
20 *Government Act of 1978. Members of the Com-*
21 *mission shall not be treated as special govern-*
22 *ment employees under title 18, United States*
23 *Code.*

24 *(3) TERMS.—*

1 (A) *IN GENERAL.*—*The terms of members of*
2 *the Commission shall be for 3 years except that*
3 *the Comptroller General shall designate staggered*
4 *terms for the members first appointed.*

5 (B) *VACANCIES.*—*Any member appointed to*
6 *fill a vacancy occurring before the expiration of*
7 *the term for which the member’s predecessor was*
8 *appointed shall be appointed only for the re-*
9 *mainder of that term. A member may serve after*
10 *the expiration of that member’s term until a suc-*
11 *cessor has taken office. A vacancy in the Com-*
12 *mission shall be filled in the manner in which*
13 *the original appointment was made.*

14 (C) *INITIAL APPOINTMENTS.*—*The Comp-*
15 *troller General shall make initial appointments*
16 *of members to the Commission not later than*
17 *September 30, 2010.*

18 (4) *COMPENSATION.*—*While serving on the busi-*
19 *ness of the Commission (including travel time), a*
20 *member of the Commission shall be entitled to com-*
21 *penetration at the per diem equivalent of the rate pro-*
22 *vided for level IV of the Executive Schedule under sec-*
23 *tion 5315 of title 5, United States Code, and while so*
24 *servicing away from home and the member’s regular*
25 *place of business, a member may be allowed travel ex-*

1 *penses, as authorized by the Chairman of the Com-*
2 *mission. Physicians serving as personnel of the Com-*
3 *mission may be provided a physician comparability*
4 *allowance by the Commission in the same manner as*
5 *Government physicians may be provided such an al-*
6 *lowance by an agency under section 5948 of title 5,*
7 *United States Code, and for such purpose subsection*
8 *(i) of such section shall apply to the Commission in*
9 *the same manner as it applies to the Tennessee Valley*
10 *Authority. For purposes of pay (other than pay of*
11 *members of the Commission) and employment bene-*
12 *fits, rights, and privileges, all personnel of the Com-*
13 *mission shall be treated as if they were employees of*
14 *the United States Senate. Personnel of the Commis-*
15 *sion shall not be treated as employees of the Govern-*
16 *ment Accountability Office for any purpose.*

17 (5) *CHAIRMAN, VICE CHAIRMAN.—The Comp-*
18 *troller General shall designate a member of the Com-*
19 *mission, at the time of appointment of the member,*
20 *as Chairman and a member as Vice Chairman for*
21 *that term of appointment, except that in the case of*
22 *vacancy of the chairmanship or vice chairmanship,*
23 *the Comptroller General may designate another mem-*
24 *ber for the remainder of that member's term.*

1 (6) *MEETINGS.*—*The Commission shall meet at*
2 *the call of the chairman, but no less frequently than*
3 *on a quarterly basis.*

4 (d) *DUTIES.*—

5 (1) *RECOGNITION, DISSEMINATION, AND COMMU-*
6 *UNICATION.*—*The Commission shall—*

7 (A) *recognize efforts of Federal, State, and*
8 *local partnerships to develop and offer health*
9 *care career pathways of proven effectiveness;*

10 (B) *disseminate information on promising*
11 *retention practices for health care professionals;*
12 *and*

13 (C) *communicate information on important*
14 *policies and practices that affect the recruitment,*
15 *education and training, and retention of the*
16 *health care workforce.*

17 (2) *REVIEW OF HEALTH CARE WORKFORCE AND*
18 *ANNUAL REPORTS.*—*In order to develop a fiscally sus-*
19 *tainable integrated workforce that supports a high-*
20 *quality, readily accessible health care delivery system*
21 *that meets the needs of patients and populations, the*
22 *Commission, in consultation with relevant Federal,*
23 *State, and local agencies, shall—*

1 (A) review current and projected health care
2 workforce supply and demand, including the top-
3 ics described in paragraph (3);

4 (B) make recommendations to Congress and
5 the Administration concerning national health
6 care workforce priorities, goals, and policies;

7 (C) by not later than October 1 of each year
8 (beginning with 2011), submit a report to Con-
9 gress and the Administration containing the re-
10 sults of such reviews and recommendations con-
11 cerning related policies; and

12 (D) by not later than April 1 of each year
13 (beginning with 2011), submit a report to Con-
14 gress and the Administration containing a re-
15 view of, and recommendations on, at a min-
16 imum one high priority area as described in
17 paragraph (4).

18 (3) *SPECIFIC TOPICS TO BE REVIEWED.*—The
19 topics described in this paragraph include—

20 (A) current health care workforce supply
21 and distribution, including demographics, skill
22 sets, and demands, with projected demands dur-
23 ing the subsequent 10 and 25 year periods;

24 (B) health care workforce education and
25 training capacity, including the number of stu-

1 *dents who have completed education and train-*
2 *ing, including registered apprenticeships; the*
3 *number of qualified faculty; the education and*
4 *training infrastructure; and the education and*
5 *training demands, with projected demands dur-*
6 *ing the subsequent 10 and 25 year periods;*

7 *(C) the education loan and grant programs*
8 *in titles VII and VIII of the Public Health Serv-*
9 *ice Act (42 U.S.C. 292 et seq. and 296 et seq.),*
10 *with recommendations on whether such programs*
11 *should become part of the Higher Education Act*
12 *of 1965 (20 U.S.C. 1001 et seq);*

13 *(D) the implications of new and existing*
14 *Federal policies which affect the health care*
15 *workforce, including Medicare and Medicaid*
16 *graduate medical education policies, titles VII*
17 *and VIII of the Public Health Service Act (42*
18 *U.S.C. 292 et seq. and 296 et seq.), the National*
19 *Health Service Corps (with recommendations for*
20 *aligning such programs with national health*
21 *workforce priorities and goals), and other health*
22 *care workforce programs, including those sup-*
23 *ported through the Workforce Investment Act of*
24 *1998 (29 U.S.C. 2801 et seq.), the Carl D. Per-*
25 *kins Career and Technical Education Act of*

1 2006 (20 U.S.C. 2301 et seq.), the Higher Edu-
2 cation Act of 1965 (20 U.S.C. 1001 et seq.), and
3 any other Federal health care workforce pro-
4 grams;

5 (E) the health care workforce needs of spe-
6 cial populations, such as minorities, rural popu-
7 lations, medically underserved populations, gen-
8 der specific needs, individuals with disabilities,
9 and geriatric and pediatric populations with
10 recommendations for new and existing Federal
11 policies to meet the needs of these special popu-
12 lations; and

13 (F) recommendations creating or revising
14 national loan repayment programs and scholar-
15 ship programs to require low-income, minority
16 medical students to serve in their home commu-
17 nities, if designated as medical underserved com-
18 munity.

19 (4) HIGH PRIORITY AREAS.—

20 (A) IN GENERAL.—The initial high priority
21 topics described in this paragraph include each
22 of the following:

23 (i) Integrated health care workforce
24 planning that identifies health care profes-
25 sional skills needed and maximizes the skill

1 *sets of health care professionals across dis-*
2 *ciplines.*

3 *(ii) An analysis of the nature, scopes of*
4 *practice, and demands for health care work-*
5 *ers in the enhanced information technology*
6 *and management workplace.*

7 *(iii) An analysis of how to align Medi-*
8 *care and Medicaid graduate medical edu-*
9 *cation policies with national workforce*
10 *goals.*

11 *(iv) The education and training capac-*
12 *ity, projected demands, and integration*
13 *with the health care delivery system of each*
14 *of the following:*

15 *(I) Nursing workforce capacity at*
16 *all levels.*

17 *(II) Oral health care workforce ca-*
18 *capacity at all levels.*

19 *(III) Mental and behavioral*
20 *health care workforce capacity at all*
21 *levels.*

22 *(IV) Allied health and public*
23 *health care workforce capacity at all*
24 *levels.*

1 (V) *Emergency medical service*
2 *workforce capacity, including the re-*
3 *tention and recruitment of the volun-*
4 *teer workforce, at all levels.*

5 (VI) *The geographic distribution*
6 *of health care providers as compared to*
7 *the identified health care workforce*
8 *needs of States and regions.*

9 (B) *FUTURE DETERMINATIONS.—The Com-*
10 *mission may require that additional topics be*
11 *included under subparagraph (A). The appro-*
12 *priate committees of Congress may recommend to*
13 *the Commission the inclusion of other topics for*
14 *health care workforce development areas that re-*
15 *quire special attention.*

16 (5) *GRANT PROGRAM.—The Commission shall—*
17 (A) *review implementation progress reports*
18 *on, and report to Congress about, the State*
19 *Health Care Workforce Development Grant pro-*
20 *gram established in section 5102;*

21 (B) *in collaboration with the Department of*
22 *Labor and in coordination with the Department*
23 *of Education and other relevant Federal agen-*
24 *cies, make recommendations to the fiscal and ad-*

1 *ministrative agent under section 5102(b) for*
2 *grant recipients under section 5102;*

3 (C) *assess the implementation of the grants*
4 *under such section; and*

5 (D) *collect performance and report informa-*
6 *tion, including identified models and best prac-*
7 *tices, on grants from the fiscal and administra-*
8 *tive agent under such section and distribute this*
9 *information to Congress, relevant Federal agen-*
10 *cies, and to the public.*

11 (6) *STUDY.—The Commission shall study effec-*
12 *tive mechanisms for financing education and training*
13 *for careers in health care, including public health and*
14 *allied health.*

15 (7) *RECOMMENDATIONS.—The Commission shall*
16 *submit recommendations to Congress, the Department*
17 *of Labor, and the Department of Health and Human*
18 *Services about improving safety, health, and worker*
19 *protections in the workplace for the health care work-*
20 *force.*

21 (8) *ASSESSMENT.—The Commission shall assess*
22 *and receive reports from the National Center for*
23 *Health Care Workforce Analysis established under sec-*
24 *tion 761(b) of the Public Service Health Act (as*
25 *amended by section 5103).*

1 (e) *CONSULTATION WITH FEDERAL, STATE, AND*
2 *LOCAL AGENCIES, CONGRESS, AND OTHER ORGANIZA-*
3 *TIONS.—*

4 (1) *IN GENERAL.—The Commission shall consult*
5 *with Federal agencies (including the Departments of*
6 *Health and Human Services, Labor, Education, Com-*
7 *merce, Agriculture, Defense, and Veterans Affairs and*
8 *the Environmental Protection Agency), Congress, the*
9 *Medicare Payment Advisory Commission, the Med-*
10 *icaid and CHIP Payment and Access Commission,*
11 *and, to the extent practicable, with State and local*
12 *agencies, Indian tribes, voluntary health care organi-*
13 *zations, professional societies, and other relevant pub-*
14 *lic-private health care partnerships.*

15 (2) *OBTAINING OFFICIAL DATA.—The Commis-*
16 *sion, consistent with established privacy rules, may*
17 *secure directly from any department or agency of the*
18 *Executive Branch information necessary to enable the*
19 *Commission to carry out this section.*

20 (3) *DETAIL OF FEDERAL GOVERNMENT EMPLOY-*
21 *EES.—An employee of the Federal Government may*
22 *be detailed to the Commission without reimbursement.*
23 *The detail of such an employee shall be without inter-*
24 *ruption or loss of civil service status.*

1 (f) *DIRECTOR AND STAFF; EXPERTS AND CONSULT-*
2 *ANTS.—Subject to such review as the Comptroller General*
3 *of the United States determines to be necessary to ensure*
4 *the efficient administration of the Commission, the Com-*
5 *mission may—*

6 (1) *employ and fix the compensation of an execu-*
7 *utive director that shall not exceed the rate of basic*
8 *pay payable for level V of the Executive Schedule and*
9 *such other personnel as may be necessary to carry out*
10 *its duties (without regard to the provisions of title 5,*
11 *United States Code, governing appointments in the*
12 *competitive service);*

13 (2) *seek such assistance and support as may be*
14 *required in the performance of its duties from appro-*
15 *priate Federal departments and agencies;*

16 (3) *enter into contracts or make other arrange-*
17 *ments, as may be necessary for the conduct of the*
18 *work of the Commission (without regard to section*
19 *3709 of the Revised Statutes (41 U.S.C. 5));*

20 (4) *make advance, progress, and other payments*
21 *which relate to the work of the Commission;*

22 (5) *provide transportation and subsistence for*
23 *persons serving without compensation; and*

24 (6) *prescribe such rules and regulations as the*
25 *Commission determines to be necessary with respect*

1 *to the internal organization and operation of the*
2 *Commission.*

3 *(g) POWERS.—*

4 *(1) DATA COLLECTION.—In order to carry out*
5 *its functions under this section, the Commission*
6 *shall—*

7 *(A) utilize existing information, both pub-*
8 *lished and unpublished, where possible, collected*
9 *and assessed either by its own staff or under*
10 *other arrangements made in accordance with*
11 *this section, including coordination with the Bu-*
12 *reau of Labor Statistics;*

13 *(B) carry out, or award grants or contracts*
14 *for the carrying out of, original research and de-*
15 *velopment, where existing information is inad-*
16 *equately, and*

17 *(C) adopt procedures allowing interested*
18 *parties to submit information for the Commis-*
19 *sion's use in making reports and recommenda-*
20 *tions.*

21 *(2) ACCESS OF THE GOVERNMENT ACCOUNT-*
22 *ABILITY OFFICE TO INFORMATION.—The Comptroller*
23 *General of the United States shall have unrestricted*
24 *access to all deliberations, records, and data of the*
25 *Commission, immediately upon request.*

1 (3) *PERIODIC AUDIT.*—*The Commission shall be*
2 *subject to periodic audit by an independent public ac-*
3 *countant under contract to the Commission.*

4 (h) *AUTHORIZATION OF APPROPRIATIONS.*—

5 (1) *REQUEST FOR APPROPRIATIONS.*—*The Com-*
6 *mission shall submit requests for appropriations in*
7 *the same manner as the Comptroller General of the*
8 *United States submits requests for appropriations.*
9 *Amounts so appropriated for the Commission shall be*
10 *separate from amounts appropriated for the Comp-*
11 *troller General.*

12 (2) *AUTHORIZATION.*—*There are authorized to be*
13 *appropriated such sums as may be necessary to carry*
14 *out this section.*

15 (3) *GIFTS AND SERVICES.*—*The Commission*
16 *may not accept gifts, bequeaths, or donations of prop-*
17 *erty, but may accept and use donations of services for*
18 *purposes of carrying out this section.*

19 (i) *DEFINITIONS.*—*In this section:*

20 (1) *HEALTH CARE WORKFORCE.*—*The term*
21 *“health care workforce” includes all health care pro-*
22 *viders with direct patient care and support respon-*
23 *sibilities, such as physicians, nurses, nurse practi-*
24 *tioners, primary care providers, preventive medicine*
25 *physicians, optometrists, ophthalmologists, physician*

1 *assistants, pharmacists, dentists, dental hygienists,*
2 *and other oral healthcare professionals, allied health*
3 *professionals, doctors of chiropractic, community*
4 *health workers, health care paraprofessionals, direct*
5 *care workers, psychologists and other behavioral and*
6 *mental health professionals (including substance*
7 *abuse prevention and treatment providers), social*
8 *workers, physical and occupational therapists, cer-*
9 *tified nurse midwives, podiatrists, the EMS workforce*
10 *(including professional and volunteer ambulance per-*
11 *sonnel and firefighters who perform emergency med-*
12 *ical services), licensed complementary and alternative*
13 *medicine providers, integrative health practitioners,*
14 *public health professionals, and any other health pro-*
15 *fessional that the Comptroller General of the United*
16 *States determines appropriate.*

17 (2) *HEALTH PROFESSIONALS.*—*The term “health*
18 *professionals” includes—*

19 (A) *dentists, dental hygienists, primary*
20 *care providers, specialty physicians, nurses,*
21 *nurse practitioners, physician assistants, psy-*
22 *chologists and other behavioral and mental*
23 *health professionals (including substance abuse*
24 *prevention and treatment providers), social*
25 *workers, physical and occupational therapists,*

1 *public health professionals, clinical pharmacists,*
2 *allied health professionals, doctors of chiro-*
3 *practic, community health workers, school*
4 *nurses, certified nurse midwives, podiatrists, li-*
5 *icensed complementary and alternative medicine*
6 *providers, the EMS workforce (including profes-*
7 *sional and volunteer ambulance personnel and*
8 *firefighters who perform emergency medical serv-*
9 *ices), and integrative health practitioners;*

10 *(B) national representatives of health pro-*
11 *fessionals;*

12 *(C) representatives of schools of medicine,*
13 *osteopathy, nursing, dentistry, optometry, phar-*
14 *macy, chiropractic, allied health, educational*
15 *programs for public health professionals, behav-*
16 *ioral and mental health professionals (as so de-*
17 *finied), social workers, pharmacists, physical and*
18 *occupational therapists, oral health care indus-*
19 *try dentistry and dental hygiene, and physician*
20 *assistants;*

21 *(D) representatives of public and private*
22 *teaching hospitals, and ambulatory health facili-*
23 *ties, including Federal medical facilities; and*

1 (E) any other health professional the Comp-
2 troller General of the United States determines
3 appropriate.

4 **SEC. 5102. STATE HEALTH CARE WORKFORCE DEVELOP-**
5 **MENT GRANTS.**

6 (a) *ESTABLISHMENT.*—There is established a competi-
7 tive health care workforce development grant program (re-
8 ferred to in this section as the “program”) for the purpose
9 of enabling State partnerships to complete comprehensive
10 planning and to carry out activities leading to coherent and
11 comprehensive health care workforce development strategies
12 at the State and local levels.

13 (b) *FISCAL AND ADMINISTRATIVE AGENT.*—The
14 Health Resources and Services Administration of the De-
15 partment of Health and Human Services (referred to in this
16 section as the “Administration”) shall be the fiscal and ad-
17 ministrative agent for the grants awarded under this sec-
18 tion. The Administration is authorized to carry out the pro-
19 gram, in consultation with the National Health Care Work-
20 force Commission (referred to in this section as the “Com-
21 mission”), which shall review reports on the development,
22 implementation, and evaluation activities of the grant pro-
23 gram, including—

24 (1) administering the grants;

1 (2) *providing technical assistance to grantees;*
2 *and*

3 (3) *reporting performance information to the*
4 *Commission.*

5 (c) *PLANNING GRANTS.—*

6 (1) *AMOUNT AND DURATION.—A planning grant*
7 *shall be awarded under this subsection for a period of*
8 *not more than one year and the maximum award*
9 *may not be more than \$150,000.*

10 (2) *ELIGIBILITY.—To be eligible to receive a*
11 *planning grant, an entity shall be an eligible partner-*
12 *ship. An eligible partnership shall be a State work-*
13 *force investment board, if it includes or modifies the*
14 *members to include at least one representative from*
15 *each of the following: health care employer, labor or-*
16 *ganization, a public 2-year institution of higher edu-*
17 *cation, a public 4-year institution of higher edu-*
18 *cation, the recognized State federation of labor, the*
19 *State public secondary education agency, the State*
20 *P–16 or P–20 Council if such a council exists, and*
21 *a philanthropic organization that is actively engaged*
22 *in providing learning, mentoring, and work opportu-*
23 *nities to recruit, educate, and train individuals for,*
24 *and retain individuals in, careers in health care and*
25 *related industries.*

1 (3) *FISCAL AND ADMINISTRATIVE AGENT.*—*The*
2 *Governor of the State receiving a planning grant has*
3 *the authority to appoint a fiscal and an administra-*
4 *tive agency for the partnership.*

5 (4) *APPLICATION.*—*Each State partnership de-*
6 *siring a planning grant shall submit an application*
7 *to the Administrator of the Administration at such*
8 *time and in such manner, and accompanied by such*
9 *information as the Administrator may reasonable re-*
10 *quire. Each application submitted for a planning*
11 *grant shall describe the members of the State partner-*
12 *ship, the activities for which assistance is sought, the*
13 *proposed performance benchmarks to be used to meas-*
14 *ure progress under the planning grant, a budget for*
15 *use of the funds to complete the required activities de-*
16 *scribed in paragraph (5), and such additional assur-*
17 *ance and information as the Administrator deter-*
18 *mines to be essential to ensure compliance with the*
19 *grant program requirements.*

20 (5) *REQUIRED ACTIVITIES.*—*A State partnership*
21 *receiving a planning grant shall carry out the fol-*
22 *lowing:*

23 (A) *Analyze State labor market information*
24 *in order to create health care career pathways*

1 *for students and adults, including dislocated*
2 *workers.*

3 *(B) Identify current and projected high de-*
4 *mand State or regional health care sectors for*
5 *purposes of planning career pathways.*

6 *(C) Identify existing Federal, State, and*
7 *private resources to recruit, educate or train,*
8 *and retain a skilled health care workforce and*
9 *strengthen partnerships.*

10 *(D) Describe the academic and health care*
11 *industry skill standards for high school gradua-*
12 *tion, for entry into postsecondary education, and*
13 *for various credentials and licensure.*

14 *(E) Describe State secondary and postsec-*
15 *ondary education and training policies, models,*
16 *or practices for the health care sector, including*
17 *career information and guidance counseling.*

18 *(F) Identify Federal or State policies or*
19 *rules to developing a coherent and comprehensive*
20 *health care workforce development strategy and*
21 *barriers and a plan to resolve these barriers.*

22 *(G) Participate in the Administration's*
23 *evaluation and reporting activities.*

24 *(6) PERFORMANCE AND EVALUATION.—Before the*
25 *State partnership receives a planning grant, such*

1 *partnership and the Administrator of the Administra-*
2 *tion shall jointly determine the performance bench-*
3 *marks that will be established for the purposes of the*
4 *planning grant.*

5 (7) *MATCH.*—*Each State partnership receiving a*
6 *planning grant shall provide an amount, in cash or*
7 *in kind, that is not less than 15 percent of the amount*
8 *of the grant, to carry out the activities supported by*
9 *the grant. The matching requirement may be provided*
10 *from funds available under other Federal, State, local*
11 *or private sources to carry out the activities.*

12 (8) *REPORT.*—

13 (A) *REPORT TO ADMINISTRATION.*—*Not*
14 *later than 1 year after a State partnership re-*
15 *ceives a planning grant, the partnership shall*
16 *submit a report to the Administration on the*
17 *State's performance of the activities under the*
18 *grant, including the use of funds, including*
19 *matching funds, to carry out required activities,*
20 *and a description of the progress of the State*
21 *workforce investment board in meeting the per-*
22 *formance benchmarks.*

23 (B) *REPORT TO CONGRESS.*—*The Adminis-*
24 *tration shall submit a report to Congress ana-*
25 *lyzing the planning activities, performance, and*

1 *fund utilization of each State grant recipient,*
2 *including an identification of promising prac-*
3 *tices and a profile of the activities of each State*
4 *grant recipient.*

5 *(d) IMPLEMENTATION GRANTS.—*

6 *(1) IN GENERAL.—The Administration shall—*
7 *(A) competitively award implementation*
8 *grants to State partnerships to enable such part-*
9 *nerships to implement activities that will result*
10 *in a coherent and comprehensive plan for health*
11 *workforce development that will address current*
12 *and projected workforce demands within the*
13 *State; and*

14 *(B) inform the Commission and Congress*
15 *about the awards made.*

16 *(2) DURATION.—An implementation grant shall*
17 *be awarded for a period of no more than 2 years, ex-*
18 *cept in those cases where the Administration deter-*
19 *mines that the grantee is high performing and the ac-*
20 *tivities supported by the grant warrant up to 1 addi-*
21 *tional year of funding.*

22 *(3) ELIGIBILITY.—To be eligible for an imple-*
23 *mentation grant, a State partnership shall have—*

1 (A) received a planning grant under sub-
2 section (c) and completed all requirements of
3 such grant; or

4 (B) completed a satisfactory application,
5 including a plan to coordinate with required
6 partners and complete the required activities
7 during the 2 year period of the implementation
8 grant.

9 (4) *FISCAL AND ADMINISTRATIVE AGENT.*—A
10 State partnership receiving an implementation grant
11 shall appoint a fiscal and an administration agent
12 for the implementation of such grant.

13 (5) *APPLICATION.*—Each eligible State partner-
14 ship desiring an implementation grant shall submit
15 an application to the Administration at such time, in
16 such manner, and accompanied by such information
17 as the Administration may reasonably require. Each
18 application submitted shall include—

19 (A) a description of the members of the
20 State partnership;

21 (B) a description of how the State partner-
22 ship completed the required activities under the
23 planning grant, if applicable;

24 (C) a description of the activities for which
25 implementation grant funds are sought, includ-

1 *ing grants to regions by the State partnership to*
2 *advance coherent and comprehensive regional*
3 *health care workforce planning activities;*

4 *(D) a description of how the State partner-*
5 *ship will coordinate with required partners and*
6 *complete the required partnership activities dur-*
7 *ing the duration of an implementation grant;*

8 *(E) a budget proposal of the cost of the ac-*
9 *tivities supported by the implementation grant*
10 *and a timeline for the provision of matching*
11 *funds required;*

12 *(F) proposed performance benchmarks to be*
13 *used to assess and evaluate the progress of the*
14 *partnership activities;*

15 *(G) a description of how the State partner-*
16 *ship will collect data to report progress in grant*
17 *activities; and*

18 *(H) such additional assurances as the Ad-*
19 *ministration determines to be essential to ensure*
20 *compliance with grant requirements.*

21 *(6) REQUIRED ACTIVITIES.—*

22 *(A) IN GENERAL.—A State partnership that*
23 *receives an implementation grant may reserve*
24 *not less than 60 percent of the grant funds to*
25 *make grants to be competitively awarded by the*

1 *State partnership, consistent with State procure-*
2 *ment rules, to encourage regional partnerships to*
3 *address health care workforce development needs*
4 *and to promote innovative health care workforce*
5 *career pathway activities, including career coun-*
6 *seling, learning, and employment.*

7 (B) *ELIGIBLE PARTNERSHIP DUTIES.—An*
8 *eligible State partnership receiving an imple-*
9 *mentation grant shall—*

10 (i) *identify and convene regional lead-*
11 *ership to discuss opportunities to engage in*
12 *statewide health care workforce development*
13 *planning, including the potential use of*
14 *competitive grants to improve the develop-*
15 *ment, distribution, and diversity of the re-*
16 *gional health care workforce; the alignment*
17 *of curricula for health care careers; and the*
18 *access to quality career information and*
19 *guidance and education and training op-*
20 *portunities;*

21 (ii) *in consultation with key stake-*
22 *holders and regional leaders, take appro-*
23 *priate steps to reduce Federal, State, or*
24 *local barriers to a comprehensive and coher-*
25 *ent strategy, including changes in State or*

1 *local policies to foster coherent and com-*
2 *prehensive health care workforce develop-*
3 *ment activities, including health care career*
4 *pathways at the regional and State levels,*
5 *career planning information, retraining for*
6 *dislocated workers, and as appropriate, re-*
7 *quests for Federal program or administra-*
8 *tive waivers;*

9 *(iii) develop, disseminate, and review*
10 *with key stakeholders a preliminary state-*
11 *wide strategy that addresses short- and*
12 *long-term health care workforce development*
13 *supply versus demand;*

14 *(iv) convene State partnership mem-*
15 *bers on a regular basis, and at least on a*
16 *semiannual basis;*

17 *(v) assist leaders at the regional level*
18 *to form partnerships, including technical*
19 *assistance and capacity building activities;*

20 *(vi) collect and assess data on and re-*
21 *port on the performance benchmarks selected*
22 *by the State partnership and the Adminis-*
23 *tration for implementation activities car-*
24 *ried out by regional and State partnerships;*
25 *and*

1 (vii) participate in the Administra-
2 tion's evaluation and reporting activities.

3 (7) *PERFORMANCE AND EVALUATION.*—Before the
4 State partnership receives an implementation grant,
5 it and the Administrator shall jointly determine the
6 performance benchmarks that shall be established for
7 the purposes of the implementation grant.

8 (8) *MATCH.*—Each State partnership receiving
9 an implementation grant shall provide an amount, in
10 cash or in kind that is not less than 25 percent of the
11 amount of the grant, to carry out the activities sup-
12 ported by the grant. The matching funds may be pro-
13 vided from funds available from other Federal, State,
14 local, or private sources to carry out such activities.

15 (9) *REPORTS.*—

16 (A) *REPORT TO ADMINISTRATION.*—For
17 each year of the implementation grant, the State
18 partnership receiving the implementation grant
19 shall submit a report to the Administration on
20 the performance of the State of the grant activi-
21 ties, including a description of the use of the
22 funds, including matched funds, to complete ac-
23 tivities, and a description of the performance of
24 the State partnership in meeting the perform-
25 ance benchmarks.

1 (B) *REPORT TO CONGRESS.*—*The Adminis-*
2 *tration shall submit a report to Congress ana-*
3 *lyzing implementation activities, performance,*
4 *and fund utilization of the State grantees, in-*
5 *cluding an identification of promising practices*
6 *and a profile of the activities of each State*
7 *grantee.*

8 (e) *AUTHORIZATION FOR APPROPRIATIONS.*—

9 (1) *PLANNING GRANTS.*—*There are authorized to*
10 *be appropriated to award planning grants under sub-*
11 *section (c) \$8,000,000 for fiscal year 2010, and such*
12 *sums as may be necessary for each subsequent fiscal*
13 *year.*

14 (2) *IMPLEMENTATION GRANTS.*—*There are au-*
15 *thorized to be appropriated to award implementation*
16 *grants under subsection (d), \$150,000,000 for fiscal*
17 *year 2010, and such sums as may be necessary for*
18 *each subsequent fiscal year.*

19 **SEC. 5103. HEALTH CARE WORKFORCE ASSESSMENT.**

20 (a) *IN GENERAL.*—*Section 761 of the Public Health*
21 *Service Act (42 U.S.C. 294m) is amended—*

22 (1) *by redesignating subsection (c) as subsection*
23 *(e);*

24 (2) *by striking subsection (b) and inserting the*
25 *following:*

1 “(b) *NATIONAL CENTER FOR HEALTH CARE WORK-*
2 *FORCE ANALYSIS.*—

3 “(1) *ESTABLISHMENT.*—*The Secretary shall es-*
4 *tablish the National Center for Health Workforce*
5 *Analysis (referred to in this section as the ‘National*
6 *Center’).*

7 “(2) *PURPOSES.*—*The National Center, in co-*
8 *ordination to the extent practicable with the National*
9 *Health Care Workforce Commission (established in*
10 *section 5101 of the Patient Protection and Affordable*
11 *Care Act), and relevant regional and State centers*
12 *and agencies, shall—*

13 “(A) *provide for the development of infor-*
14 *mation describing and analyzing the health care*
15 *workforce and workforce related issues;*

16 “(B) *carry out the activities under section*
17 *792(a);*

18 “(C) *annually evaluate programs under this*
19 *title;*

20 “(D) *develop and publish performance*
21 *measures and benchmarks for programs under*
22 *this title; and*

23 “(E) *establish, maintain, and publicize a*
24 *national Internet registry of each grant awarded*
25 *under this title and a database to collect data*

1 *from longitudinal evaluations (as described in*
2 *subsection (d)(2)) on performance measures (as*
3 *developed under sections 749(d)(3), 757(d)(3),*
4 *and 762(a)(3)).*

5 “(3) *COLLABORATION AND DATA SHARING.*—

6 “(A) *IN GENERAL.*—*The National Center*
7 *shall collaborate with Federal agencies and rel-*
8 *evant professional and educational organizations*
9 *or societies for the purpose of linking data re-*
10 *garding grants awarded under this title.*

11 “(B) *CONTRACTS FOR HEALTH WORKFORCE*
12 *ANALYSIS.*—*For the purpose of carrying out the*
13 *activities described in subparagraph (A), the Na-*
14 *tional Center may enter into contracts with rel-*
15 *evant professional and educational organizations*
16 *or societies.*

17 “(c) *STATE AND REGIONAL CENTERS FOR HEALTH*
18 *WORKFORCE ANALYSIS.*—

19 “(1) *IN GENERAL.*—*The Secretary shall award*
20 *grants to, or enter into contracts with, eligible entities*
21 *for purposes of—*

22 “(A) *collecting, analyzing, and reporting*
23 *data regarding programs under this title to the*
24 *National Center and to the public; and*

1 “(B) providing technical assistance to local
2 and regional entities on the collection, analysis,
3 and reporting of data.

4 “(2) *ELIGIBLE ENTITIES.*—To be eligible for a
5 grant or contract under this subsection, an entity
6 shall—

7 “(A) be a State, a State workforce invest-
8 ment board, a public health or health professions
9 school, an academic health center, or an appro-
10 priate public or private nonprofit entity; and

11 “(B) submit to the Secretary an application
12 at such time, in such manner, and containing
13 such information as the Secretary may require.

14 “(d) *INCREASE IN GRANTS FOR LONGITUDINAL EVAL-*
15 *UATIONS.*—

16 “(1) *IN GENERAL.*—The Secretary shall increase
17 the amount awarded to an eligible entity under this
18 title for a longitudinal evaluation of individuals who
19 have received education, training, or financial assist-
20 ance from programs under this title.

21 “(2) *CAPABILITY.*—A longitudinal evaluation
22 shall be capable of—

23 “(A) studying practice patterns; and

1 “(B) *collecting and reporting data on per-*
2 *formance measures developed under sections*
3 *749(d)(3), 757(d)(3), and 762(a)(3).*”

4 “(3) *GUIDELINES.—A longitudinal evaluation*
5 *shall comply with guidelines issued under sections*
6 *749(d)(4), 757(d)(4), and 762(a)(4).*”

7 “(4) *ELIGIBLE ENTITIES.—To be eligible to ob-*
8 *tain an increase under this section, an entity shall be*
9 *a recipient of a grant or contract under this title.”;*
10 *and*

11 *(3) in subsection (e), as so redesignated—*

12 *(A) by striking paragraph (1) and inserting*
13 *the following:*

14 “(1) *IN GENERAL.—*

15 “(A) *NATIONAL CENTER.—To carry out*
16 *subsection (b), there are authorized to be appro-*
17 *priated \$7,500,000 for each of fiscal years 2010*
18 *through 2014.*”

19 “(B) *STATE AND REGIONAL CENTERS.—To*
20 *carry out subsection (c), there are authorized to*
21 *be appropriated \$4,500,000 for each of fiscal*
22 *years 2010 through 2014.*”

23 “(C) *GRANTS FOR LONGITUDINAL EVALUA-*
24 *TIONS.—To carry out subsection (d), there are*
25 *authorized to be appropriated such sums as may*

1 *be necessary for fiscal years 2010 through*
2 *2014.”; and*

3 *(4) in paragraph (2), by striking “subsection*
4 *(a)” and inserting “paragraph (1)”.*

5 **(b) TRANSFERS.**—*Not later than 180 days after the*
6 *date of enactment of this Act, the responsibilities and re-*
7 *sources of the National Center for Health Workforce Anal-*
8 *ysis, as in effect on the date before the date of enactment*
9 *of this Act, shall be transferred to the National Center for*
10 *Health Care Workforce Analysis established under section*
11 *761 of the Public Health Service Act, as amended by sub-*
12 *section (a).*

13 **(c) USE OF LONGITUDINAL EVALUATIONS.**—*Section*
14 *791(a)(1) of the Public Health Service Act (42 U.S.C.*
15 *295j(a)(1)) is amended—*

16 *(1) in subparagraph (A), by striking “or” at the*
17 *end;*

18 *(2) in subparagraph (B), by striking the period*
19 *and inserting “; or”; and*

20 *(3) by adding at the end the following:*

21 *“(C) utilizes a longitudinal evaluation (as*
22 *described in section 761(d)(2)) and reports data*
23 *from such system to the national workforce data-*
24 *base (as established under section*
25 *761(b)(2)(E)).”.*

1 (d) *PERFORMANCE MEASURES; GUIDELINES FOR LONGITUDINAL EVALUATIONS.*—

2
3 (1) *ADVISORY COMMITTEE ON TRAINING IN PRIMARY CARE MEDICINE AND DENTISTRY.*—Section
4
5 748(d) of the *Public Health Service Act* is amended—

6 (A) in paragraph (1), by striking “and” at
7 the end;

8 (B) in paragraph (2), by striking the period
9 and inserting a semicolon; and

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

11 “(3) develop, publish, and implement performance
12 measures for programs under this part;

13 “(4) develop and publish guidelines for longitudinal
14 evaluations (as described in section 761(d)(2))
15 for programs under this part; and

16 “(5) recommend appropriation levels for programs
17 under this part.”.

18 (2) *ADVISORY COMMITTEE ON INTERDISCIPLINARY, COMMUNITY-BASED LINKAGES.*—Section 756(d)
19
20 of the *Public Health Service Act* is amended—

21 (A) in paragraph (1), by striking “and” at
22 the end;

23 (B) in paragraph (2), by striking the period
24 and inserting a semicolon; and

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

1 “(3) develop, publish, and implement perform-
2 ance measures for programs under this part;

3 “(4) develop and publish guidelines for longitu-
4 dinal evaluations (as described in section 761(d)(2))
5 for programs under this part; and

6 “(5) recommend appropriation levels for pro-
7 grams under this part.”.

8 (3) *ADVISORY COUNCIL ON GRADUATE MEDICAL*
9 *EDUCATION*.—Section 762(a) of the *Public Health*
10 *Service Act (42 U.S.C. 2940(a))* is amended—

11 (A) in paragraph (1), by striking “and” at
12 the end;

13 (B) in paragraph (2), by striking the period
14 and inserting a semicolon; and

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

16 “(3) develop, publish, and implement perform-
17 ance measures for programs under this title, except
18 for programs under part C or D;

19 “(4) develop and publish guidelines for longitu-
20 dinal evaluations (as described in section 761(d)(2))
21 for programs under this title, except for programs
22 under part C or D; and

23 “(5) recommend appropriation levels for pro-
24 grams under this title, except for programs under
25 part C or D.”.

1 ***Subtitle C—Increasing the Supply***
2 ***of the Health Care Workforce***

3 ***SEC. 5201. FEDERALLY SUPPORTED STUDENT LOAN FUNDS.***

4 ***(a) MEDICAL SCHOOLS AND PRIMARY HEALTH***
5 ***CARE.—Section 723 of the Public Health Service Act (42***
6 ***U.S.C. 292s) is amended—***

7 ***(1) in subsection (a)—***

8 ***(A) in paragraph (1), by striking subpara-***
9 ***graph (B) and inserting the following:***

10 ***“(B) to practice in such care for 10 years***
11 ***(including residency training in primary health***
12 ***care) or through the date on which the loan is***
13 ***repaid in full, whichever occurs first.”; and***

14 ***(B) by striking paragraph (3) and inserting***
15 ***the following:***

16 ***“(3) NONCOMPLIANCE BY STUDENT.—Each***
17 ***agreement entered into with a student pursuant to***
18 ***paragraph (1) shall provide that, if the student fails***
19 ***to comply with such agreement, the loan involved will***
20 ***begin to accrue interest at a rate of 2 percent per***
21 ***year greater than the rate at which the student would***
22 ***pay if compliant in such year.”; and***

23 ***(2) by adding at the end the following:***

24 ***“(d) SENSE OF CONGRESS.—It is the sense of Congress***
25 ***that funds repaid under the loan program under this sec-***

1 *tion should not be transferred to the Treasury of the United*
2 *States or otherwise used for any other purpose other than*
3 *to carry out this section.”.*

4 *(b) STUDENT LOAN GUIDELINES.—The Secretary of*
5 *Health and Human Services shall not require parental fi-*
6 *nancial information for an independent student to deter-*
7 *mine financial need under section 723 of the Public Health*
8 *Service Act (42 U.S.C. 292s) and the determination of need*
9 *for such information shall be at the discretion of applicable*
10 *school loan officer. The Secretary shall amend guidelines*
11 *issued by the Health Resources and Services Administra-*
12 *tion in accordance with the preceding sentence.*

13 **SEC. 5202. NURSING STUDENT LOAN PROGRAM.**

14 *(a) LOAN AGREEMENTS.—Section 836(a) of the Public*
15 *Health Service Act (42 U.S.C. 297b(a)) is amended—*

16 *(1) by striking “\$2,500” and inserting “\$3,300”;*

17 *(2) by striking “\$4,000” and inserting “\$5,200”;*

18 *and*

19 *(3) by striking “\$13,000” and all that follows*

20 *through the period and inserting “\$17,000 in the case*

21 *of any student during fiscal years 2010 and 2011.*

22 *After fiscal year 2011, such amounts shall be adjusted*

23 *to provide for a cost-of-attendance increase for the*

24 *yearly loan rate and the aggregate of the loans.”.*

1 (b) *LOAN PROVISIONS.*—Section 836(b) of the Public
2 *Health Service Act* (42 U.S.C. 297b(b)) is amended—

3 (1) in paragraph (1)(C), by striking “1986” and
4 inserting “2000”; and

5 (2) in paragraph (3), by striking “the date of en-
6 actment of the Nurse Training Amendments of 1979”
7 and inserting “September 29, 1995”.

8 **SEC. 5203. HEALTH CARE WORKFORCE LOAN REPAYMENT**
9 **PROGRAMS.**

10 Part E of title VII of the Public Health Service Act
11 (42 U.S.C. 294n et seq.) is amended by adding at the end
12 the following:

13 **“Subpart 3—Recruitment and Retention Programs**

14 **“SEC. 775. INVESTMENT IN TOMORROW’S PEDIATRIC**
15 **HEALTH CARE WORKFORCE.**

16 “(a) *ESTABLISHMENT.*—The Secretary shall establish
17 and carry out a pediatric specialty loan repayment pro-
18 gram under which the eligible individual agrees to be em-
19 ployed full-time for a specified period (which shall not be
20 less than 2 years) in providing pediatric medical sub-
21 specialty, pediatric surgical specialty, or child and adoles-
22 cent mental and behavioral health care, including substance
23 abuse prevention and treatment services.

24 “(b) *PROGRAM ADMINISTRATION.*—Through the pro-
25 gram established under this section, the Secretary shall

1 *enter into contracts with qualified health professionals*
2 *under which—*

3 “(1) *such qualified health professionals will*
4 *agree to provide pediatric medical subspecialty, pedi-*
5 *atric surgical specialty, or child and adolescent men-*
6 *tal and behavioral health care in an area with a*
7 *shortage of the specified pediatric subspecialty that*
8 *has a sufficient pediatric population to support such*
9 *pediatric subspecialty, as determined by the Sec-*
10 *retary; and*

11 “(2) *the Secretary agrees to make payments on*
12 *the principal and interest of undergraduate, grad-*
13 *uate, or graduate medical education loans of profes-*
14 *sionals described in paragraph (1) of not more than*
15 *\$35,000 a year for each year of agreed upon service*
16 *under such paragraph for a period of not more than*
17 *3 years during the qualified health professional’s—*

18 “(A) *participation in an accredited pedi-*
19 *atric medical subspecialty, pediatric surgical*
20 *specialty, or child and adolescent mental health*
21 *subspecialty residency or fellowship; or*

22 “(B) *employment as a pediatric medical*
23 *subspecialist, pediatric surgical specialist, or*
24 *child and adolescent mental health professional*

1 *servicing an area or population described in such*
2 *paragraph.*

3 “(c) *IN GENERAL.*—

4 “(1) *ELIGIBLE INDIVIDUALS.*—

5 “(A) *PEDIATRIC MEDICAL SPECIALISTS AND*
6 *PEDIATRIC SURGICAL SPECIALISTS.*—*For pur-*
7 *poses of contracts with respect to pediatric med-*
8 *ical specialists and pediatric surgical specialists,*
9 *the term ‘qualified health professional’ means a*
10 *licensed physician who—*

11 “(i) *is entering or receiving training*
12 *in an accredited pediatric medical sub-*
13 *specialty or pediatric surgical specialty*
14 *residency or fellowship; or*

15 “(ii) *has completed (but not prior to*
16 *the end of the calendar year in which this*
17 *section is enacted) the training described in*
18 *subparagraph (B).*

19 “(B) *CHILD AND ADOLESCENT MENTAL AND*
20 *BEHAVIORAL HEALTH.*—*For purposes of con-*
21 *tracts with respect to child and adolescent men-*
22 *tal and behavioral health care, the term ‘quali-*
23 *fied health professional’ means a health care pro-*
24 *fessional who—*

1 “(i) has received specialized training
2 or clinical experience in child and adoles-
3 cent mental health in psychiatry, psy-
4 chology, school psychology, behavioral pedi-
5 atrics, psychiatric nursing, social work,
6 school social work, substance abuse disorder
7 prevention and treatment, marriage and
8 family therapy, school counseling, or profes-
9 sional counseling;

10 “(ii) has a license or certification in a
11 State to practice allopathic medicine, osteo-
12 pathic medicine, psychology, school psy-
13 chology, psychiatric nursing, social work,
14 school social work, marriage and family
15 therapy, school counseling, or professional
16 counseling; or

17 “(iii) is a mental health service profes-
18 sional who completed (but not before the end
19 of the calendar year in which this section is
20 enacted) specialized training or clinical ex-
21 perience in child and adolescent mental
22 health described in clause (i).

23 “(2) *ADDITIONAL ELIGIBILITY REQUIREMENTS.*—

24 *The Secretary may not enter into a contract under*
25 *this subsection with an eligible individual unless—*

1 “(A) *the individual agrees to work in, or for*
2 *a provider serving, a health professional shortage*
3 *area or medically underserved area, or to serve*
4 *a medically underserved population;*

5 “(B) *the individual is a United States cit-*
6 *izen or a permanent legal United States resident;*
7 *and*

8 “(C) *if the individual is enrolled in a grad-*
9 *uate program, the program is accredited, and the*
10 *individual has an acceptable level of academic*
11 *standing (as determined by the Secretary).*

12 “(d) *PRIORITY.—In entering into contracts under this*
13 *subsection, the Secretary shall give priority to applicants*
14 *who—*

15 “(1) *are or will be working in a school or other*
16 *pre-kindergarten, elementary, or secondary education*
17 *setting;*

18 “(2) *have familiarity with evidence-based meth-*
19 *ods and cultural and linguistic competence health*
20 *care services; and*

21 “(3) *demonstrate financial need.*

22 “(e) *AUTHORIZATION OF APPROPRIATIONS.—There is*
23 *authorized to be appropriated \$30,000,000 for each of fiscal*
24 *years 2010 through 2014 to carry out subsection (c)(1)(A)*

1 *and \$20,000,000 for each of fiscal years 2010 through 2013*
2 *to carry out subsection (c)(1)(B).”.*

3 **SEC. 5204. PUBLIC HEALTH WORKFORCE RECRUITMENT**
4 **AND RETENTION PROGRAMS.**

5 *Part E of title VII of the Public Health Service Act*
6 *(42 U.S.C. 294n et seq.), as amended by section 5203, is*
7 *further amended by adding at the end the following:*

8 **“SEC. 776. PUBLIC HEALTH WORKFORCE LOAN REPAYMENT**
9 **PROGRAM.**

10 *“(a) ESTABLISHMENT.—The Secretary shall establish*
11 *the Public Health Workforce Loan Repayment Program (re-*
12 *ferred to in this section as the ‘Program’) to assure an ade-*
13 *quate supply of public health professionals to eliminate crit-*
14 *ical public health workforce shortages in Federal, State,*
15 *local, and tribal public health agencies.*

16 *“(b) ELIGIBILITY.—To be eligible to participate in the*
17 *Program, an individual shall—*

18 *“(1)(A) be accepted for enrollment, or be en-*
19 *rolled, as a student in an accredited academic edu-*
20 *cational institution in a State or territory in the*
21 *final year of a course of study or program leading to*
22 *a public health or health professions degree or certifi-*
23 *cate; and have accepted employment with a Federal,*
24 *State, local, or tribal public health agency, or a re-*

1 *lated training fellowship, as recognized by the Sec-*
2 *retary, to commence upon graduation;*

3 *“(B)(i) have graduated, during the preceding 10-*
4 *year period, from an accredited educational institu-*
5 *tion in a State or territory and received a public*
6 *health or health professions degree or certificate; and*

7 *“(ii) be employed by, or have accepted employ-*
8 *ment with, a Federal, State, local, or tribal public*
9 *health agency or a related training fellowship, as rec-*
10 *ognized by the Secretary;*

11 *“(2) be a United States citizen; and*

12 *“(3)(A) submit an application to the Secretary*
13 *to participate in the Program;*

14 *“(B) execute a written contract as required in*
15 *subsection (c); and*

16 *“(4) not have received, for the same service, a re-*
17 *duction of loan obligations under section 455(m),*
18 *428J, 428K, 428L, or 460 of the Higher Education*
19 *Act of 1965.*

20 *“(c) CONTRACT.—The written contract (referred to in*
21 *this section as the ‘written contract’) between the Secretary*
22 *and an individual shall contain—*

23 *“(1) an agreement on the part of the Secretary*
24 *that the Secretary will repay on behalf of the indi-*
25 *vidual loans incurred by the individual in the pur-*

1 *suit of the relevant degree or certificate in accordance*
2 *with the terms of the contract;*

3 *“(2) an agreement on the part of the individual*
4 *that the individual will serve in the full-time employ-*
5 *ment of a Federal, State, local, or tribal public health*
6 *agency or a related fellowship program in a position*
7 *related to the course of study or program for which*
8 *the contract was awarded for a period of time (re-*
9 *ferred to in this section as the ‘period of obligated*
10 *service’) equal to the greater of—*

11 *“(A) 3 years; or*

12 *“(B) such longer period of time as deter-*
13 *mined appropriate by the Secretary and the in-*
14 *dividual;*

15 *“(3) an agreement, as appropriate, on the part*
16 *of the individual to relocate to a priority service area*
17 *(as determined by the Secretary) in exchange for an*
18 *additional loan repayment incentive amount to be de-*
19 *termined by the Secretary;*

20 *“(4) a provision that any financial obligation of*
21 *the United States arising out of a contract entered*
22 *into under this section and any obligation of the indi-*
23 *vidual that is conditioned thereon, is contingent on*
24 *funds being appropriated for loan repayments under*
25 *this section;*

1 “(5) a statement of the damages to which the
2 United States is entitled, under this section for the
3 individual’s breach of the contract; and

4 “(6) such other statements of the rights and li-
5 abilities of the Secretary and of the individual, not
6 inconsistent with this section.

7 “(d) PAYMENTS.—

8 “(1) IN GENERAL.—A loan repayment provided
9 for an individual under a written contract under the
10 Program shall consist of payment, in accordance with
11 paragraph (2), on behalf of the individual of the prin-
12 cipal, interest, and related expenses on government
13 and commercial loans received by the individual re-
14 garding the undergraduate or graduate education of
15 the individual (or both), which loans were made for
16 tuition expenses incurred by the individual.

17 “(2) PAYMENTS FOR YEARS SERVED.—For each
18 year of obligated service that an individual contracts
19 to serve under subsection (c) the Secretary may pay
20 up to \$35,000 on behalf of the individual for loans de-
21 scribed in paragraph (1). With respect to participants
22 under the Program whose total eligible loans are less
23 than \$105,000, the Secretary shall pay an amount
24 that does not exceed $\frac{1}{3}$ of the eligible loan balance for
25 each year of obligated service of the individual.

1 “(3) *TAX LIABILITY.*—*For the purpose of pro-*
2 *viding reimbursements for tax liability resulting from*
3 *payments under paragraph (2) on behalf of an indi-*
4 *vidual, the Secretary shall, in addition to such pay-*
5 *ments, make payments to the individual in an*
6 *amount not to exceed 39 percent of the total amount*
7 *of loan repayments made for the taxable year in-*
8 *volved.*

9 “(e) *POSTPONING OBLIGATED SERVICE.*—*With respect*
10 *to an individual receiving a degree or certificate from a*
11 *health professions or other related school, the date of the ini-*
12 *tiation of the period of obligated service may be postponed*
13 *as approved by the Secretary.*

14 “(f) *BREACH OF CONTRACT.*—*An individual who fails*
15 *to comply with the contract entered into under subsection*
16 *(c) shall be subject to the same financial penalties as pro-*
17 *vided for under section 338E for breaches of loan repayment*
18 *contracts under section 338B.*

19 “(g) *AUTHORIZATION OF APPROPRIATIONS.*—*There is*
20 *authorized to be appropriated to carry out this section*
21 *\$195,000,000 for fiscal year 2010, and such sums as may*
22 *be necessary for each of fiscal years 2011 through 2015.”.*

1 **SEC. 5205. ALLIED HEALTH WORKFORCE RECRUITMENT**
2 **AND RETENTION PROGRAMS.**

3 (a) *PURPOSE.*—*The purpose of this section is to assure*
4 *an adequate supply of allied health professionals to elimi-*
5 *nate critical allied health workforce shortages in Federal,*
6 *State, local, and tribal public health agencies or in settings*
7 *where patients might require health care services, including*
8 *acute care facilities, ambulatory care facilities, personal*
9 *residences and other settings, as recognized by the Secretary*
10 *of Health and Human Services by authorizing an Allied*
11 *Health Loan Forgiveness Program.*

12 (b) *ALLIED HEALTH WORKFORCE RECRUITMENT AND*
13 *RETENTION PROGRAM.*—*Section 428K of the Higher Edu-*
14 *cation Act of 1965 (20 U.S.C. 1078–11) is amended—*

15 (1) *in subsection (b), by adding at the end the*
16 *following:*

17 “(18) *ALLIED HEALTH PROFESSIONALS.*—*The*
18 *individual is employed full-time as an allied health*
19 *professional—*

20 “(A) *in a Federal, State, local, or tribal*
21 *public health agency; or*

22 “(B) *in a setting where patients might re-*
23 *quire health care services, including acute care*
24 *facilities, ambulatory care facilities, personal*
25 *residences and other settings located in health*
26 *professional shortage areas, medically under-*

1 *served areas, or medically underserved popu-*
2 *lations, as recognized by the Secretary of Health*
3 *and Human Services.”; and*

4 *(2) in subsection (g)—*

5 *(A) by redesignating paragraphs (1)*
6 *through (9) as paragraphs (2) through (10), re-*
7 *spectively; and*

8 *(B) by inserting before paragraph (2) (as*
9 *redesignated by subparagraph (A)) the following:*

10 *“(1) ALLIED HEALTH PROFESSIONAL.—The term*
11 *‘allied health professional’ means an allied health*
12 *professional as defined in section 799B(5) of the Pub-*
13 *lic Health Service Act (42 U.S.C. 295p(5)) who—*

14 *“(A) has graduated and received an allied*
15 *health professions degree or certificate from an*
16 *institution of higher education; and*

17 *“(B) is employed with a Federal, State,*
18 *local or tribal public health agency, or in a set-*
19 *ting where patients might require health care*
20 *services, including acute care facilities, ambula-*
21 *tory care facilities, personal residences and other*
22 *settings located in health professional shortage*
23 *areas, medically underserved areas, or medically*
24 *underserved populations, as recognized by the*
25 *Secretary of Health and Human Services.”.*

1 **SEC. 5206. GRANTS FOR STATE AND LOCAL PROGRAMS.**

2 (a) *IN GENERAL.*—Section 765(d) of the Public Health
3 Service Act (42 U.S.C. 295(d)) is amended—

4 (1) in paragraph (7), by striking “; or” and in-
5 serting a semicolon;

6 (2) by redesignating paragraph (8) as para-
7 graph (9); and

8 (3) by inserting after paragraph (7) the fol-
9 lowing:

10 “(8) public health workforce loan repayment pro-
11 grams; or”.

12 (b) *TRAINING FOR MID-CAREER PUBLIC HEALTH PRO-*
13 *FESSIONALS.*—Part E of title VII of the Public Health Serv-
14 ice Act (42 U.S.C. 294n et seq.), as amended by section
15 5204, is further amended by adding at the end the fol-
16 lowing:

17 **“SEC. 777. TRAINING FOR MID-CAREER PUBLIC AND ALLIED**
18 **HEALTH PROFESSIONALS.**

19 “(a) *IN GENERAL.*—The Secretary may make grants
20 to, or enter into contracts with, any eligible entity to award
21 scholarships to eligible individuals to enroll in degree or
22 professional training programs for the purpose of enabling
23 mid-career professionals in the public health and allied
24 health workforce to receive additional training in the field
25 of public health and allied health.

26 “(b) *ELIGIBILITY.*—

1 “(1) *ELIGIBLE ENTITY.*—The term ‘eligible enti-
2 *ty*’ indicates an accredited educational institution
3 that offers a course of study, certificate program, or
4 professional training program in public or allied
5 health or a related discipline, as determined by the
6 Secretary

7 “(2) *ELIGIBLE INDIVIDUALS.*—The term ‘eligible
8 *individuals*’ includes those individuals employed in
9 public and allied health positions at the Federal,
10 State, tribal, or local level who are interested in re-
11 taining or upgrading their education.

12 “(c) *AUTHORIZATION OF APPROPRIATIONS.*—There is
13 authorized to be appropriated to carry out this section,
14 \$60,000,000 for fiscal year 2010 and such sums as may be
15 necessary for each of fiscal years 2011 through 2015. Fifty
16 percent of appropriated funds shall be allotted to public
17 health mid-career professionals and 50 percent shall be al-
18 lotted to allied health mid-career professionals.”.

19 **SEC. 5207. FUNDING FOR NATIONAL HEALTH SERVICE**
20 **CORPS.**

21 Section 338H(a) of the Public Health Service Act (42
22 U.S.C. 254q(a)) is amended to read as follows:

23 “(a) *AUTHORIZATION OF APPROPRIATIONS.*—For the
24 purpose of carrying out this section, there is authorized to

1 *be appropriated, out of any funds in the Treasury not oth-*
2 *erwise appropriated, the following:*

3 “(1) *For fiscal year 2010, \$320,461,632.*

4 “(2) *For fiscal year 2011, \$414,095,394.*

5 “(3) *For fiscal year 2012, \$535,087,442.*

6 “(4) *For fiscal year 2013, \$691,431,432.*

7 “(5) *For fiscal year 2014, \$893,456,433.*

8 “(6) *For fiscal year 2015, \$1,154,510,336.*

9 “(7) *For fiscal year 2016, and each subsequent*
10 *fiscal year, the amount appropriated for the pre-*
11 *ceding fiscal year adjusted by the product of—*

12 “(A) *one plus the average percentage in-*
13 *crease in the costs of health professions education*
14 *during the prior fiscal year; and*

15 “(B) *one plus the average percentage change*
16 *in the number of individuals residing in health*
17 *professions shortage areas designated under sec-*
18 *tion 333 during the prior fiscal year, relative to*
19 *the number of individuals residing in such areas*
20 *during the previous fiscal year.”.*

21 **SEC. 5208. NURSE-MANAGED HEALTH CLINICS.**

22 (a) *PURPOSE.—The purpose of this section is to fund*
23 *the development and operation of nurse-managed health*
24 *clinics.*

1 (b) *GRANTS.*—Subpart 1 of part D of title III of the
2 *Public Health Service Act* (42 U.S.C. 254b et seq.) is
3 amended by inserting after section 330A the following:

4 **“SEC. 330A-1. GRANTS TO NURSE-MANAGED HEALTH CLIN-**
5 **ICS.**

6 “(a) *DEFINITIONS.*—

7 “(1) *COMPREHENSIVE PRIMARY HEALTH CARE*
8 *SERVICES.*—In this section, the term ‘comprehensive
9 primary health care services’ means the primary
10 health services described in section 330(b)(1).

11 “(2) *NURSE-MANAGED HEALTH CLINIC.*—The
12 term ‘nurse-managed health clinic’ means a nurse-
13 practice arrangement, managed by advanced practice
14 nurses, that provides primary care or wellness serv-
15 ices to underserved or vulnerable populations and
16 that is associated with a school, college, university or
17 department of nursing, federally qualified health cen-
18 ter, or independent nonprofit health or social services
19 agency.

20 “(b) *AUTHORITY TO AWARD GRANTS.*—The Secretary
21 shall award grants for the cost of the operation of nurse-
22 managed health clinics that meet the requirements of this
23 section.

24 “(c) *APPLICATIONS.*—To be eligible to receive a grant
25 under this section, an entity shall—

1 “(1) be an NMHC; and

2 “(2) submit to the Secretary an application at
3 such time, in such manner, and containing—

4 “(A) assurances that nurses are the major
5 providers of services at the NMHC and that at
6 least 1 advanced practice nurse holds an execu-
7 tive management position within the organiza-
8 tional structure of the NMHC;

9 “(B) an assurance that the NMHC will con-
10 tinue providing comprehensive primary health
11 care services or wellness services without regard
12 to income or insurance status of the patient for
13 the duration of the grant period; and

14 “(C) an assurance that, not later than 90
15 days of receiving a grant under this section, the
16 NMHC will establish a community advisory
17 committee, for which a majority of the members
18 shall be individuals who are served by the
19 NMHC.

20 “(d) GRANT AMOUNT.—The amount of any grant
21 made under this section for any fiscal year shall be deter-
22 mined by the Secretary, taking into account—

23 “(1) the financial need of the NMHC, consid-
24 ering State, local, and other operational funding pro-
25 vided to the NMHC; and

1 “(2) *other factors, as the Secretary determines*
2 *appropriate.*

3 “(e) *AUTHORIZATION OF APPROPRIATIONS.—For the*
4 *purposes of carrying out this section, there are authorized*
5 *to be appropriated \$50,000,000 for the fiscal year 2010 and*
6 *such sums as may be necessary for each of the fiscal years*
7 *2011 through 2014.”.*

8 **SEC. 5209. ELIMINATION OF CAP ON COMMISSIONED**
9 **CORPS.**

10 *Section 202 of the Department of Health and Human*
11 *Services Appropriations Act, 1993 (Public Law 102–394)*
12 *is amended by striking “not to exceed 2,800”.*

13 **SEC. 5210. ESTABLISHING A READY RESERVE CORPS.**

14 *Section 203 of the Public Health Service Act (42*
15 *U.S.C. 204) is amended to read as follows:*

16 **“SEC. 203. COMMISSIONED CORPS AND READY RESERVE**
17 **CORPS.**

18 “(a) *ESTABLISHMENT.—*

19 “(1) *IN GENERAL.—There shall be in the Service*
20 *a commissioned Regular Corps and a Ready Reserve*
21 *Corps for service in time of national emergency.*

22 “(2) *REQUIREMENT.—All commissioned officers*
23 *shall be citizens of the United States and shall be ap-*
24 *pointed without regard to the civil-service laws and*

1 *compensated without regard to the Classification Act*
2 *of 1923, as amended.*

3 “(3) *APPOINTMENT.*—*Commissioned officers of*
4 *the Ready Reserve Corps shall be appointed by the*
5 *President and commissioned officers of the Regular*
6 *Corps shall be appointed by the President with the*
7 *advice and consent of the Senate.*

8 “(4) *ACTIVE DUTY.*—*Commissioned officers of the*
9 *Ready Reserve Corps shall at all times be subject to*
10 *call to active duty by the Surgeon General, including*
11 *active duty for the purpose of training.*

12 “(5) *WARRANT OFFICERS.*—*Warrant officers*
13 *may be appointed to the Service for the purpose of*
14 *providing support to the health and delivery systems*
15 *maintained by the Service and any warrant officer*
16 *appointed to the Service shall be considered for pur-*
17 *poses of this Act and title 37, United States Code, to*
18 *be a commissioned officer within the Commissioned*
19 *Corps of the Service.*

20 “(b) *ASSIMILATING RESERVE CORP OFFICERS INTO*
21 *THE REGULAR CORPS.*—*Effective on the date of enactment*
22 *of the Patient Protection and Affordable Care Act, all indi-*
23 *viduals classified as officers in the Reserve Corps under this*
24 *section (as such section existed on the day before the date*

1 *of enactment of such Act) and serving on active duty shall*
2 *be deemed to be commissioned officers of the Regular Corps.*

3 “(c) *PURPOSE AND USE OF READY RESEARCH.*—

4 “(1) *PURPOSE.*—*The purpose of the Ready Re-*
5 *serve Corps is to fulfill the need to have additional*
6 *Commissioned Corps personnel available on short no-*
7 *tice (similar to the uniformed service’s reserve pro-*
8 *gram) to assist regular Commissioned Corps per-*
9 *sonnel to meet both routine public health and emer-*
10 *gency response missions.*

11 “(2) *USES.*—*The Ready Reserve Corps shall—*

12 “(A) *participate in routine training to meet*
13 *the general and specific needs of the Commis-*
14 *sioned Corps;*

15 “(B) *be available and ready for involuntary*
16 *calls to active duty during national emergencies*
17 *and public health crises, similar to the uni-*
18 *formed service reserve personnel;*

19 “(C) *be available for backfilling critical po-*
20 *sitions left vacant during deployment of active*
21 *duty Commissioned Corps members, as well as*
22 *for deployment to respond to public health emer-*
23 *gencies, both foreign and domestic; and*

24 “(D) *be available for service assignment in*
25 *isolated, hardship, and medically underserved*

1 communities (as defined in section 799B) to im-
2 prove access to health services.

3 “(d) *FUNDING.*—For the purpose of carrying out the
4 duties and responsibilities of the Commissioned Corps
5 under this section, there are authorized to be appropriated
6 \$5,000,000 for each of fiscal years 2010 through 2014 for
7 recruitment and training and \$12,500,000 for each of fiscal
8 years 2010 through 2014 for the Ready Reserve Corps.”.

9 ***Subtitle D—Enhancing Health Care***
10 ***Workforce Education and Training***

11 ***SEC. 5301. TRAINING IN FAMILY MEDICINE, GENERAL IN-***
12 ***TERNAL MEDICINE, GENERAL PEDIATRICS,***
13 ***AND PHYSICIAN ASSISTANTSHIP.***

14 *Part C of title VII (42 U.S.C. 293k et seq.) is amended*
15 *by striking section 747 and inserting the following:*

16 ***“SEC. 747. PRIMARY CARE TRAINING AND ENHANCEMENT.***

17 ***“(a) SUPPORT AND DEVELOPMENT OF PRIMARY CARE***
18 ***TRAINING PROGRAMS.—***

19 ***“(1) IN GENERAL.—The Secretary may make***
20 *grants to, or enter into contracts with, an accredited*
21 *public or nonprofit private hospital, school of medi-*
22 *cine or osteopathic medicine, academically affiliated*
23 *physician assistant training program, or a public or*
24 *private nonprofit entity which the Secretary has de-*

1 *terminated is capable of carrying out such grant or*
2 *contract—*

3 *“(A) to plan, develop, operate, or partici-*
4 *pate in an accredited professional training pro-*
5 *gram, including an accredited residency or in-*
6 *ternship program in the field of family medicine,*
7 *general internal medicine, or general pediatrics*
8 *for medical students, interns, residents, or prac-*
9 *ticing physicians as defined by the Secretary;*

10 *“(B) to provide need-based financial assist-*
11 *ance in the form of traineeships and fellowships*
12 *to medical students, interns, residents, practicing*
13 *physicians, or other medical personnel, who are*
14 *participants in any such program, and who*
15 *plan to specialize or work in the practice of the*
16 *fields defined in subparagraph (A);*

17 *“(C) to plan, develop, and operate a pro-*
18 *gram for the training of physicians who plan to*
19 *teach in family medicine, general internal medi-*
20 *cine, or general pediatrics training programs;*

21 *“(D) to plan, develop, and operate a pro-*
22 *gram for the training of physicians teaching in*
23 *community-based settings;*

24 *“(E) to provide financial assistance in the*
25 *form of traineeships and fellowships to physi-*

1 *cians who are participants in any such pro-*
2 *grams and who plan to teach or conduct research*
3 *in a family medicine, general internal medicine,*
4 *or general pediatrics training program;*

5 *“(F) to plan, develop, and operate a physi-*
6 *cian assistant education program, and for the*
7 *training of individuals who will teach in pro-*
8 *grams to provide such training;*

9 *“(G) to plan, develop, and operate a dem-*
10 *onstration program that provides training in*
11 *new competencies, as recommended by the Advi-*
12 *sory Committee on Training in Primary Care*
13 *Medicine and Dentistry and the National Health*
14 *Care Workforce Commission established in sec-*
15 *tion 5101 of the Patient Protection and Afford-*
16 *able Care Act, which may include—*

17 *“(i) providing training to primary*
18 *care physicians relevant to providing care*
19 *through patient-centered medical homes (as*
20 *defined by the Secretary for purposes of this*
21 *section);*

22 *“(ii) developing tools and curricula*
23 *relevant to patient-centered medical homes;*
24 *and*

1 “(iii) providing continuing education
2 to primary care physicians relevant to pa-
3 tient-centered medical homes; and

4 “(H) to plan, develop, and operate joint de-
5 gree programs to provide interdisciplinary and
6 interprofessional graduate training in public
7 health and other health professions to provide
8 training in environmental health, infectious dis-
9 ease control, disease prevention and health pro-
10 motion, epidemiological studies and injury con-
11 trol.

12 “(2) DURATION OF AWARDS.—The period during
13 which payments are made to an entity from an
14 award of a grant or contract under this subsection
15 shall be 5 years.

16 “(b) CAPACITY BUILDING IN PRIMARY CARE.—

17 “(1) IN GENERAL.—The Secretary may make
18 grants to or enter into contracts with accredited
19 schools of medicine or osteopathic medicine to estab-
20 lish, maintain, or improve—

21 “(A) academic units or programs that im-
22 prove clinical teaching and research in fields de-
23 fined in subsection (a)(1)(A); or

24 “(B) programs that integrate academic ad-
25 ministrative units in fields defined in subsection

1 *(a)(1)(A) to enhance interdisciplinary recruit-*
2 *ment, training, and faculty development.*

3 “(2) *PREFERENCE IN MAKING AWARDS UNDER*
4 *THIS SUBSECTION.—In making awards of grants and*
5 *contracts under paragraph (1), the Secretary shall*
6 *give preference to any qualified applicant for such an*
7 *award that agrees to expend the award for the pur-*
8 *pose of—*

9 “(A) *establishing academic units or pro-*
10 *grams in fields defined in subsection (a)(1)(A);*
11 *or*

12 “(B) *substantially expanding such units or*
13 *programs.*

14 “(3) *PRIORITIES IN MAKING AWARDS.—In*
15 *awarding grants or contracts under paragraph (1),*
16 *the Secretary shall give priority to qualified appli-*
17 *cants that—*

18 “(A) *proposes a collaborative project be-*
19 *tween academic administrative units of primary*
20 *care;*

21 “(B) *proposes innovative approaches to*
22 *clinical teaching using models of primary care,*
23 *such as the patient centered medical home, team*
24 *management of chronic disease, and interprofes-*
25 *sional integrated models of health care that in-*

1 *corporate transitions in health care settings and*
2 *integration physical and mental health provi-*
3 *sion;*

4 “(C) *have a record of training the greatest*
5 *percentage of providers, or that have dem-*
6 *onstrated significant improvements in the per-*
7 *centage of providers trained, who enter and re-*
8 *main in primary care practice;*

9 “(D) *have a record of training individuals*
10 *who are from underrepresented minority groups*
11 *or from a rural or disadvantaged background;*

12 “(E) *provide training in the care of vulner-*
13 *able populations such as children, older adults,*
14 *homeless individuals, victims of abuse or trau-*
15 *ma, individuals with mental health or substance-*
16 *related disorders, individuals with HIV/AIDS,*
17 *and individuals with disabilities;*

18 “(F) *establish formal relationships and sub-*
19 *mit joint applications with federally qualified*
20 *health centers, rural health clinics, area health*
21 *education centers, or clinics located in under-*
22 *served areas or that serve underserved popu-*
23 *lations;*

1 “(G) teach trainees the skills to provide
2 interprofessional, integrated care through col-
3 laboration among health professionals;

4 “(H) provide training in enhanced commu-
5 nication with patients, evidence-based practice,
6 chronic disease management, preventive care,
7 health information technology, or other com-
8 petencies as recommended by the Advisory Com-
9 mittee on Training in Primary Care Medicine
10 and Dentistry and the National Health Care
11 Workforce Commission established in section
12 5101 of the Patient Protection and Affordable
13 Care Act; or

14 “(I) provide training in cultural com-
15 petency and health literacy.

16 “(4) DURATION OF AWARDS.—The period during
17 which payments are made to an entity from an
18 award of a grant or contract under this subsection
19 shall be 5 years.

20 “(c) AUTHORIZATION OF APPROPRIATIONS.—

21 “(1) IN GENERAL.—For purposes of carrying out
22 this section (other than subsection (b)(1)(B)), there
23 are authorized to be appropriated \$125,000,000 for
24 fiscal year 2010, and such sums as may be necessary
25 for each of fiscal years 2011 through 2014.

1 “(2) *TRAINING PROGRAMS.*—Fifteen percent of
2 the amount appropriated pursuant to paragraph (1)
3 in each such fiscal year shall be allocated to the phy-
4 sician assistant training programs described in sub-
5 section (a)(1)(F), which prepare students for practice
6 in primary care.

7 “(3) *INTEGRATING ACADEMIC ADMINISTRATIVE*
8 *UNITS.*—For purposes of carrying out subsection
9 (b)(1)(B), there are authorized to be appropriated
10 \$750,000 for each of fiscal years 2010 through 2014.”.

11 **SEC. 5302. TRAINING OPPORTUNITIES FOR DIRECT CARE**
12 **WORKERS.**

13 *Part C of title VII of the Public Health Service Act*
14 *(42 U.S.C. 293k et seq.) is amended by inserting after sec-*
15 *tion 747, as amended by section 5301, the following:*

16 **“SEC. 747A. TRAINING OPPORTUNITIES FOR DIRECT CARE**
17 **WORKERS.**

18 “(a) *IN GENERAL.*—The Secretary shall award grants
19 *to eligible entities to enable such entities to provide new*
20 *training opportunities for direct care workers who are em-*
21 *ployed in long-term care settings such as nursing homes (as*
22 *defined in section 1908(e)(1) of the Social Security Act (42*
23 *U.S.C. 1396g(e)(1)), assisted living facilities and skilled*
24 *nursing facilities, intermediate care facilities for individ-*
25 *uals with mental retardation, home and community based*

1 *settings, and any other setting the Secretary determines to*
2 *be appropriate.*

3 “(b) *ELIGIBILITY.*—*To be eligible to receive a grant*
4 *under this section, an entity shall—*

5 “(1) *be an institution of higher education (as de-*
6 *defined in section 102 of the Higher Education Act of*
7 *1965 (20 U.S.C. 1002)) that—*

8 “(A) *is accredited by a nationally recog-*
9 *nized accrediting agency or association listed*
10 *under section 101(c) of the Higher Education*
11 *Act of 1965 (20 U.S.C. 1001(c)); and*

12 “(B) *has established a public-private edu-*
13 *cational partnership with a nursing home or*
14 *skilled nursing facility, agency or entity pro-*
15 *viding home and community based services to*
16 *individuals with disabilities, or other long-term*
17 *care provider; and*

18 “(2) *submit to the Secretary an application at*
19 *such time, in such manner, and containing such in-*
20 *formation as the Secretary may require.*

21 “(c) *USE OF FUNDS.*—*An eligible entity shall use*
22 *amounts awarded under a grant under this section to pro-*
23 *vide assistance to eligible individuals to offset the cost of*
24 *tuition and required fees for enrollment in academic pro-*
25 *grams provided by such entity.*

1 “(d) *ELIGIBLE INDIVIDUAL.*—

2 “(1) *ELIGIBILITY.*—*To be eligible for assistance*
3 *under this section, an individual shall be enrolled in*
4 *courses provided by a grantee under this subsection*
5 *and maintain satisfactory academic progress in such*
6 *courses.*

7 “(2) *CONDITION OF ASSISTANCE.*—*As a condi-*
8 *tion of receiving assistance under this section, an in-*
9 *dividual shall agree that, following completion of the*
10 *assistance period, the individual will work in the*
11 *field of geriatrics, disability services, long term serv-*
12 *ices and supports, or chronic care management for a*
13 *minimum of 2 years under guidelines set by the Sec-*
14 *retary.*

15 “(e) *AUTHORIZATION OF APPROPRIATIONS.*—*There is*
16 *authorized to be appropriated to carry out this section,*
17 *\$10,000,000 for the period of fiscal years 2011 through*
18 *2013.”.*

19 **SEC. 5303. TRAINING IN GENERAL, PEDIATRIC, AND PUBLIC**
20 **HEALTH DENTISTRY.**

21 *Part C of Title VII of the Public Health Service Act*
22 *(42 U.S.C. 293k et seq.) is amended by—*

23 (1) *redesignating section 748, as amended by sec-*
24 *tion 5103 of this Act, as section 749; and*

1 (2) *inserting after section 747A, as added by sec-*
2 *tion 5302, the following:*

3 **“SEC. 748. TRAINING IN GENERAL, PEDIATRIC, AND PUBLIC**
4 **HEALTH DENTISTRY.**

5 “(a) *SUPPORT AND DEVELOPMENT OF DENTAL TRAIN-*
6 *ING PROGRAMS.—*

7 “(1) *IN GENERAL.—The Secretary may make*
8 *grants to, or enter into contracts with, a school of*
9 *dentistry, public or nonprofit private hospital, or a*
10 *public or private nonprofit entity which the Secretary*
11 *has determined is capable of carrying out such grant*
12 *or contract—*

13 “(A) *to plan, develop, and operate, or par-*
14 *ticipate in, an approved professional training*
15 *program in the field of general dentistry, pedi-*
16 *atric dentistry, or public health dentistry for*
17 *dental students, residents, practicing dentists,*
18 *dental hygienists, or other approved primary*
19 *care dental trainees, that emphasizes training for*
20 *general, pediatric, or public health dentistry;*

21 “(B) *to provide financial assistance to den-*
22 *tal students, residents, practicing dentists, and*
23 *dental hygiene students who are in need thereof,*
24 *who are participants in any such program, and*

1 *who plan to work in the practice of general, pe-*
2 *diatric, public health dentistry, or dental hygiene;*

3 “(C) to plan, develop, and operate a pro-

4 *gram for the training of oral health care pro-*
5 *viders who plan to teach in general, pediatric,*
6 *public health dentistry, or dental hygiene;*

7 “(D) to provide financial assistance in the

8 *form of traineeships and fellowships to dentists*
9 *who plan to teach or are teaching in general, pe-*
10 *diatric, or public health dentistry;*

11 “(E) to meet the costs of projects to estab-

12 *lish, maintain, or improve dental faculty devel-*
13 *opment programs in primary care (which may*
14 *be departments, divisions or other units);*

15 “(F) to meet the costs of projects to estab-

16 *lish, maintain, or improve predoctoral and*
17 *postdoctoral training in primary care programs;*

18 “(G) to create a loan repayment program

19 *for faculty in dental programs; and*

20 “(H) to provide technical assistance to pedi-

21 *atric training programs in developing and im-*
22 *plementing instruction regarding the oral health*
23 *status, dental care needs, and risk-based clinical*
24 *disease management of all pediatric populations*
25 *with an emphasis on underserved children.*

1 “(2) *FACULTY LOAN REPAYMENT.*—

2 “(A) *IN GENERAL.*—A grant or contract
3 under subsection (a)(1)(G) may be awarded to a
4 program of general, pediatric, or public health
5 dentistry described in such subsection to plan,
6 develop, and operate a loan repayment program
7 under which—

8 “(i) individuals agree to serve full-time
9 as faculty members; and

10 “(ii) the program of general, pediatric
11 or public health dentistry agrees to pay the
12 principal and interest on the outstanding
13 student loans of the individuals.

14 “(B) *MANNER OF PAYMENTS.*—With respect
15 to the payments described in subparagraph
16 (A)(ii), upon completion by an individual of
17 each of the first, second, third, fourth, and fifth
18 years of service, the program shall pay an
19 amount equal to 10, 15, 20, 25, and 30 percent,
20 respectively, of the individual’s student loan bal-
21 ance as calculated based on principal and inter-
22 est owed at the initiation of the agreement.

23 “(b) *ELIGIBLE ENTITY.*—For purposes of this sub-
24 section, entities eligible for such grants or contracts in gen-
25 eral, pediatric, or public health dentistry shall include enti-

1 *ties that have programs in dental or dental hygiene schools,*
2 *or approved residency or advanced education programs in*
3 *the practice of general, pediatric, or public health dentistry.*
4 *Eligible entities may partner with schools of public health*
5 *to permit the education of dental students, residents, and*
6 *dental hygiene students for a master's year in public health*
7 *at a school of public health.*

8 “(c) *PRIORITIES IN MAKING AWARDS.—With respect*
9 *to training provided for under this section, the Secretary*
10 *shall give priority in awarding grants or contracts to the*
11 *following:*

12 “(1) *Qualified applicants that propose collabo-*
13 *rative projects between departments of primary care*
14 *medicine and departments of general, pediatric, or*
15 *public health dentistry.*

16 “(2) *Qualified applicants that have a record of*
17 *training the greatest percentage of providers, or that*
18 *have demonstrated significant improvements in the*
19 *percentage of providers, who enter and remain in gen-*
20 *eral, pediatric, or public health dentistry.*

21 “(3) *Qualified applicants that have a record of*
22 *training individuals who are from a rural or dis-*
23 *advantaged background, or from underrepresented mi-*
24 *norities.*

1 “(4) Qualified applicants that establish formal
2 relationships with Federally qualified health centers,
3 rural health centers, or accredited teaching facilities
4 and that conduct training of students, residents, fel-
5 lows, or faculty at the center or facility.

6 “(5) Qualified applicants that conduct teaching
7 programs targeting vulnerable populations such as
8 older adults, homeless individuals, victims of abuse or
9 trauma, individuals with mental health or substance-
10 related disorders, individuals with disabilities, and
11 individuals with HIV/AIDS, and in the risk-based
12 clinical disease management of all populations.

13 “(6) Qualified applicants that include edu-
14 cational activities in cultural competency and health
15 literacy.

16 “(7) Qualified applicants that have a high rate
17 for placing graduates in practice settings that serve
18 underserved areas or health disparity populations, or
19 who achieve a significant increase in the rate of plac-
20 ing graduates in such settings.

21 “(8) Qualified applicants that intend to establish
22 a special populations oral health care education cen-
23 ter or training program for the didactic and clinical
24 education of dentists, dental health professionals, and
25 dental hygienists who plan to teach oral health care

1 *for people with developmental disabilities, cognitive*
2 *impairment, complex medical problems, significant*
3 *physical limitations, and vulnerable elderly.*

4 “(d) *APPLICATION.—An eligible entity desiring a*
5 *grant under this section shall submit to the Secretary an*
6 *application at such time, in such manner, and containing*
7 *such information as the Secretary may require.*

8 “(e) *DURATION OF AWARD.—The period during which*
9 *payments are made to an entity from an award of a grant*
10 *or contract under subsection (a) shall be 5 years. The provi-*
11 *sion of such payments shall be subject to annual approval*
12 *by the Secretary and subject to the availability of appro-*
13 *priations for the fiscal year involved to make the payments.*

14 “(f) *AUTHORIZATIONS OF APPROPRIATIONS.—For the*
15 *purpose of carrying out subsections (a) and (b), there is*
16 *authorized to be appropriated \$30,000,000 for fiscal year*
17 *2010 and such sums as may be necessary for each of fiscal*
18 *years 2011 through 2015.*

19 “(g) *CARRYOVER FUNDS.—An entity that receives an*
20 *award under this section may carry over funds from 1 fiscal*
21 *year to another without obtaining approval from the Sec-*
22 *retary. In no case may any funds be carried over pursuant*
23 *to the preceding sentence for more than 3 years.”.*

1 **SEC. 5304. ALTERNATIVE DENTAL HEALTH CARE PRO-**
2 **VIDERS DEMONSTRATION PROJECT.**

3 *Subpart X of part D of title III of the Public Health*
4 *Service Act (42 U.S.C. 256f et seq.) is amended by adding*
5 *at the end the following:*

6 **“SEC. 340G–1. DEMONSTRATION PROGRAM.**

7 *“(a) IN GENERAL.—*

8 *“(1) AUTHORIZATION.—The Secretary is author-*
9 *ized to award grants to 15 eligible entities to enable*
10 *such entities to establish a demonstration program to*
11 *establish training programs to train, or to employ, al-*
12 *ternative dental health care providers in order to in-*
13 *crease access to dental health care services in rural*
14 *and other underserved communities.*

15 *“(2) DEFINITION.—The term ‘alternative dental*
16 *health care providers’ includes community dental*
17 *health coordinators, advance practice dental hygien-*
18 *ists, independent dental hygienists, supervised dental*
19 *hygienists, primary care physicians, dental thera-*
20 *pists, dental health aides, and any other health pro-*
21 *fessional that the Secretary determines appropriate.*

22 *“(b) TIMEFRAME.—The demonstration projects funded*
23 *under this section shall begin not later than 2 years after*
24 *the date of enactment of this section, and shall conclude not*
25 *later than 7 years after such date of enactment.*

1 “(c) *ELIGIBLE ENTITIES.*—*To be eligible to receive a*
2 *grant under subsection (a), an entity shall—*

3 “(1) *be—*

4 “(A) *an institution of higher education, in-*
5 *cluding a community college;*

6 “(B) *a public-private partnership;*

7 “(C) *a federally qualified health center;*

8 “(D) *an Indian Health Service facility or a*
9 *tribe or tribal organization (as such terms are*
10 *defined in section 4 of the Indian Self-Deter-*
11 *mination and Education Assistance Act);*

12 “(E) *a State or county public health clinic,*
13 *a health facility operated by an Indian tribe or*
14 *tribal organization, or urban Indian organiza-*
15 *tion providing dental services; or*

16 “(F) *a public hospital or health system;*

17 “(2) *be within a program accredited by the Com-*
18 *mission on Dental Accreditation or within a dental*
19 *education program in an accredited institution; and*

20 “(3) *shall submit an application to the Secretary*
21 *at such time, in such manner, and containing such*
22 *information as the Secretary may require.*

23 “(d) *ADMINISTRATIVE PROVISIONS.*—

24 “(1) *AMOUNT OF GRANT.*—*Each grant under this*
25 *section shall be in an amount that is not less than*

1 \$4,000,000 for the 5-year period during which the
2 demonstration project being conducted.

3 “(2) *DISBURSEMENT OF FUNDS.*—

4 “(A) *PRELIMINARY DISBURSEMENTS.*—Be-
5 ginning 1 year after the enactment of this sec-
6 tion, the Secretary may disperse to any entity
7 receiving a grant under this section not more
8 than 20 percent of the total funding awarded to
9 such entity under such grant, for the purpose of
10 enabling the entity to plan the demonstration
11 project to be conducted under such grant.

12 “(B) *SUBSEQUENT DISBURSEMENTS.*—The
13 remaining amount of grant funds not dispersed
14 under subparagraph (A) shall be dispersed such
15 that not less than 15 percent of such remaining
16 amount is dispersed each subsequent year.

17 “(e) *COMPLIANCE WITH STATE REQUIREMENTS.*—

18 Each entity receiving a grant under this section shall cer-
19 tify that it is in compliance with all applicable State licens-
20 ing requirements.

21 “(f) *EVALUATION.*—The Secretary shall contract with
22 the Director of the Institute of Medicine to conduct a study
23 of the demonstration programs conducted under this section
24 that shall provide analysis, based upon quantitative and

1 *qualitative data, regarding access to dental health care in*
2 *the United States.*

3 “(g) *CLARIFICATION REGARDING DENTAL HEALTH*
4 *AIDE PROGRAM.*—*Nothing in this section shall prohibit a*
5 *dental health aide training program approved by the In-*
6 *dian Health Service from being eligible for a grant under*
7 *this section.*

8 “(h) *AUTHORIZATION OF APPROPRIATIONS.*—*There is*
9 *authorized to be appropriated such sums as may be nec-*
10 *essary to carry out this section.”.*

11 **SEC. 5305. GERIATRIC EDUCATION AND TRAINING; CAREER**
12 **AWARDS; COMPREHENSIVE GERIATRIC EDU-**
13 **CATION.**

14 “(a) *WORKFORCE DEVELOPMENT; CAREER AWARDS.*—
15 *Section 753 of the Public Health Service Act (42 U.S.C.*
16 *294c) is amended by adding at the end the following:*

17 “(d) *GERIATRIC WORKFORCE DEVELOPMENT.*—

18 “(1) *IN GENERAL.*—*The Secretary shall award*
19 *grants or contracts under this subsection to entities*
20 *that operate a geriatric education center pursuant to*
21 *subsection (a)(1).*

22 “(2) *APPLICATION.*—*To be eligible for an award*
23 *under paragraph (1), an entity described in such*
24 *paragraph shall submit to the Secretary an applica-*

1 *tion at such time, in such manner, and containing*
2 *such information as the Secretary may require.*

3 *“(3) USE OF FUNDS.—Amounts awarded under*
4 *a grant or contract under paragraph (1) shall be used*
5 *to—*

6 *“(A) carry out the fellowship program de-*
7 *scribed in paragraph (4); and*

8 *“(B) carry out 1 of the 2 activities de-*
9 *scribed in paragraph (5).*

10 *“(4) FELLOWSHIP PROGRAM.—*

11 *“(A) IN GENERAL.—Pursuant to paragraph*
12 *(3), a geriatric education center that receives an*
13 *award under this subsection shall use such funds*
14 *to offer short-term intensive courses (referred to*
15 *in this subsection as a ‘fellowship’) that focus on*
16 *geriatrics, chronic care management, and long-*
17 *term care that provide supplemental training for*
18 *faculty members in medical schools and other*
19 *health professions schools with programs in psy-*
20 *chology, pharmacy, nursing, social work, den-*
21 *tistry, public health, allied health, or other health*
22 *disciplines, as approved by the Secretary. Such*
23 *a fellowship shall be open to current faculty, and*
24 *appropriately credentialed volunteer faculty and*
25 *practitioners, who do not have formal training*

1 *in geriatrics, to upgrade their knowledge and*
2 *clinical skills for the care of older adults and*
3 *adults with functional limitations and to en-*
4 *hance their interdisciplinary teaching skills.*

5 “(B) *LOCATION.*—*A fellowship shall be of-*
6 *fered either at the geriatric education center that*
7 *is sponsoring the course, in collaboration with*
8 *other geriatric education centers, or at medical*
9 *schools, schools of dentistry, schools of nursing,*
10 *schools of pharmacy, schools of social work, grad-*
11 *uate programs in psychology, or allied health*
12 *and other health professions schools approved by*
13 *the Secretary with which the geriatric education*
14 *centers are affiliated.*

15 “(C) *CME CREDIT.*—*Participation in a fel-*
16 *lowship under this paragraph shall be accepted*
17 *with respect to complying with continuing health*
18 *profession education requirements. As a condi-*
19 *tion of such acceptance, the recipient shall agree*
20 *to subsequently provide a minimum of 18 hours*
21 *of voluntary instructional support through a*
22 *geriatric education center that is providing clin-*
23 *ical training to students or trainees in long-term*
24 *care settings.*

1 “(5) *ADDITIONAL REQUIRED ACTIVITIES DE-*
2 *SCRIBED.—Pursuant to paragraph (3), a geriatric*
3 *education center that receives an award under this*
4 *subsection shall use such funds to carry out 1 of the*
5 *following 2 activities.*

6 “(A) *FAMILY CAREGIVER AND DIRECT CARE*
7 *PROVIDER TRAINING.—A geriatric education cen-*
8 *ter that receives an award under this subsection*
9 *shall offer at least 2 courses each year, at no*
10 *charge or nominal cost, to family caregivers and*
11 *direct care providers that are designed to provide*
12 *practical training for supporting frail elders and*
13 *individuals with disabilities. The Secretary shall*
14 *require such Centers to work with appropriate*
15 *community partners to develop training pro-*
16 *gram content and to publicize the availability of*
17 *training courses in their service areas. All fam-*
18 *ily caregiver and direct care provider training*
19 *programs shall include instruction on the man-*
20 *agement of psychological and behavioral aspects*
21 *of dementia, communication techniques for work-*
22 *ing with individuals who have dementia, and the*
23 *appropriate, safe, and effective use of medica-*
24 *tions for older adults.*

1 “(B) *INCORPORATION OF BEST PRAC-*
2 *TICES.—A geriatric education center that re-*
3 *ceives an award under this subsection shall de-*
4 *velop and include material on depression and*
5 *other mental disorders common among older*
6 *adults, medication safety issues for older adults,*
7 *and management of the psychological and behav-*
8 *ioral aspects of dementia and communication*
9 *techniques with individuals who have dementia*
10 *in all training courses, where appropriate.*

11 “(6) *TARGETS.—A geriatric education center*
12 *that receives an award under this subsection shall*
13 *meet targets approved by the Secretary for providing*
14 *geriatric training to a certain number of faculty or*
15 *practitioners during the term of the award, as well as*
16 *other parameters established by the Secretary.*

17 “(7) *AMOUNT OF AWARD.—An award under this*
18 *subsection shall be in an amount of \$150,000. Not*
19 *more than 24 geriatric education centers may receive*
20 *an award under this subsection.*

21 “(8) *MAINTENANCE OF EFFORT.—A geriatric*
22 *education center that receives an award under this*
23 *subsection shall provide assurances to the Secretary*
24 *that funds provided to the geriatric education center*
25 *under this subsection will be used only to supplement,*

1 *not to supplant, the amount of Federal, State, and*
2 *local funds otherwise expended by the geriatric edu-*
3 *cation center.*

4 “(9) *AUTHORIZATION OF APPROPRIATIONS.—In*
5 *addition to any other funding available to carry out*
6 *this section, there is authorized to be appropriated to*
7 *carry out this subsection, \$10,800,000 for the period*
8 *of fiscal year 2011 through 2014.*

9 “(e) *GERIATRIC CAREER INCENTIVE AWARDS.—*

10 “(1) *IN GENERAL.—The Secretary shall award*
11 *grants or contracts under this section to individuals*
12 *described in paragraph (2) to foster greater interest*
13 *among a variety of health professionals in entering*
14 *the field of geriatrics, long-term care, and chronic*
15 *care management.*

16 “(2) *ELIGIBLE INDIVIDUALS.—To be eligible to*
17 *received an award under paragraph (1), an indi-*
18 *vidual shall—*

19 “(A) *be an advanced practice nurse, a clin-*
20 *ical social worker, a pharmacist, or student of*
21 *psychology who is pursuing a doctorate or other*
22 *advanced degree in geriatrics or related fields in*
23 *an accredited health professions school; and*

1 “(B) submit to the Secretary an application
2 at such time, in such manner, and containing
3 such information as the Secretary may require.

4 “(3) *CONDITION OF AWARD.*—As a condition of
5 receiving an award under this subsection, an indi-
6 vidual shall agree that, following completion of the
7 award period, the individual will teach or practice in
8 the field of geriatrics, long-term care, or chronic care
9 management for a minimum of 5 years under guide-
10 lines set by the Secretary.

11 “(4) *AUTHORIZATION OF APPROPRIATIONS.*—
12 There is authorized to be appropriated to carry out
13 this subsection, \$10,000,000 for the period of fiscal
14 years 2011 through 2013.”.

15 (b) *EXPANSION OF ELIGIBILITY FOR GERIATRIC ACA-*
16 *DEMIC CAREER AWARDS; PAYMENT TO INSTITUTION.*—Sec-
17 tion 753(c) of the Public Health Service Act 294(c) is
18 amended—

19 (1) by redesignating paragraphs (4) and (5) as
20 paragraphs (5) and (6), respectively;

21 (2) by striking paragraph (2) through paragraph
22 (3) and inserting the following:

23 “(2) *ELIGIBLE INDIVIDUALS.*—To be eligible to
24 receive an Award under paragraph (1), an individual
25 shall—

1 “(A) be board certified or board eligible in
2 internal medicine, family practice, psychiatry,
3 or licensed dentistry, or have completed any re-
4 quired training in a discipline and employed in
5 an accredited health professions school that is
6 approved by the Secretary;

7 “(B) have completed an approved fellowship
8 program in geriatrics or have completed spe-
9 cialty training in geriatrics as required by the
10 discipline and any addition geriatrics training
11 as required by the Secretary; and

12 “(C) have a junior (non-tenured) faculty
13 appointment at an accredited (as determined by
14 the Secretary) school of medicine, osteopathic
15 medicine, nursing, social work, psychology, den-
16 tistry, pharmacy, or other allied health dis-
17 ciplines in an accredited health professions
18 school that is approved by the Secretary.

19 “(3) LIMITATIONS.—No Award under paragraph
20 (1) may be made to an eligible individual unless the
21 individual—

22 “(A) has submitted to the Secretary an ap-
23 plication, at such time, in such manner, and
24 containing such information as the Secretary

1 *may require, and the Secretary has approved*
2 *such application;*

3 “(B) *provides, in such form and manner as*
4 *the Secretary may require, assurances that the*
5 *individual will meet the service requirement de-*
6 *scribed in paragraph (6); and*

7 “(C) *provides, in such form and manner as*
8 *the Secretary may require, assurances that the*
9 *individual has a full-time faculty appointment*
10 *in a health professions institution and docu-*
11 *mented commitment from such institution to*
12 *spend 75 percent of the total time of such indi-*
13 *vidual on teaching and developing skills in*
14 *interdisciplinary education in geriatrics.*

15 “(4) *MAINTENANCE OF EFFORT.—An eligible in-*
16 *dividual that receives an Award under paragraph (1)*
17 *shall provide assurances to the Secretary that funds*
18 *provided to the eligible individual under this sub-*
19 *section will be used only to supplement, not to sup-*
20 *plant, the amount of Federal, State, and local funds*
21 *otherwise expended by the eligible individual.”; and*

22 (3) *in paragraph (5), as so designated—*

23 (A) *in subparagraph (A)—*

24 (i) *by inserting “for individuals who*
25 *are physicians” after “this section”; and*

1 (ii) by inserting after the period at the
2 end the following: “The Secretary shall de-
3 termine the amount of an Award under this
4 section for individuals who are not physi-
5 cians.”; and

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

7 “(C) PAYMENT TO INSTITUTION.—The Sec-
8 retary shall make payments to institutions which
9 include schools of medicine, osteopathic medicine,
10 nursing, social work, psychology, dentistry, and
11 pharmacy, or other allied health discipline in an
12 accredited health professions school that is ap-
13 proved by the Secretary.”.

14 (c) COMPREHENSIVE GERIATRIC EDUCATION.—Sec-
15 tion 855 of the Public Health Service Act (42 U.S.C. 298)
16 is amended—

17 (1) in subsection (b)—

18 (A) in paragraph (3), by striking “or” at
19 the end;

20 (B) in paragraph (4), by striking the period
21 and inserting “; or”; and

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

23 “(5) establish traineeships for individuals who
24 are preparing for advanced education nursing degrees
25 in geriatric nursing, long-term care, gero-psychiatric

1 *nursing or other nursing areas that specialize in the*
2 *care of the elderly population.”; and*

3 (2) *in subsection (e), by striking “2003 through*
4 *2007” and inserting “2010 through 2014”.*

5 **SEC. 5306. MENTAL AND BEHAVIORAL HEALTH EDUCATION**
6 **AND TRAINING GRANTS.**

7 (a) *IN GENERAL.—Part D of title VII (42 U.S.C. 294*
8 *et seq.) is amended by—*

9 (1) *striking section 757;*

10 (2) *redesignating section 756 (as amended by*
11 *section 5103) as section 757; and*

12 (3) *inserting after section 755 the following:*

13 **“SEC. 756. MENTAL AND BEHAVIORAL HEALTH EDUCATION**
14 **AND TRAINING GRANTS.**

15 “(a) *GRANTS AUTHORIZED.—The Secretary may*
16 *award grants to eligible institutions of higher education to*
17 *support the recruitment of students for, and education and*
18 *clinical experience of the students in—*

19 “(1) *baccalaureate, master’s, and doctoral degree*
20 *programs of social work, as well as the development*
21 *of faculty in social work;*

22 “(2) *accredited master’s, doctoral, internship,*
23 *and post-doctoral residency programs of psychology*
24 *for the development and implementation of inter-*
25 *disciplinary training of psychology graduate students*

1 *for providing behavioral and mental health services,*
2 *including substance abuse prevention and treatment*
3 *services;*

4 “(3) *accredited institutions of higher education*
5 *or accredited professional training programs that are*
6 *establishing or expanding internships or other field*
7 *placement programs in child and adolescent mental*
8 *health in psychiatry, psychology, school psychology,*
9 *behavioral pediatrics, psychiatric nursing, social*
10 *work, school social work, substance abuse prevention*
11 *and treatment, marriage and family therapy, school*
12 *counseling, or professional counseling; and*

13 “(4) *State-licensed mental health nonprofit and*
14 *for-profit organizations to enable such organizations*
15 *to pay for programs for preservice or in-service train-*
16 *ing of paraprofessional child and adolescent mental*
17 *health workers.*

18 “(b) *ELIGIBILITY REQUIREMENTS.—To be eligible for*
19 *a grant under this section, an institution shall dem-*
20 *onstrate—*

21 “(1) *participation in the institutions’ programs*
22 *of individuals and groups from different racial, eth-*
23 *nic, cultural, geographic, religious, linguistic, and*
24 *class backgrounds, and different genders and sexual*
25 *orientations;*

1 “(2) *knowledge and understanding of the con-*
2 *cerns of the individuals and groups described in sub-*
3 *section (a);*

4 “(3) *any internship or other field placement pro-*
5 *gram assisted under the grant will prioritize cultural*
6 *and linguistic competency;*

7 “(4) *the institution will provide to the Secretary*
8 *such data, assurances, and information as the Sec-*
9 *retary may require; and*

10 “(5) *with respect to any violation of the agree-*
11 *ment between the Secretary and the institution, the*
12 *institution will pay such liquidated damages as pre-*
13 *scribed by the Secretary by regulation.*

14 “(c) *INSTITUTIONAL REQUIREMENT.—For grants au-*
15 *thorized under subsection (a)(1), at least 4 of the grant re-*
16 *cipients shall be historically black colleges or universities*
17 *or other minority-serving institutions.*

18 “(d) *PRIORITY.—*

19 “(1) *In selecting the grant recipients in social*
20 *work under subsection (a)(1), the Secretary shall give*
21 *priority to applicants that—*

22 “(A) *are accredited by the Council on So-*
23 *cial Work Education;*

24 “(B) *have a graduation rate of not less than*
25 *80 percent for social work students; and*

1 “(C) exhibit an ability to recruit social
2 workers from and place social workers in areas
3 with a high need and high demand population.

4 “(2) In selecting the grant recipients in graduate
5 psychology under subsection (a)(2), the Secretary
6 shall give priority to institutions in which training
7 focuses on the needs of vulnerable groups such as older
8 adults and children, individuals with mental health
9 or substance-related disorders, victims of abuse or
10 trauma and of combat stress disorders such as
11 posttraumatic stress disorder and traumatic brain in-
12 juries, homeless individuals, chronically ill persons,
13 and their families.

14 “(3) In selecting the grant recipients in training
15 programs in child and adolescent mental health under
16 subsections (a)(3) and (a)(4), the Secretary shall give
17 priority to applicants that—

18 “(A) have demonstrated the ability to collect
19 data on the number of students trained in child
20 and adolescent mental health and the popu-
21 lations served by such students after graduation
22 or completion of preservice or in-service train-
23 ing;

24 “(B) have demonstrated familiarity with
25 evidence-based methods in child and adolescent

1 *mental health services, including substance abuse*
2 *prevention and treatment services;*

3 “(C) *have programs designed to increase the*
4 *number of professionals and paraprofessionals*
5 *serving high-priority populations and to appli-*
6 *cants who come from high-priority communities*
7 *and plan to serve medically underserved popu-*
8 *lations, in health professional shortage areas, or*
9 *in medically underserved areas;*

10 “(D) *offer curriculum taught collaboratively*
11 *with a family on the consumer and family lived*
12 *experience or the importance of family-profes-*
13 *sional or family-paraprofessional partnerships;*
14 *and*

15 “(E) *provide services through a community*
16 *mental health program described in section*
17 *1913(b)(1).*

18 “(e) *AUTHORIZATION OF APPROPRIATION.—For the*
19 *fiscal years 2010 through 2013, there is authorized to be*
20 *appropriated to carry out this section—*

21 “(1) *\$8,000,000 for training in social work in*
22 *subsection (a)(1);*

23 “(2) *\$12,000,000 for training in graduate psy-*
24 *chology in subsection (a)(2), of which not less than*

1 \$10,000,000 shall be allocated for doctoral,
2 postdoctoral, and internship level training;

3 “(3) \$10,000,000 for training in professional
4 child and adolescent mental health in subsection
5 (a)(3); and

6 “(4) \$5,000,000 for training in paraprofessional
7 child and adolescent work in subsection (a)(4).”.

8 (b) **CONFORMING AMENDMENTS.**—Section 757(b)(2) of
9 the *Public Health Service Act*, as redesignated by subsection
10 (a), is amended by striking “sections 751(a)(1)(A),
11 751(a)(1)(B), 753(b), 754(3)(A), and 755(b)” and inserting
12 “sections 751(b)(1)(A), 753(b), and 755(b)”.

13 **SEC. 5307. CULTURAL COMPETENCY, PREVENTION, AND**
14 **PUBLIC HEALTH AND INDIVIDUALS WITH DIS-**
15 **ABILITIES TRAINING.**

16 (a) **TITLE VII.**—Section 741 of the *Public Health*
17 *Service Act* (42 U.S.C. 293e) is amended—

18 (1) in subsection (a)—

19 (A) by striking the subsection heading and
20 inserting “**CULTURAL COMPETENCY, PREVEN-**
21 **TION, AND PUBLIC HEALTH AND INDIVIDUALS**
22 **WITH DISABILITY GRANTS**”; and

23 (B) in paragraph (1), by striking “for the
24 purpose of” and all that follows through the pe-
25 riod at the end and inserting “for the develop-

1 *ment, evaluation, and dissemination of research,*
2 *demonstration projects, and model curricula for*
3 *cultural competency, prevention, public health*
4 *proficiency, reducing health disparities, and ap-*
5 *titude for working with individuals with disabil-*
6 *ities training for use in health professions schools*
7 *and continuing education programs, and for*
8 *other purposes determined as appropriate by the*
9 *Secretary.”; and*
10 (2) *by striking subsection (b) and inserting the*
11 *following:*

12 “(b) *COLLABORATION.—In carrying out subsection (a),*
13 *the Secretary shall collaborate with health professional soci-*
14 *eties, licensing and accreditation entities, health professions*
15 *schools, and experts in minority health and cultural com-*
16 *petency, prevention, and public health and disability*
17 *groups, community-based organizations, and other organi-*
18 *zations as determined appropriate by the Secretary. The*
19 *Secretary shall coordinate with curricula and research and*
20 *demonstration projects developed under section 807.*

21 “(c) *DISSEMINATION.—*

22 “(1) *IN GENERAL.—Model curricula developed*
23 *under this section shall be disseminated through the*
24 *Internet Clearinghouse under section 270 and such*

1 *other means as determined appropriate by the Sec-*
2 *retary.*

3 “(2) *EVALUATION.*—*The Secretary shall evaluate*
4 *the adoption and the implementation of cultural com-*
5 *petency, prevention, and public health, and working*
6 *with individuals with a disability training curricula,*
7 *and the facilitate inclusion of these competency meas-*
8 *ures in quality measurement systems as appropriate.*

9 “(d) *AUTHORIZATION OF APPROPRIATIONS.*—*There is*
10 *authorized to be appropriated to carry out this section such*
11 *sums as may be necessary for each of fiscal years 2010*
12 *through 2015.”.*

13 (b) *TITLE VIII.*—*Section 807 of the Public Health*
14 *Service Act (42 U.S.C. 296e–1) is amended—*

15 (1) *in subsection (a)—*

16 (A) *by striking the subsection heading and*
17 *inserting “CULTURAL COMPETENCY, PREVEN-*
18 *TION, AND PUBLIC HEALTH AND INDIVIDUALS*
19 *WITH DISABILITY GRANTS”;* *and*

20 (B) *by striking “for the purpose of” and all*
21 *that follows through “health care.” and inserting*
22 *“for the development, evaluation, and dissemina-*
23 *tion of research, demonstration projects, and*
24 *model curricula for cultural competency, preven-*
25 *tion, public health proficiency, reducing health*

1 *disparities, and aptitude for working with indi-*
2 *viduals with disabilities training for use in*
3 *health professions schools and continuing edu-*
4 *cation programs, and for other purposes deter-*
5 *mined as appropriate by the Secretary.”; and*

6 *(2) by redesignating subsection (b) as subsection*
7 *(d);*

8 *(3) by inserting after subsection (a) the fol-*
9 *lowing:*

10 “(b) *COLLABORATION.*—*In carrying out subsection (a),*
11 *the Secretary shall collaborate with the entities described*
12 *in section 741(b). The Secretary shall coordinate with cur-*
13 *ricula and research and demonstration projects developed*
14 *under such section 741.*

15 “(c) *DISSEMINATION.*—*Model curricula developed*
16 *under this section shall be disseminated and evaluated in*
17 *the same manner as model curricula developed under sec-*
18 *tion 741, as described in subsection (c) of such section.”;*

19 *and*

20 *(4) in subsection (d), as so redesignated—*

21 *(A) by striking “subsection (a)” and insert-*
22 *ing “this section”; and*

23 *(B) by striking “2001 through 2004” and*
24 *inserting “2010 through 2015”.*

1 **SEC. 5308. ADVANCED NURSING EDUCATION GRANTS.**

2 *Section 811 of the Public Health Service Act (42*
3 *U.S.C. 296j) is amended—*

4 *(1) in subsection (c)—*

5 *(A) in the subsection heading, by striking*

6 *“AND NURSE MIDWIFERY PROGRAMS”; and*

7 *(B) by striking “and nurse midwifery”;*

8 *(2) in subsection (f)—*

9 *(A) by striking paragraph (2); and*

10 *(B) by redesignating paragraph (3) as*
11 *paragraph (2); and*

12 *(3) by redesignating subsections (d), (e), and (f)*
13 *as subsections (e), (f), and (g), respectively; and*

14 *(4) by inserting after subsection (c), the fol-*
15 *lowing:*

16 *“(d) AUTHORIZED NURSE-MIDWIFERY PROGRAMS.—*
17 *Midwifery programs that are eligible for support under this*
18 *section are educational programs that—*

19 *“(1) have as their objective the education of mid-*
20 *wives; and*

21 *“(2) are accredited by the American College of*
22 *Nurse-Midwives Accreditation Commission for Mid-*
23 *wifery Education.”.*

1 **SEC. 5309. NURSE EDUCATION, PRACTICE, AND RETENTION**
2 **GRANTS.**

3 (a) *IN GENERAL.*—Section 831 of the Public Health
4 Service Act (42 U.S.C. 296p) is amended—

5 (1) in the section heading, by striking “**RETEN-**
6 **TION**” and inserting “**QUALITY**”;

7 (2) in subsection (a)—

8 (A) in paragraph (1), by adding “or” after
9 the semicolon;

10 (B) by striking paragraph (2); and

11 (C) by redesignating paragraph (3) as
12 paragraph (2);

13 (3) in subsection (b)(3), by striking “managed
14 care, quality improvement” and inserting “coordi-
15 nated care”;

16 (4) in subsection (g), by inserting “, as defined
17 in section 801(2),” after “school of nursing”; and

18 (5) in subsection (h), by striking “2003 through
19 2007” and inserting “2010 through 2014”.

20 (b) *NURSE RETENTION GRANTS.*—Title VIII of the
21 Public Health Service Act is amended by inserting after
22 section 831 (42 U.S.C. 296b) the following:

23 **“SEC. 831A. NURSE RETENTION GRANTS.**

24 “(a) *RETENTION PRIORITY AREAS.*—The Secretary
25 may award grants to, and enter into contracts with, eligible
26 entities to enhance the nursing workforce by initiating and

1 *maintaining nurse retention programs pursuant to sub-*
2 *section (b) or (c).*

3 “(b) *GRANTS FOR CAREER LADDER PROGRAM.*—*The*
4 *Secretary may award grants to, and enter into contracts*
5 *with, eligible entities for programs—*

6 “(1) *to promote career advancement for individ-*
7 *uals including licensed practical nurses, licensed vo-*
8 *ccational nurses, certified nurse assistants, home*
9 *health aides, diploma degree or associate degree*
10 *nurses, to become baccalaureate prepared registered*
11 *nurses or advanced education nurses in order to meet*
12 *the needs of the registered nurse workforce;*

13 “(2) *developing and implementing internships*
14 *and residency programs in collaboration with an ac-*
15 *credited school of nursing, as defined by section*
16 *801(2), to encourage mentoring and the development*
17 *of specialties; or*

18 “(3) *to assist individuals in obtaining education*
19 *and training required to enter the nursing profession*
20 *and advance within such profession.*

21 “(c) *ENHANCING PATIENT CARE DELIVERY SYS-*
22 *TEMS.*—

23 “(1) *GRANTS.*—*The Secretary may award grants*
24 *to eligible entities to improve the retention of nurses*
25 *and enhance patient care that is directly related to*

1 *nursing activities by enhancing collaboration and*
2 *communication among nurses and other health care*
3 *professionals, and by promoting nurse involvement in*
4 *the organizational and clinical decision-making proc-*
5 *esses of a health care facility.*

6 “(2) *PRIORITY.*—*In making awards of grants*
7 *under this subsection, the Secretary shall give pref-*
8 *erence to applicants that have not previously received*
9 *an award under this subsection (or section 831(c) as*
10 *such section existed on the day before the date of en-*
11 *actment of this section).*

12 “(3) *CONTINUATION OF AN AWARD.*—*The Sec-*
13 *retary shall make continuation of any award under*
14 *this subsection beyond the second year of such award*
15 *contingent on the recipient of such award having*
16 *demonstrated to the Secretary measurable and sub-*
17 *stantive improvement in nurse retention or patient*
18 *care.*

19 “(d) *OTHER PRIORITY AREAS.*—*The Secretary may*
20 *award grants to, or enter into contracts with, eligible enti-*
21 *ties to address other areas that are of high priority to nurse*
22 *retention, as determined by the Secretary.*

23 “(e) *REPORT.*—*The Secretary shall submit to the Con-*
24 *gress before the end of each fiscal year a report on the grants*
25 *awarded and the contracts entered into under this section.*

1 *Each such report shall identify the overall number of such*
2 *grants and contracts and provide an explanation of why*
3 *each such grant or contract will meet the priority need of*
4 *the nursing workforce.*

5 “(f) *ELIGIBLE ENTITY.*—*For purposes of this section,*
6 *the term ‘eligible entity’ includes an accredited school of*
7 *nursing, as defined by section 801(2), a health care facility,*
8 *or a partnership of such a school and facility.*

9 “(g) *AUTHORIZATION OF APPROPRIATIONS.*—*There*
10 *are authorized to be appropriated to carry out this section*
11 *such sums as may be necessary for each of fiscal years 2010*
12 *through 2012.”.*

13 **SEC. 5310. LOAN REPAYMENT AND SCHOLARSHIP PRO-**
14 **GRAM.**

15 (a) *LOAN REPAYMENTS AND SCHOLARSHIPS.*—*Section*
16 *846(a)(3) of the Public Health Service Act (42 U.S.C.*
17 *297n(a)(3)) is amended by inserting before the semicolon*
18 *the following: “, or in a accredited school of nursing, as*
19 *defined by section 801(2), as nurse faculty”.*

20 (b) *TECHNICAL AND CONFORMING AMENDMENTS.*—
21 *Title VIII (42 U.S.C. 296 et seq.) is amended—*

22 (1) *by redesignating section 810 (relating to pro-*
23 *hibition against discrimination by schools on the*
24 *basis of sex) as section 809 and moving such section*
25 *so that it follows section 808;*

1 (2) *in sections 835, 836, 838, 840, and 842, by*
2 *striking the term “this subpart” each place it appears*
3 *and inserting “this part”;*

4 (3) *in section 836(h), by striking the last sen-*
5 *tence;*

6 (4) *in section 836, by redesignating subsection*
7 *(l) as subsection (k);*

8 (5) *in section 839, by striking “839” and all*
9 *that follows through “(a)” and inserting “839. (a)”;*

10 (6) *in section 835(b), by striking “841” each*
11 *place it appears and inserting “871”;*

12 (7) *by redesignating section 841 as section 871,*
13 *moving part F to the end of the title, and redesign-*
14 *ating such part as part I;*

15 (8) *in part G—*

16 (A) *by redesignating section 845 as section*
17 *851; and*

18 (B) *by redesignating part G as part F;*

19 (9) *in part H—*

20 (A) *by redesignating sections 851 and 852*
21 *as sections 861 and 862, respectively; and*

22 (B) *by redesignating part H as part G; and*

23 (10) *in part I—*

24 (A) *by redesignating section 855, as amend-*
25 *ed by section 5305, as section 865; and*

1 (B) by redesignating part I as part H.

2 **SEC. 5311. NURSE FACULTY LOAN PROGRAM.**

3 (a) *IN GENERAL.*—Section 846A of the Public Health
4 *Service Act (42 U.S.C. 297n–1) is amended—*

5 (1) *in subsection (a)—*

6 (A) *in the subsection heading, by striking*
7 *“ESTABLISHMENT” and inserting “SCHOOL OF*
8 *NURSING STUDENT LOAN FUND”;* and

9 (B) *by inserting “accredited” after “agree-*
10 *ment with any”;*

11 (2) *in subsection (c)—*

12 (A) *in paragraph (2), by striking “\$30,000”*
13 *and all that follows through the semicolon and*
14 *inserting “\$35,500, during fiscal years 2010 and*
15 *2011 fiscal years (after fiscal year 2011, such*
16 *amounts shall be adjusted to provide for a cost-*
17 *of-attendance increase for the yearly loan rate*
18 *and the aggregate loan;”;* and

19 (B) *in paragraph (3)(A), by inserting “an*
20 *accredited” after “faculty member in”;*

21 (3) *in subsection (e), by striking “a school” and*
22 *inserting “an accredited school”;* and

23 (4) *in subsection (f), by striking “2003 through*
24 *2007” and inserting “2010 through 2014”.*

1 (b) *ELIGIBLE INDIVIDUAL STUDENT LOAN REPAY-*
 2 *MENT.*—*Title VIII of the Public Health Service Act is*
 3 *amended by inserting after section 846A (42 U.S.C. 297n-*
 4 *1) the following:*

5 “**SEC. 847. ELIGIBLE INDIVIDUAL STUDENT LOAN REPAY-**
 6 **MENT.**

7 “(a) *IN GENERAL.*—*The Secretary, acting through the*
 8 *Administrator of the Health Resources and Services Admin-*
 9 *istration, may enter into an agreement with eligible indi-*
 10 *viduals for the repayment of education loans, in accordance*
 11 *with this section, to increase the number of qualified nurs-*
 12 *ing faculty.*

13 “(b) *AGREEMENTS.*—*Each agreement entered into*
 14 *under this subsection shall require that the eligible indi-*
 15 *vidual shall serve as a full-time member of the faculty of*
 16 *an accredited school of nursing, for a total period, in the*
 17 *aggregate, of at least 4 years during the 6-year period be-*
 18 *ginning on the later of—*

19 “(1) *the date on which the individual receives a*
 20 *master’s or doctorate nursing degree from an accred-*
 21 *ited school of nursing; or*

22 “(2) *the date on which the individual enters into*
 23 *an agreement under this subsection.*

24 “(c) *AGREEMENT PROVISIONS.*—*Agreements entered*
 25 *into pursuant to subsection (b) shall be entered into on such*

1 *terms and conditions as the Secretary may determine, ex-*
2 *cept that—*

3 “(1) *not more than 10 months after the date on*
4 *which the 6-year period described under subsection (b)*
5 *begins, but in no case before the individual starts as*
6 *a full-time member of the faculty of an accredited*
7 *school of nursing the Secretary shall begin making*
8 *payments, for and on behalf of that individual, on the*
9 *outstanding principal of, and interest on, any loan of*
10 *that individual obtained to pay for such degree;*

11 “(2) *for an individual who has completed a mas-*
12 *ter’s in nursing or equivalent degree in nursing—*

13 “(A) *payments may not exceed \$10,000 per*
14 *calendar year; and*

15 “(B) *total payments may not exceed*
16 *\$40,000 during the 2010 and 2011 fiscal years*
17 *(after fiscal year 2011, such amounts shall be ad-*
18 *justed to provide for a cost-of-attendance increase*
19 *for the yearly loan rate and the aggregate loan);*
20 *and*

21 “(3) *for an individual who has completed a doc-*
22 *torate or equivalent degree in nursing—*

23 “(A) *payments may not exceed \$20,000 per*
24 *calendar year; and*

1 “(B) total payments may not exceed
2 \$80,000 during the 2010 and 2011 fiscal years
3 (adjusted for subsequent fiscal years as provided
4 for in the same manner as in paragraph (2)(B)).

5 “(d) BREACH OF AGREEMENT.—

6 “(1) IN GENERAL.—In the case of any agreement
7 made under subsection (b), the individual is liable to
8 the Federal Government for the total amount paid by
9 the Secretary under such agreement, and for interest
10 on such amount at the maximum legal prevailing
11 rate, if the individual fails to meet the agreement
12 terms required under such subsection.

13 “(2) WAIVER OR SUSPENSION OF LIABILITY.—In
14 the case of an individual making an agreement for
15 purposes of paragraph (1), the Secretary shall provide
16 for the waiver or suspension of liability under such
17 paragraph if compliance by the individual with the
18 agreement involved is impossible or would involve ex-
19 treme hardship to the individual or if enforcement of
20 the agreement with respect to the individual would be
21 unconscionable.

22 “(3) DATE CERTAIN FOR RECOVERY.—Subject to
23 paragraph (2), any amount that the Federal Govern-
24 ment is entitled to recover under paragraph (1) shall
25 be paid to the United States not later than the expi-

1 *ration of the 3-year period beginning on the date the*
2 *United States becomes so entitled.*

3 *“(4) AVAILABILITY.—Amounts recovered under*
4 *paragraph (1) shall be available to the Secretary for*
5 *making loan repayments under this section and shall*
6 *remain available for such purpose until expended.*

7 *“(e) ELIGIBLE INDIVIDUAL DEFINED.—For purposes*
8 *of this section, the term ‘eligible individual’ means an indi-*
9 *vidual who—*

10 *“(1) is a United States citizen, national, or law-*
11 *ful permanent resident;*

12 *“(2) holds an unencumbered license as a reg-*
13 *istered nurse; and*

14 *“(3) has either already completed a master’s or*
15 *doctorate nursing program at an accredited school of*
16 *nursing or is currently enrolled on a full-time or*
17 *part-time basis in such a program.*

18 *“(f) PRIORITY.—For the purposes of this section and*
19 *section 846A, funding priority will be awarded to School*
20 *of Nursing Student Loans that support doctoral nursing*
21 *students or Individual Student Loan Repayment that sup-*
22 *port doctoral nursing students.*

23 *“(g) AUTHORIZATION OF APPROPRIATIONS.—There*
24 *are authorized to be appropriated to carry out this section*

1 *such sums as may be necessary for each of fiscal years 2010*
2 *through 2014.”.*

3 **SEC. 5312. AUTHORIZATION OF APPROPRIATIONS FOR**
4 **PARTS B THROUGH D OF TITLE VIII.**

5 *Section 871 of the Public Health Service Act, as redes-*
6 *ignated and moved by section 5310, is amended to read as*
7 *follows:*

8 **“SEC. 871. AUTHORIZATION OF APPROPRIATIONS.**

9 *“For the purpose of carrying out parts B, C, and D*
10 *(subject to section 851(g)), there are authorized to be appro-*
11 *priated \$338,000,000 for fiscal year 2010, and such sums*
12 *as may be necessary for each of the fiscal years 2011*
13 *through 2016.”.*

14 **SEC. 5313. GRANTS TO PROMOTE THE COMMUNITY HEALTH**
15 **WORKFORCE.**

16 *(a) IN GENERAL.—Part P of title III of the Public*
17 *Health Service Act (42 U.S.C. 280g et seq.) is amended by*
18 *adding at the end the following:*

19 **“SEC. 399V. GRANTS TO PROMOTE POSITIVE HEALTH BE-**
20 **HAVIORS AND OUTCOMES.**

21 *“(a) GRANTS AUTHORIZED.—The Director of the Cen-*
22 *ters for Disease Control and Prevention, in collaboration*
23 *with the Secretary, shall award grants to eligible entities*
24 *to promote positive health behaviors and outcomes for popu-*

1 *lations in medically underserved communities through the*
2 *use of community health workers.*

3 “(b) *USE OF FUNDS.*—*Grants awarded under sub-*
4 *section (a) shall be used to support community health work-*
5 *ers—*

6 “(1) *to educate, guide, and provide outreach in*
7 *a community setting regarding health problems prev-*
8 *alent in medically underserved communities, particu-*
9 *larly racial and ethnic minority populations;*

10 “(2) *to educate and provide guidance regarding*
11 *effective strategies to promote positive health behav-*
12 *iors and discourage risky health behaviors;*

13 “(3) *to educate and provide outreach regarding*
14 *enrollment in health insurance including the Chil-*
15 *dren’s Health Insurance Program under title XXI of*
16 *the Social Security Act, Medicare under title XVIII*
17 *of such Act and Medicaid under title XIX of such Act;*

18 “(4) *to identify, educate, refer, and enroll under-*
19 *served populations to appropriate healthcare agencies*
20 *and community-based programs and organizations in*
21 *order to increase access to quality healthcare services*
22 *and to eliminate duplicative care; or*

23 “(5) *to educate, guide, and provide home visita-*
24 *tion services regarding maternal health and prenatal*
25 *care.*

1 “(c) *APPLICATION.*—*Each eligible entity that desires*
2 *to receive a grant under subsection (a) shall submit an ap-*
3 *plication to the Secretary, at such time, in such manner,*
4 *and accompanied by such information as the Secretary*
5 *may require.*

6 “(d) *PRIORITY.*—*In awarding grants under subsection*
7 *(a), the Secretary shall give priority to applicants that—*

8 “(1) *propose to target geographic areas—*

9 “(A) *with a high percentage of residents*
10 *who are eligible for health insurance but are un-*
11 *insured or underinsured;*

12 “(B) *with a high percentage of residents*
13 *who suffer from chronic diseases; or*

14 “(C) *with a high infant mortality rate;*

15 “(2) *have experience in providing health or*
16 *health-related social services to individuals who are*
17 *underserved with respect to such services; and*

18 “(3) *have documented community activity and*
19 *experience with community health workers.*

20 “(e) *COLLABORATION WITH ACADEMIC INSTITUTIONS*
21 *AND THE ONE-STOP DELIVERY SYSTEM.*—*The Secretary*
22 *shall encourage community health worker programs receiv-*
23 *ing funds under this section to collaborate with academic*
24 *institutions and one-stop delivery systems under section*
25 *134(c) of the Workforce Investment Act of 1998. Nothing*

1 *in this section shall be construed to require such collabora-*
2 *tion.*

3 “(f) *EVIDENCE-BASED INTERVENTIONS.*—*The Sec-*
4 *retary shall encourage community health worker programs*
5 *receiving funding under this section to implement a process*
6 *or an outcome-based payment system that rewards commu-*
7 *nity health workers for connecting underserved populations*
8 *with the most appropriate services at the most appropriate*
9 *time. Nothing in this section shall be construed to require*
10 *such a payment.*

11 “(g) *QUALITY ASSURANCE AND COST EFFECTIVE-*
12 *NESS.*—*The Secretary shall establish guidelines for assuring*
13 *the quality of the training and supervision of community*
14 *health workers under the programs funded under this sec-*
15 *tion and for assuring the cost-effectiveness of such programs.*

16 “(h) *MONITORING.*—*The Secretary shall monitor com-*
17 *munity health worker programs identified in approved ap-*
18 *plications under this section and shall determine whether*
19 *such programs are in compliance with the guidelines estab-*
20 *lished under subsection (g).*

21 “(i) *TECHNICAL ASSISTANCE.*—*The Secretary may*
22 *provide technical assistance to community health worker*
23 *programs identified in approved applications under this*
24 *section with respect to planning, developing, and operating*
25 *programs under the grant.*

1 “(j) *AUTHORIZATION OF APPROPRIATIONS.*—*There are*
2 *authorized to be appropriated, such sums as may be nec-*
3 *essary to carry out this section for each of fiscal years 2010*
4 *through 2014.*

5 “(k) *DEFINITIONS.*—*In this section:*

6 “(1) *COMMUNITY HEALTH WORKER.*—*The term*
7 *‘community health worker’, as defined by the Depart-*
8 *ment of Labor as Standard Occupational Classifica-*
9 *tion [21–1094] means an individual who promotes*
10 *health or nutrition within the community in which*
11 *the individual resides—*

12 “(A) *by serving as a liaison between com-*
13 *munities and healthcare agencies;*

14 “(B) *by providing guidance and social as-*
15 *sistance to community residents;*

16 “(C) *by enhancing community residents’*
17 *ability to effectively communicate with*
18 *healthcare providers;*

19 “(D) *by providing culturally and linguis-*
20 *tically appropriate health or nutrition edu-*
21 *cation;*

22 “(E) *by advocating for individual and com-*
23 *munity health;*

24 “(F) *by providing referral and follow-up*
25 *services or otherwise coordinating care; and*

1 “(G) by proactively identifying and enroll-
2 ing eligible individuals in Federal, State, local,
3 private or nonprofit health and human services
4 programs.

5 “(2) *COMMUNITY SETTING*.—The term ‘commu-
6 nity setting’ means a home or a community organiza-
7 tion located in the neighborhood in which a partici-
8 pant in the program under this section resides.

9 “(3) *ELIGIBLE ENTITY*.—The term ‘eligible enti-
10 ty’ means a public or nonprofit private entity (in-
11 cluding a State or public subdivision of a State, a
12 public health department, a free health clinic, a hos-
13 pital, or a Federally-qualified health center (as de-
14 fined in section 1861(aa) of the Social Security Act)),
15 or a consortium of any such entities.

16 “(4) *MEDICALLY UNDERSERVED COMMUNITY*.—
17 The term ‘medically underserved community’ means a
18 community identified by a State—

19 “(A) that has a substantial number of indi-
20 viduals who are members of a medically under-
21 served population, as defined by section
22 330(b)(3); and

23 “(B) a significant portion of which is a
24 health professional shortage area as designated
25 under section 332.”.

1 **SEC. 5314. FELLOWSHIP TRAINING IN PUBLIC HEALTH.**

2 *Part E of title VII of the Public Health Service Act*
3 *(42 U.S.C. 294n et seq.), as amended by section 5206, is*
4 *further amended by adding at the end the following:*

5 **“SEC. 778. FELLOWSHIP TRAINING IN APPLIED PUBLIC**
6 **HEALTH EPIDEMIOLOGY, PUBLIC HEALTH**
7 **LABORATORY SCIENCE, PUBLIC HEALTH**
8 **INFORMATICS, AND EXPANSION OF THE EPI-**
9 **DEMIC INTELLIGENCE SERVICE.**

10 *“(a) IN GENERAL.—The Secretary may carry out ac-*
11 *tivities to address documented workforce shortages in State*
12 *and local health departments in the critical areas of applied*
13 *public health epidemiology and public health laboratory*
14 *science and informatics and may expand the Epidemic In-*
15 *telligence Service.*

16 *“(b) SPECIFIC USES.—In carrying out subsection (a),*
17 *the Secretary shall provide for the expansion of existing fel-*
18 *lowship programs operated through the Centers for Disease*
19 *Control and Prevention in a manner that is designed to*
20 *alleviate shortages of the type described in subsection (a).*

21 *“(c) OTHER PROGRAMS.—The Secretary may provide*
22 *for the expansion of other applied epidemiology training*
23 *programs that meet objectives similar to the objectives of*
24 *the programs described in subsection (b).*

25 *“(d) WORK OBLIGATION.—Participation in fellowship*
26 *training programs under this section shall be deemed to be*

1 *service for purposes of satisfying work obligations stipulated*
2 *in contracts under section 338I(j).*

3 “(e) *GENERAL SUPPORT.—Amounts may be used from*
4 *grants awarded under this section to expand the Public*
5 *Health Informatics Fellowship Program at the Centers for*
6 *Disease Control and Prevention to better support all public*
7 *health systems at all levels of government.*

8 “(f) *AUTHORIZATION OF APPROPRIATIONS.—There are*
9 *authorized to be appropriated to carry out this section*
10 *\$39,500,000 for each of fiscal years 2010 through 2013, of*
11 *which—*

12 “(1) *\$5,000,000 shall be made available in each*
13 *such fiscal year for epidemiology fellowship training*
14 *program activities under subsections (b) and (c);*

15 “(2) *\$5,000,000 shall be made available in each*
16 *such fiscal year for laboratory fellowship training*
17 *programs under subsection (b);*

18 “(3) *\$5,000,000 shall be made available in each*
19 *such fiscal year for the Public Health Informatics*
20 *Fellowship Program under subsection (e); and*

21 “(4) *\$24,500,000 shall be made available for ex-*
22 *anding the Epidemic Intelligence Service under sub-*
23 *section (a).”.*

1 **SEC. 5315. UNITED STATES PUBLIC HEALTH SCIENCES**
2 **TRACK.**

3 *Title II of the Public Health Service Act (42 U.S.C.*
4 *202 et seq.) is amended by adding at the end the following:*

5 **“PART D—UNITED STATES PUBLIC HEALTH**
6 **SCIENCES TRACK**

7 **“SEC. 271. ESTABLISHMENT.**

8 *“(a) UNITED STATES PUBLIC HEALTH SERVICES*
9 *TRACK.—*

10 *“(1) IN GENERAL.—There is hereby authorized to*
11 *be established a United States Public Health Sciences*
12 *Track (referred to in this part as the ‘Track’), at sites*
13 *to be selected by the Secretary, with authority to*
14 *grant appropriate advanced degrees in a manner that*
15 *uniquely emphasizes team-based service, public health,*
16 *epidemiology, and emergency preparedness and re-*
17 *sponse. It shall be so organized as to graduate not less*
18 *than—*

19 *“(A) 150 medical students annually, 10 of*
20 *whom shall be awarded studentships to the Uni-*
21 *formed Services University of Health Sciences;*

22 *“(B) 100 dental students annually;*

23 *“(C) 250 nursing students annually;*

24 *“(D) 100 public health students annually;*

25 *“(E) 100 behavioral and mental health pro-*
26 *fessional students annually;*

1 “(F) 100 physician assistant or nurse prac-
2 titioner students annually; and

3 “(G) 50 pharmacy students annually.

4 “(2) LOCATIONS.—The Track shall be located at
5 existing and accredited, affiliated health professions
6 education training programs at academic health cen-
7 ters located in regions of the United States deter-
8 mined appropriate by the Surgeon General, in con-
9 sultation with the National Health Care Workforce
10 Commission established in section 5101 of the Patient
11 Protection and Affordable Care Act.

12 “(b) NUMBER OF GRADUATES.—Except as provided in
13 subsection (a), the number of persons to be graduated from
14 the Track shall be prescribed by the Secretary. In so pre-
15 scribing the number of persons to be graduated from the
16 Track, the Secretary shall institute actions necessary to en-
17 sure the maximum number of first-year enrollments in the
18 Track consistent with the academic capacity of the affili-
19 ated sites and the needs of the United States for medical,
20 dental, and nursing personnel.

21 “(c) DEVELOPMENT.—The development of the Track
22 may be by such phases as the Secretary may prescribe sub-
23 ject to the requirements of subsection (a).

24 “(d) INTEGRATED LONGITUDINAL PLAN.—The Sur-
25 geon General shall develop an integrated longitudinal plan

1 *for health professions continuing education throughout the*
2 *continuum of health-related education, training, and prac-*
3 *tice. Training under such plan shall emphasize patient-cen-*
4 *tered, interdisciplinary, and care coordination skills. Expe-*
5 *rience with deployment of emergency response teams shall*
6 *be included during the clinical experiences.*

7 “(e) *FACULTY DEVELOPMENT.*—*The Surgeon General*
8 *shall develop faculty development programs and curricula*
9 *in decentralized venues of health care, to balance urban, ter-*
10 *tiary, and inpatient venues.*

11 **“SEC. 272. ADMINISTRATION.**

12 “(a) *IN GENERAL.*—*The business of the Track shall be*
13 *conducted by the Surgeon General with funds appropriated*
14 *for and provided by the Department of Health and Human*
15 *Services. The National Health Care Workforce Commission*
16 *shall assist the Surgeon General in an advisory capacity.*

17 “(b) *FACULTY.*—

18 “(1) *IN GENERAL.*—*The Surgeon General, after*
19 *considering the recommendations of the National*
20 *Health Care Workforce Commission, shall obtain the*
21 *services of such professors, instructors, and adminis-*
22 *trative and other employees as may be necessary to*
23 *operate the Track, but utilize when possible, existing*
24 *affiliated health professions training institutions.*
25 *Members of the faculty and staff shall be employed*

1 *under salary schedules and granted retirement and*
2 *other related benefits prescribed by the Secretary so as*
3 *to place the employees of the Track faculty on a com-*
4 *parable basis with the employees of fully accredited*
5 *schools of the health professions within the United*
6 *States.*

7 “(2) *TITLES.*—*The Surgeon General may confer*
8 *academic titles, as appropriate, upon the members of*
9 *the faculty.*

10 “(3) *NONAPPLICATION OF PROVISIONS.*—*The lim-*
11 *itations in section 5373 of title 5, United States Code,*
12 *shall not apply to the authority of the Surgeon Gen-*
13 *eral under paragraph (1) to prescribe salary schedules*
14 *and other related benefits.*

15 “(c) *AGREEMENTS.*—*The Surgeon General may nego-*
16 *tiate agreements with agencies of the Federal Government*
17 *to utilize on a reimbursable basis appropriate existing Fed-*
18 *eral medical resources located in the United States (or loca-*
19 *tions selected in accordance with section 271(a)(2)). Under*
20 *such agreements the facilities concerned will retain their*
21 *identities and basic missions. The Surgeon General may ne-*
22 *gotiate affiliation agreements with accredited universities*
23 *and health professions training institutions in the United*
24 *States. Such agreements may include provisions for pay-*
25 *ments for educational services provided students partici-*

1 *pating in Department of Health and Human Services edu-*
2 *cational programs.*

3 “(d) *PROGRAMS.—The Surgeon General may establish*
4 *the following educational programs for Track students:*

5 “(1) *Postdoctoral, postgraduate, and techno-*
6 *logical programs.*

7 “(2) *A cooperative program for medical, dental,*
8 *physician assistant, pharmacy, behavioral and men-*
9 *tal health, public health, and nursing students.*

10 “(3) *Other programs that the Surgeon General*
11 *determines necessary in order to operate the Track in*
12 *a cost-effective manner.*

13 “(e) *CONTINUING MEDICAL EDUCATION.—The Sur-*
14 *geon General shall establish programs in continuing med-*
15 *ical education for members of the health professions to the*
16 *end that high standards of health care may be maintained*
17 *within the United States.*

18 “(f) *AUTHORITY OF THE SURGEON GENERAL.—*

19 “(1) *IN GENERAL.—The Surgeon General is au-*
20 *thorized—*

21 “(A) *to enter into contracts with, accept*
22 *grants from, and make grants to any nonprofit*
23 *entity for the purpose of carrying out cooperative*
24 *enterprises in medical, dental, physician assist-*
25 *ant, pharmacy, behavioral and mental health,*

1 *public health, and nursing research, consulta-*
2 *tion, and education;*

3 “(B) *to enter into contracts with entities*
4 *under which the Surgeon General may furnish*
5 *the services of such professional, technical, or*
6 *clerical personnel as may be necessary to fulfill*
7 *cooperative enterprises undertaken by the Track;*

8 “(C) *to accept, hold, administer, invest, and*
9 *spend any gift, devise, or bequest of personal*
10 *property made to the Track, including any gift,*
11 *devise, or bequest for the support of an academic*
12 *chair, teaching, research, or demonstration*
13 *project;*

14 “(D) *to enter into agreements with entities*
15 *that may be utilized by the Track for the purpose*
16 *of enhancing the activities of the Track in edu-*
17 *cation, research, and technological applications*
18 *of knowledge; and*

19 “(E) *to accept the voluntary services of*
20 *guest scholars and other persons.*

21 “(2) *LIMITATION.—The Surgeon General may*
22 *not enter into any contract with an entity if the con-*
23 *tract would obligate the Track to make outlays in ad-*
24 *vance of the enactment of budget authority for such*
25 *outlays.*

1 “(3) *SCIENTISTS.*—*Scientists or other medical,*
2 *dental, or nursing personnel utilized by the Track*
3 *under an agreement described in paragraph (1) may*
4 *be appointed to any position within the Track and*
5 *may be permitted to perform such duties within the*
6 *Track as the Surgeon General may approve.*

7 “(4) *VOLUNTEER SERVICES.*—*A person who pro-*
8 *vides voluntary services under the authority of sub-*
9 *paragraph (E) of paragraph (1) shall be considered*
10 *to be an employee of the Federal Government for the*
11 *purposes of chapter 81 of title 5, relating to com-*
12 *penetration for work-related injuries, and to be an em-*
13 *ployee of the Federal Government for the purposes of*
14 *chapter 171 of title 28, relating to tort claims. Such*
15 *a person who is not otherwise employed by the Fed-*
16 *eral Government shall not be considered to be a Fed-*
17 *eral employee for any other purpose by reason of the*
18 *provision of such services.*

19 **“SEC. 273. STUDENTS; SELECTION; OBLIGATION.**

20 “(a) *STUDENT SELECTION.*—

21 “(1) *IN GENERAL.*—*Medical, dental, physician*
22 *assistant, pharmacy, behavioral and mental health,*
23 *public health, and nursing students at the Track shall*
24 *be selected under procedures prescribed by the Sur-*
25 *geon General. In so prescribing, the Surgeon General*

1 *shall consider the recommendations of the National*
2 *Health Care Workforce Commission.*

3 “(2) *PRIORITY.*—*In developing admissions pro-*
4 *cedures under paragraph (1), the Surgeon General*
5 *shall ensure that such procedures give priority to ap-*
6 *plicant medical, dental, physician assistant, phar-*
7 *macy, behavioral and mental health, public health,*
8 *and nursing students from rural communities and*
9 *underrepresented minorities.*

10 “(b) *CONTRACT AND SERVICE OBLIGATION.*—

11 “(1) *CONTRACT.*—*Upon being admitted to the*
12 *Track, a medical, dental, physician assistant, phar-*
13 *macy, behavioral and mental health, public health, or*
14 *nursing student shall enter into a written contract*
15 *with the Surgeon General that shall contain—*

16 “(A) *an agreement under which—*

17 “(i) *subject to subparagraph (B), the*
18 *Surgeon General agrees to provide the stu-*
19 *dent with tuition (or tuition remission) and*
20 *a student stipend (described in paragraph*
21 *(2)) in each school year for a period of*
22 *years (not to exceed 4 school years) deter-*
23 *mined by the student, during which period*
24 *the student is enrolled in the Track at an*
25 *affiliated or other participating health pro-*

1 *fessions institution pursuant to an agree-*
2 *ment between the Track and such institu-*
3 *tion; and*

4 “(i) subject to subparagraph (B), the
5 student agrees—

6 “(I) to accept the provision of
7 such tuition and student stipend to the
8 student;

9 “(II) to maintain enrollment at
10 the Track until the student completes
11 the course of study involved;

12 “(III) while enrolled in such
13 course of study, to maintain an accept-
14 able level of academic standing (as de-
15 termined by the Surgeon General);

16 “(IV) if pursuing a degree from a
17 school of medicine or osteopathic medi-
18 cine, dental, public health, or nursing
19 school or a physician assistant, phar-
20 macy, or behavioral and mental health
21 professional program, to complete a
22 residency or internship in a specialty
23 that the Surgeon General determines is
24 appropriate; and

1 “(V) to serve for a period of time
2 (referred to in this part as the ‘period
3 of obligated service’) within the Com-
4 missioned Corps of the Public Health
5 Service equal to 2 years for each school
6 year during which such individual was
7 enrolled at the College, reduced as pro-
8 vided for in paragraph (3);

9 “(B) a provision that any financial obliga-
10 tion of the United States arising out of a con-
11 tract entered into under this part and any obli-
12 gation of the student which is conditioned there-
13 on, is contingent upon funds being appropriated
14 to carry out this part;

15 “(C) a statement of the damages to which
16 the United States is entitled for the student’s
17 breach of the contract; and

18 “(D) such other statements of the rights and
19 liabilities of the Secretary and of the individual,
20 not inconsistent with the provisions of this part.

21 “(2) TUITION AND STUDENT STIPEND.—

22 “(A) TUITION REMISSION RATES.—The Sur-
23 geon General, based on the recommendations of
24 the National Health Care Workforce Commis-
25 sion, shall establish Federal tuition remission

1 *rates to be used by the Track to provide reim-*
2 *bursement to affiliated and other participating*
3 *health professions institutions for the cost of edu-*
4 *cational services provided by such institutions to*
5 *Track students. The agreement entered into by*
6 *such participating institutions under paragraph*
7 *(1)(A)(i) shall contain an agreement to accept as*
8 *payment in full the established remission rate*
9 *under this subparagraph.*

10 “(B) *STIPEND.—The Surgeon General,*
11 *based on the recommendations of the National*
12 *Health Care Workforce Commission, shall estab-*
13 *lish and update Federal stipend rates for pay-*
14 *ment to students under this part.*

15 “(3) *REDUCTIONS IN THE PERIOD OF OBLIGATED*
16 *SERVICE.—The period of obligated service under*
17 *paragraph (1)(A)(i)(V) shall be reduced—*

18 “(A) *in the case of a student who elects to*
19 *participate in a high-needs speciality residency*
20 *(as determined by the National Health Care*
21 *Workforce Commission), by 3 months for each*
22 *year of such participation (not to exceed a total*
23 *of 12 months); and*

24 “(B) *in the case of a student who, upon*
25 *completion of their residency, elects to practice*

1 in a Federal medical facility (as defined in sec-
2 tion 781(e)) that is located in a health profes-
3 sional shortage area (as defined in section 332),
4 by 3 months for year of full-time practice in
5 such a facility (not to exceed a total of 12
6 months).

7 “(c) *SECOND 2 YEARS OF SERVICE.*—During the third
8 and fourth years in which a medical, dental, physician as-
9 sistant, pharmacy, behavioral and mental health, public
10 health, or nursing student is enrolled in the Track, training
11 should be designed to prioritize clinical rotations in Federal
12 medical facilities in health professional shortage areas, and
13 emphasize a balance of hospital and community-based expe-
14 riences, and training within interdisciplinary teams.

15 “(d) *DENTIST, PHYSICIAN ASSISTANT, PHARMACIST,*
16 *BEHAVIORAL AND MENTAL HEALTH PROFESSIONAL, PUB-*
17 *LIC HEALTH PROFESSIONAL, AND NURSE TRAINING.*—The
18 Surgeon General shall establish provisions applicable with
19 respect to dental, physician assistant, pharmacy, behavioral
20 and mental health, public health, and nursing students that
21 are comparable to those for medical students under this sec-
22 tion, including service obligations, tuition support, and sti-
23 pend support. The Surgeon General shall give priority to
24 health professions training institutions that train medical,
25 dental, physician assistant, pharmacy, behavioral and

1 *mental health, public health, and nursing students for some*
2 *significant period of time together, but at a minimum have*
3 *a discrete and shared core curriculum.*

4 “(e) *ELITE FEDERAL DISASTER TEAMS.*—*The Sur-*
5 *geon General, in consultation with the Secretary, the Direc-*
6 *tor of the Centers for Disease Control and Prevention, and*
7 *other appropriate military and Federal government agen-*
8 *cies, shall develop criteria for the appointment of highly*
9 *qualified Track faculty, medical, dental, physician assist-*
10 *ant, pharmacy, behavioral and mental health, public health,*
11 *and nursing students, and graduates to elite Federal dis-*
12 *aster preparedness teams to train and to respond to public*
13 *health emergencies, natural disasters, bioterrorism events,*
14 *and other emergencies.*

15 “(f) *STUDENT DROPPED FROM TRACK IN AFFILIATE*
16 *SCHOOL.*—*A medical, dental, physician assistant, phar-*
17 *macy, behavioral and mental health, public health, or nurs-*
18 *ing student who, under regulations prescribed by the Sur-*
19 *geon General, is dropped from the Track in an affiliated*
20 *school for deficiency in conduct or studies, or for other rea-*
21 *sons, shall be liable to the United States for all tuition and*
22 *stipend support provided to the student.*

23 **“SEC. 274. FUNDING.**

24 “*Beginning with fiscal year 2010, the Secretary shall*
25 *transfer from the Public Health and Social Services Emer-*

1 *gency Fund such sums as may be necessary to carry out*
 2 *this part.”.*

3 ***Subtitle E—Supporting the Existing***
 4 ***Health Care Workforce***

5 ***SEC. 5401. CENTERS OF EXCELLENCE.***

6 *Section 736 of the Public Health Service Act (42*
 7 *U.S.C. 293) is amended by striking subsection (h) and in-*
 8 *serting the following:*

9 *“(h) FORMULA FOR ALLOCATIONS.—*

10 *“(1) ALLOCATIONS.—Based on the amount ap-*
 11 *propriated under subsection (i) for a fiscal year, the*
 12 *following subparagraphs shall apply as appropriate:*

13 *“(A) IN GENERAL.—If the amounts appro-*
 14 *priated under subsection (i) for a fiscal year are*
 15 *\$24,000,000 or less—*

16 *“(i) the Secretary shall make available*
 17 *\$12,000,000 for grants under subsection (a)*
 18 *to health professions schools that meet the*
 19 *conditions described in subsection (c)(2)(A);*
 20 *and*

21 *“(ii) and available after grants are*
 22 *made with funds under clause (i), the Sec-*
 23 *retary shall make available—*

24 *“(I) 60 percent of such amount*
 25 *for grants under subsection (a) to*

1 *health professions schools that meet the*
2 *conditions described in paragraph (3)*
3 *or (4) of subsection (c) (including*
4 *meeting the conditions under sub-*
5 *section (e)); and*

6 *“(II) 40 percent of such amount*
7 *for grants under subsection (a) to*
8 *health professions schools that meet the*
9 *conditions described in subsection*
10 *(c)(5).*

11 *“(B) FUNDING IN EXCESS OF \$24,000,000.—*
12 *If amounts appropriated under subsection (i) for*
13 *a fiscal year exceed \$24,000,000 but are less than*
14 *\$30,000,000—*

15 *“(i) 80 percent of such excess amounts*
16 *shall be made available for grants under*
17 *subsection (a) to health professions schools*
18 *that meet the requirements described in*
19 *paragraph (3) or (4) of subsection (c) (in-*
20 *cluding meeting conditions pursuant to sub-*
21 *section (e)); and*

22 *“(ii) 20 percent of such excess amount*
23 *shall be made available for grants under*
24 *subsection (a) to health professions schools*

1 that meet the conditions described in sub-
2 section (c)(5).

3 “(C) *FUNDING IN EXCESS OF \$30,000,000.*—
4 If amounts appropriated under subsection (i) for
5 a fiscal year exceed \$30,000,000 but are less than
6 \$40,000,000, the Secretary shall make avail-
7 able—

8 “(i) not less than \$12,000,000 for
9 grants under subsection (a) to health profes-
10 sions schools that meet the conditions de-
11 scribed in subsection (c)(2)(A);

12 “(ii) not less than \$12,000,000 for
13 grants under subsection (a) to health profes-
14 sions schools that meet the conditions de-
15 scribed in paragraph (3) or (4) of sub-
16 section (c) (including meeting conditions
17 pursuant to subsection (e));

18 “(iii) not less than \$6,000,000 for
19 grants under subsection (a) to health profes-
20 sions schools that meet the conditions de-
21 scribed in subsection (c)(5); and

22 “(iv) after grants are made with funds
23 under clauses (i) through (iii), any remain-
24 ing excess amount for grants under sub-
25 section (a) to health professions schools that

1 *meet the conditions described in paragraph*
2 *(2)(A), (3), (4), or (5) of subsection (c).*

3 “(D) *FUNDING IN EXCESS OF \$40,000,000.—*
4 *If amounts appropriated under subsection (i) for*
5 *a fiscal year are \$40,000,000 or more, the Sec-*
6 *retary shall make available—*

7 “(i) *not less than \$16,000,000 for*
8 *grants under subsection (a) to health profes-*
9 *sions schools that meet the conditions de-*
10 *scribed in subsection (c)(2)(A);*

11 “(ii) *not less than \$16,000,000 for*
12 *grants under subsection (a) to health profes-*
13 *sions schools that meet the conditions de-*
14 *scribed in paragraph (3) or (4) of sub-*
15 *section (c) (including meeting conditions*
16 *pursuant to subsection (e));*

17 “(iii) *not less than \$8,000,000 for*
18 *grants under subsection (a) to health profes-*
19 *sions schools that meet the conditions de-*
20 *scribed in subsection (c)(5); and*

21 “(iv) *after grants are made with funds*
22 *under clauses (i) through (iii), any remain-*
23 *ing funds for grants under subsection (a) to*
24 *health professions schools that meet the con-*

1 *ditions described in paragraph (2)(A), (3),*
2 *(4), or (5) of subsection (c).*

3 *“(2) NO LIMITATION.—Nothing in this subsection*
4 *shall be construed as limiting the centers of excellence*
5 *referred to in this section to the designated amount,*
6 *or to preclude such entities from competing for grants*
7 *under this section.*

8 *“(3) MAINTENANCE OF EFFORT.—*

9 *“(A) IN GENERAL.—With respect to activi-*
10 *ties for which a grant made under this part are*
11 *authorized to be expended, the Secretary may not*
12 *make such a grant to a center of excellence for*
13 *any fiscal year unless the center agrees to main-*
14 *tain expenditures of non-Federal amounts for*
15 *such activities at a level that is not less than the*
16 *level of such expenditures maintained by the cen-*
17 *ter for the fiscal year preceding the fiscal year*
18 *for which the school receives such a grant.*

19 *“(B) USE OF FEDERAL FUNDS.—With re-*
20 *spect to any Federal amounts received by a cen-*
21 *ter of excellence and available for carrying out*
22 *activities for which a grant under this part is*
23 *authorized to be expended, the center shall, before*
24 *expending the grant, expend the Federal amounts*

1 *obtained from sources other than the grant, un-*
2 *less given prior approval from the Secretary.*

3 “(i) *AUTHORIZATION OF APPROPRIATIONS.*—*There are*
4 *authorized to be appropriated to carry out this section—*

5 “(1) *\$50,000,000 for each of the fiscal years 2010*
6 *through 2015; and*

7 “(2) *and such sums as are necessary for each*
8 *subsequent fiscal year.*”.

9 **SEC. 5402. HEALTH CARE PROFESSIONALS TRAINING FOR**
10 **DIVERSITY.**

11 (a) *LOAN REPAYMENTS AND FELLOWSHIPS REGARD-*
12 *ING FACULTY POSITIONS.*—*Section 738(a)(1) of the Public*
13 *Health Service Act (42 U.S.C. 293b(a)(1)) is amended by*
14 *striking “\$20,000 of the principal and interest of the edu-*
15 *cational loans of such individuals.” and inserting “\$30,000*
16 *of the principal and interest of the educational loans of such*
17 *individuals.”.*

18 (b) *SCHOLARSHIPS FOR DISADVANTAGED STU-*
19 *DENTS.*—*Section 740(a) of such Act (42 U.S.C. 293d(a))*
20 *is amended by striking “\$37,000,000” and all that follows*
21 *through “2002” and inserting “\$51,000,000 for fiscal year*
22 *2010, and such sums as may be necessary for each of the*
23 *fiscal years 2011 through 2014”.*

24 (c) *REAUTHORIZATION FOR LOAN REPAYMENTS AND*
25 *FELLOWSHIPS REGARDING FACULTY POSITIONS.*—*Section*

1 740(b) of such Act (42 U.S.C. 293d(b)) is amended by strik-
2 ing “appropriated” and all that follows through the period
3 at the end and inserting “appropriated, \$5,000,000 for each
4 of the fiscal years 2010 through 2014.”.

5 (d) *REAUTHORIZATION FOR EDUCATIONAL ASSIST-*
6 *ANCE IN THE HEALTH PROFESSIONS REGARDING INDIVID-*
7 *UALS FROM A DISADVANTAGED BACKGROUND.*—Section
8 740(c) of such Act (42 U.S.C. 293d(c)) is amended by strik-
9 ing the first sentence and inserting the following: “For the
10 purpose of grants and contracts under section 739(a)(1),
11 there is authorized to be appropriated \$60,000,000 for fiscal
12 year 2010 and such sums as may be necessary for each of
13 the fiscal years 2011 through 2014.”

14 **SEC. 5403. INTERDISCIPLINARY, COMMUNITY-BASED LINK-**
15 **AGES.**

16 (a) *AREA HEALTH EDUCATION CENTERS.*—Section
17 751 of the Public Health Service Act (42 U.S.C. 294a) is
18 amended to read as follows:

19 **“SEC. 751. AREA HEALTH EDUCATION CENTERS.**

20 “(a) *ESTABLISHMENT OF AWARDS.*—The Secretary
21 shall make the following 2 types of awards in accordance
22 with this section:

23 “(1) *INFRASTRUCTURE DEVELOPMENT AWARD.*—
24 The Secretary shall make awards to eligible entities
25 to enable such entities to initiate health care work-

1 *force educational programs or to continue to carry*
2 *out comparable programs that are operating at the*
3 *time the award is made by planning, developing, op-*
4 *erating, and evaluating an area health education cen-*
5 *ter program.*

6 “(2) *POINT OF SERVICE MAINTENANCE AND EN-*
7 *HANCEMENT AWARD.*—*The Secretary shall make*
8 *awards to eligible entities to maintain and improve*
9 *the effectiveness and capabilities of an existing area*
10 *health education center program, and make other*
11 *modifications to the program that are appropriate*
12 *due to changes in demographics, needs of the popu-*
13 *lations served, or other similar issues affecting the*
14 *area health education center program. For the pur-*
15 *poses of this section, the term ‘Program’ refers to the*
16 *area health education center program.*

17 “(b) *ELIGIBLE ENTITIES; APPLICATION.*—

18 “(1) *ELIGIBLE ENTITIES.*—

19 “(A) *INFRASTRUCTURE DEVELOPMENT.*—
20 *For purposes of subsection (a)(1), the term ‘eligi-*
21 *ble entity’ means a school of medicine or osteo-*
22 *pathic medicine, an incorporated consortium of*
23 *such schools, or the parent institutions of such a*
24 *school. With respect to a State in which no area*
25 *health education center program is in operation,*

1 *the Secretary may award a grant or contract*
2 *under subsection (a)(1) to a school of nursing.*

3 “(B) *POINT OF SERVICE MAINTENANCE AND*
4 *ENHANCEMENT.—For purposes of subsection*
5 *(a)(2), the term ‘eligible entity’ means an entity*
6 *that has received funds under this section, is op-*
7 *erating an area health education center program,*
8 *including an area health education center or*
9 *centers, and has a center or centers that are no*
10 *longer eligible to receive financial assistance*
11 *under subsection (a)(1).*

12 “(2) *APPLICATION.—An eligible entity desiring*
13 *to receive an award under this section shall submit*
14 *to the Secretary an application at such time, in such*
15 *manner, and containing such information as the Sec-*
16 *retary may require.*

17 “(c) *USE OF FUNDS.—*

18 “(1) *REQUIRED ACTIVITIES.—An eligible entity*
19 *shall use amounts awarded under a grant under sub-*
20 *section (a)(1) or (a)(2) to carry out the following ac-*
21 *tivities:*

22 “(A) *Develop and implement strategies, in*
23 *coordination with the applicable one-stop deliv-*
24 *ery system under section 134(c) of the Workforce*
25 *Investment Act of 1998, to recruit individuals*

1 *from underrepresented minority populations or*
2 *from disadvantaged or rural backgrounds into*
3 *health professions, and support such individuals*
4 *in attaining such careers.*

5 *“(B) Develop and implement strategies to*
6 *foster and provide community-based training*
7 *and education to individuals seeking careers in*
8 *health professions within underserved areas for*
9 *the purpose of developing and maintaining a di-*
10 *verse health care workforce that is prepared to*
11 *deliver high-quality care, with an emphasis on*
12 *primary care, in underserved areas or for health*
13 *disparity populations, in collaboration with*
14 *other Federal and State health care workforce de-*
15 *velopment programs, the State workforce agency,*
16 *and local workforce investment boards, and in*
17 *health care safety net sites.*

18 *“(C) Prepare individuals to more effectively*
19 *provide health services to underserved areas and*
20 *health disparity populations through field place-*
21 *ments or preceptorships in conjunction with*
22 *community-based organizations, accredited pri-*
23 *mary care residency training programs, Feder-*
24 *ally qualified health centers, rural health clinics,*

1 *public health departments, or other appropriate*
2 *facilities.*

3 “(D) *Conduct and participate in inter-*
4 *disciplinary training that involves physicians,*
5 *physician assistants, nurse practitioners, nurse*
6 *midwives, dentists, psychologists, pharmacists,*
7 *optometrists, community health workers, public*
8 *and allied health professionals, or other health*
9 *professionals, as practicable.*

10 “(E) *Deliver or facilitate continuing edu-*
11 *cation and information dissemination programs*
12 *for health care professionals, with an emphasis*
13 *on individuals providing care in underserved*
14 *areas and for health disparity populations.*

15 “(F) *Propose and implement effective pro-*
16 *gram and outcomes measurement and evaluation*
17 *strategies.*

18 “(G) *Establish a youth public health pro-*
19 *gram to expose and recruit high school students*
20 *into health careers, with a focus on careers in*
21 *public health.*

22 “(2) *INNOVATIVE OPPORTUNITIES.—An eligible*
23 *entity may use amounts awarded under a grant*
24 *under subsection (a)(1) or subsection (a)(2) to carry*
25 *out any of the following activities:*

1 “(A) *Develop and implement innovative*
2 *curricula in collaboration with community-based*
3 *accredited primary care residency training pro-*
4 *grams, Federally qualified health centers, rural*
5 *health clinics, behavioral and mental health fa-*
6 *cilities, public health departments, or other ap-*
7 *propriate facilities, with the goal of increasing*
8 *the number of primary care physicians and*
9 *other primary care providers prepared to serve*
10 *in underserved areas and health disparity popu-*
11 *lations.*

12 “(B) *Coordinate community-based*
13 *participatory research with academic health cen-*
14 *ters, and facilitate rapid flow and dissemination*
15 *of evidence-based health care information, re-*
16 *search results, and best practices to improve*
17 *quality, efficiency, and effectiveness of health*
18 *care and health care systems within community*
19 *settings.*

20 “(C) *Develop and implement other strate-*
21 *gies to address identified workforce needs and in-*
22 *crease and enhance the health care workforce in*
23 *the area served by the area health education cen-*
24 *ter program.*

25 “(d) *REQUIREMENTS.—*

1 “(1) *AREA HEALTH EDUCATION CENTER PRO-*
2 *GRAM.—In carrying out this section, the Secretary*
3 *shall ensure the following:*

4 “(A) *An entity that receives an award*
5 *under this section shall conduct at least 10 per-*
6 *cent of clinical education required for medical*
7 *students in community settings that are removed*
8 *from the primary teaching facility of the con-*
9 *tracting institution for grantees that operate a*
10 *school of medicine or osteopathic medicine. In*
11 *States in which an entity that receives an award*
12 *under this section is a nursing school or its par-*
13 *ent institution, the Secretary shall alternatively*
14 *ensure that—*

15 “(i) *the nursing school conducts at*
16 *least 10 percent of clinical education re-*
17 *quired for nursing students in community*
18 *settings that are remote from the primary*
19 *teaching facility of the school; and*

20 “(ii) *the entity receiving the award*
21 *maintains a written agreement with a*
22 *school of medicine or osteopathic medicine*
23 *to place students from that school in train-*
24 *ing sites in the area health education center*
25 *program area.*

1 “(B) An entity receiving funds under sub-
2 section (a)(2) does not distribute such funding to
3 a center that is eligible to receive funding under
4 subsection (a)(1).

5 “(2) AREA HEALTH EDUCATION CENTER.—The
6 Secretary shall ensure that each area health education
7 center program includes at least 1 area health edu-
8 cation center, and that each such center—

9 “(A) is a public or private organization
10 whose structure, governance, and operation is
11 independent from the awardee and the parent
12 institution of the awardee;

13 “(B) is not a school of medicine or osteo-
14 pathic medicine, the parent institution of such a
15 school, or a branch campus or other subunit of
16 a school of medicine or osteopathic medicine or
17 its parent institution, or a consortium of such
18 entities;

19 “(C) designates an underserved area or pop-
20 ulation to be served by the center which is in a
21 location removed from the main location of the
22 teaching facilities of the schools participating in
23 the program with such center and does not du-
24 plicate, in whole or in part, the geographic area
25 or population served by any other center;

1 “(D) fosters networking and collaboration
2 among communities and between academic
3 health centers and community-based centers;

4 “(E) serves communities with a dem-
5 onstrated need of health professionals in partner-
6 ship with academic medical centers;

7 “(F) addresses the health care workforce
8 needs of the communities served in coordination
9 with the public workforce investment system; and

10 “(G) has a community-based governing or
11 advisory board that reflects the diversity of the
12 communities involved.

13 “(e) *MATCHING FUNDS.*—With respect to the costs of
14 operating a program through a grant under this section,
15 to be eligible for financial assistance under this section, an
16 entity shall make available (directly or through contribu-
17 tions from State, county or municipal governments, or the
18 private sector) recurring non-Federal contributions in cash
19 or in kind, toward such costs in an amount that is equal
20 to not less than 50 percent of such costs. At least 25 percent
21 of the total required non-Federal contributions shall be in
22 cash. An entity may apply to the Secretary for a waiver
23 of not more than 75 percent of the matching fund amount
24 required by the entity for each of the first 3 years the entity
25 is funded through a grant under subsection (a)(1).

1 “(f) *LIMITATION.*—Not less than 75 percent of the total
2 amount provided to an area health education center pro-
3 gram under subsection (a)(1) or (a)(2) shall be allocated
4 to the area health education centers participating in the
5 program under this section. To provide needed flexibility
6 to newly funded area health education center programs, the
7 Secretary may waive the requirement in the sentence for
8 the first 2 years of a new area health education center pro-
9 gram funded under subsection (a)(1).

10 “(g) *AWARD.*—An award to an entity under this sec-
11 tion shall be not less than \$250,000 annually per area
12 health education center included in the program involved.
13 If amounts appropriated to carry out this section are not
14 sufficient to comply with the preceding sentence, the Sec-
15 retary may reduce the per center amount provided for in
16 such sentence as necessary, provided the distribution estab-
17 lished in subsection (j)(2) is maintained.

18 “(h) *PROJECT TERMS.*—

19 “(1) *IN GENERAL.*—Except as provided in para-
20 graph (2), the period during which payments may be
21 made under an award under subsection (a)(1) may
22 not exceed—

23 “(A) in the case of a program, 12 years; or

24 “(B) in the case of a center within a pro-
25 gram, 6 years.

1 “(2) *EXCEPTION.*—*The periods described in*
2 *paragraph (1) shall not apply to programs receiving*
3 *point of service maintenance and enhancement*
4 *awards under subsection (a)(2) to maintain existing*
5 *centers and activities.*

6 “(i) *INAPPLICABILITY OF PROVISION.*—*Notwith-*
7 *standing any other provision of this title, section 791(a)*
8 *shall not apply to an area health education center funded*
9 *under this section.*

10 “(j) *AUTHORIZATION OF APPROPRIATIONS.*—

11 “(1) *IN GENERAL.*—*There is authorized to be ap-*
12 *propriated to carry out this section \$125,000,000 for*
13 *each of the fiscal years 2010 through 2014.*

14 “(2) *REQUIREMENTS.*—*Of the amounts appro-*
15 *priated for a fiscal year under paragraph (1)—*

16 “(A) *not more than 35 percent shall be used*
17 *for awards under subsection (a)(1);*

18 “(B) *not less than 60 percent shall be used*
19 *for awards under subsection (a)(2);*

20 “(C) *not more than 1 percent shall be used*
21 *for grants and contracts to implement outcomes*
22 *evaluation for the area health education centers;*
23 *and*

24 “(D) *not more than 4 percent shall be used*
25 *for grants and contracts to provide technical as-*

1 *sistance to entities receiving awards under this*
 2 *section.*

3 “(3) *CARRYOVER FUNDS.*—*An entity that re-*
 4 *ceives an award under this section may carry over*
 5 *funds from 1 fiscal year to another without obtaining*
 6 *approval from the Secretary. In no case may any*
 7 *funds be carried over pursuant to the preceding sen-*
 8 *tence for more than 3 years.*

9 “(k) *SENSE OF CONGRESS.*—*It is the sense of the Con-*
 10 *gress that every State have an area health education center*
 11 *program in effect under this section.”.*

12 (b) *CONTINUING EDUCATIONAL SUPPORT FOR HEALTH*
 13 *PROFESSIONALS SERVING IN UNDERSERVED COMMU-*
 14 *NITIES.*—*Part D of title VII of the Public Health Service*
 15 *Act (42 U.S.C. 294 et seq.) is amended by striking section*
 16 *752 and inserting the following:*

17 “**SEC. 752. CONTINUING EDUCATIONAL SUPPORT FOR**
 18 **HEALTH PROFESSIONALS SERVING IN UN-**
 19 **DERSERVED COMMUNITIES.**”

20 “(a) *IN GENERAL.*—*The Secretary shall make grants*
 21 *to, and enter into contracts with, eligible entities to improve*
 22 *health care, increase retention, increase representation of*
 23 *minority faculty members, enhance the practice environ-*
 24 *ment, and provide information dissemination and edu-*
 25 *cational support to reduce professional isolation through the*

1 *timely dissemination of research findings using relevant re-*
2 *sources.*

3 “(b) *ELIGIBLE ENTITIES.*—*For purposes of this sec-*
4 *tion, the term ‘eligible entity’ means an entity described*
5 *in section 799(b).*

6 “(c) *APPLICATION.*—*An eligible entity desiring to re-*
7 *ceive an award under this section shall submit to the Sec-*
8 *retary an application at such time, in such manner, and*
9 *containing such information as the Secretary may require.*

10 “(d) *USE OF FUNDS.*—*An eligible entity shall use*
11 *amounts awarded under a grant or contract under this sec-*
12 *tion to provide innovative supportive activities to enhance*
13 *education through distance learning, continuing edu-*
14 *cational activities, collaborative conferences, and electronic*
15 *and telelearning activities, with priority for primary care.*

16 “(e) *AUTHORIZATION.*—*There is authorized to be ap-*
17 *propriated to carry out this section \$5,000,000 for each of*
18 *the fiscal years 2010 through 2014, and such sums as may*
19 *be necessary for each subsequent fiscal year.”.*

20 **SEC. 5404. WORKFORCE DIVERSITY GRANTS.**

21 *Section 821 of the Public Health Service Act (42*
22 *U.S.C. 296m) is amended—*

23 *(1) in subsection (a)—*

24 *(A) by striking “The Secretary may” and*
25 *inserting the following:*

1 “(1) *AUTHORITY.*—*The Secretary may*”;

2 (B) *by striking “pre-entry preparation, and*
3 *retention activities” and inserting the following:*
4 *“stipends for diploma or associate degree nurses*
5 *to enter a bridge or degree completion program,*
6 *student scholarships or stipends for accelerated*
7 *nursing degree programs, pre-entry preparation,*
8 *advanced education preparation, and retention*
9 *activities”*; and

10 (2) *in subsection (b)*—

11 (A) *by striking “First” and all that follows*
12 *through “including the” and inserting “National*
13 *Advisory Council on Nurse Education and Prac-*
14 *tice and consult with nursing associations in-*
15 *cluding the National Coalition of Ethnic Minor-*
16 *ity Nurse Associations,”*; and

17 (B) *by inserting before the period the fol-*
18 *lowing: “, and other organizations determined*
19 *appropriate by the Secretary”*.

20 **SEC. 5405. PRIMARY CARE EXTENSION PROGRAM.**

21 *Part P of title III of the Public Health Service Act*
22 *(42 U.S.C. 280g et seq.), as amended by section 5313, is*
23 *further amended by adding at the end the following:*

24 **“SEC. 399W. PRIMARY CARE EXTENSION PROGRAM.**

25 *“(a) ESTABLISHMENT, PURPOSE AND DEFINITION.—*

1 “(1) *IN GENERAL.*—*The Secretary, acting*
2 *through the Director of the Agency for Healthcare Re-*
3 *search and Quality, shall establish a Primary Care*
4 *Extension Program.*

5 “(2) *PURPOSE.*—*The Primary Care Extension*
6 *Program shall provide support and assistance to pri-*
7 *mary care providers to educate providers about pre-*
8 *ventive medicine, health promotion, chronic disease*
9 *management, mental and behavioral health services*
10 *(including substance abuse prevention and treatment*
11 *services), and evidence-based and evidence-informed*
12 *therapies and techniques, in order to enable providers*
13 *to incorporate such matters into their practice and to*
14 *improve community health by working with commu-*
15 *nity-based health connectors (referred to in this sec-*
16 *tion as ‘Health Extension Agents’).*

17 “(3) *DEFINITIONS.*—*In this section:*

18 “(A) *HEALTH EXTENSION AGENT.*—*The*
19 *term ‘Health Extension Agent’ means any local,*
20 *community-based health worker who facilitates*
21 *and provides assistance to primary care prac-*
22 *tices by implementing quality improvement or*
23 *system redesign, incorporating the principles of*
24 *the patient-centered medical home to provide*
25 *high-quality, effective, efficient, and safe pri-*

1 *mary care and to provide guidance to patients*
2 *in culturally and linguistically appropriate*
3 *ways, and linking practices to diverse health sys-*
4 *tem resources.*

5 “(B) *PRIMARY CARE PROVIDER.*—*The term*
6 *‘primary care provider’ means a clinician who*
7 *provides integrated, accessible health care serv-*
8 *ices and who is accountable for addressing a*
9 *large majority of personal health care needs, in-*
10 *cluding providing preventive and health pro-*
11 *motion services for men, women, and children of*
12 *all ages, developing a sustained partnership with*
13 *patients, and practicing in the context of family*
14 *and community, as recognized by a State licens-*
15 *ing or regulatory authority, unless otherwise*
16 *specified in this section.*

17 “(b) *GRANTS TO ESTABLISH STATE HUBS AND LOCAL*
18 *PRIMARY CARE EXTENSION AGENCIES.*—

19 “(1) *GRANTS.*—*The Secretary shall award com-*
20 *petitive grants to States for the establishment of*
21 *State- or multistate-level primary care Primary Care*
22 *Extension Program State Hubs (referred to in this*
23 *section as ‘Hubs’).*

24 “(2) *COMPOSITION OF HUBS.*—*A Hub established*
25 *by a State pursuant to paragraph (1)—*

1 “(A) shall consist of, at a minimum, the
2 State health department, the entity responsible
3 for administering the State Medicaid program
4 (if other than the State health department), the
5 State-level entity administering the Medicare
6 program, and the departments of 1 or more
7 health professions schools in the State that train
8 providers in primary care; and

9 “(B) may include entities such as hospital
10 associations, primary care practice-based re-
11 search networks, health professional societies,
12 State primary care associations, State licensing
13 boards, organizations with a contract with the
14 Secretary under section 1153 of the Social Secu-
15 rity Act, consumer groups, and other appro-
16 priate entities.

17 “(c) STATE AND LOCAL ACTIVITIES.—

18 “(1) HUB ACTIVITIES.—Hubs established under
19 a grant under subsection (b) shall—

20 “(A) submit to the Secretary a plan to co-
21 ordinate functions with quality improvement or-
22 ganizations and area health education centers if
23 such entities are members of the Hub not de-
24 scribed in subsection (b)(2)(A);

1 “(B) contract with a county- or local-level
2 entity that shall serve as the Primary Care Ex-
3 tension Agency to administer the services de-
4 scribed in paragraph (2);

5 “(C) organize and administer grant funds
6 to county- or local-level Primary Care Extension
7 Agencies that serve a catchment area, as deter-
8 mined by the State; and

9 “(D) organize State-wide or multistate net-
10 works of local-level Primary Care Extension
11 Agencies to share and disseminate information
12 and practices.

13 “(2) LOCAL PRIMARY CARE EXTENSION AGENCY
14 ACTIVITIES.—

15 “(A) REQUIRED ACTIVITIES.—Primary
16 Care Extension Agencies established by a Hub
17 under paragraph (1) shall—

18 “(i) assist primary care providers to
19 implement a patient-centered medical home
20 to improve the accessibility, quality, and ef-
21 ficiency of primary care services, including
22 health homes;

23 “(ii) develop and support primary
24 care learning communities to enhance the
25 dissemination of research findings for evi-

1 *dence-based practice, assess implementation*
2 *of practice improvement, share best prac-*
3 *tices, and involve community clinicians in*
4 *the generation of new knowledge and identi-*
5 *fication of important questions for research;*

6 *“(iii) participate in a national net-*
7 *work of Primary Care Extension Hubs and*
8 *propose how the Primary Care Extension*
9 *Agency will share and disseminate lessons*
10 *learned and best practices; and*

11 *“(iv) develop a plan for financial sus-*
12 *tainability involving State, local, and pri-*
13 *vate contributions, to provide for the reduc-*
14 *tion in Federal funds that is expected after*
15 *an initial 6-year period of program estab-*
16 *lishment, infrastructure development, and*
17 *planning.*

18 *“(B) DISCRETIONARY ACTIVITIES.—Pri-*
19 *mary Care Extension Agencies established by a*
20 *Hub under paragraph (1) may—*

21 *“(i) provide technical assistance, train-*
22 *ing, and organizational support for commu-*
23 *nity health teams established under section*
24 *3602 of the Patient Protection and Afford-*
25 *able Care Act;*

1 “(ii) collect data and provision of pri-
2 mary care provider feedback from standard-
3 ized measurements of processes and out-
4 comes to aid in continuous performance im-
5 provement;

6 “(iii) collaborate with local health de-
7 partments, community health centers, tribes
8 and tribal entities, and other community
9 agencies to identify community health pri-
10 orities and local health workforce needs, and
11 participate in community-based efforts to
12 address the social and primary deter-
13 minants of health, strengthen the local pri-
14 mary care workforce, and eliminate health
15 disparities;

16 “(iv) develop measures to monitor the
17 impact of the proposed program on the
18 health of practice enrollees and of the wider
19 community served; and

20 “(v) participate in other activities, as
21 determined appropriate by the Secretary.

22 “(d) FEDERAL PROGRAM ADMINISTRATION.—

23 “(1) GRANTS; TYPES.—Grants awarded under
24 subsection (b) shall be—

1 “(A) program grants, that are awarded to
2 State or multistate entities that submit fully-de-
3 veloped plans for the implementation of a Hub,
4 for a period of 6 years; or

5 “(B) planning grants, that are awarded to
6 State or multistate entities with the goal of de-
7 veloping a plan for a Hub, for a period of 2
8 years.

9 “(2) APPLICATIONS.—To be eligible for a grant
10 under subsection (b), a State or multistate entity
11 shall submit to the Secretary an application, at such
12 time, in such manner, and containing such informa-
13 tion as the Secretary may require.

14 “(3) EVALUATION.—A State that receives a grant
15 under subsection (b) shall be evaluated at the end of
16 the grant period by an evaluation panel appointed by
17 the Secretary.

18 “(4) CONTINUING SUPPORT.—After the sixth
19 year in which assistance is provided to a State under
20 a grant awarded under subsection (b), the State may
21 receive additional support under this section if the
22 State program has received satisfactory evaluations
23 with respect to program performance and the merits
24 of the State sustainability plan, as determined by the
25 Secretary.

1 “(5) *LIMITATION.*—A State shall not use in ex-
2 cess of 10 percent of the amount received under a
3 grant to carry out administrative activities under
4 this section. Funds awarded pursuant to this section
5 shall not be used for funding direct patient care.

6 “(e) *REQUIREMENTS ON THE SECRETARY.*—In car-
7 rying out this section, the Secretary shall consult with the
8 heads of other Federal agencies with demonstrated experi-
9 ence and expertise in health care and preventive medicine,
10 such as the Centers for Disease Control and Prevention, the
11 Substance Abuse and Mental Health Administration, the
12 Health Resources and Services Administration, the Na-
13 tional Institutes of Health, the Office of the National Coor-
14 dinator for Health Information Technology, the Indian
15 Health Service, the Agricultural Cooperative Extension
16 Service of the Department of Agriculture, and other entities,
17 as the Secretary determines appropriate.

18 “(f) *AUTHORIZATION OF APPROPRIATIONS.*—To
19 awards grants as provided in subsection (d), there are au-
20 thorized to be appropriated \$120,000,000 for each of fiscal
21 years 2011 and 2012, and such sums as may be necessary
22 to carry out this section for each of fiscal years 2013
23 through 2014.”.

1 ***Subtitle F—Strengthening Primary***
 2 ***Care and Other Workforce Im-***
 3 ***provements***

4 ***SEC. 5501. EXPANDING ACCESS TO PRIMARY CARE SERV-***
 5 ***ICES AND GENERAL SURGERY SERVICES.***

6 *(a) INCENTIVE PAYMENT PROGRAM FOR PRIMARY*
 7 *CARE SERVICES.—*

8 *(1) IN GENERAL.—Section 1833 of the Social Se-*
 9 *curity Act (42 U.S.C. 1395l) is amended by adding*
 10 *at the end the following new subsection:*

11 *“(x) INCENTIVE PAYMENTS FOR PRIMARY CARE SERV-*
 12 *ICES.—*

13 *“(1) IN GENERAL.—In the case of primary care*
 14 *services furnished on or after January 1, 2011, and*
 15 *before January 1, 2016, by a primary care practi-*
 16 *tioner, in addition to the amount of payment that*
 17 *would otherwise be made for such services under this*
 18 *part, there also shall be paid (on a monthly or quar-*
 19 *terly basis) an amount equal to 10 percent of the pay-*
 20 *ment amount for the service under this part.*

21 *“(2) DEFINITIONS.—In this subsection:*

22 *“(A) PRIMARY CARE PRACTITIONER.—The*
 23 *term ‘primary care practitioner’ means an indi-*
 24 *vidual—*

25 *“(i) who—*

1 “(I) is a physician (as described
2 in section 1861(r)(1)) who has a pri-
3 mary specialty designation of family
4 medicine, internal medicine, geriatric
5 medicine, or pediatric medicine; or

6 “(II) is a nurse practitioner, clin-
7 ical nurse specialist, or physician as-
8 sistant (as those terms are defined in
9 section 1861(aa)(5)); and

10 “(ii) for whom primary care services
11 accounted for at least 60 percent of the al-
12 lowed charges under this part for such phy-
13 sician or practitioner in a prior period as
14 determined appropriate by the Secretary.

15 “(B) PRIMARY CARE SERVICES.—The term
16 ‘primary care services’ means services identified,
17 as of January 1, 2009, by the following HCPCS
18 codes (and as subsequently modified by the Sec-
19 retary):

20 “(i) 99201 through 99215.

21 “(ii) 99304 through 99340.

22 “(iii) 99341 through 99350.

23 “(3) COORDINATION WITH OTHER PAYMENTS.—
24 The amount of the additional payment for a service
25 under this subsection and subsection (m) shall be de-

1 *terminated without regard to any additional payment*
2 *for the service under subsection (m) and this sub-*
3 *section, respectively.*

4 “(4) *LIMITATION ON REVIEW.*—*There shall be no*
5 *administrative or judicial review under section 1869,*
6 *1878, or otherwise, respecting the identification of*
7 *primary care practitioners under this subsection.”.*

8 (2) *CONFORMING AMENDMENT.*—*Section*
9 *1834(g)(2)(B) of the Social Security Act (42 U.S.C.*
10 *1395m(g)(2)(B)) is amended by adding at the end the*
11 *following sentence: “Section 1833(x) shall not be*
12 *taken into account in determining the amounts that*
13 *would otherwise be paid pursuant to the preceding*
14 *sentence.”.*

15 (b) *INCENTIVE PAYMENT PROGRAM FOR MAJOR SUR-*
16 *GICAL PROCEDURES FURNISHED IN HEALTH PROFES-*
17 *SIONAL SHORTAGE AREAS.*—

18 (1) *IN GENERAL.*—*Section 1833 of the Social Se-*
19 *curity Act (42 U.S.C. 1395l), as amended by sub-*
20 *section (a)(1), is amended by adding at the end the*
21 *following new subsection:*

22 “(y) *INCENTIVE PAYMENTS FOR MAJOR SURGICAL*
23 *PROCEDURES FURNISHED IN HEALTH PROFESSIONAL*
24 *SHORTAGE AREAS.*—

1 “(1) *IN GENERAL.*—*In the case of major surgical*
2 *procedures furnished on or after January 1, 2011,*
3 *and before January 1, 2016, by a general surgeon in*
4 *an area that is designated (under section*
5 *332(a)(1)(A) of the Public Health Service Act) as a*
6 *health professional shortage area as identified by the*
7 *Secretary prior to the beginning of the year involved,*
8 *in addition to the amount of payment that would oth-*
9 *erwise be made for such services under this part, there*
10 *also shall be paid (on a monthly or quarterly basis)*
11 *an amount equal to 10 percent of the payment*
12 *amount for the service under this part.*

13 “(2) *DEFINITIONS.*—*In this subsection:*

14 “(A) *GENERAL SURGEON.*—*In this sub-*
15 *section, the term ‘general surgeon’ means a phy-*
16 *sician (as described in section 1861(r)(1)) who*
17 *has designated CMS specialty code 02–General*
18 *Surgery as their primary specialty code in the*
19 *physician’s enrollment under section 1866(j).*

20 “(B) *MAJOR SURGICAL PROCEDURES.*—*The*
21 *term ‘major surgical procedures’ means physi-*
22 *cians’ services which are surgical procedures for*
23 *which a 10-day or 90-day global period is used*
24 *for payment under the fee schedule under section*
25 *1848(b).*

1 “(3) *COORDINATION WITH OTHER PAYMENTS.*—
2 *The amount of the additional payment for a service*
3 *under this subsection and subsection (m) shall be de-*
4 *termined without regard to any additional payment*
5 *for the service under subsection (m) and this sub-*
6 *section, respectively.*

7 “(4) *APPLICATION.*—*The provisions of para-*
8 *graph (2) and (4) of subsection (m) shall apply to the*
9 *determination of additional payments under this sub-*
10 *section in the same manner as such provisions apply*
11 *to the determination of additional payments under*
12 *subsection (m).”.*

13 (2) *CONFORMING AMENDMENT.*—*Section*
14 *1834(g)(2)(B) of the Social Security Act (42 U.S.C.*
15 *1395m(g)(2)(B)), as amended by subsection (a)(2), is*
16 *amended by striking “Section 1833(x)” and inserting*
17 *“Subsections (x) and (y) of section 1833” in the last*
18 *sentence.*

19 (c) *BUDGET-NEUTRALITY ADJUSTMENT.*—*Section*
20 *1848(c)(2)(B) of the Social Security Act (42 U.S.C. 1395w-*
21 *4(c)(2)(B)) is amended by adding at the end the following*
22 *new clause:*

23 “(vii) *ADJUSTMENT FOR CERTAIN PHY-*
24 *SICIAN INCENTIVE PAYMENTS.*—*Fifty per-*
25 *cent of the additional expenditures under*

1 *this part attributable to subsections (x) and*
2 *(y) of section 1833 for a year (as estimated*
3 *by the Secretary) shall be taken into ac-*
4 *count in applying clause (ii)(II) for 2011*
5 *and subsequent years. In lieu of applying*
6 *the budget-neutrality adjustments required*
7 *under clause (ii)(II) to relative value units*
8 *to account for such costs for the year, the*
9 *Secretary shall apply such budget-neu-*
10 *trality adjustments to the conversion factor*
11 *otherwise determined for the year. For 2011*
12 *and subsequent years, the Secretary shall*
13 *increase the incentive payment otherwise*
14 *applicable under section 1833(m) by a per-*
15 *cent estimated to be equal to the additional*
16 *expenditures estimated under the first sen-*
17 *tence of this clause for such year that is ap-*
18 *plicable to physicians who primarily fur-*
19 *nish services in areas designated (under sec-*
20 *tion 332(a)(1)(A) of the Public Health Serv-*
21 *ice Act) as health professional shortage*
22 *areas.”.*

1 **SEC. 5502. MEDICARE FEDERALLY QUALIFIED HEALTH CEN-**
2 **TER IMPROVEMENTS.**

3 (a) *EXPANSION OF MEDICARE-COVERED PREVENTIVE*
4 *SERVICES AT FEDERALLY QUALIFIED HEALTH CEN-*
5 *TERS.*—

6 (1) *IN GENERAL.*—Section 1861(aa)(3)(A) of the
7 *Social Security Act (42 U.S.C. 1395w (aa)(3)(A))* is
8 *amended to read as follows:*

9 “(A) *services of the type described subpara-*
10 *graphs (A) through (C) of paragraph (1) and*
11 *preventive services (as defined in section*
12 *1861(ddd)(3)); and”.*

13 (2) *EFFECTIVE DATE.*—*The amendment made by*
14 *paragraph (1) shall apply to services furnished on or*
15 *after January 1, 2011.*

16 (b) *PROSPECTIVE PAYMENT SYSTEM FOR FEDERALLY*
17 *QUALIFIED HEALTH CENTERS.*—Section 1834 of the *Social*
18 *Security Act (42 U.S.C. 1395m)* is amended by adding at
19 *the end the following new subsection:*

20 “(n) *DEVELOPMENT AND IMPLEMENTATION OF PRO-*
21 *SPECTIVE PAYMENT SYSTEM.*—

22 “(1) *DEVELOPMENT.*—

23 “(A) *IN GENERAL.*—*The Secretary shall de-*
24 *velop a prospective payment system for payment*
25 *for Federally qualified health services furnished*
26 *by Federally qualified health centers under this*

1 *title. Such system shall include a process for ap-*
2 *propriately describing the services furnished by*
3 *Federally qualified health centers.*

4 “(B) *COLLECTION OF DATA AND EVALUA-*
5 *TION.—The Secretary shall require Federally*
6 *qualified health centers to submit to the Sec-*
7 *retary such information as the Secretary may*
8 *require in order to develop and implement the*
9 *prospective payment system under this para-*
10 *graph and paragraph (2), respectively, including*
11 *the reporting of services using HCPCS codes.*

12 “(2) *IMPLEMENTATION.—*

13 “(A) *IN GENERAL.—Notwithstanding sec-*
14 *tion 1833(a)(3)(B), the Secretary shall provide,*
15 *for cost reporting periods beginning on or after*
16 *October 1, 2014, for payments for Federally*
17 *qualified health services furnished by Federally*
18 *qualified health centers under this title in ac-*
19 *cordance with the prospective payment system*
20 *developed by the Secretary under paragraph (1).*

21 “(B) *PAYMENTS.—*

22 “(i) *INITIAL PAYMENTS.—The Sec-*
23 *retary shall implement such prospective*
24 *payment system so that the estimated*
25 *amount of expenditures under this title for*

1 *Federally qualified health services in the*
2 *first year that the prospective payment sys-*
3 *tem is implemented is equal to 103 percent*
4 *of the estimated amount of expenditures*
5 *under this title that would have occurred for*
6 *such services in such year if the system had*
7 *not been implemented.*

8 “(ii) *PAYMENTS IN SUBSEQUENT*
9 *YEARS.—In the year after the first year of*
10 *implementation of such system, and in each*
11 *subsequent year, the payment rate for Fed-*
12 *erally qualified health services furnished in*
13 *the year shall be equal to the payment rate*
14 *established for such services furnished in the*
15 *preceding year under this subparagraph in-*
16 *creased by the percentage increase in the*
17 *MEI (as defined in 1842(i)(3)) for the year*
18 *involved.”.*

19 **SEC. 5503. DISTRIBUTION OF ADDITIONAL RESIDENCY PO-**
20 **SITIONS.**

21 *(a) IN GENERAL.—Section 1886(h) of the Social Secu-*
22 *rity Act (42 U.S.C. 1395ww(h)) is amended—*

23 *(1) in paragraph (4)(F)(i), by striking “para-*
24 *graph (7)” and inserting “paragraphs (7) and (8)”;*

1 (2) in paragraph (4)(H)(i), by striking “para-
2 graph (7)” and inserting “paragraphs (7) and (8)”;

3 (3) in paragraph (7)(E), by inserting “or para-
4 graph (8)” before the period at the end; and

5 (4) by adding at the end the following new para-
6 graph:

7 “(8) *DISTRIBUTION OF ADDITIONAL RESIDENCY*
8 *POSITIONS.—*

9 “(A) *REDUCTIONS IN LIMIT BASED ON UN-*
10 *USED POSITIONS.—*

11 “(i) *IN GENERAL.—Except as provided*
12 *in clause (ii), if a hospital’s reference resi-*
13 *dent level (as defined in subparagraph*
14 *(H)(i)) is less than the otherwise applicable*
15 *resident limit (as defined in subparagraph*
16 *(H)(iii)), effective for portions of cost re-*
17 *porting periods occurring on or after July*
18 *1, 2011, the otherwise applicable resident*
19 *limit shall be reduced by 65 percent of the*
20 *difference between such otherwise applicable*
21 *resident limit and such reference resident*
22 *level.*

23 “(ii) *EXCEPTIONS.—This subpara-*
24 *graph shall not apply to—*

1 “(I) a hospital located in a rural
2 area (as defined in subsection
3 (d)(2)(D)(ii)) with fewer than 250
4 acute care inpatient beds;

5 “(II) a hospital that was part of
6 a qualifying entity which had a vol-
7 untary residency reduction plan ap-
8 proved under paragraph (6)(B) or
9 under the authority of section 402 of
10 Public Law 90–248, if the hospital
11 demonstrates to the Secretary that it
12 has a specified plan in place for filling
13 the unused positions by not later than
14 2 years after the date of enactment of
15 this paragraph; or

16 “(III) a hospital described in
17 paragraph (4)(H)(v).

18 “(B) DISTRIBUTION.—

19 “(i) IN GENERAL.—The Secretary shall
20 increase the otherwise applicable resident
21 limit for each qualifying hospital that sub-
22 mits an application under this subpara-
23 graph by such number as the Secretary may
24 approve for portions of cost reporting peri-
25 ods occurring on or after July 1, 2011. The

1 *aggregate number of increases in the other-*
2 *wise applicable resident limit under this*
3 *subparagraph shall be equal to the aggregate*
4 *reduction in such limits attributable to sub-*
5 *paragraph (A) (as estimated by the Sec-*
6 *retary).*

7 “(ii) *REQUIREMENTS.—Subject to*
8 *clause (iii), a hospital that receives an in-*
9 *crease in the otherwise applicable resident*
10 *limit under this subparagraph shall ensure,*
11 *during the 5-year period beginning on the*
12 *date of such increase, that—*

13 “(I) *the number of full-time equiv-*
14 *alent primary care residents, as de-*
15 *fin ed in paragraph (5)(H) (as deter-*
16 *min ed by the Secretary), excluding any*
17 *additional positions under subclause*
18 *(II), is not less than the average num-*
19 *ber of full-time equivalent primary*
20 *care residents (as so determined) dur-*
21 *ing the 3 most recent cost reporting pe-*
22 *riods ending prior to the date of enact-*
23 *ment of this paragraph; and*

24 “(II) *not less than 75 percent of*
25 *the positions attributable to such in-*

1 crease are in a primary care or gen-
2 eral surgery residency (as determined
3 by the Secretary).

4 The Secretary may determine whether a
5 hospital has met the requirements under
6 this clause during such 5-year period in
7 such manner and at such time as the Sec-
8 retary determines appropriate, including at
9 the end of such 5-year period.

10 “(iii) *REDISTRIBUTION OF POSITIONS*
11 *IF HOSPITAL NO LONGER MEETS CERTAIN*
12 *REQUIREMENTS.—In the case where the Sec-*
13 *retary determines that a hospital described*
14 *in clause (ii) does not meet either of the re-*
15 *quirements under subclause (I) or (II) of*
16 *such clause, the Secretary shall—*

17 “(I) *reduce the otherwise applica-*
18 *ble resident limit of the hospital by the*
19 *amount by which such limit was in-*
20 *creased under this paragraph; and*

21 “(II) *provide for the distribution*
22 *of positions attributable to such reduc-*
23 *tion in accordance with the require-*
24 *ments of this paragraph.*

1 “(C) *CONSIDERATIONS IN REDISTRIBU-*
2 *TION.—In determining for which hospitals the*
3 *increase in the otherwise applicable resident*
4 *limit is provided under subparagraph (B), the*
5 *Secretary shall take into account—*

6 “(i) *the demonstration likelihood of the*
7 *hospital filling the positions made available*
8 *under this paragraph within the first 3 cost*
9 *reporting periods beginning on or after July*
10 *1, 2011, as determined by the Secretary;*
11 *and*

12 “(ii) *whether the hospital has an ac-*
13 *credited rural training track (as described*
14 *in paragraph (4)(H)(iv)).*

15 “(D) *PRIORITY FOR CERTAIN AREAS.—In*
16 *determining for which hospitals the increase in*
17 *the otherwise applicable resident limit is pro-*
18 *vided under subparagraph (B), subject to sub-*
19 *paragraph (E), the Secretary shall distribute the*
20 *increase to hospitals based on the following fac-*
21 *tors:*

22 “(i) *Whether the hospital is located in*
23 *a State with a resident-to-population ratio*
24 *in the lowest quartile (as determined by the*
25 *Secretary).*

1 “(ii) Whether the hospital is located in
2 a State, a territory of the United States, or
3 the District of Columbia that is among the
4 top 10 States, territories, or Districts in
5 terms of the ratio of—

6 “(I) the total population of the
7 State, territory, or District living in
8 an area designated (under such section
9 332(a)(1)(A)) as a health professional
10 shortage area (as of the date of enact-
11 ment of this paragraph); to

12 “(II) the total population of the
13 State, territory, or District (as deter-
14 mined by the Secretary based on the
15 most recent available population data
16 published by the Bureau of the Cen-
17 sus).

18 “(iii) Whether the hospital is located
19 in a rural area (as defined in subsection
20 (d)(2)(D)(ii)).

21 “(E) RESERVATION OF POSITIONS FOR CER-
22 TAIN HOSPITALS.—

23 “(i) IN GENERAL.—Subject to clause
24 (ii), the Secretary shall reserve the positions

1 *available for distribution under this para-*
2 *graph as follows:*

3 “(I) 70 percent of such positions
4 *for distribution to hospitals described*
5 *in clause (i) of subparagraph (D).*

6 “(II) 30 percent of such positions
7 *for distribution to hospitals described*
8 *in clause (ii) and (iii) of such sub-*
9 *paragraph.*

10 “(i) *EXCEPTION IF POSITIONS NOT*
11 *REDISTRIBUTED BY JULY 1, 2011.—In the*
12 *case where the Secretary does not distribute*
13 *positions to hospitals in accordance with*
14 *clause (i) by July 1, 2011, the Secretary*
15 *shall distribute such positions to other hos-*
16 *pitals in accordance with the considerations*
17 *described in subparagraph (C) and the pri-*
18 *ority described in subparagraph (D).*

19 “(F) *LIMITATION.—A hospital may not re-*
20 *ceive more than 75 full-time equivalent addi-*
21 *tional residency positions under this paragraph.*

22 “(G) *APPLICATION OF PER RESIDENT*
23 *AMOUNTS FOR PRIMARY CARE AND NONPRIMARY*
24 *CARE.—With respect to additional residency po-*
25 *sitions in a hospital attributable to the increase*

1 provided under this paragraph, the approved
2 FTE per resident amounts are deemed to be
3 equal to the hospital per resident amounts for
4 primary care and nonprimary care computed
5 under paragraph (2)(D) for that hospital.

6 “(H) DEFINITIONS.—In this paragraph:

7 “(i) REFERENCE RESIDENT LEVEL.—

8 The term ‘reference resident level’ means,
9 with respect to a hospital, the highest resi-
10 dent level for any of the 3 most recent cost
11 reporting periods (ending before the date of
12 the enactment of this paragraph) of the hos-
13 pital for which a cost report has been settled
14 (or, if not, submitted (subject to audit)), as
15 determined by the Secretary.

16 “(ii) RESIDENT LEVEL.—The term
17 ‘resident level’ has the meaning given such
18 term in paragraph (7)(C)(i).

19 “(iii) OTHERWISE APPLICABLE RESI-
20 DENT LIMIT.—The term ‘otherwise applica-
21 ble resident limit’ means, with respect to a
22 hospital, the limit otherwise applicable
23 under subparagraphs (F)(i) and (H) of
24 paragraph (4) on the resident level for the
25 hospital determined without regard to this

1 *paragraph but taking into account para-*
2 *graph (7)(A).”.*

3 **(b) IME.—**

4 **(1) IN GENERAL.—***Section 1886(d)(5)(B)(v) of*
5 *the Social Security Act (42 U.S.C.*
6 *1395ww(d)(5)(B)(v)), in the second sentence, is*
7 *amended—*

8 **(A)** *by striking “subsection (h)(7)” and in-*
9 *serting “subsections (h)(7) and (h)(8)”;* and

10 **(B)** *by striking “it applies” and inserting*
11 *“they apply”.*

12 **(2) CONFORMING AMENDMENT.—***Section*
13 *1886(d)(5)(B) of the Social Security Act (42 U.S.C.*
14 *1395ww(d)(5)(B)) is amended by adding at the end*
15 *the following clause:*

16 **“(x) For discharges occurring on or after July 1,**
17 *2011, insofar as an additional payment amount*
18 *under this subparagraph is attributable to resident*
19 *positions distributed to a hospital under subsection*
20 *(h)(8)(B), the indirect teaching adjustment factor*
21 *shall be computed in the same manner as provided*
22 *under clause (ii) with respect to such resident posi-*
23 *tions.”.*

24 **(c) CONFORMING AMENDMENT.—***Section 422(b)(2) of*
25 *the Medicare Prescription Drug, Improvement, and Mod-*

1 *ernization Act of 2003 (Public Law 108–173) is amended*
2 *by striking “section 1886(h)(7)” and all that follows and*
3 *inserting “paragraphs (7) and (8) of subsection (h) of sec-*
4 *tion 1886 of the Social Security Act”.*

5 **SEC. 5504. COUNTING RESIDENT TIME IN NONPROVIDER**
6 **SETTINGS.**

7 (a) *GME.—Section 1886(h)(4)(E) of the Social Secu-*
8 *arity Act (42 U.S.C. 1395ww(h)(4)(E)) is amended—*

9 (1) *by striking “shall be counted and that all the*
10 *time” and inserting “shall be counted and that—*

11 *“(i) effective for cost reporting periods*
12 *beginning before July 1, 2010, all the*
13 *time;”;*

14 (2) *in clause (i), as inserted by paragraph (1),*
15 *by striking the period at the end and inserting “;*
16 *and”;*

17 (3) *by inserting after clause (i), as so inserted,*
18 *the following new clause:*

19 *“(ii) effective for cost reporting periods*
20 *beginning on or after July 1, 2010, all the*
21 *time so spent by a resident shall be counted*
22 *towards the determination of full-time*
23 *equivalency, without regard to the setting in*
24 *which the activities are performed, if a hos-*
25 *pital incurs the costs of the stipends and*

1 *fringe benefits of the resident during the*
2 *time the resident spends in that setting. If*
3 *more than one hospital incurs these costs,*
4 *either directly or through a third party,*
5 *such hospitals shall count a proportional*
6 *share of the time, as determined by written*
7 *agreement between the hospitals, that a resi-*
8 *dent spends training in that setting.”; and*

9 *(4) by adding at the end the following flush sen-*
10 *tence:*

11 *“Any hospital claiming under this subparagraph*
12 *for time spent in a nonprovider setting shall*
13 *maintain and make available to the Secretary*
14 *records regarding the amount of such time and*
15 *such amount in comparison with amounts of*
16 *such time in such base year as the Secretary*
17 *shall specify.”.*

18 *(b) IME.—Section 1886(d)(5)(B)(iv) of the Social Se-*
19 *curity Act (42 U.S.C. 1395ww(d)(5)) is amended—*

20 *(1) by striking “(iv) Effective for discharges oc-*
21 *curing on or after October 1, 1997” and inserting*
22 *“(iv)(I) Effective for discharges occurring on or after*
23 *October 1, 1997, and before July 1, 2010”;* and

24 *(2) by inserting after clause (I), as inserted by*
25 *paragraph (1), the following new subparagraph:*

1 “(II) *Effective for discharges occurring on or*
2 *after July 1, 2010, all the time spent by an intern*
3 *or resident in patient care activities in a nonprovider*
4 *setting shall be counted towards the determination of*
5 *full-time equivalency if a hospital incurs the costs of*
6 *the stipends and fringe benefits of the intern or resi-*
7 *dent during the time the intern or resident spends in*
8 *that setting. If more than one hospital incurs these*
9 *costs, either directly or through a third party, such*
10 *hospitals shall count a proportional share of the time,*
11 *as determined by written agreement between the hos-*
12 *pitals, that a resident spends training in that set-*
13 *ting.”.*

14 (c) *APPLICATION.—The amendments made by this sec-*
15 *tion shall not be applied in a manner that requires reopen-*
16 *ing of any settled hospital cost reports as to which there*
17 *is not a jurisdictionally proper appeal pending as of the*
18 *date of the enactment of this Act on the issue of payment*
19 *for indirect costs of medical education under section*
20 *1886(d)(5)(B) of the Social Security Act (42 U.S.C.*
21 *1395ww(d)(5)(B)) or for direct graduate medical education*
22 *costs under section 1886(h) of such Act (42 U.S.C.*
23 *1395ww(h)).*

1 **SEC. 5505. RULES FOR COUNTING RESIDENT TIME FOR DI-**
2 **DACTIC AND SCHOLARLY ACTIVITIES AND**
3 **OTHER ACTIVITIES.**

4 (a) *GME.*—Section 1886(h) of the Social Security Act
5 (42 U.S.C. 1395ww(h)), as amended by section 5504, is
6 amended—

7 (1) in paragraph (4)—

8 (A) in subparagraph (E), by striking “Such
9 rules” and inserting “Subject to subparagraphs
10 (J) and (K), such rules”; and

11 (B) by adding at the end the following new
12 subparagraphs:

13 “(J) *TREATMENT OF CERTAIN NONPRO-*
14 *VIDER AND DIDACTIC ACTIVITIES.*—Such rules
15 shall provide that all time spent by an intern or
16 resident in an approved medical residency train-
17 ing program in a nonprovider setting that is
18 primarily engaged in furnishing patient care (as
19 defined in paragraph (5)(K)) in non-patient
20 care activities, such as didactic conferences and
21 seminars, but not including research not associ-
22 ated with the treatment or diagnosis of a par-
23 ticular patient, as such time and activities are
24 defined by the Secretary, shall be counted toward
25 the determination of full-time equivalency.

1 “(K) *TREATMENT OF CERTAIN OTHER AC-*
2 *TIVITIES.—In determining the hospital’s number*
3 *of full-time equivalent residents for purposes of*
4 *this subsection, all the time that is spent by an*
5 *intern or resident in an approved medical resi-*
6 *dency training program on vacation, sick leave,*
7 *or other approved leave, as such time is defined*
8 *by the Secretary, and that does not prolong the*
9 *total time the resident is participating in the*
10 *approved program beyond the normal duration*
11 *of the program shall be counted toward the deter-*
12 *mination of full-time equivalency.”; and*

13 (2) *in paragraph (5), by adding at the end the*
14 *following new subparagraph:*

15 “(K) *NONPROVIDER SETTING THAT IS PRI-*
16 *MARILY ENGAGED IN FURNISHING PATIENT*
17 *CARE.—The term ‘nonprovider setting that is*
18 *primarily engaged in furnishing patient care’*
19 *means a nonprovider setting in which the pri-*
20 *mary activity is the care and treatment of pa-*
21 *tients, as defined by the Secretary.”.*

22 (b) *IME DETERMINATIONS.—Section 1886(d)(5)(B) of*
23 *such Act (42 U.S.C. 1395ww(d)(5)(B)) is amended by add-*
24 *ing at the end the following new clause:*

1 “(x)(I) *The provisions of subparagraph*
2 *(K) of subsection (h)(4) shall apply under*
3 *this subparagraph in the same manner as*
4 *they apply under such subsection.*

5 “(II) *In determining the hospital’s*
6 *number of full-time equivalent residents for*
7 *purposes of this subparagraph, all the time*
8 *spent by an intern or resident in an ap-*
9 *proved medical residency training program*
10 *in non-patient care activities, such as di-*
11 *dactic conferences and seminars, as such*
12 *time and activities are defined by the Sec-*
13 *retary, that occurs in the hospital shall be*
14 *counted toward the determination of full-*
15 *time equivalency if the hospital—*

16 “(aa) *is recognized as a subsection*
17 *(d) hospital;*

18 “(bb) *is recognized as a subsection*
19 *(d) Puerto Rico hospital;*

20 “(cc) *is reimbursed under a reim-*
21 *bursement system authorized under sec-*
22 *tion 1814(b)(3); or*

23 “(dd) *is a provider-based hospital*
24 *outpatient department.*

1 “(III) *In determining the hospital’s*
2 *number of full-time equivalent residents for*
3 *purposes of this subparagraph, all the time*
4 *spent by an intern or resident in an ap-*
5 *proved medical residency training program*
6 *in research activities that are not associated*
7 *with the treatment or diagnosis of a par-*
8 *ticular patient, as such time and activities*
9 *are defined by the Secretary, shall not be*
10 *counted toward the determination of full-*
11 *time equivalency.”.*

12 (c) *EFFECTIVE DATES.—*

13 (1) *IN GENERAL.—Except as otherwise provided,*
14 *the Secretary of Health and Human Services shall*
15 *implement the amendments made by this section in a*
16 *manner so as to apply to cost reporting periods begin-*
17 *ning on or after January 1, 1983.*

18 (2) *GME.—Section 1886(h)(4)(J) of the Social*
19 *Security Act, as added by subsection (a)(1)(B), shall*
20 *apply to cost reporting periods beginning on or after*
21 *July 1, 2009.*

22 (3) *IME.—Section 1886(d)(5)(B)(x)(III) of the*
23 *Social Security Act, as added by subsection (b), shall*
24 *apply to cost reporting periods beginning on or after*
25 *October 1, 2001. Such section, as so added, shall not*

1 *give rise to any inference as to how the law in effect*
2 *prior to such date should be interpreted.*

3 **SEC. 5506. PRESERVATION OF RESIDENT CAP POSITIONS**
4 **FROM CLOSED HOSPITALS.**

5 *(a) GME.—Section 1886(h)(4)(H) of the Social Secu-*
6 *rity Act (42 U.S.C. Section 1395ww(h)(4)(H)) is amended*
7 *by adding at the end the following new clause:*

8 *“(vi) REDISTRIBUTION OF RESIDENCY*
9 *SLOTS AFTER A HOSPITAL CLOSES.—*

10 *“(I) IN GENERAL.—Subject to the*
11 *succeeding provisions of this clause, the*
12 *Secretary shall, by regulation, establish*
13 *a process under which, in the case*
14 *where a hospital (other than a hospital*
15 *described in clause (v)) with an ap-*
16 *proved medical residency program*
17 *closes on or after a date that is 2 years*
18 *before the date of enactment of this*
19 *clause, the Secretary shall increase the*
20 *otherwise applicable resident limit*
21 *under this paragraph for other hos-*
22 *pitals in accordance with this clause.*

23 *“(II) PRIORITY FOR HOSPITALS IN*
24 *CERTAIN AREAS.—Subject to the suc-*
25 *ceeding provisions of this clause, in de-*

1 *termining for which hospitals the in-*
2 *crease in the otherwise applicable resi-*
3 *dent limit is provided under such proc-*
4 *ess, the Secretary shall distribute the*
5 *increase to hospitals in the following*
6 *priority order (with preference given*
7 *within each category to hospitals that*
8 *are members of the same affiliated*
9 *group (as defined by the Secretary*
10 *under clause (ii)) as the closed hos-*
11 *pital):*

12 *“(aa) First, to hospitals lo-*
13 *cated in the same core-based sta-*
14 *tistical area as, or a core-based*
15 *statistical area contiguous to, the*
16 *hospital that closed.*

17 *“(bb) Second, to hospitals lo-*
18 *cated in the same State as the*
19 *hospital that closed.*

20 *“(cc) Third, to hospitals lo-*
21 *cated in the same region of the*
22 *country as the hospital that*
23 *closed.*

24 *“(dd) Fourth, only if the Sec-*
25 *retary is not able to distribute the*

1 *increase to hospitals described in*
2 *item (cc), to qualifying hospitals*
3 *in accordance with the provisions*
4 *of paragraph (8).*

5 “(III) *REQUIREMENT HOSPITAL*
6 *LIKELY TO FILL POSITION WITHIN CER-*
7 *TAIN TIME PERIOD.—The Secretary*
8 *may only increase the otherwise appli-*
9 *cable resident limit of a hospital under*
10 *such process if the Secretary deter-*
11 *mines the hospital has demonstrated a*
12 *likelihood of filling the positions made*
13 *available under this clause within 3*
14 *years.*

15 “(IV) *LIMITATION.—The aggre-*
16 *gate number of increases in the other-*
17 *wise applicable resident limits for hos-*
18 *pitals under this clause shall be equal*
19 *to the number of resident positions in*
20 *the approved medical residency pro-*
21 *grams that closed on or after the date*
22 *described in subclause (I).*

23 “(V) *ADMINISTRATION.—Chapter*
24 *35 of title 44, United States Code, shall*

1 not apply to the implementation of
2 this clause.”.

3 (b) *IME*.—Section 1886(d)(5)(B)(v) of the Social Se-
4 curity Act (42 U.S.C. 1395ww(d)(5)(B)(v)), in the second
5 sentence, as amended by section 5503, is amended by strik-
6 ing “subsections (h)(7) and (h)(8)” and inserting “sub-
7 sections (h)(4)(H)(vi), (h)(7), and (h)(8)”.

8 (c) *APPLICATION*.—The amendments made by this sec-
9 tion shall not be applied in a manner that requires reopen-
10 ing of any settled hospital cost reports as to which there
11 is not a jurisdictionally proper appeal pending as of the
12 date of the enactment of this Act on the issue of payment
13 for indirect costs of medical education under section
14 1886(d)(5)(B) of the Social Security Act (42 U.S.C.
15 1395ww(d)(5)(B)) or for direct graduate medical education
16 costs under section 1886(h) of such Act (42 U.S.C. Section
17 1395ww(h)).

18 (d) *EFFECT ON TEMPORARY FTE CAP ADJUST-*
19 *MENTS*.—The Secretary of Health and Human Services
20 shall give consideration to the effect of the amendments
21 made by this section on any temporary adjustment to a
22 hospital’s FTE cap under section 413.79(h) of title 42, Code
23 of Federal Regulations (as in effect on the date of enactment
24 of this Act) in order to ensure that there is no duplication
25 of FTE slots. Such amendments shall not affect the applica-

1 *tion of section 1886(h)(4)(H)(v) of the Social Security Act*
 2 *(42 U.S.C. 1395ww(h)(4)(H)(v)).*

3 (e) CONFORMING AMENDMENT.—Section
 4 1886(h)(7)(E) of the Social Security Act (42 U.S.C.
 5 1395ww(h)(7)(E)), as amended by section 5503(a), is
 6 amended by striking “paragraph or paragraph (8)” and
 7 inserting “this paragraph, paragraph (8), or paragraph
 8 (4)(H)(vi)”.

9 **SEC. 5507. DEMONSTRATION PROJECTS TO ADDRESS**
 10 **HEALTH PROFESSIONS WORKFORCE NEEDS;**
 11 **EXTENSION OF FAMILY-TO-FAMILY HEALTH**
 12 **INFORMATION CENTERS.**

13 (a) AUTHORITY TO CONDUCT DEMONSTRATION
 14 PROJECTS.—Title XX of the Social Security Act (42 U.S.C.
 15 1397 et seq.) is amended by adding at the end the following:

16 **“SEC. 2008. DEMONSTRATION PROJECTS TO ADDRESS**
 17 **HEALTH PROFESSIONS WORKFORCE NEEDS.**

18 “(a) DEMONSTRATION PROJECTS TO PROVIDE LOW-
 19 INCOME INDIVIDUALS WITH OPPORTUNITIES FOR EDU-
 20 CATION, TRAINING, AND CAREER ADVANCEMENT TO AD-
 21 DRESS HEALTH PROFESSIONS WORKFORCE NEEDS.—

22 “(1) AUTHORITY TO AWARD GRANTS.—The Sec-
 23 retary, in consultation with the Secretary of Labor,
 24 shall award grants to eligible entities to conduct dem-
 25 onstration projects that are designed to provide eligi-

1 *ble individuals with the opportunity to obtain edu-*
2 *cation and training for occupations in the health care*
3 *field that pay well and are expected to either experi-*
4 *ence labor shortages or be in high demand.*

5 *“(2) REQUIREMENTS.—*

6 *“(A) AID AND SUPPORTIVE SERVICES.—*

7 *“(i) IN GENERAL.—A demonstration*
8 *project conducted by an eligible entity*
9 *awarded a grant under this section shall, if*
10 *appropriate, provide eligible individuals*
11 *participating in the project with financial*
12 *aid, child care, case management, and other*
13 *supportive services.*

14 *“(ii) TREATMENT.—Any aid, services,*
15 *or incentives provided to an eligible bene-*
16 *ficiary participating in a demonstration*
17 *project under this section shall not be con-*
18 *sidered income, and shall not be taken into*
19 *account for purposes of determining the in-*
20 *dividual’s eligibility for, or amount of, ben-*
21 *efits under any means-tested program.*

22 *“(B) CONSULTATION AND COORDINATION.—*

23 *An eligible entity applying for a grant to carry*
24 *out a demonstration project under this section*
25 *shall demonstrate in the application that the en-*

1 *tity has consulted with the State agency respon-*
2 *sible for administering the State TANF program,*
3 *the local workforce investment board in the area*
4 *in which the project is to be conducted (unless*
5 *the applicant is such board), the State workforce*
6 *investment board established under section 111 of*
7 *the Workforce Investment Act of 1998, and the*
8 *State Apprenticeship Agency recognized under*
9 *the Act of August 16, 1937 (commonly known as*
10 *the ‘National Apprenticeship Act’) (or if no*
11 *agency has been recognized in the State, the Of-*
12 *fice of Apprenticeship of the Department of*
13 *Labor) and that the project will be carried out*
14 *in coordination with such entities.*

15 “(C) *ASSURANCE OF OPPORTUNITIES FOR*
16 *INDIAN POPULATIONS.—The Secretary shall*
17 *award at least 3 grants under this subsection to*
18 *an eligible entity that is an Indian tribe, tribal*
19 *organization, or Tribal College or University.*

20 “(3) *REPORTS AND EVALUATION.—*

21 “(A) *ELIGIBLE ENTITIES.—An eligible enti-*
22 *ty awarded a grant to conduct a demonstration*
23 *project under this subsection shall submit in-*
24 *terim reports to the Secretary on the activities*
25 *carried out under the project and a final report*

1 *on such activities upon the conclusion of the en-*
2 *tities' participation in the project. Such reports*
3 *shall include assessments of the effectiveness of*
4 *such activities with respect to improving out-*
5 *comes for the eligible individuals participating*
6 *in the project and with respect to addressing*
7 *health professions workforce needs in the areas in*
8 *which the project is conducted.*

9 “(B) *EVALUATION.*—*The Secretary shall, by*
10 *grant, contract, or interagency agreement, evalu-*
11 *ate the demonstration projects conducted under*
12 *this subsection. Such evaluation shall include*
13 *identification of successful activities for creating*
14 *opportunities for developing and sustaining, par-*
15 *ticularly with respect to low-income individuals*
16 *and other entry-level workers, a health profes-*
17 *sions workforce that has accessible entry points,*
18 *that meets high standards for education, train-*
19 *ing, certification, and professional development,*
20 *and that provides increased wages and affordable*
21 *benefits, including health care coverage, that are*
22 *responsive to the workforce's needs.*

23 “(C) *REPORT TO CONGRESS.*—*The Sec-*
24 *retary shall submit interim reports and, based*
25 *on the evaluation conducted under subparagraph*

1 (B), a final report to Congress on the demonstra-
2 tion projects conducted under this subsection.

3 “(4) DEFINITIONS.—In this subsection:

4 “(A) ELIGIBLE ENTITY.—The term ‘eligible
5 entity’ means a State, an Indian tribe or tribal
6 organization, an institution of higher education,
7 a local workforce investment board established
8 under section 117 of the Workforce Investment
9 Act of 1998, a sponsor of an apprenticeship pro-
10 gram registered under the National Apprentice-
11 ship Act or a community-based organization.

12 “(B) ELIGIBLE INDIVIDUAL.—

13 “(i) IN GENERAL.—The term ‘eligible
14 individual’ means a individual receiving
15 assistance under the State TANF program.

16 “(ii) OTHER LOW-INCOME INDIVID-
17 UALS.—Such term may include other low-
18 income individuals described by the eligible
19 entity in its application for a grant under
20 this section.

21 “(C) INDIAN TRIBE; TRIBAL ORGANIZA-
22 TION.—The terms ‘Indian tribe’ and ‘tribal orga-
23 nization’ have the meaning given such terms in
24 section 4 of the Indian Self-Determination and
25 Education Assistance Act (25 U.S.C. 450b).

1 “(D) *INSTITUTION OF HIGHER EDU-*
2 *CATION.*—*The term ‘institution of higher edu-*
3 *cation’ has the meaning given that term in sec-*
4 *tion 101 of the Higher Education Act of 1965*
5 *(20 U.S.C. 1001).*

6 “(E) *STATE.*—*The term ‘State’ means each*
7 *of the 50 States, the District of Columbia, the*
8 *Commonwealth of Puerto Rico, the United States*
9 *Virgin Islands, Guam, and American Samoa.*

10 “(F) *STATE TANF PROGRAM.*—*The term*
11 *‘State TANF program’ means the temporary as-*
12 *sistance for needy families program funded*
13 *under part A of title IV.*

14 “(G) *TRIBAL COLLEGE OR UNIVERSITY.*—
15 *The term ‘Tribal College or University’ has the*
16 *meaning given that term in section 316(b) of the*
17 *Higher Education Act of 1965 (20 U.S.C.*
18 *1059c(b)).*

19 “(b) *DEMONSTRATION PROJECT TO DEVELOP TRAIN-*
20 *ING AND CERTIFICATION PROGRAMS FOR PERSONAL OR*
21 *HOME CARE AIDES.*—

22 “(1) *AUTHORITY TO AWARD GRANTS.*—*Not later*
23 *than 18 months after the date of enactment of this*
24 *section, the Secretary shall award grants to eligible*
25 *entities that are States to conduct demonstration*

1 *projects for purposes of developing core training com-*
2 *petencies and certification programs for personal or*
3 *home care aides. The Secretary shall—*

4 *“(A) evaluate the efficacy of the core train-*
5 *ing competencies described in paragraph (3)(A)*
6 *for newly hired personal or home care aides and*
7 *the methods used by States to implement such*
8 *core training competencies in accordance with*
9 *the issues specified in paragraph (3)(B); and*

10 *“(B) ensure that the number of hours of*
11 *training provided by States under the dem-*
12 *onstration project with respect to such core*
13 *training competencies are not less than the num-*
14 *ber of hours of training required under any ap-*
15 *plicable State or Federal law or regulation.*

16 *“(2) DURATION.—A demonstration project shall*
17 *be conducted under this subsection for not less than*
18 *3 years.*

19 *“(3) CORE TRAINING COMPETENCIES FOR PER-*
20 *SONAL OR HOME CARE AIDES.—*

21 *“(A) IN GENERAL.—The core training com-*
22 *petencies for personal or home care aides de-*
23 *scribed in this subparagraph include com-*
24 *petencies with respect to the following areas:*

1 “(i) *The role of the personal or home*
2 *care aide (including differences between a*
3 *personal or home care aide employed by an*
4 *agency and a personal or home care aide*
5 *employed directly by the health care con-*
6 *sumer or an independent provider).*

7 “(ii) *Consumer rights, ethics, and con-*
8 *fidentiality (including the role of proxy de-*
9 *cision-makers in the case where a health*
10 *care consumer has impaired decision-mak-*
11 *ing capacity).*

12 “(iii) *Communication, cultural and*
13 *linguistic competence and sensitivity, prob-*
14 *lem solving, behavior management, and re-*
15 *lationship skills.*

16 “(iv) *Personal care skills.*

17 “(v) *Health care support.*

18 “(vi) *Nutritional support.*

19 “(vii) *Infection control.*

20 “(viii) *Safety and emergency training.*

21 “(ix) *Training specific to an indi-*
22 *vidual consumer’s needs (including older in-*
23 *dividuals, younger individuals with disabil-*
24 *ities, individuals with developmental dis-*
25 *abilities, individuals with dementia, and*

1 *individuals with mental and behavioral*
2 *health needs).*

3 “(x) *Self-Care.*

4 “(B) *IMPLEMENTATION.—The implementa-*
5 *tion issues specified in this subparagraph in-*
6 *clude the following:*

7 “(i) *The length of the training.*

8 “(ii) *The appropriate trainer to stu-*
9 *dent ratio.*

10 “(iii) *The amount of instruction time*
11 *spent in the classroom as compared to on-*
12 *site in the home or a facility.*

13 “(iv) *Trainer qualifications.*

14 “(v) *Content for a ‘hands-on’ and writ-*
15 *ten certification exam.*

16 “(vi) *Continuing education require-*
17 *ments.*

18 “(4) *APPLICATION AND SELECTION CRITERIA.—*

19 “(A) *IN GENERAL.—*

20 “(i) *NUMBER OF STATES.—The Sec-*
21 *retary shall enter into agreements with not*
22 *more than 6 States to conduct demonstra-*
23 *tion projects under this subsection.*

1 “(ii) *REQUIREMENTS FOR STATES.*—
2 *An agreement entered into under clause (i)*
3 *shall require that a participating State—*

4 “(I) *implement the core training*
5 *competencies described in paragraph*
6 *(3)(A); and*

7 “(II) *develop written materials*
8 *and protocols for such core training*
9 *competencies, including the develop-*
10 *ment of a certification test for personal*
11 *or home care aides who have completed*
12 *such training competencies.*

13 “(iii) *CONSULTATION AND COLLABORA-*
14 *TION WITH COMMUNITY AND VOCATIONAL*
15 *COLLEGES.*—*The Secretary shall encourage*
16 *participating States to consult with com-*
17 *munity and vocational colleges regarding*
18 *the development of curricula to implement*
19 *the project with respect to activities, as ap-*
20 *plicable, which may include consideration*
21 *of such colleges as partners in such imple-*
22 *mentation.*

23 “(B) *APPLICATION AND ELIGIBILITY.*—*A*
24 *State seeking to participate in the project*
25 *shall—*

1 “(i) submit an application to the Sec-
2 retary containing such information and at
3 such time as the Secretary may specify;

4 “(ii) meet the selection criteria estab-
5 lished under subparagraph (C); and

6 “(iii) meet such additional criteria as
7 the Secretary may specify.

8 “(C) *SELECTION CRITERIA.*—In selecting
9 States to participate in the program, the Sec-
10 retary shall establish criteria to ensure (if appli-
11 cable with respect to the activities involved)—

12 “(i) geographic and demographic di-
13 versity;

14 “(ii) that participating States offer
15 medical assistance for personal care services
16 under the State Medicaid plan;

17 “(iii) that the existing training stand-
18 ards for personal or home care aides in each
19 participating State—

20 “(I) are different from such stand-
21 ards in the other participating States;
22 and

23 “(II) are different from the core
24 training competencies described in
25 paragraph (3)(A);

1 “(iv) that participating States do not
2 reduce the number of hours of training re-
3 quired under applicable State law or regu-
4 lation after being selected to participate in
5 the project; and

6 “(v) that participating States recruit a
7 minimum number of eligible health and
8 long-term care providers to participate in
9 the project.

10 “(D) *TECHNICAL ASSISTANCE.*—The Sec-
11 retary shall provide technical assistance to
12 States in developing written materials and pro-
13 tocols for such core training competencies.

14 “(5) *EVALUATION AND REPORT.*—

15 “(A) *EVALUATION.*—The Secretary shall de-
16 velop an experimental or control group testing
17 protocol in consultation with an independent
18 evaluation contractor selected by the Secretary.
19 Such contractor shall evaluate—

20 “(i) the impact of core training com-
21 petencies described in paragraph (3)(A), in-
22 cluding curricula developed to implement
23 such core training competencies, for per-
24 sonal or home care aides within each par-
25 ticipating State on job satisfaction, mastery

1 *of job skills, beneficiary and family care-*
2 *giver satisfaction with services, and addi-*
3 *tional measures determined by the Secretary*
4 *in consultation with the expert panel;*

5 *“(ii) the impact of providing such core*
6 *training competencies on the existing train-*
7 *ing infrastructure and resources of States;*
8 *and*

9 *“(iii) whether a minimum number of*
10 *hours of initial training should be required*
11 *for personal or home care aides and, if so,*
12 *what minimum number of hours should be*
13 *required.*

14 “(B) *REPORTS.*—

15 “(i) *REPORT ON INITIAL IMPLEMENTA-*
16 *TION.*—*Not later than 2 years after the date*
17 *of enactment of this section, the Secretary*
18 *shall submit to Congress a report on the ini-*
19 *tial implementation of activities conducted*
20 *under the demonstration project, including*
21 *any available results of the evaluation con-*
22 *ducted under subparagraph (A) with respect*
23 *to such activities, together with such rec-*
24 *ommendations for legislation or administra-*

1 *tive action as the Secretary determines ap-*
2 *propriate.*

3 “(ii) *FINAL REPORT.*—*Not later than 1*
4 *year after the completion of the demonstra-*
5 *tion project, the Secretary shall submit to*
6 *Congress a report containing the results of*
7 *the evaluation conducted under subpara-*
8 *graph (A), together with such recommenda-*
9 *tions for legislation or administrative ac-*
10 *tion as the Secretary determines appro-*
11 *priate.*

12 “(6) *DEFINITIONS.*—*In this subsection:*

13 “(A) *ELIGIBLE HEALTH AND LONG-TERM*
14 *CARE PROVIDER.*—*The term ‘eligible health and*
15 *long-term care provider’ means a personal or*
16 *home care agency (including personal or home*
17 *care public authorities), a nursing home, a home*
18 *health agency (as defined in section 1861(o)), or*
19 *any other health care provider the Secretary de-*
20 *termines appropriate which—*

21 “(i) *is licensed or authorized to provide*
22 *services in a participating State; and*

23 “(ii) *receives payment for services*
24 *under title XIX.*

1 “(B) *PERSONAL CARE SERVICES*.—*The term*
2 *‘personal care services’ has the meaning given*
3 *such term for purposes of title XIX.*

4 “(C) *PERSONAL OR HOME CARE AIDE*.—*The*
5 *term ‘personal or home care aide’ means an in-*
6 *dividual who helps individuals who are elderly,*
7 *disabled, ill, or mentally disabled (including an*
8 *individual with Alzheimer’s disease or other de-*
9 *mentia) to live in their own home or a residen-*
10 *tial care facility (such as a nursing home, as-*
11 *sisted living facility, or any other facility the*
12 *Secretary determines appropriate) by providing*
13 *routine personal care services and other appro-*
14 *priate services to the individual.*

15 “(D) *STATE*.—*The term ‘State’ has the*
16 *meaning given that term for purposes of title*
17 *XIX.*

18 “(c) *FUNDING*.—

19 “(1) *IN GENERAL*.—*Subject to paragraph (2),*
20 *out of any funds in the Treasury not otherwise appro-*
21 *priated, there are appropriated to the Secretary to*
22 *carry out subsections (a) and (b), \$85,000,000 for*
23 *each of fiscal years 2010 through 2014.*

24 “(2) *TRAINING AND CERTIFICATION PROGRAMS*
25 *FOR PERSONAL AND HOME CARE AIDES*.—*With re-*

1 *spect to the demonstration projects under subsection*
2 *(b), the Secretary shall use \$5,000,000 of the amount*
3 *appropriated under paragraph (1) for each of fiscal*
4 *years 2010 through 2012 to carry out such projects.*
5 *No funds appropriated under paragraph (1) shall be*
6 *used to carry out demonstration projects under sub-*
7 *section (b) after fiscal year 2012.*

8 *“(d) NONAPPLICATION.—*

9 *“(1) IN GENERAL.—Except as provided in para-*
10 *graph (2), the preceding sections of this title shall not*
11 *apply to grant awarded under this section.*

12 *“(2) LIMITATIONS ON USE OF GRANTS.—Section*
13 *2005(a) (other than paragraph (6)) shall apply to a*
14 *grant awarded under this section to the same extent*
15 *and in the same manner as such section applies to*
16 *payments to States under this title.”.*

17 *(b) EXTENSION OF FAMILY-TO-FAMILY HEALTH IN-*
18 *FORMATION CENTERS.—Section 501(c)(1)(A)(iii) of the So-*
19 *cial Security Act (42 U.S.C. 701(c)(1)(A)(iii)) is amended*
20 *by striking “fiscal year 2009” and inserting “each of fiscal*
21 *years 2009 through 2012”.*

22 **SEC. 5508. INCREASING TEACHING CAPACITY.**

23 *(a) TEACHING HEALTH CENTERS TRAINING AND EN-*
24 *HANCEMENT.—Part C of title VII of the Public Health*
25 *Service Act (42 U.S.C. 293k et. seq.), as amended by section*

1 5303, is further amended by inserting after section 749 the
2 following:

3 **“SEC. 749A. TEACHING HEALTH CENTERS DEVELOPMENT**
4 **GRANTS.**

5 “(a) *PROGRAM AUTHORIZED.*—The Secretary may
6 award grants under this section to teaching health centers
7 for the purpose of establishing new accredited or expanded
8 primary care residency programs.

9 “(b) *AMOUNT AND DURATION.*—Grants awarded under
10 this section shall be for a term of not more than 3 years
11 and the maximum award may not be more than \$500,000.

12 “(c) *USE OF FUNDS.*—Amounts provided under a
13 grant under this section shall be used to cover the costs of—

14 “(1) establishing or expanding a primary care
15 residency training program described in subsection
16 (a), including costs associated with—

17 “(A) curriculum development;

18 “(B) recruitment, training and retention of
19 residents and faculty;

20 “(C) accreditation by the Accreditation
21 Council for Graduate Medical Education
22 (ACGME), the American Dental Association
23 (ADA), or the American Osteopathic Association
24 (AOA); and

1 “(D) *faculty salaries during the develop-*
2 *ment phase; and*

3 “(2) *technical assistance provided by an eligible*
4 *entity.*

5 “(d) *APPLICATION.—A teaching health center seeking*
6 *a grant under this section shall submit an application to*
7 *the Secretary at such time, in such manner, and containing*
8 *such information as the Secretary may require.*

9 “(e) *PREFERENCE FOR CERTAIN APPLICATIONS.—In*
10 *selecting recipients for grants under this section, the Sec-*
11 *retary shall give preference to any such application that*
12 *documents an existing affiliation agreement with an area*
13 *health education center program as defined in sections 751*
14 *and 799B.*

15 “(f) *DEFINITIONS.—In this section:*

16 “(1) *ELIGIBLE ENTITY.—The term ‘eligible enti-*
17 *ty’ means an organization capable of providing tech-*
18 *nical assistance including an area health education*
19 *center program as defined in sections 751 and 799B.*

20 “(2) *PRIMARY CARE RESIDENCY PROGRAM.—The*
21 *term ‘primary care residency program’ means an ap-*
22 *proved graduate medical residency training program*
23 *(as defined in section 340H) in family medicine, in-*
24 *ternal medicine, pediatrics, internal medicine-pediat-*

1 *rics, obstetrics and gynecology, psychiatry, general*
2 *dentistry, pediatric dentistry, and geriatrics.*

3 “(3) *TEACHING HEALTH CENTER.*—

4 “(A) *IN GENERAL.*—*The term ‘teaching*
5 *health center’ means an entity that—*

6 “(i) *is a community based, ambulatory*
7 *patient care center; and*

8 “(ii) *operates a primary care residency*
9 *program.*

10 “(B) *INCLUSION OF CERTAIN ENTITIES.*—

11 *Such term includes the following:*

12 “(i) *A Federally qualified health center*
13 *(as defined in section 1905(l)(2)(B), of the*
14 *Social Security Act).*

15 “(ii) *A community mental health cen-*
16 *ter (as defined in section 1861(ff)(3)(B) of*
17 *the Social Security Act).*

18 “(iii) *A rural health clinic, as defined*
19 *in section 1861(aa) of the Social Security*
20 *Act.*

21 “(iv) *A health center operated by the*
22 *Indian Health Service, an Indian tribe or*
23 *tribal organization, or an urban Indian or-*
24 *ganization (as defined in section 4 of the*
25 *Indian Health Care Improvement Act).*

1 “(v) *An entity receiving funds under*
2 *title X of the Public Health Service Act.*

3 “(g) *AUTHORIZATION OF APPROPRIATIONS.—There is*
4 *authorized to be appropriated, \$25,000,000 for fiscal year*
5 *2010, \$50,000,000 for fiscal year 2011, \$50,000,000 for fis-*
6 *cal year 2012, and such sums as may be necessary for each*
7 *fiscal year thereafter to carry out this section. Not to exceed*
8 *\$5,000,000 annually may be used for technical assistance*
9 *program grants.”.*

10 (b) *NATIONAL HEALTH SERVICE CORPS TEACHING*
11 *CAPACITY.—Section 338C(a) of the Public Health Service*
12 *Act (42 U.S.C. 254m(a)) is amended to read as follows:*

13 “(a) *SERVICE IN FULL-TIME CLINICAL PRACTICE.—*
14 *Except as provided in section 338D, each individual who*
15 *has entered into a written contract with the Secretary*
16 *under section 338A or 338B shall provide service in the full-*
17 *time clinical practice of such individual’s profession as a*
18 *member of the Corps for the period of obligated service pro-*
19 *vided in such contract. For the purpose of calculating time*
20 *spent in full-time clinical practice under this subsection,*
21 *up to 50 percent of time spent teaching by a member of*
22 *the Corps may be counted toward his or her service obliga-*
23 *tion.”.*

24 (c) *PAYMENTS TO QUALIFIED TEACHING HEALTH*
25 *CENTERS.—Part D of title III of the Public Health Service*

1 *Act (42 U.S.C. 254b et seq.) is amended by adding at the*
2 *end the following:*

3 **“Subpart XI—Support of Graduate Medical**

4 **Education in Qualified Teaching Health Centers**

5 **“SEC. 340H. PROGRAM OF PAYMENTS TO TEACHING**
6 **HEALTH CENTERS THAT OPERATE GRADUATE**
7 **MEDICAL EDUCATION PROGRAMS.**

8 “(a) *PAYMENTS.*—*Subject to subsection (h)(2), the Sec-*
9 *retary shall make payments under this section for direct*
10 *expenses and for indirect expenses to qualified teaching*
11 *health centers that are listed as sponsoring institutions by*
12 *the relevant accrediting body for expansion of existing or*
13 *establishment of new approved graduate medical residency*
14 *training programs.*

15 “(b) *AMOUNT OF PAYMENTS.*—

16 “(1) *IN GENERAL.*—*Subject to paragraph (2), the*
17 *amounts payable under this section to qualified teach-*
18 *ing health centers for an approved graduate medical*
19 *residency training program for a fiscal year are each*
20 *of the following amounts:*

21 “(A) *DIRECT EXPENSE AMOUNT.*—*The*
22 *amount determined under subsection (c) for di-*
23 *rect expenses associated with sponsoring ap-*
24 *proved graduate medical residency training pro-*
25 *grams.*

1 “(B) *INDIRECT EXPENSE AMOUNT.*—*The*
2 *amount determined under subsection (d) for in-*
3 *direct expenses associated with the additional*
4 *costs relating to teaching residents in such pro-*
5 *grams.*

6 “(2) *CAPPED AMOUNT.*—

7 “(A) *IN GENERAL.*—*The total of the pay-*
8 *ments made to qualified teaching health centers*
9 *under paragraph (1)(A) or paragraph (1)(B) in*
10 *a fiscal year shall not exceed the amount of*
11 *funds appropriated under subsection (g) for such*
12 *payments for that fiscal year.*

13 “(B) *LIMITATION.*—*The Secretary shall*
14 *limit the funding of full-time equivalent resi-*
15 *dents in order to ensure the direct and indirect*
16 *payments as determined under subsection (c)*
17 *and (d) do not exceed the total amount of funds*
18 *appropriated in a fiscal year under subsection*
19 *(g).*

20 “(c) *AMOUNT OF PAYMENT FOR DIRECT GRADUATE*
21 *MEDICAL EDUCATION.*—

22 “(1) *IN GENERAL.*—*The amount determined*
23 *under this subsection for payments to qualified teach-*
24 *ing health centers for direct graduate expenses relat-*

1 *ing to approved graduate medical residency training*
 2 *programs for a fiscal year is equal to the product of—*

3 *“(A) the updated national per resident*
 4 *amount for direct graduate medical education,*
 5 *as determined under paragraph (2); and*

6 *“(B) the average number of full-time equiv-*
 7 *alent residents in the teaching health center’s*
 8 *graduate approved medical residency training*
 9 *programs as determined under section*
 10 *1886(h)(4) of the Social Security Act (without*
 11 *regard to the limitation under subparagraph (F)*
 12 *of such section) during the fiscal year.*

13 *“(2) UPDATED NATIONAL PER RESIDENT*
 14 *AMOUNT FOR DIRECT GRADUATE MEDICAL EDU-*
 15 *CATION.—The updated per resident amount for direct*
 16 *graduate medical education for a qualified teaching*
 17 *health center for a fiscal year is an amount deter-*
 18 *mined as follows:*

19 *“(A) DETERMINATION OF QUALIFIED*
 20 *TEACHING HEALTH CENTER PER RESIDENT*
 21 *AMOUNT.—The Secretary shall compute for each*
 22 *individual qualified teaching health center a per*
 23 *resident amount—*

24 *“(i) by dividing the national average*
 25 *per resident amount computed under section*

1 340E(c)(2)(D) into a wage-related portion
2 and a non-wage related portion by applying
3 the proportion determined under subpara-
4 graph (B);

5 “(ii) by multiplying the wage-related
6 portion by the factor applied under section
7 1886(d)(3)(E) of the Social Security Act
8 (but without application of section 4410 of
9 the Balanced Budget Act of 1997 (42 U.S.C.
10 1395ww note)) during the preceding fiscal
11 year for the teaching health center’s area;
12 and

13 “(iii) by adding the non-wage-related
14 portion to the amount computed under
15 clause (i).

16 “(B) *UPDATING RATE.*—The Secretary shall
17 update such per resident amount for each such
18 qualified teaching health center as determined
19 appropriate by the Secretary.

20 “(d) *AMOUNT OF PAYMENT FOR INDIRECT MEDICAL*
21 *EDUCATION.*—

22 “(1) *IN GENERAL.*—The amount determined
23 under this subsection for payments to qualified teach-
24 ing health centers for indirect expenses associated
25 with the additional costs of teaching residents for a

1 *fiscal year is equal to an amount determined appro-*
2 *priate by the Secretary.*

3 “(2) *FACTORS.*—*In determining the amount*
4 *under paragraph (1), the Secretary shall—*

5 “(A) *evaluate indirect training costs rel-*
6 *ative to supporting a primary care residency*
7 *program in qualified teaching health centers;*
8 *and*

9 “(B) *based on this evaluation, assure that*
10 *the aggregate of the payments for indirect ex-*
11 *penses under this section and the payments for*
12 *direct graduate medical education as determined*
13 *under subsection (c) in a fiscal year do not ex-*
14 *ceed the amount appropriated for such expenses*
15 *as determined in subsection (g).*

16 “(3) *INTERIM PAYMENT.*—*Before the Secretary*
17 *makes a payment under this subsection pursuant to*
18 *a determination of indirect expenses under paragraph*
19 *(1), the Secretary may provide to qualified teaching*
20 *health centers a payment, in addition to any pay-*
21 *ment made under subsection (c), for expected indirect*
22 *expenses associated with the additional costs of teach-*
23 *ing residents for a fiscal year, based on an estimate*
24 *by the Secretary.*

1 “(e) *CLARIFICATION REGARDING RELATIONSHIP TO*
2 *OTHER PAYMENTS FOR GRADUATE MEDICAL EDU-*
3 *CATION.—Payments under this section—*

4 “(1) *shall be in addition to any payments—*

5 “(A) *for the indirect costs of medical edu-*
6 *cation under section 1886(d)(5)(B) of the Social*
7 *Security Act;*

8 “(B) *for direct graduate medical education*
9 *costs under section 1886(h) of such Act; and*

10 “(C) *for direct costs of medical education*
11 *under section 1886(k) of such Act;*

12 “(2) *shall not be taken into account in applying*
13 *the limitation on the number of total full-time equiva-*
14 *lent residents under subparagraphs (F) and (G) of*
15 *section 1886(h)(4) of such Act and clauses (v), (vi)(I),*
16 *and (vi)(II) of section 1886(d)(5)(B) of such Act for*
17 *the portion of time that a resident rotates to a hos-*
18 *pital; and*

19 “(3) *shall not include the time in which a resi-*
20 *dent is counted toward full-time equivalency by a hos-*
21 *pital under paragraph (2) or under section*
22 *1886(d)(5)(B)(iv) of the Social Security Act, section*
23 *1886(h)(4)(E) of such Act, or section 340E of this*
24 *Act.*

1 “(f) *RECONCILIATION.*—*The Secretary shall determine*
2 *any changes to the number of residents reported by a hos-*
3 *pital in the application of the hospital for the current fiscal*
4 *year to determine the final amount payable to the hospital*
5 *for the current fiscal year for both direct expense and indi-*
6 *rect expense amounts. Based on such determination, the*
7 *Secretary shall recoup any overpayments made to pay any*
8 *balance due to the extent possible. The final amount so de-*
9 *termined shall be considered a final intermediary deter-*
10 *mination for the purposes of section 1878 of the Social Se-*
11 *curity Act and shall be subject to administrative and judi-*
12 *cial review under that section in the same manner as the*
13 *amount of payment under section 1186(d) of such Act is*
14 *subject to review under such section.*

15 “(g) *FUNDING.*—*To carry out this section, there are*
16 *appropriated such sums as may be necessary, not to exceed*
17 *\$230,000,000, for the period of fiscal years 2011 through*
18 *2015.*

19 “(h) *ANNUAL REPORTING REQUIRED.*—

20 “(1) *ANNUAL REPORT.*—*The report required*
21 *under this paragraph for a qualified teaching health*
22 *center for a fiscal year is a report that includes (in*
23 *a form and manner specified by the Secretary) the*
24 *following information for the residency academic year*
25 *completed immediately prior to such fiscal year:*

1 “(A) *The types of primary care resident ap-*
2 *proved training programs that the qualified*
3 *teaching health center provided for residents.*

4 “(B) *The number of approved training posi-*
5 *tions for residents described in paragraph (4).*

6 “(C) *The number of residents described in*
7 *paragraph (4) who completed their residency*
8 *training at the end of such residency academic*
9 *year and care for vulnerable populations living*
10 *in underserved areas.*

11 “(D) *Other information as deemed appro-*
12 *priate by the Secretary.*

13 “(2) *AUDIT AUTHORITY; LIMITATION ON PAY-*
14 *MENT.—*

15 “(A) *AUDIT AUTHORITY.—The Secretary*
16 *may audit a qualified teaching health center to*
17 *ensure the accuracy and completeness of the in-*
18 *formation submitted in a report under para-*
19 *graph (1).*

20 “(B) *LIMITATION ON PAYMENT.—A teaching*
21 *health center may only receive payment in a cost*
22 *reporting period for a number of such resident*
23 *positions that is greater than the base level of*
24 *primary care resident positions, as determined*
25 *by the Secretary. For purposes of this subpara-*

1 *graph, the 'base level of primary care residents'*
2 *for a teaching health center is the level of such*
3 *residents as of a base period.*

4 “(3) *REDUCTION IN PAYMENT FOR FAILURE TO*
5 *REPORT.—*

6 “(A) *IN GENERAL.—The amount payable*
7 *under this section to a qualified teaching health*
8 *center for a fiscal year shall be reduced by at*
9 *least 25 percent if the Secretary determines*
10 *that—*

11 “(i) *the qualified teaching health center*
12 *has failed to provide the Secretary, as an*
13 *addendum to the qualified teaching health*
14 *center's application under this section for*
15 *such fiscal year, the report required under*
16 *paragraph (1) for the previous fiscal year;*
17 *or*

18 “(ii) *such report fails to provide com-*
19 *plete and accurate information required*
20 *under any subparagraph of such paragraph.*

21 “(B) *NOTICE AND OPPORTUNITY TO PRO-*
22 *VIDE ACCURATE AND MISSING INFORMATION.—*
23 *Before imposing a reduction under subparagraph*
24 *(A) on the basis of a qualified teaching health*
25 *center's failure to provide complete and accurate*

1 *information described in subparagraph (A)(ii),*
2 *the Secretary shall provide notice to the teaching*
3 *health center of such failure and the Secretary’s*
4 *intention to impose such reduction and shall*
5 *provide the teaching health center with the op-*
6 *portunity to provide the required information*
7 *within the period of 30 days beginning on the*
8 *date of such notice. If the teaching health center*
9 *provides such information within such period, no*
10 *reduction shall be made under subparagraph (A)*
11 *on the basis of the previous failure to provide*
12 *such information.*

13 “(4) *RESIDENTS.*—*The residents described in*
14 *this paragraph are those who are in part-time or full-*
15 *time equivalent resident training positions at a quali-*
16 *fied teaching health center in any approved graduate*
17 *medical residency training program.*

18 “(i) *REGULATIONS.*—*The Secretary shall promulgate*
19 *regulations to carry out this section.*

20 “(j) *DEFINITIONS.*—*In this section:*

21 “(1) *APPROVED GRADUATE MEDICAL RESIDENCY*
22 *TRAINING PROGRAM.*—*The term ‘approved graduate*
23 *medical residency training program’ means a resi-*
24 *dency or other postgraduate medical training pro-*
25 *gram—*

1 “(A) participation in which may be counted
2 toward certification in a specialty or sub-
3 specialty and includes formal postgraduate
4 training programs in geriatric medicine ap-
5 proved by the Secretary; and

6 “(B) that meets criteria for accreditation
7 (as established by the Accreditation Council for
8 Graduate Medical Education, the American Os-
9 teopathic Association, or the American Dental
10 Association).

11 “(2) PRIMARY CARE RESIDENCY PROGRAM.—The
12 term ‘primary care residency program’ has the mean-
13 ing given that term in section 749A.

14 “(3) QUALIFIED TEACHING HEALTH CENTER.—
15 The term ‘qualified teaching health center’ has the
16 meaning given the term ‘teaching health center’ in
17 section 749A.”.

18 **SEC. 5509. GRADUATE NURSE EDUCATION DEMONSTRA-**
19 **TION.**

20 (a) *IN GENERAL*.—

21 (1) *ESTABLISHMENT*.—

22 (A) *IN GENERAL*.—The Secretary shall es-
23 tablish a graduate nurse education demonstra-
24 tion under title XVIII of the Social Security Act
25 (42 U.S.C. 1395 et seq.) under which an eligible

1 *hospital may receive payment for the hospital's*
2 *reasonable costs (described in paragraph (2)) for*
3 *the provision of qualified clinical training to ad-*
4 *vance practice nurses.*

5 *(B) NUMBER.—The demonstration shall in-*
6 *clude up to 5 eligible hospitals.*

7 *(C) WRITTEN AGREEMENTS.—Eligible hos-*
8 *pitals selected to participate in the demonstra-*
9 *tion shall enter into written agreements pursu-*
10 *ant to subsection (b) in order to reimburse the el-*
11 *igible partners of the hospital the share of the*
12 *costs attributable to each partner.*

13 *(2) COSTS DESCRIBED.—*

14 *(A) IN GENERAL.—Subject to subparagraph*
15 *(B) and subsection (d), the costs described in this*
16 *paragraph are the reasonable costs (as described*
17 *in section 1861(v) of the Social Security Act (42*
18 *U.S.C. 1395x(v))) of each eligible hospital for the*
19 *clinical training costs (as determined by the Sec-*
20 *retary) that are attributable to providing ad-*
21 *vanced practice registered nurses with qualified*
22 *training.*

23 *(B) LIMITATION.—With respect to a year,*
24 *the amount reimbursed under subparagraph (A)*
25 *may not exceed the amount of costs described in*

1 *subparagraph (A) that are attributable to an in-*
2 *crease in the number of advanced practice reg-*
3 *istered nurses enrolled in a program that pro-*
4 *vides qualified training during the year and for*
5 *which the hospital is being reimbursed under the*
6 *demonstration, as compared to the average num-*
7 *ber of advanced practice registered nurses who*
8 *graduated in each year during the period begin-*
9 *ning on January 1, 2006, and ending on Decem-*
10 *ber 31, 2010 (as determined by the Secretary)*
11 *from the graduate nursing education program*
12 *operated by the applicable school of nursing that*
13 *is an eligible partner of the hospital for purposes*
14 *of the demonstration.*

15 (3) *WAIVER AUTHORITY.—The Secretary may*
16 *waive such requirements of titles XI and XVIII of the*
17 *Social Security Act as may be necessary to carry out*
18 *the demonstration.*

19 (4) *ADMINISTRATION.—Chapter 35 of title 44,*
20 *United States Code, shall not apply to the implemen-*
21 *tation of this section.*

22 (b) *WRITTEN AGREEMENTS WITH ELIGIBLE PART-*
23 *NERS.—No payment shall be made under this section to an*
24 *eligible hospital unless such hospital has in effect a written*

1 *agreement with the eligible partners of the hospital. Such*
2 *written agreement shall describe, at a minimum—*

3 *(1) the obligations of the eligible partners with*
4 *respect to the provision of qualified training; and*

5 *(2) the obligation of the eligible hospital to reim-*
6 *burse such eligible partners applicable (in a timely*
7 *manner) for the costs of such qualified training at-*
8 *tributable to partner.*

9 *(c) EVALUATION.—Not later than October 17, 2017, the*
10 *Secretary shall submit to Congress a report on the dem-*
11 *onstration. Such report shall include an analysis of the fol-*
12 *lowing:*

13 *(1) The growth in the number of advanced prac-*
14 *tice registered nurses with respect to a specific base*
15 *year as a result of the demonstration.*

16 *(2) The growth for each of the specialties de-*
17 *scribed in subparagraphs (A) through (D) of sub-*
18 *section (e)(1).*

19 *(3) The costs to the Medicare program under*
20 *title XVIII of the Social Security Act as a result of*
21 *the demonstration.*

22 *(4) Other items the Secretary determines appro-*
23 *priate and relevant.*

24 *(d) FUNDING.—*

1 (1) *IN GENERAL.*—*There is hereby appropriated*
2 *to the Secretary, out of any funds in the Treasury not*
3 *otherwise appropriated, \$50,000,000 for each of fiscal*
4 *years 2012 through 2015 to carry out this section, in-*
5 *cluding the design, implementation, monitoring, and*
6 *evaluation of the demonstration.*

7 (2) *PRORATION.*—*If the aggregate payments to*
8 *eligible hospitals under the demonstration exceed*
9 *\$50,000,000 for a fiscal year described in paragraph*
10 *(1), the Secretary shall prorate the payment amounts*
11 *to each eligible hospital in order to ensure that the*
12 *aggregate payments do not exceed such amount.*

13 (3) *WITHOUT FISCAL YEAR LIMITATION.*—
14 *Amounts appropriated under this subsection shall re-*
15 *main available without fiscal year limitation.*

16 (e) *DEFINITIONS.*—*In this section:*

17 (1) *ADVANCED PRACTICE REGISTERED NURSE.*—
18 *The term “advanced practice registered nurse” in-*
19 *cludes the following:*

20 (A) *A clinical nurse specialist (as defined*
21 *in subsection (aa)(5) of section 1861 of the So-*
22 *cial Security Act (42 U.S.C. 1395x)).*

23 (B) *A nurse practitioner (as defined in such*
24 *subsection).*

1 (C) *A certified registered nurse anesthetist*
2 *(as defined in subsection (bb)(2) of such section).*

3 (D) *A certified nurse-midwife (as defined in*
4 *subsection (gg)(2) of such section).*

5 (2) *APPLICABLE NON-HOSPITAL COMMUNITY-*
6 *BASED CARE SETTING.—The term “applicable non-*
7 *hospital community-based care setting” means a non-*
8 *hospital community-based care setting which has en-*
9 *tered into a written agreement (as described in sub-*
10 *section (b)) with the eligible hospital participating in*
11 *the demonstration. Such settings include Federally*
12 *qualified health centers, rural health clinics, and*
13 *other non-hospital settings as determined appropriate*
14 *by the Secretary.*

15 (3) *APPLICABLE SCHOOL OF NURSING.—The*
16 *term “applicable school of nursing” means an accred-*
17 *ited school of nursing (as defined in section 801 of the*
18 *Public Health Service Act) which has entered into a*
19 *written agreement (as described in subsection (b))*
20 *with the eligible hospital participating in the dem-*
21 *onstration.*

22 (4) *DEMONSTRATION.—The term “demonstra-*
23 *tion” means the graduate nurse education demonstra-*
24 *tion established under subsection (a).*

1 (5) *ELIGIBLE HOSPITAL.*—*The term “eligible*
2 *hospital” means a hospital (as defined in subsection*
3 *(e) of section 1861 of the Social Security Act (42*
4 *U.S.C. 1395x)) or a critical access hospital (as de-*
5 *defined in subsection (mm)(1) of such section) that has*
6 *a written agreement in place with—*

7 (A) *1 or more applicable schools of nursing;*

8 *and*

9 (B) *2 or more applicable non-hospital com-*
10 *munity-based care settings.*

11 (6) *ELIGIBLE PARTNERS.*—*The term “eligible*
12 *partners” includes the following:*

13 (A) *An applicable non-hospital community-*
14 *based care setting.*

15 (B) *An applicable school of nursing.*

16 (7) *QUALIFIED TRAINING.*—

17 (A) *IN GENERAL.*—*The term “qualified*
18 *training” means training—*

19 (i) *that provides an advanced practice*
20 *registered nurse with the clinical skills nec-*
21 *essary to provide primary care, preventive*
22 *care, transitional care, chronic care man-*
23 *agement, and other services appropriate for*
24 *individuals entitled to, or enrolled for, bene-*
25 *fits under part A of title XVIII of the Social*

1 *Security Act, or enrolled under part B of*
 2 *such title; and*

3 *(ii) subject to subparagraph (B), at*
 4 *least half of which is provided in a non-hos-*
 5 *pital community-based care setting.*

6 *(B) WAIVER OF REQUIREMENT HALF OF*
 7 *TRAINING BE PROVIDED IN NON-HOSPITAL COM-*
 8 *MUNITY-BASED CARE SETTING IN CERTAIN*
 9 *AREAS.—The Secretary may waive the require-*
 10 *ment under subparagraph (A)(ii) with respect to*
 11 *eligible hospitals located in rural or medically*
 12 *underserved areas.*

13 *(8) SECRETARY.—The term “Secretary” means*
 14 *the Secretary of Health and Human Services.*

15 ***Subtitle G—Improving Access to***
 16 ***Health Care Services***

17 ***SEC. 5601. SPENDING FOR FEDERALLY QUALIFIED HEALTH***
 18 ***CENTERS (FQHCS).***

19 *(a) IN GENERAL.—Section 330(r) of the Public Health*
 20 *Service Act (42 U.S.C. 254b(r)) is amended by striking*
 21 *paragraph (1) and inserting the following:*

22 *“(1) GENERAL AMOUNTS FOR GRANTS.—For the*
 23 *purpose of carrying out this section, in addition to*
 24 *the amounts authorized to be appropriated under sub-*

1 *section (d), there is authorized to be appropriated the*
2 *following:*

3 *“(A) For fiscal year 2010, \$2,988,821,592.*

4 *“(B) For fiscal year 2011, \$3,862,107,440.*

5 *“(C) For fiscal year 2012, \$4,990,553,440.*

6 *“(D) For fiscal year 2013, \$6,448,713,307.*

7 *“(E) For fiscal year 2014, \$7,332,924,155.*

8 *“(F) For fiscal year 2015, \$8,332,924,155.*

9 *“(G) For fiscal year 2016, and each subse-*
10 *quent fiscal year, the amount appropriated for*
11 *the preceding fiscal year adjusted by the product*
12 *of—*

13 *“(i) one plus the average percentage*
14 *increase in costs incurred per patient*
15 *served; and*

16 *“(ii) one plus the average percentage*
17 *increase in the total number of patients*
18 *served.”.*

19 *(b) RULE OF CONSTRUCTION.—Section 330(r) of the*
20 *Public Health Service Act (42 U.S.C. 254b(r)) is amended*
21 *by adding at the end the following:*

22 *“(4) RULE OF CONSTRUCTION WITH RESPECT TO*
23 *RURAL HEALTH CLINICS.—*

24 *“(A) IN GENERAL.—Nothing in this section*
25 *shall be construed to prevent a community health*

1 center from contracting with a Federally cer-
2 tified rural health clinic (as defined in section
3 1861(aa)(2) of the Social Security Act), a low-
4 volume hospital (as defined for purposes of sec-
5 tion 1886 of such Act), a critical access hospital,
6 a sole community hospital (as defined for pur-
7 poses of section 1886(d)(5)(D)(iii) of such Act),
8 or a medicare-dependent share hospital (as de-
9 fined for purposes of section 1886(d)(5)(G)(iv) of
10 such Act) for the delivery of primary health care
11 services that are available at the clinic or hos-
12 pital to individuals who would otherwise be eli-
13 gible for free or reduced cost care if that indi-
14 vidual were able to obtain that care at the com-
15 munity health center. Such services may be lim-
16 ited in scope to those primary health care serv-
17 ices available in that clinic or hospitals.

18 “(B) ASSURANCES.—In order for a clinic or
19 hospital to receive funds under this section
20 through a contract with a community health cen-
21 ter under subparagraph (A), such clinic or hos-
22 pital shall establish policies to ensure—

23 “(i) nondiscrimination based on the
24 ability of a patient to pay; and

1 “(ii) the establishment of a sliding fee
2 scale for low-income patients.”.

3 **SEC. 5602. NEGOTIATED RULEMAKING FOR DEVELOPMENT**
4 **OF METHODOLOGY AND CRITERIA FOR DES-**
5 **IGNATING MEDICALLY UNDERSERVED POPU-**
6 **LATIONS AND HEALTH PROFESSIONS SHORT-**
7 **AGE AREAS.**

8 (a) *ESTABLISHMENT.*—

9 (1) *IN GENERAL.*—*The Secretary of Health and*
10 *Human Services (in this section referred to as the*
11 *“Secretary”)* shall establish, through a negotiated
12 *rulemaking process under subchapter 3 of chapter 5*
13 *of title 5, United States Code, a comprehensive meth-*
14 *odology and criteria for designation of—*

15 (A) *medically underserved populations in*
16 *accordance with section 330(b)(3) of the Public*
17 *Health Service Act (42 U.S.C. 254b(b)(3));*

18 (B) *health professions shortage areas under*
19 *section 332 of the Public Health Service Act (42*
20 *U.S.C. 254e).*

21 (2) *FACTORS TO CONSIDER.*—*In establishing the*
22 *methodology and criteria under paragraph (1), the*
23 *Secretary—*

24 (A) *shall consult with relevant stakeholders*
25 *who will be significantly affected by a rule (such*

1 *as national, State and regional organizations*
2 *representing affected entities), State health of-*
3 *fices, community organizations, health centers*
4 *and other affected entities, and other interested*
5 *parties; and*

6 *(B) shall take into account—*

7 *(i) the timely availability and appro-*
8 *priateness of data used to determine a des-*
9 *ignation to potential applicants for such*
10 *designations;*

11 *(ii) the impact of the methodology and*
12 *criteria on communities of various types*
13 *and on health centers and other safety net*
14 *providers;*

15 *(iii) the degree of ease or difficulty that*
16 *will face potential applicants for such des-*
17 *ignations in securing the necessary data;*
18 *and*

19 *(iv) the extent to which the method-*
20 *ology accurately measures various barriers*
21 *that confront individuals and population*
22 *groups in seeking health care services.*

23 *(b) PUBLICATION OF NOTICE.—In carrying out the*
24 *rulemaking process under this subsection, the Secretary*
25 *shall publish the notice provided for under section 564(a)*

1 of title 5, United States Code, by not later than 45 days
2 after the date of the enactment of this Act.

3 (c) *TARGET DATE FOR PUBLICATION OF RULE.*—As
4 part of the notice under subsection (b), and for purposes
5 of this subsection, the “target date for publication”, as re-
6 ferred to in section 564(a)(5) of title 5, United States Code,
7 shall be July 1, 2010.

8 (d) *APPOINTMENT OF NEGOTIATED RULEMAKING COM-*
9 *MITTEE AND FACILITATOR.*—The Secretary shall provide
10 for—

11 (1) the appointment of a negotiated rulemaking
12 committee under section 565(a) of title 5, United
13 States Code, by not later than 30 days after the end
14 of the comment period provided for under section
15 564(c) of such title; and

16 (2) the nomination of a facilitator under section
17 566(c) of such title 5 by not later than 10 days after
18 the date of appointment of the committee.

19 (e) *PRELIMINARY COMMITTEE REPORT.*—The nego-
20 tiated rulemaking committee appointed under subsection
21 (d) shall report to the Secretary, by not later than April
22 1, 2010, regarding the committee’s progress on achieving
23 a consensus with regard to the rulemaking proceeding and
24 whether such consensus is likely to occur before one month
25 before the target date for publication of the rule. If the com-

1 *mittee reports that the committee has failed to make signifi-*
2 *cant progress toward such consensus or is unlikely to reach*
3 *such consensus by the target date, the Secretary may termi-*
4 *nate such process and provide for the publication of a rule*
5 *under this section through such other methods as the Sec-*
6 *retary may provide.*

7 (f) *FINAL COMMITTEE REPORT.*—*If the committee is*
8 *not terminated under subsection (e), the rulemaking com-*
9 *mittee shall submit a report containing a proposed rule by*
10 *not later than one month before the target publication date.*

11 (g) *INTERIM FINAL EFFECT.*—*The Secretary shall*
12 *publish a rule under this section in the Federal Register*
13 *by not later than the target publication date. Such rule*
14 *shall be effective and final immediately on an interim basis,*
15 *but is subject to change and revision after public notice and*
16 *opportunity for a period (of not less than 90 days) for pub-*
17 *lic comment. In connection with such rule, the Secretary*
18 *shall specify the process for the timely review and approval*
19 *of applications for such designations pursuant to such rules*
20 *and consistent with this section.*

21 (h) *PUBLICATION OF RULE AFTER PUBLIC COM-*
22 *MENT.*—*The Secretary shall provide for consideration of*
23 *such comments and republication of such rule by not later*
24 *than 1 year after the target publication date.*

1 **SEC. 5603. REAUTHORIZATION OF THE WAKEFIELD EMER-**
2 **GENCY MEDICAL SERVICES FOR CHILDREN**
3 **PROGRAM.**

4 *Section 1910 of the Public Health Service Act (42*
5 *U.S.C. 300w-9) is amended—*

6 *(1) in subsection (a), by striking “3-year period*
7 *(with an optional 4th year” and inserting “4-year*
8 *period (with an optional 5th year”;* and

9 *(2) in subsection (d)—*

10 *(A) by striking “and such sums” and in-*
11 *serting “such sums”;* and

12 *(B) by inserting before the period the fol-*
13 *lowing: “, \$25,000,000 for fiscal year 2010,*
14 *\$26,250,000 for fiscal year 2011, \$27,562,500 for*
15 *fiscal year 2012, \$28,940,625 for fiscal year*
16 *2013, and \$30,387,656 for fiscal year 2014”.*

17 **SEC. 5604. CO-LOCATING PRIMARY AND SPECIALTY CARE IN**
18 **COMMUNITY-BASED MENTAL HEALTH SET-**
19 **TINGS.**

20 *Subpart 3 of part B of title V of the Public Health*
21 *Service Act (42 U.S.C. 290bb-31 et seq.) is amended by*
22 *adding at the end the following:*

23 **“SEC. 520K. AWARDS FOR CO-LOCATING PRIMARY AND SPE-**
24 **CIALTY CARE IN COMMUNITY-BASED MENTAL**
25 **HEALTH SETTINGS.**

26 *“(a) DEFINITIONS.—In this section:*

1 “(1) *ELIGIBLE ENTITY*.—The term ‘eligible enti-
2 ty’ means a qualified community mental health pro-
3 gram defined under section 1913(b)(1).

4 “(2) *SPECIAL POPULATIONS*.—The term ‘special
5 populations’ means adults with mental illnesses who
6 have co-occurring primary care conditions and chron-
7 ic diseases.

8 “(b) *PROGRAM AUTHORIZED*.—The Secretary, acting
9 through the Administrator shall award grants and coopera-
10 tive agreements to eligible entities to establish demonstra-
11 tion projects for the provision of coordinated and integrated
12 services to special populations through the co-location of
13 primary and specialty care services in community-based
14 mental and behavioral health settings.

15 “(c) *APPLICATION*.—To be eligible to receive a grant
16 or cooperative agreement under this section, an eligible enti-
17 ty shall submit an application to the Administrator at such
18 time, in such manner, and accompanied by such informa-
19 tion as the Administrator may require, including a descrip-
20 tion of partnerships, or other arrangements with local pri-
21 mary care providers, including community health centers,
22 to provide services to special populations.

23 “(d) *USE OF FUNDS*.—

1 “(1) *IN GENERAL.*—*For the benefit of special*
2 *populations, an eligible entity shall use funds award-*
3 *ed under this section for—*

4 “(A) *the provision, by qualified primary*
5 *care professionals, of on site primary care serv-*
6 *ices;*

7 “(B) *reasonable costs associated with medi-*
8 *cally necessary referrals to qualified specialty*
9 *care professionals, other coordinators of care or,*
10 *if permitted by the terms of the grant or coopera-*
11 *tive agreement, by qualified specialty care pro-*
12 *fessionals on a reasonable cost basis on site at*
13 *the eligible entity;*

14 “(C) *information technology required to ac-*
15 *commodate the clinical needs of primary and*
16 *specialty care professionals; or*

17 “(D) *facility modifications needed to bring*
18 *primary and specialty care professionals on site*
19 *at the eligible entity.*

20 “(2) *LIMITATION.*—*Not to exceed 15 percent of*
21 *grant or cooperative agreement funds may be used for*
22 *activities described in subparagraphs (C) and (D) of*
23 *paragraph (1).*

24 “(e) *EVALUATION.*—*Not later than 90 days after a*
25 *grant or cooperative agreement awarded under this section*

1 *expires, an eligible entity shall submit to the Secretary the*
2 *results of an evaluation to be conducted by the entity con-*
3 *cerning the effectiveness of the activities carried out under*
4 *the grant or agreement.*

5 “(f) *AUTHORIZATION OF APPROPRIATIONS.—There are*
6 *authorized to be appropriated to carry out this section,*
7 *\$50,000,000 for fiscal year 2010 and such sums as may be*
8 *necessary for each of fiscal years 2011 through 2014.*”.

9 **SEC. 5605. KEY NATIONAL INDICATORS.**

10 (a) *DEFINITIONS.—In this section:*

11 (1) *ACADEMY.—The term “Academy” means the*
12 *National Academy of Sciences.*

13 (2) *COMMISSION.—The term “Commission”*
14 *means the Commission on Key National Indicators*
15 *established under subsection (b).*

16 (3) *INSTITUTE.—The term “Institute” means a*
17 *Key National Indicators Institute as designated*
18 *under subsection (c)(3).*

19 (b) *COMMISSION ON KEY NATIONAL INDICATORS.—*

20 (1) *ESTABLISHMENT.—There is established a*
21 *“Commission on Key National Indicators”.*

22 (2) *MEMBERSHIP.—*

23 (A) *NUMBER AND APPOINTMENT.—The*
24 *Commission shall be composed of 8 members, to*
25 *be appointed equally by the majority and minor-*

1 *ity leaders of the Senate and the Speaker and*
2 *minority leader of the House of Representatives.*

3 (B) *PROHIBITED APPOINTMENTS.*—*Members*
4 *of the Commission shall not include Members of*
5 *Congress or other elected Federal, State, or local*
6 *government officials.*

7 (C) *QUALIFICATIONS.*—*In making appoint-*
8 *ments under subparagraph (A), the majority and*
9 *minority leaders of the Senate and the Speaker*
10 *and minority leader of the House of Representa-*
11 *tives shall appoint individuals who have shown*
12 *a dedication to improving civic dialogue and de-*
13 *cision-making through the wide use of scientific*
14 *evidence and factual information.*

15 (D) *PERIOD OF APPOINTMENT.*—*Each mem-*
16 *ber of the Commission shall be appointed for a*
17 *2-year term, except that 1 initial appointment*
18 *shall be for 3 years. Any vacancies shall not af-*
19 *fect the power and duties of the Commission but*
20 *shall be filled in the same manner as the original*
21 *appointment and shall last only for the remain-*
22 *der of that term.*

23 (E) *DATE.*—*Members of the Commission*
24 *shall be appointed by not later than 30 days*
25 *after the date of enactment of this Act.*

1 (F) *INITIAL ORGANIZING PERIOD.*—Not
2 later than 60 days after the date of enactment of
3 this Act, the Commission shall develop and im-
4 plement a schedule for completion of the review
5 and reports required under subsection (d).

6 (G) *CO-CHAIRPERSONS.*—The Commission
7 shall select 2 Co-Chairpersons from among its
8 members.

9 (c) *DUTIES OF THE COMMISSION.*—

10 (1) *IN GENERAL.*—The Commission shall—

11 (A) *conduct comprehensive oversight of a*
12 *newly established key national indicators system*
13 *consistent with the purpose described in this sub-*
14 *section;*

15 (B) *make recommendations on how to im-*
16 *prove the key national indicators system;*

17 (C) *coordinate with Federal Government*
18 *users and information providers to assure access*
19 *to relevant and quality data; and*

20 (D) *enter into contracts with the Academy.*

21 (2) *REPORTS.*—

22 (A) *ANNUAL REPORT TO CONGRESS.*—Not
23 later than 1 year after the selection of the 2 Co-
24 Chairpersons of the Commission, and each subse-
25 quent year thereafter, the Commission shall pre-

1 *pare and submit to the appropriate Committees*
2 *of Congress and the President a report that con-*
3 *tains a detailed statement of the recommenda-*
4 *tions, findings, and conclusions of the Commis-*
5 *sion on the activities of the Academy and a des-*
6 *ignated Institute related to the establishment of*
7 *a Key National Indicator System.*

8 *(B) ANNUAL REPORT TO THE ACADEMY.—*

9 *(i) IN GENERAL.—Not later than 6*
10 *months after the selection of the 2 Co-Chair-*
11 *persons of the Commission, and each subse-*
12 *quent year thereafter, the Commission shall*
13 *prepare and submit to the Academy and a*
14 *designated Institute a report making rec-*
15 *ommendations concerning potential issue*
16 *areas and key indicators to be included in*
17 *the Key National Indicators.*

18 *(ii) LIMITATION.—The Commission*
19 *shall not have the authority to direct the*
20 *Academy or, if established, the Institute, to*
21 *adopt, modify, or delete any key indicators.*

22 *(3) CONTRACT WITH THE NATIONAL ACADEMY OF*
23 *SCIENCES.—*

24 *(A) IN GENERAL.—As soon as practicable*
25 *after the selection of the 2 Co-Chairpersons of the*

1 *Commission, the Co-Chairpersons shall enter*
2 *into an arrangement with the National Academy*
3 *of Sciences under which the Academy shall—*

4 *(i) review available public and private*
5 *sector research on the selection of a set of*
6 *key national indicators;*

7 *(ii) determine how best to establish a*
8 *key national indicator system for the*
9 *United States, by either creating its own*
10 *institutional capability or designating an*
11 *independent private nonprofit organization*
12 *as an Institute to implement a key national*
13 *indicator system;*

14 *(iii) if the Academy designates an*
15 *independent Institute under clause (ii), pro-*
16 *vide scientific and technical advice to the*
17 *Institute and create an appropriate govern-*
18 *ance mechanism that balances Academy in-*
19 *volvement and the independence of the In-*
20 *stitute; and*

21 *(iv) provide an annual report to the*
22 *Commission addressing scientific and tech-*
23 *nical issues related to the key national indi-*
24 *cator system and, if established, the Insti-*

1 *tute, and governance of the Institute’s budg-*
2 *et and operations.*

3 *(B) PARTICIPATION.—In executing the ar-*
4 *range ment under subparagraph (A), the Na-*
5 *tional Academy of Sciences shall convene a*
6 *multi-sector, multi-disciplinary process to define*
7 *major scientific and technical issues associated*
8 *with developing, maintaining, and evolving a*
9 *Key National Indicator System and, if an Insti-*
10 *tute is established, to provide it with scientific*
11 *and technical advice.*

12 *(C) ESTABLISHMENT OF A KEY NATIONAL*
13 *INDICATOR SYSTEM.—*

14 *(i) IN GENERAL.—In executing the ar-*
15 *range ment under subparagraph (A), the Na-*
16 *tional Academy of Sciences shall enable the*
17 *establishment of a key national indicator*
18 *system by—*

19 *(I) creating its own institutional*
20 *capability; or*

21 *(II) partnering with an inde-*
22 *pendent private nonprofit organization*
23 *as an Institute to implement a key na-*
24 *tional indicator system.*

1 (ii) *INSTITUTE*.—If the Academy des-
2 ignates an Institute under clause (i)(II),
3 such Institute shall be a non-profit entity
4 (as defined for purposes of section 501(c)(3)
5 of the Internal Revenue Code of 1986) with
6 an educational mission, a governance struc-
7 ture that emphasizes independence, and
8 characteristics that make such entity appro-
9 priate for establishing a key national indi-
10 cator system.

11 (iii) *RESPONSIBILITIES*.—Either the
12 Academy or the Institute designated under
13 clause (i)(II) shall be responsible for the fol-
14 lowing:

15 (I) *Identifying and selecting issue*
16 *areas to be represented by the key na-*
17 *tional indicators.*

18 (II) *Identifying and selecting the*
19 *measures used for key national indica-*
20 *tors within the issue areas under sub-*
21 *clause (I).*

22 (III) *Identifying and selecting*
23 *data to populate the key national indi-*
24 *cators described under subclause (II).*

1 (IV) *Designing, publishing, and*
2 *maintaining a public website that con-*
3 *tains a freely accessible database allow-*
4 *ing public access to the key national*
5 *indicators.*

6 (V) *Developing a quality assur-*
7 *ance framework to ensure rigorous and*
8 *independent processes and the selection*
9 *of quality data.*

10 (VI) *Developing a budget for the*
11 *construction and management of a sus-*
12 *tainable, adaptable, and evolving key*
13 *national indicator system that reflects*
14 *all Commission funding of Academy*
15 *and, if an Institute is established, In-*
16 *stitute activities.*

17 (VII) *Reporting annually to the*
18 *Commission regarding its selection of*
19 *issue areas, key indicators, data, and*
20 *progress toward establishing a web-ac-*
21 *cessible database.*

22 (VIII) *Responding directly to the*
23 *Commission in response to any Com-*
24 *mission recommendations and to the*

1 *Academy regarding any inquiries by*
2 *the Academy.*

3 *(iv) GOVERNANCE.—Upon the estab-*
4 *lishment of a key national indicator system,*
5 *the Academy shall create an appropriate*
6 *governance mechanism that incorporates*
7 *advisory and control functions. If an Insti-*
8 *tute is designated under clause (i)(II), the*
9 *governance mechanism shall balance appro-*
10 *priate Academy involvement and the inde-*
11 *pendence of the Institute.*

12 *(v) MODIFICATION AND CHANGES.—*
13 *The Academy shall retain the sole discre-*
14 *tion, at any time, to alter its approach to*
15 *the establishment of a key national indi-*
16 *cator system or, if an Institute is designated*
17 *under clause (i)(II), to alter any aspect of*
18 *its relationship with the Institute or to des-*
19 *ignate a different non-profit entity to serve*
20 *as the Institute.*

21 *(vi) CONSTRUCTION.—Nothing in this*
22 *section shall be construed to limit the abil-*
23 *ity of the Academy or the Institute des-*
24 *ignated under clause (i)(II) to receive pri-*
25 *vate funding for activities related to the es-*

1 *tablishment of a key national indicator sys-*
2 *tem.*

3 *(D) ANNUAL REPORT.—As part of the ar-*
4 *rangement under subparagraph (A), the Na-*
5 *tional Academy of Sciences shall, not later than*
6 *270 days after the date of enactment of this Act,*
7 *and annually thereafter, submit to the Co-Chair-*
8 *persons of the Commission a report that contains*
9 *the findings and recommendations of the Acad-*
10 *emy.*

11 *(d) GOVERNMENT ACCOUNTABILITY OFFICE STUDY*
12 *AND REPORT.—*

13 *(1) GAO STUDY.—The Comptroller General of*
14 *the United States shall conduct a study of previous*
15 *work conducted by all public agencies, private organi-*
16 *zations, or foreign countries with respect to best prac-*
17 *tices for a key national indicator system. The study*
18 *shall be submitted to the appropriate authorizing*
19 *committees of Congress.*

20 *(2) GAO FINANCIAL AUDIT.—If an Institute is*
21 *established under this section, the Comptroller Gen-*
22 *eral shall conduct an annual audit of the financial*
23 *statements of the Institute, in accordance with gen-*
24 *erally accepted government auditing standards and*

1 submit a report on such audit to the Commission and
2 the appropriate authorizing committees of Congress.

3 (3) *GAO PROGRAMMATIC REVIEW.*—The Comptroller General of the United States shall conduct programmatic assessments of the Institute established under this section as determined necessary by the Comptroller General and report the findings to the Commission and to the appropriate authorizing committees of Congress.

10 (e) *AUTHORIZATION OF APPROPRIATIONS.*—

11 (1) *IN GENERAL.*—There are authorized to be appropriated to carry out the purposes of this section, \$10,000,000 for fiscal year 2010, and \$7,500,000 for each of fiscal year 2011 through 2018.

15 (2) *AVAILABILITY.*—Amounts appropriated under paragraph (1) shall remain available until expended.

18 **Subtitle H—General Provisions**

19 **SEC. 5701. REPORTS.**

20 (a) *REPORTS BY SECRETARY OF HEALTH AND HUMAN SERVICES.*—On an annual basis, the Secretary of Health and Human Services shall submit to the appropriate Committees of Congress a report on the activities carried out under the amendments made by this title, and the effectiveness of such activities.

1 (b) *REPORTS BY RECIPIENTS OF FUNDS.*—*The Sec-*
 2 *retary of Health and Human Services may require, as a*
 3 *condition of receiving funds under the amendments made*
 4 *by this title, that the entity receiving such award submit*
 5 *to such Secretary such reports as the such Secretary may*
 6 *require on activities carried out with such award, and the*
 7 *effectiveness of such activities.*

8 ***TITLE VI—TRANSPARENCY AND***
 9 ***PROGRAM INTEGRITY***
 10 ***Subtitle A—Physician Ownership***
 11 ***and Other Transparency***

12 ***SEC. 6001. LIMITATION ON MEDICARE EXCEPTION TO THE***
 13 ***PROHIBITION ON CERTAIN PHYSICIAN RE-***
 14 ***FERRALS FOR HOSPITALS.***

15 (a) *IN GENERAL.*—*Section 1877 of the Social Security*
 16 *Act (42 U.S.C. 1395nn) is amended—*

17 (1) *in subsection (d)(2)—*

18 (A) *in subparagraph (A), by striking “and”*
 19 *at the end;*

20 (B) *in subparagraph (B), by striking the*
 21 *period at the end and inserting “; and”; and*

22 (C) *by adding at the end the following new*
 23 *subparagraph:*

1 “(C) in the case where the entity is a hos-
2 pital, the hospital meets the requirements of
3 paragraph (3)(D).”;

4 (2) in subsection (d)(3)—

5 (A) in subparagraph (B), by striking “and”
6 at the end;

7 (B) in subparagraph (C), by striking the
8 period at the end and inserting “; and”; and

9 (C) by adding at the end the following new
10 subparagraph:

11 “(D) the hospital meets the requirements de-
12 scribed in subsection (i)(1) not later than 18
13 months after the date of the enactment of this
14 subparagraph.”; and

15 (3) by adding at the end the following new sub-
16 section:

17 “(i) *REQUIREMENTS FOR HOSPITALS TO QUALIFY FOR*
18 *RURAL PROVIDER AND HOSPITAL EXCEPTION TO OWNER-*
19 *SHIP OR INVESTMENT PROHIBITION.*—

20 “(1) *REQUIREMENTS DESCRIBED.*—For purposes
21 of subsection (d)(3)(D), the requirements described in
22 this paragraph for a hospital are as follows:

23 “(A) *PROVIDER AGREEMENT.*—The hospital
24 had—

1 “(i) *physician ownership or investment*
2 *on February 1, 2010; and*

3 “(ii) *a provider agreement under sec-*
4 *tion 1866 in effect on such date.*

5 “(B) *LIMITATION ON EXPANSION OF FACIL-*
6 *ITY CAPACITY.—Except as provided in para-*
7 *graph (3), the number of operating rooms, proce-*
8 *dure rooms, and beds for which the hospital is li-*
9 *icensed at any time on or after the date of the en-*
10 *actment of this subsection is no greater than the*
11 *number of operating rooms, procedure rooms,*
12 *and beds for which the hospital is licensed as of*
13 *such date.*

14 “(C) *PREVENTING CONFLICTS OF INTER-*
15 *EST.—*

16 “(i) *The hospital submits to the Sec-*
17 *retary an annual report containing a de-*
18 *tailed description of—*

19 “(I) *the identity of each physician*
20 *owner or investor and any other own-*
21 *ers or investors of the hospital; and*

22 “(II) *the nature and extent of all*
23 *ownership and investment interests in*
24 *the hospital.*

1 “(ii) *The hospital has procedures in*
2 *place to require that any referring physi-*
3 *cian owner or investor discloses to the pa-*
4 *tient being referred, by a time that permits*
5 *the patient to make a meaningful decision*
6 *regarding the receipt of care, as determined*
7 *by the Secretary—*

8 “(I) *the ownership or investment*
9 *interest, as applicable, of such referring*
10 *physician in the hospital; and*

11 “(II) *if applicable, any such own-*
12 *ership or investment interest of the*
13 *treating physician.*

14 “(iii) *The hospital does not condition*
15 *any physician ownership or investment in-*
16 *terests either directly or indirectly on the*
17 *physician owner or investor making or in-*
18 *fluencing referrals to the hospital or other-*
19 *wise generating business for the hospital.*

20 “(iv) *The hospital discloses the fact*
21 *that the hospital is partially owned or in-*
22 *vested in by physicians—*

23 “(I) *on any public website for the*
24 *hospital; and*

1 “(II) in any public advertising
2 for the hospital.

3 “(D) ENSURING BONA FIDE INVESTMENT.—

4 “(i) The percentage of the total value of
5 the ownership or investment interests held
6 in the hospital, or in an entity whose assets
7 include the hospital, by physician owners or
8 investors in the aggregate does not exceed
9 such percentage as of the date of enactment
10 of this subsection.

11 “(ii) Any ownership or investment in-
12 terests that the hospital offers to a physician
13 owner or investor are not offered on more
14 favorable terms than the terms offered to a
15 person who is not a physician owner or in-
16 vestor.

17 “(iii) The hospital (or any owner or
18 investor in the hospital) does not directly or
19 indirectly provide loans or financing for
20 any investment in the hospital by a physi-
21 cian owner or investor.

22 “(iv) The hospital (or any owner or in-
23 vestor in the hospital) does not directly or
24 indirectly guarantee a loan, make a pay-
25 ment toward a loan, or otherwise subsidize

1 *a loan, for any individual physician owner*
2 *or investor or group of physician owners or*
3 *investors that is related to acquiring any*
4 *ownership or investment interest in the hos-*
5 *pital.*

6 “(v) *Ownership or investment returns*
7 *are distributed to each owner or investor in*
8 *the hospital in an amount that is directly*
9 *proportional to the ownership or investment*
10 *interest of such owner or investor in the*
11 *hospital.*

12 “(vi) *Physician owners and investors*
13 *do not receive, directly or indirectly, any*
14 *guaranteed receipt of or right to purchase*
15 *other business interests related to the hos-*
16 *pital, including the purchase or lease of any*
17 *property under the control of other owners*
18 *or investors in the hospital or located near*
19 *the premises of the hospital.*

20 “(vii) *The hospital does not offer a*
21 *physician owner or investor the opportunity*
22 *to purchase or lease any property under the*
23 *control of the hospital or any other owner*
24 *or investor in the hospital on more favor-*
25 *able terms than the terms offered to an indi-*

1 *vidual who is not a physician owner or in-*
2 *vestor.*

3 “(E) *PATIENT SAFETY.*—

4 “(i) *Insofar as the hospital admits a*
5 *patient and does not have any physician*
6 *available on the premises to provide services*
7 *during all hours in which the hospital is*
8 *providing services to such patient, before*
9 *admitting the patient—*

10 “(I) *the hospital discloses such*
11 *fact to a patient; and*

12 “(II) *following such disclosure, the*
13 *hospital receives from the patient a*
14 *signed acknowledgment that the pa-*
15 *tient understands such fact.*

16 “(ii) *The hospital has the capacity*
17 *to—*

18 “(I) *provide assessment and ini-*
19 *tial treatment for patients; and*

20 “(II) *refer and transfer patients*
21 *to hospitals with the capability to treat*
22 *the needs of the patient involved.*

23 “(F) *LIMITATION ON APPLICATION TO CER-*
24 *TAIN CONVERTED FACILITIES.*—*The hospital was*
25 *not converted from an ambulatory surgical cen-*

1 *ter to a hospital on or after the date of enact-*
2 *ment of this subsection.*

3 “(2) *PUBLICATION OF INFORMATION RE-*
4 *PORTED.—The Secretary shall publish, and update on*
5 *an annual basis, the information submitted by hos-*
6 *pitals under paragraph (1)(C)(i) on the public Inter-*
7 *net website of the Centers for Medicare & Medicaid*
8 *Services.*

9 “(3) *EXCEPTION TO PROHIBITION ON EXPANSION*
10 *OF FACILITY CAPACITY.—*

11 “(A) *PROCESS.—*

12 “(i) *ESTABLISHMENT.—The Secretary*
13 *shall establish and implement a process*
14 *under which an applicable hospital (as de-*
15 *defined in subparagraph (E)) may apply for*
16 *an exception from the requirement under*
17 *paragraph (1)(B).*

18 “(ii) *OPPORTUNITY FOR COMMUNITY*
19 *INPUT.—The process under clause (i) shall*
20 *provide individuals and entities in the com-*
21 *munity in which the applicable hospital ap-*
22 *plying for an exception is located with the*
23 *opportunity to provide input with respect to*
24 *the application.*

1 “(iii) *TIMING FOR IMPLEMENTATION.*—
2 *The Secretary shall implement the process*
3 *under clause (i) on August 1, 2011.*

4 “(iv) *REGULATIONS.*—*Not later than*
5 *July 1, 2011, the Secretary shall promul-*
6 *gate regulations to carry out the process*
7 *under clause (i).*

8 “(B) *FREQUENCY.*—*The process described*
9 *in subparagraph (A) shall permit an applicable*
10 *hospital to apply for an exception up to once*
11 *every 2 years.*

12 “(C) *PERMITTED INCREASE.*—

13 “(i) *IN GENERAL.*—*Subject to clause*
14 *(ii) and subparagraph (D), an applicable*
15 *hospital granted an exception under the*
16 *process described in subparagraph (A) may*
17 *increase the number of operating rooms,*
18 *procedure rooms, and beds for which the ap-*
19 *licable hospital is licensed above the base-*
20 *line number of operating rooms, procedure*
21 *rooms, and beds of the applicable hospital*
22 *(or, if the applicable hospital has been*
23 *granted a previous exception under this*
24 *paragraph, above the number of operating*
25 *rooms, procedure rooms, and beds for which*

1 *the hospital is licensed after the application*
2 *of the most recent increase under such an*
3 *exception).*

4 “(ii) *100 PERCENT INCREASE LIMITA-*
5 *TION.—The Secretary shall not permit an*
6 *increase in the number of operating rooms,*
7 *procedure rooms, and beds for which an ap-*
8 *plicable hospital is licensed under clause (i)*
9 *to the extent such increase would result in*
10 *the number of operating rooms, procedure*
11 *rooms, and beds for which the applicable*
12 *hospital is licensed exceeding 200 percent of*
13 *the baseline number of operating rooms,*
14 *procedure rooms, and beds of the applicable*
15 *hospital.*

16 “(iii) *BASELINE NUMBER OF OPER-*
17 *ATING ROOMS, PROCEDURE ROOMS, AND*
18 *BEDS.—In this paragraph, the term ‘base-*
19 *line number of operating rooms, procedure*
20 *rooms, and beds’ means the number of oper-*
21 *ating rooms, procedure rooms, and beds for*
22 *which the applicable hospital is licensed as*
23 *of the date of enactment of this subsection.*

24 “(D) *INCREASE LIMITED TO FACILITIES ON*
25 *THE MAIN CAMPUS OF THE HOSPITAL.—Any in-*

1 crease in the number of operating rooms, proce-
2 dure rooms, and beds for which an applicable
3 hospital is licensed pursuant to this paragraph
4 may only occur in facilities on the main campus
5 of the applicable hospital.

6 “(E) *APPLICABLE HOSPITAL*.—In this para-
7 graph, the term ‘applicable hospital’ means a
8 hospital—

9 “(i) that is located in a county in
10 which the percentage increase in the popu-
11 lation during the most recent 5-year period
12 (as of the date of the application under sub-
13 paragraph (A)) is at least 150 percent of
14 the percentage increase in the population
15 growth of the State in which the hospital is
16 located during that period, as estimated by
17 Bureau of the Census;

18 “(ii) whose annual percent of total in-
19 patient admissions that represent inpatient
20 admissions under the program under title
21 XIX is equal to or greater than the average
22 percent with respect to such admissions for
23 all hospitals located in the county in which
24 the hospital is located;

1 “(iii) that does not discriminate
2 against beneficiaries of Federal health care
3 programs and does not permit physicians
4 practicing at the hospital to discriminate
5 against such beneficiaries;

6 “(iv) that is located in a State in
7 which the average bed capacity in the State
8 is less than the national average bed capac-
9 ity; and

10 “(v) that has an average bed occu-
11 pancy rate that is greater than the average
12 bed occupancy rate in the State in which
13 the hospital is located.

14 “(F) *PROCEDURE ROOMS.*—In this sub-
15 section, the term ‘procedure rooms’ includes
16 rooms in which catheterizations, angiographies,
17 angiograms, and endoscopies are performed, ex-
18 cept such term shall not include emergency
19 rooms or departments (exclusive of rooms in
20 which catheterizations, angiographies,
21 angiograms, and endoscopies are performed).

22 “(G) *PUBLICATION OF FINAL DECISIONS.*—
23 Not later than 60 days after receiving a complete
24 application under this paragraph, the Secretary

1 *shall publish in the Federal Register the final de-*
2 *cision with respect to such application.*

3 “(H) *LIMITATION ON REVIEW.*—*There shall*
4 *be no administrative or judicial review under*
5 *section 1869, section 1878, or otherwise of the*
6 *process under this paragraph (including the es-*
7 *tablishment of such process).*

8 “(4) *COLLECTION OF OWNERSHIP AND INVEST-*
9 *MENT INFORMATION.*—*For purposes of subparagraphs*
10 *(A)(i) and (D)(i) of paragraph (1), the Secretary*
11 *shall collect physician ownership and investment in-*
12 *formation for each hospital.*

13 “(5) *PHYSICIAN OWNER OR INVESTOR DE-*
14 *FINED.*—*For purposes of this subsection, the term*
15 *‘physician owner or investor’ means a physician (or*
16 *an immediate family member of such physician) with*
17 *a direct or an indirect ownership or investment inter-*
18 *est in the hospital.*

19 “(6) *CLARIFICATION.*—*Nothing in this subsection*
20 *shall be construed as preventing the Secretary from*
21 *revoking a hospital’s provider agreement if not in*
22 *compliance with regulations implementing section*
23 *1866.”.*

24 “(b) *ENFORCEMENT.*—

1 (1) *ENSURING COMPLIANCE.*—*The Secretary of*
2 *Health and Human Services shall establish policies*
3 *and procedures to ensure compliance with the require-*
4 *ments described in subsection (i)(1) of section 1877 of*
5 *the Social Security Act, as added by subsection*
6 *(a)(3), beginning on the date such requirements first*
7 *apply. Such policies and procedures may include un-*
8 *announced site reviews of hospitals.*

9 (2) *AUDITS.*—*Beginning not later than Novem-*
10 *ber 1, 2011, the Secretary of Health and Human*
11 *Services shall conduct audits to determine if hospitals*
12 *violate the requirements referred to in paragraph (1).*

13 **SEC. 6002. TRANSPARENCY REPORTS AND REPORTING OF**
14 **PHYSICIAN OWNERSHIP OR INVESTMENT IN-**
15 **TERESTS.**

16 *Part A of title XI of the Social Security Act (42 U.S.C.*
17 *1301 et seq.) is amended by inserting after section 1128F*
18 *the following new section:*

19 **“SEC. 1128G. TRANSPARENCY REPORTS AND REPORTING OF**
20 **PHYSICIAN OWNERSHIP OR INVESTMENT IN-**
21 **TERESTS.**

22 **“(a) TRANSPARENCY REPORTS.—**

23 **“(1) PAYMENTS OR OTHER TRANSFERS OF**
24 **VALUE.—**

1 “(A) *IN GENERAL.*—On March 31, 2013,
2 and on the 90th day of each calendar year begin-
3 ning thereafter, any applicable manufacturer
4 that provides a payment or other transfer of
5 value to a covered recipient (or to an entity or
6 individual at the request of or designated on be-
7 half of a covered recipient), shall submit to the
8 Secretary, in such electronic form as the Sec-
9 retary shall require, the following information
10 with respect to the preceding calendar year:

11 “(i) *The name of the covered recipient.*

12 “(ii) *The business address of the cov-
13 ered recipient and, in the case of a covered
14 recipient who is a physician, the specialty
15 and National Provider Identifier of the cov-
16 ered recipient.*

17 “(iii) *The amount of the payment or
18 other transfer of value.*

19 “(iv) *The dates on which the payment
20 or other transfer of value was provided to
21 the covered recipient.*

22 “(v) *A description of the form of the
23 payment or other transfer of value, indi-
24 cated (as appropriate for all that apply)
25 as—*

1 “(I) cash or a cash equivalent;

2 “(II) in-kind items or services;

3 “(III) stock, a stock option, or
4 any other ownership interest, dividend,
5 profit, or other return on investment;
6 or

7 “(IV) any other form of payment
8 or other transfer of value (as defined
9 by the Secretary).

10 “(vi) A description of the nature of the
11 payment or other transfer of value, indi-
12 cated (as appropriate for all that apply)
13 as—

14 “(I) consulting fees;

15 “(II) compensation for services
16 other than consulting;

17 “(III) honoraria;

18 “(IV) gift;

19 “(V) entertainment;

20 “(VI) food;

21 “(VII) travel (including the speci-
22 fied destinations);

23 “(VIII) education;

24 “(IX) research;

25 “(X) charitable contribution;

1 “(XI) *royalty or license;*

2 “(XII) *current or prospective*
3 *ownership or investment interest;*

4 “(XIII) *direct compensation for*
5 *-serving as faculty or as a speaker for*
6 *a medical education program;*

7 “(XIV) *grant; or*

8 “(XV) *any other nature of the*
9 *payment or other transfer of value (as*
10 *defined by the Secretary).*

11 “(vii) *If the payment or other transfer*
12 *of value is related to marketing, education,*
13 *or research specific to a covered drug, de-*
14 *vice, biological, or medical supply, the name*
15 *of that covered drug, device, biological, or*
16 *medical supply.*

17 “(viii) *Any other categories of informa-*
18 *tion regarding the payment or other trans-*
19 *fer of value the Secretary determines appro-*
20 *priate.*

21 “(B) *SPECIAL RULE FOR CERTAIN PAY-*
22 *MENTS OR OTHER TRANSFERS OF VALUE.—In*
23 *the case where an applicable manufacturer pro-*
24 *vides a payment or other transfer of value to an*
25 *entity or individual at the request of or des-*

1 *ignated on behalf of a covered recipient, the ap-*
2 *plicable manufacturer shall disclose that pay-*
3 *ment or other transfer of value under the name*
4 *of the covered recipient.*

5 “(2) *PHYSICIAN OWNERSHIP.*—*In addition to the*
6 *requirement under paragraph (1)(A), on March 31,*
7 *2013, and on the 90th day of each calendar year be-*
8 *ginning thereafter, any applicable manufacturer or*
9 *applicable group purchasing organization shall sub-*
10 *mit to the Secretary, in such electronic form as the*
11 *Secretary shall require, the following information re-*
12 *garding any ownership or investment interest (other*
13 *than an ownership or investment interest in a pub-*
14 *licly traded security and mutual fund, as described in*
15 *section 1877(c)) held by a physician (or an imme-*
16 *diately family member of such physician (as defined for*
17 *purposes of section 1877(a))) in the applicable manu-*
18 *facturer or applicable group purchasing organization*
19 *during the preceding year:*

20 “(A) *The dollar amount invested by each*
21 *physician holding such an ownership or invest-*
22 *ment interest.*

23 “(B) *The value and terms of each such own-*
24 *ership or investment interest.*

1 “(C) Any payment or other transfer of
2 value provided to a physician holding such an
3 ownership or investment interest (or to an entity
4 or individual at the request of or designated on
5 behalf of a physician holding such an ownership
6 or investment interest), including the informa-
7 tion described in clauses (i) through (viii) of
8 paragraph (1)(A), except that in applying such
9 clauses, ‘physician’ shall be substituted for ‘cov-
10 ered recipient’ each place it appears.

11 “(D) Any other information regarding the
12 ownership or investment interest the Secretary
13 determines appropriate.

14 “(b) PENALTIES FOR NONCOMPLIANCE.—

15 “(1) FAILURE TO REPORT.—

16 “(A) IN GENERAL.—Subject to subpara-
17 graph (B) except as provided in paragraph (2),
18 any applicable manufacturer or applicable group
19 purchasing organization that fails to submit in-
20 formation required under subsection (a) in a
21 timely manner in accordance with rules or regu-
22 lations promulgated to carry out such subsection,
23 shall be subject to a civil money penalty of not
24 less than \$1,000, but not more than \$10,000, for
25 each payment or other transfer of value or own-

1 *ership or investment interest not reported as re-*
2 *quired under such subsection. Such penalty shall*
3 *be imposed and collected in the same manner as*
4 *civil money penalties under subsection (a) of sec-*
5 *tion 1128A are imposed and collected under that*
6 *section.*

7 “(B) *LIMITATION.*—*The total amount of*
8 *civil money penalties imposed under subpara-*
9 *graph (A) with respect to each annual submis-*
10 *sion of information under subsection (a) by an*
11 *applicable manufacturer or applicable group*
12 *purchasing organization shall not exceed*
13 *\$150,000.*

14 “(2) *KNOWING FAILURE TO REPORT.*—

15 “(A) *IN GENERAL.*—*Subject to subpara-*
16 *graph (B), any applicable manufacturer or ap-*
17 *plicable group purchasing organization that*
18 *knowingly fails to submit information required*
19 *under subsection (a) in a timely manner in ac-*
20 *cordance with rules or regulations promulgated*
21 *to carry out such subsection, shall be subject to*
22 *a civil money penalty of not less than \$10,000,*
23 *but not more than \$100,000, for each payment or*
24 *other transfer of value or ownership or invest-*
25 *ment interest not reported as required under*

1 *such subsection. Such penalty shall be imposed*
2 *and collected in the same manner as civil money*
3 *penalties under subsection (a) of section 1128A*
4 *are imposed and collected under that section.*

5 *“(B) LIMITATION.—The total amount of*
6 *civil money penalties imposed under subpara-*
7 *graph (A) with respect to each annual submis-*
8 *sion of information under subsection (a) by an*
9 *applicable manufacturer or applicable group*
10 *purchasing organization shall not exceed*
11 *\$1,000,000.*

12 *“(3) USE OF FUNDS.—Funds collected by the*
13 *Secretary as a result of the imposition of a civil*
14 *money penalty under this subsection shall be used to*
15 *carry out this section.*

16 *“(c) PROCEDURES FOR SUBMISSION OF INFORMATION*
17 *AND PUBLIC AVAILABILITY.—*

18 *“(1) IN GENERAL.—*

19 *“(A) ESTABLISHMENT.—Not later than Oc-*
20 *tober 1, 2011, the Secretary shall establish proce-*
21 *dures—*

22 *“(i) for applicable manufacturers and*
23 *applicable group purchasing organizations*
24 *to submit information to the Secretary*
25 *under subsection (a); and*

1 “(i) for the Secretary to make such in-
2 formation submitted available to the public.

3 “(B) *DEFINITION OF TERMS.*—The proce-
4 dures established under subparagraph (A) shall
5 provide for the definition of terms (other than
6 those terms defined in subsection (e)), as appro-
7 priate, for purposes of this section.

8 “(C) *PUBLIC AVAILABILITY.*—Except as
9 provided in subparagraph (E), the procedures es-
10 tablished under subparagraph (A)(i) shall en-
11 sure that, not later than September 30, 2013,
12 and on June 30 of each calendar year beginning
13 thereafter, the information submitted under sub-
14 section (a) with respect to the preceding calendar
15 year is made available through an Internet
16 website that—

17 “(i) is searchable and is in a format
18 that is clear and understandable;

19 “(ii) contains information that is pre-
20 sented by the name of the applicable manu-
21 facturer or applicable group purchasing or-
22 ganization, the name of the covered recipi-
23 ent, the business address of the covered re-
24 cipient, the specialty of the covered recipi-
25 ent, the value of the payment or other trans-

1 *fer of value, the date on which the payment*
2 *or other transfer of value was provided to*
3 *the covered recipient, the form of the pay-*
4 *ment or other transfer of value, indicated*
5 *(as appropriate) under subsection*
6 *(a)(1)(A)(v), the nature of the payment or*
7 *other transfer of value, indicated (as appro-*
8 *priate) under subsection (a)(1)(A)(vi), and*
9 *the name of the covered drug, device, bio-*
10 *logical, or medical supply, as applicable;*

11 *“(iii) contains information that is able*
12 *to be easily aggregated and downloaded;*

13 *“(iv) contains a description of any en-*
14 *forcement actions taken to carry out this*
15 *section, including any penalties imposed*
16 *under subsection (b), during the preceding*
17 *year;*

18 *“(v) contains background information*
19 *on industry-physician relationships;*

20 *“(vi) in the case of information sub-*
21 *mitted with respect to a payment or other*
22 *transfer of value described in subparagraph*
23 *(E)(i), lists such information separately*
24 *from the other information submitted under*
25 *subsection (a) and designates such sepa-*

1 *rately listed information as funding for*
2 *clinical research;*

3 *“(vii) contains any other information*
4 *the Secretary determines would be helpful to*
5 *the average consumer;*

6 *“(viii) does not contain the National*
7 *Provider Identifier of the covered recipient,*
8 *and*

9 *“(ix) subject to subparagraph (D), pro-*
10 *vides the applicable manufacturer, applica-*
11 *ble group purchasing organization, or cov-*
12 *ered recipient an opportunity to review and*
13 *submit corrections to the information sub-*
14 *mitted with respect to the applicable manu-*
15 *facturer, applicable group purchasing orga-*
16 *nization, or covered recipient, respectively,*
17 *for a period of not less than 45 days prior*
18 *to such information being made available to*
19 *the public.*

20 *“(D) CLARIFICATION OF TIME PERIOD FOR*
21 *REVIEW AND CORRECTIONS.—In no case may the*
22 *45-day period for review and submission of cor-*
23 *rections to information under subparagraph*
24 *(C)(ix) prevent such information from being*
25 *made available to the public in accordance with*

1 *the dates described in the matter preceding*
2 *clause (i) in subparagraph (C).*

3 “(E) *DELAYED PUBLICATION FOR PAY-*
4 *MENTS MADE PURSUANT TO PRODUCT RESEARCH*
5 *OR DEVELOPMENT AGREEMENTS AND CLINICAL*
6 *INVESTIGATIONS.—*

7 “(i) *IN GENERAL.—In the case of in-*
8 *formation submitted under subsection (a)*
9 *with respect to a payment or other transfer*
10 *of value made to a covered recipient by an*
11 *applicable manufacturer pursuant to a*
12 *product research or development agreement*
13 *for services furnished in connection with re-*
14 *search on a potential new medical tech-*
15 *nology or a new application of an existing*
16 *medical technology or the development of a*
17 *new drug, device, biological, or medical sup-*
18 *ply, or by an applicable manufacturer in*
19 *connection with a clinical investigation re-*
20 *garding a new drug, device, biological, or*
21 *medical supply, the procedures established*
22 *under subparagraph (A)(ii) shall provide*
23 *that such information is made available to*
24 *the public on the first date described in the*

1 matter preceding clause (i) in subparagraph
2 (C) after the earlier of the following:

3 “(I) The date of the approval or
4 clearance of the covered drug, device,
5 biological, or medical supply by the
6 Food and Drug Administration.

7 “(II) Four calendar years after
8 the date such payment or other trans-
9 fer of value was made.

10 “(ii) CONFIDENTIALITY OF INFORMA-
11 TION PRIOR TO PUBLICATION.—Information
12 described in clause (i) shall be considered
13 confidential and shall not be subject to dis-
14 closure under section 552 of title 5, United
15 States Code, or any other similar Federal,
16 State, or local law, until on or after the
17 date on which the information is made
18 available to the public under such clause.

19 “(2) CONSULTATION.—In establishing the proce-
20 dures under paragraph (1), the Secretary shall con-
21 sult with the Inspector General of the Department of
22 Health and Human Services, affected industry, con-
23 sumers, consumer advocates, and other interested par-
24 ties in order to ensure that the information made

1 *available to the public under such paragraph is pre-*
2 *sented in the appropriate overall context.*

3 “(d) *ANNUAL REPORTS AND RELATION TO STATE*
4 *LAWS.—*

5 “(1) *ANNUAL REPORT TO CONGRESS.—Not later*
6 *than April 1 of each year beginning with 2013, the*
7 *Secretary shall submit to Congress a report that in-*
8 *cludes the following:*

9 “(A) *The information submitted under sub-*
10 *section (a) during the preceding year, aggregated*
11 *for each applicable manufacturer and applicable*
12 *group purchasing organization that submitted*
13 *such information during such year (except, in*
14 *the case of information submitted with respect to*
15 *a payment or other transfer of value described in*
16 *subsection (c)(1)(E)(i), such information shall be*
17 *included in the first report submitted to Congress*
18 *after the date on which such information is made*
19 *available to the public under such subsection).*

20 “(B) *A description of any enforcement ac-*
21 *tions taken to carry out this section, including*
22 *any penalties imposed under subsection (b), dur-*
23 *ing the preceding year.*

24 “(2) *ANNUAL REPORTS TO STATES.—Not later*
25 *than September 30, 2013 and on June 30 of each cal-*

1 *endar year thereafter, the Secretary shall submit to*
2 *States a report that includes a summary of the infor-*
3 *mation submitted under subsection (a) during the*
4 *preceding year with respect to covered recipients in*
5 *the State (except, in the case of information submitted*
6 *with respect to a payment or other transfer of value*
7 *described in subsection (c)(1)(E)(i), such information*
8 *shall be included in the first report submitted to*
9 *States after the date on which such information is*
10 *made available to the public under such subsection).*

11 *“(3) RELATION TO STATE LAWS.—*

12 *“(A) IN GENERAL.—In the case of a pay-*
13 *ment or other transfer of value provided by an*
14 *applicable manufacturer that is received by a*
15 *covered recipient (as defined in subsection (e))*
16 *on or after January 1, 2012, subject to subpara-*
17 *graph (B), the provisions of this section shall*
18 *preempt any statute or regulation of a State or*
19 *of a political subdivision of a State that requires*
20 *an applicable manufacturer (as so defined) to*
21 *disclose or report, in any format, the type of in-*
22 *formation (as described in subsection (a)) re-*
23 *garding such payment or other transfer of value.*

24 *“(B) NO PREEMPTION OF ADDITIONAL RE-*
25 *QUIREMENTS.—Subparagraph (A) shall not pre-*

1 *empt any statute or regulation of a State or of*
2 *a political subdivision of a State that requires*
3 *the disclosure or reporting of information—*

4 “(i) *not of the type required to be dis-*
5 *closed or reported under this section;*

6 “(ii) *described in subsection (e)(10)(B),*
7 *except in the case of information described*
8 *in clause (i) of such subsection;*

9 “(iii) *by any person or entity other*
10 *than an applicable manufacturer (as so de-*
11 *fined) or a covered recipient (as defined in*
12 *subsection (e)); or*

13 “(iv) *to a Federal, State, or local gov-*
14 *ernmental agency for public health surveil-*
15 *lance, investigation, or other public health*
16 *purposes or health oversight purposes.*

17 “(C) *Nothing in subparagraph (A) shall be*
18 *construed to limit the discovery or admissibility*
19 *of information described in such subparagraph*
20 *in a criminal, civil, or administrative pro-*
21 *ceeding.*

22 “(4) *CONSULTATION.—The Secretary shall con-*
23 *sult with the Inspector General of the Department of*
24 *Health and Human Services on the implementation*
25 *of this section.*

1 “(e) *DEFINITIONS.*—*In this section:*

2 “(1) *APPLICABLE GROUP PURCHASING ORGANI-*
3 *ZATION.*—*The term ‘applicable group purchasing or-*
4 *ganization’ means a group purchasing organization*
5 *(as defined by the Secretary) that purchases, arranges*
6 *for, or negotiates the purchase of a covered drug, de-*
7 *vice, biological, or medical supply which is operating*
8 *in the United States, or in a territory, possession, or*
9 *commonwealth of the United States.*

10 “(2) *APPLICABLE MANUFACTURER.*—*The term*
11 *‘applicable manufacturer’ means a manufacturer of a*
12 *covered drug, device, biological, or medical supply*
13 *which is operating in the United States, or in a terri-*
14 *tory, possession, or commonwealth of the United*
15 *States.*

16 “(3) *CLINICAL INVESTIGATION.*—*The term ‘clin-*
17 *ical investigation’ means any experiment involving 1*
18 *or more human subjects, or materials derived from*
19 *human subjects, in which a drug or device is admin-*
20 *istered, dispensed, or used.*

21 “(4) *COVERED DEVICE.*—*The term ‘covered de-*
22 *vice’ means any device for which payment is avail-*
23 *able under title XVIII or a State plan under title*
24 *XIX or XXI (or a waiver of such a plan).*

1 “(5) *COVERED DRUG, DEVICE, BIOLOGICAL, OR*
2 *MEDICAL SUPPLY.*—*The term ‘covered drug, device,*
3 *biological, or medical supply’ means any drug, bio-*
4 *logical product, device, or medical supply for which*
5 *payment is available under title XVIII or a State*
6 *plan under title XIX or XXI (or a waiver of such a*
7 *plan).*

8 “(6) *COVERED RECIPIENT.*—

9 “(A) *IN GENERAL.*—*Except as provided in*
10 *subparagraph (B), the term ‘covered recipient’*
11 *means the following:*

12 “(i) *A physician.*

13 “(ii) *A teaching hospital.*

14 “(B) *EXCLUSION.*—*Such term does not in-*
15 *clude a physician who is an employee of the ap-*
16 *plicable manufacturer that is required to submit*
17 *information under subsection (a).*

18 “(7) *EMPLOYEE.*—*The term ‘employee’ has the*
19 *meaning given such term in section 1877(h)(2).*

20 “(8) *KNOWINGLY.*—*The term ‘knowingly’ has the*
21 *meaning given such term in section 3729(b) of title*
22 *31, United States Code.*

23 “(9) *MANUFACTURER OF A COVERED DRUG, DE-*
24 *VICE, BIOLOGICAL, OR MEDICAL SUPPLY.*—*The term*
25 *‘manufacturer of a covered drug, device, biological, or*

1 *medical supply*’ means any entity which is engaged
2 in the production, preparation, propagation,
3 compounding, or conversion of a covered drug, device,
4 biological, or medical supply (or any entity under
5 common ownership with such entity which provides
6 assistance or support to such entity with respect to
7 the production, preparation, propagation,
8 compounding, conversion, marketing, promotion, sale,
9 or distribution of a covered drug, device, biological, or
10 *medical supply*).

11 “(10) *PAYMENT OR OTHER TRANSFER OF*
12 *VALUE.*—

13 “(A) *IN GENERAL.*—The term ‘*payment or*
14 *other transfer of value*’ means a transfer of any-
15 thing of value. Such term does not include a
16 transfer of anything of value that is made indi-
17 rectly to a covered recipient through a third
18 party in connection with an activity or service
19 in the case where the applicable manufacturer is
20 unaware of the identity of the covered recipient.

21 “(B) *EXCLUSIONS.*—An applicable manu-
22 facturer shall not be required to submit informa-
23 tion under subsection (a) with respect to the fol-
24 lowing:

1 “(i) A transfer of anything the value of
2 which is less than \$10, unless the aggregate
3 amount transferred to, requested by, or des-
4 ignated on behalf of the covered recipient by
5 the applicable manufacturer during the cal-
6 endar year exceeds \$100. For calendar years
7 after 2012, the dollar amounts specified in
8 the preceding sentence shall be increased by
9 the same percentage as the percentage in-
10 crease in the consumer price index for all
11 urban consumers (all items; U.S. city aver-
12 age) for the 12-month period ending with
13 June of the previous year.

14 “(ii) Product samples that are not in-
15 tended to be sold and are intended for pa-
16 tient use.

17 “(iii) Educational materials that di-
18 rectly benefit patients or are intended for
19 patient use.

20 “(iv) The loan of a covered device for
21 a short-term trial period, not to exceed 90
22 days, to permit evaluation of the covered de-
23 vice by the covered recipient.

24 “(v) Items or services provided under a
25 contractual warranty, including the re-

1 *placement of a covered device, where the*
2 *terms of the warranty are set forth in the*
3 *purchase or lease agreement for the covered*
4 *device.*

5 “(vi) *A transfer of anything of value to*
6 *a covered recipient when the covered recipi-*
7 *ent is a patient and not acting in the pro-*
8 *fessional capacity of a covered recipient.*

9 “(vii) *Discounts (including rebates).*

10 “(viii) *In-kind items used for the pro-*
11 *vision of charity care.*

12 “(ix) *A dividend or other profit dis-*
13 *tribution from, or ownership or investment*
14 *interest in, a publicly traded security and*
15 *mutual fund (as described in section*
16 *1877(c)).*

17 “(x) *In the case of an applicable man-*
18 *ufacturer who offers a self-insured plan,*
19 *payments for the provision of health care to*
20 *employees under the plan.*

21 “(xi) *In the case of a covered recipient*
22 *who is a licensed non-medical professional,*
23 *a transfer of anything of value to the cov-*
24 *ered recipient if the transfer is payment*
25 *solely for the non-medical professional serv-*

1 ices of such licensed non-medical profes-
2 sional.

3 “(xii) *In the case of a covered recipient*
4 *who is a physician, a transfer of anything*
5 *of value to the covered recipient if the trans-*
6 *fer is payment solely for the services of the*
7 *covered recipient with respect to a civil or*
8 *criminal action or an administrative pro-*
9 *ceeding.*

10 “(11) *PHYSICIAN.—The term ‘physician’ has the*
11 *meaning given that term in section 1861(r).”.*

12 **SEC. 6003. DISCLOSURE REQUIREMENTS FOR IN-OFFICE AN-**
13 **CILLARY SERVICES EXCEPTION TO THE PRO-**
14 **HIBITION ON PHYSICIAN SELF-REFERRAL**
15 **FOR CERTAIN IMAGING SERVICES.**

16 (a) *IN GENERAL.—Section 1877(b)(2) of the Social Se-*
17 *curity Act (42 U.S.C. 1395nn(b)(2)) is amended by adding*
18 *at the end the following new sentence: “Such requirements*
19 *shall, with respect to magnetic resonance imaging, com-*
20 *puted tomography, positron emission tomography, and any*
21 *other designated health services specified under subsection*
22 *(h)(6)(D) that the Secretary determines appropriate, in-*
23 *clude a requirement that the referring physician inform the*
24 *individual in writing at the time of the referral that the*
25 *individual may obtain the services for which the individual*

1 *is being referred from a person other than a person de-*
2 *scribed in subparagraph (A)(i) and provide such individual*
3 *with a written list of suppliers (as defined in section*
4 *1861(d)) who furnish such services in the area in which*
5 *such individual resides.”.*

6 (b) *EFFECTIVE DATE.*—*The amendment made by this*
7 *section shall apply to services furnished on or after January*
8 *1, 2010.*

9 **SEC. 6004. PRESCRIPTION DRUG SAMPLE TRANSPARENCY.**

10 *Part A of title XI of the Social Security Act (42 U.S.C.*
11 *1301 et seq.), as amended by section 6002, is amended by*
12 *inserting after section 1128G the following new section:*

13 **“SEC. 1128H. REPORTING OF INFORMATION RELATING TO**
14 **DRUG SAMPLES.**

15 *“(a) IN GENERAL.—Not later than April 1 of each*
16 *year (beginning with 2012), each manufacturer and author-*
17 *ized distributor of record of an applicable drug shall submit*
18 *to the Secretary (in a form and manner specified by the*
19 *Secretary) the following information with respect to the pre-*
20 *ceding year:*

21 *“(1) In the case of a manufacturer or authorized*
22 *distributor of record which makes distributions by*
23 *mail or common carrier under subsection (d)(2) of*
24 *section 503 of the Federal Food, Drug, and Cosmetic*
25 *Act (21 U.S.C. 353), the identity and quantity of*

1 *drug samples requested and the identity and quantity*
2 *of drug samples distributed under such subsection*
3 *during that year, aggregated by—*

4 *“(A) the name, address, professional des-*
5 *ignation, and signature of the practitioner mak-*
6 *ing the request under subparagraph (A)(i) of*
7 *such subsection, or of any individual who makes*
8 *or signs for the request on behalf of the practi-*
9 *tioner; and*

10 *“(B) any other category of information de-*
11 *termined appropriate by the Secretary.*

12 *“(2) In the case of a manufacturer or authorized*
13 *distributor of record which makes distributions by*
14 *means other than mail or common carrier under sub-*
15 *section (d)(3) of such section 503, the identity and*
16 *quantity of drug samples requested and the identity*
17 *and quantity of drug samples distributed under such*
18 *subsection during that year, aggregated by—*

19 *“(A) the name, address, professional des-*
20 *ignation, and signature of the practitioner mak-*
21 *ing the request under subparagraph (A)(i) of*
22 *such subsection, or of any individual who makes*
23 *or signs for the request on behalf of the practi-*
24 *tioner; and*

1 “(B) any other category of information de-
2 termined appropriate by the Secretary.

3 “(b) *DEFINITIONS.*—*In this section:*

4 “(1) *APPLICABLE DRUG.*—*The term ‘applicable*
5 *drug’ means a drug—*

6 “(A) *which is subject to subsection (b) of*
7 *such section 503; and*

8 “(B) *for which payment is available under*
9 *title XVIII or a State plan under title XIX or*
10 *XXI (or a waiver of such a plan).*

11 “(2) *AUTHORIZED DISTRIBUTOR OF RECORD.*—
12 *The term ‘authorized distributor of record’ has the*
13 *meaning given that term in subsection (e)(3)(A) of*
14 *such section.*

15 “(3) *MANUFACTURER.*—*The term ‘manufacturer’*
16 *has the meaning given that term for purposes of sub-*
17 *section (d) of such section.”.*

18 **SEC. 6005. PHARMACY BENEFIT MANAGERS TRANSPARENCY**

19 **REQUIREMENTS.**

20 *Part A of title XI of the Social Security Act (42 U.S.C.*

21 *1301 et seq.) is amended by inserting after section 1150*

22 *the following new section:*

1 **“SEC. 1150A. PHARMACY BENEFIT MANAGERS TRANS-**
2 **PARENCY REQUIREMENTS.**

3 *“(a) PROVISION OF INFORMATION.—A health benefits*
4 *plan or any entity that provides pharmacy benefits man-*
5 *agement services on behalf of a health benefits plan (in this*
6 *section referred to as a ‘PBM’) that manages prescription*
7 *drug coverage under a contract with—*

8 *“(1) a PDP sponsor of a prescription drug plan*
9 *or an MA organization offering an MA–PD plan*
10 *under part D of title XVIII; or*

11 *“(2) a qualified health benefits plan offered*
12 *through an exchange established by a State under sec-*
13 *tion 1311 of the Patient Protection and Affordable*
14 *Care Act,*

15 *shall provide the information described in subsection (b) to*
16 *the Secretary and, in the case of a PBM, to the plan with*
17 *which the PBM is under contract with, at such times, and*
18 *in such form and manner, as the Secretary shall specify.*

19 *“(b) INFORMATION DESCRIBED.—The information de-*
20 *scribed in this subsection is the following with respect to*
21 *services provided by a health benefits plan or PBM for a*
22 *contract year:*

23 *“(1) The percentage of all prescriptions that were*
24 *provided through retail pharmacies compared to mail*
25 *order pharmacies, and the percentage of prescriptions*
26 *for which a generic drug was available and dispensed*

1 *(generic dispensing rate), by pharmacy type (which*
2 *includes an independent pharmacy, chain pharmacy,*
3 *supermarket pharmacy, or mass merchandiser phar-*
4 *macy that is licensed as a pharmacy by the State and*
5 *that dispenses medication to the general public), that*
6 *is paid by the health benefits plan or PBM under the*
7 *contract.*

8 *“(2) The aggregate amount, and the type of re-*
9 *bates, discounts, or price concessions (excluding bona*
10 *fide service fees, which include but are not limited to*
11 *distribution service fees, inventory management fees,*
12 *product stocking allowances, and fees associated with*
13 *administrative services agreements and patient care*
14 *programs (such as medication compliance programs*
15 *and patient education programs)) that the PBM ne-*
16 *gotiates that are attributable to patient utilization*
17 *under the plan, and the aggregate amount of the re-*
18 *bates, discounts, or price concessions that are passed*
19 *through to the plan sponsor, and the total number of*
20 *prescriptions that were dispensed.*

21 *“(3) The aggregate amount of the difference be-*
22 *tween the amount the health benefits plan pays the*
23 *PBM and the amount that the PBM pays retail phar-*
24 *macies, and mail order pharmacies, and the total*
25 *number of prescriptions that were dispensed.*

1 “(c) *CONFIDENTIALITY.*—*Information disclosed by a*
2 *health benefits plan or PBM under this section is confiden-*
3 *tial and shall not be disclosed by the Secretary or by a plan*
4 *receiving the information, except that the Secretary may*
5 *disclose the information in a form which does not disclose*
6 *the identity of a specific PBM, plan, or prices charged for*
7 *drugs, for the following purposes:*

8 “(1) *As the Secretary determines to be necessary*
9 *to carry out this section or part D of title XVIII.*

10 “(2) *To permit the Comptroller General to re-*
11 *view the information provided.*

12 “(3) *To permit the Director of the Congressional*
13 *Budget Office to review the information provided.*

14 “(4) *To States to carry out section 1311 of the*
15 *Patient Protection and Affordable Care Act.*

16 “(d) *PENALTIES.*—*The provisions of subsection*
17 *(b)(3)(C) of section 1927 shall apply to a health benefits*
18 *plan or PBM that fails to provide information required*
19 *under subsection (a) on a timely basis or that knowingly*
20 *provides false information in the same manner as such pro-*
21 *visions apply to a manufacturer with an agreement under*
22 *that section.”.*

1 ***Subtitle B—Nursing Home***
2 ***Transparency and Improvement***

3 ***PART I—IMPROVING TRANSPARENCY OF***
4 ***INFORMATION***

5 ***SEC. 6101. REQUIRED DISCLOSURE OF OWNERSHIP AND AD-***
6 ***DITIONAL DISCLOSABLE PARTIES INFORMA-***
7 ***TION.***

8 (a) *IN GENERAL.*—Section 1124 of the Social Security
9 Act (42 U.S.C. 1320a–3) is amended by adding at the end
10 the following new subsection:

11 “(c) *REQUIRED DISCLOSURE OF OWNERSHIP AND AD-*
12 *DITIONAL DISCLOSABLE PARTIES INFORMATION.*—

13 “(1) *DISCLOSURE.*—A facility shall have the in-
14 formation described in paragraph (2) available—

15 “(A) during the period beginning on the
16 date of the enactment of this subsection and end-
17 ing on the date such information is made avail-
18 able to the public under section 6101(b) of the
19 Patient Protection and Affordable Care Act for
20 submission to the Secretary, the Inspector Gen-
21 eral of the Department of Health and Human
22 Services, the State in which the facility is lo-
23 cated, and the State long-term care ombudsman
24 in the case where the Secretary, the Inspector

1 *General, the State, or the State long-term care*
2 *ombudsman requests such information; and*

3 “(B) *beginning on the effective date of the*
4 *final regulations promulgated under paragraph*
5 *(3)(A), for reporting such information in accord-*
6 *ance with such final regulations.*

7 *Nothing in subparagraph (A) shall be construed as*
8 *authorizing a facility to dispose of or delete informa-*
9 *tion described in such subparagraph after the effective*
10 *date of the final regulations promulgated under para-*
11 *graph (3)(A).*

12 “(2) *INFORMATION DESCRIBED.—*

13 “(A) *IN GENERAL.—The following informa-*
14 *tion is described in this paragraph:*

15 “(i) *The information described in sub-*
16 *sections (a) and (b), subject to subpara-*
17 *graph (C).*

18 “(ii) *The identity of and information*
19 *on—*

20 “(I) *each member of the governing*
21 *body of the facility, including the*
22 *name, title, and period of service of*
23 *each such member;*

24 “(II) *each person or entity who is*
25 *an officer, director, member, partner,*

1 trustee, or managing employee of the
2 facility, including the name, title, and
3 period of service of each such person or
4 entity; and

5 “(III) each person or entity who
6 is an additional disclosable party of
7 the facility.

8 “(iii) The organizational structure of
9 each additional disclosable party of the fa-
10 cility and a description of the relationship
11 of each such additional disclosable party to
12 the facility and to one another.

13 “(B) SPECIAL RULE WHERE INFORMATION
14 IS ALREADY REPORTED OR SUBMITTED.—To the
15 extent that information reported by a facility to
16 the Internal Revenue Service on Form 990, in-
17 formation submitted by a facility to the Securi-
18 ties and Exchange Commission, or information
19 otherwise submitted to the Secretary or any other
20 Federal agency contains the information de-
21 scribed in clauses (i), (ii), or (iii) of subpara-
22 graph (A), the facility may provide such Form
23 or such information submitted to meet the re-
24 quirements of paragraph (1).

1 “(C) *SPECIAL RULE.*—*In applying sub-*
2 *paragraph (A)(i)—*

3 “(i) *with respect to subsections (a) and*
4 *(b), ‘ownership or control interest’ shall in-*
5 *clude direct or indirect interests, including*
6 *such interests in intermediate entities; and*

7 “(ii) *subsection (a)(3)(A)(ii) shall in-*
8 *clude the owner of a whole or part interest*
9 *in any mortgage, deed of trust, note, or*
10 *other obligation secured, in whole or in*
11 *part, by the entity or any of the property*
12 *or assets thereof, if the interest is equal to*
13 *or exceeds 5 percent of the total property or*
14 *assets of the entirety.*

15 “(3) *REPORTING.*—

16 “(A) *IN GENERAL.*—*Not later than the date*
17 *that is 2 years after the date of the enactment of*
18 *this subsection, the Secretary shall promulgate*
19 *final regulations requiring, effective on the date*
20 *that is 90 days after the date on which such*
21 *final regulations are published in the Federal*
22 *Register, a facility to report the information de-*
23 *scribed in paragraph (2) to the Secretary in a*
24 *standardized format, and such other regulations*
25 *as are necessary to carry out this subsection.*

1 *Such final regulations shall ensure that the facil-*
2 *ity certifies, as a condition of participation and*
3 *payment under the program under title XVIII or*
4 *XIX, that the information reported by the facil-*
5 *ity in accordance with such final regulations is,*
6 *to the best of the facility's knowledge, accurate*
7 *and current.*

8 *“(B) GUIDANCE.—The Secretary shall pro-*
9 *vide guidance and technical assistance to States*
10 *on how to adopt the standardized format under*
11 *subparagraph (A).*

12 *“(4) NO EFFECT ON EXISTING REPORTING RE-*
13 *QUIREMENTS.—Nothing in this subsection shall re-*
14 *duce, diminish, or alter any reporting requirement*
15 *for a facility that is in effect as of the date of the en-*
16 *actment of this subsection.*

17 *“(5) DEFINITIONS.—In this subsection:*

18 *“(A) ADDITIONAL DISCLOSABLE PARTY.—*
19 *The term ‘additional disclosable party’ means,*
20 *with respect to a facility, any person or entity*
21 *who—*

22 *“(i) exercises operational, financial, or*
23 *managerial control over the facility or a*
24 *part thereof, or provides policies or proce-*
25 *dures for any of the operations of the facil-*

1 *ity, or provides financial or cash manage-*
2 *ment services to the facility;*

3 *“(ii) leases or subleases real property*
4 *to the facility, or owns a whole or part in-*
5 *terest equal to or exceeding 5 percent of the*
6 *total value of such real property; or*

7 *“(iii) provides management or admin-*
8 *istrative services, management or clinical*
9 *consulting services, or accounting or finan-*
10 *cial services to the facility.*

11 *“(B) FACILITY.—The term ‘facility’ means*
12 *a disclosing entity which is—*

13 *“(i) a skilled nursing facility (as de-*
14 *finied in section 1819(a)); or*

15 *“(ii) a nursing facility (as defined in*
16 *section 1919(a)).*

17 *“(C) MANAGING EMPLOYEE.—The term*
18 *‘managing employee’ means, with respect to a fa-*
19 *ility, an individual (including a general man-*
20 *ager, business manager, administrator, director,*
21 *or consultant) who directly or indirectly man-*
22 *ages, advises, or supervises any element of the*
23 *practices, finances, or operations of the facility.*

1 “(D) *ORGANIZATIONAL STRUCTURE.*—The
2 term ‘organizational structure’ means, in the
3 case of—

4 “(i) a corporation, the officers, direc-
5 tors, and shareholders of the corporation
6 who have an ownership interest in the cor-
7 poration which is equal to or exceeds 5 per-
8 cent;

9 “(ii) a limited liability company, the
10 members and managers of the limited liabil-
11 ity company (including, as applicable, what
12 percentage each member and manager has
13 of the ownership interest in the limited li-
14 ability company);

15 “(iii) a general partnership, the part-
16 ners of the general partnership;

17 “(iv) a limited partnership, the general
18 partners and any limited partners of the
19 limited partnership who have an ownership
20 interest in the limited partnership which is
21 equal to or exceeds 10 percent;

22 “(v) a trust, the trustees of the trust;

23 “(vi) an individual, contact informa-
24 tion for the individual; and

1 “(vii) any other person or entity, such
2 information as the Secretary determines ap-
3 propriate.”.

4 (b) *PUBLIC AVAILABILITY OF INFORMATION.*—Not
5 later than the date that is 1 year after the date on which
6 the final regulations promulgated under section
7 1124(c)(3)(A) of the Social Security Act, as added by sub-
8 section (a), are published in the Federal Register, the Sec-
9 retary of Health and Human Services shall make the infor-
10 mation reported in accordance with such final regulations
11 available to the public in accordance with procedures estab-
12 lished by the Secretary.

13 (c) *CONFORMING AMENDMENTS.*—

14 (1) *IN GENERAL.*—

15 (A) *SKILLED NURSING FACILITIES.*—Sec-
16 tion 1819(d)(1) of the Social Security Act (42
17 U.S.C. 1395i–3(d)(1)) is amended by striking
18 subparagraph (B) and redesignating subpara-
19 graph (C) as subparagraph (B).

20 (B) *NURSING FACILITIES.*—Section
21 1919(d)(1) of the Social Security Act (42 U.S.C.
22 1396r(d)(1)) is amended by striking subpara-
23 graph (B) and redesignating subparagraph (C)
24 as subparagraph (B).

1 (2) *EFFECTIVE DATE.*—*The amendments made*
2 *by paragraph (1) shall take effect on the date on*
3 *which the Secretary makes the information described*
4 *in subsection (b)(1) available to the public under such*
5 *subsection.*

6 **SEC. 6102. ACCOUNTABILITY REQUIREMENTS FOR SKILLED**
7 **NURSING FACILITIES AND NURSING FACILI-**
8 **TIES.**

9 *Part A of title XI of the Social Security Act (42 U.S.C.*
10 *1301 et seq.), as amended by sections 6002 and 6004, is*
11 *amended by inserting after section 1128H the following new*
12 *section:*

13 **“SEC. 1128I. ACCOUNTABILITY REQUIREMENTS FOR FACILI-**
14 **TIES.**

15 “(a) *DEFINITION OF FACILITY.*—*In this section, the*
16 *term ‘facility’ means—*

17 “(1) *a skilled nursing facility (as defined in sec-*
18 *tion 1819(a)); or*

19 “(2) *a nursing facility (as defined in section*
20 *1919(a)).*

21 “(b) *EFFECTIVE COMPLIANCE AND ETHICS PRO-*
22 *GRAMS.—*

23 “(1) *REQUIREMENT.*—*On or after the date that*
24 *is 36 months after the date of the enactment of this*
25 *section, a facility shall, with respect to the entity that*

1 operates the facility (in this subparagraph referred to
2 as the ‘operating organization’ or ‘organization’),
3 have in operation a compliance and ethics program
4 that is effective in preventing and detecting criminal,
5 civil, and administrative violations under this Act
6 and in promoting quality of care consistent with reg-
7 ulations developed under paragraph (2).

8 “(2) *DEVELOPMENT OF REGULATIONS.*—

9 “(A) *IN GENERAL.*—Not later than the date
10 that is 2 years after such date of the enactment,
11 the Secretary, working jointly with the Inspector
12 General of the Department of Health and
13 Human Services, shall promulgate regulations
14 for an effective compliance and ethics program
15 for operating organizations, which may include
16 a model compliance program.

17 “(B) *DESIGN OF REGULATIONS.*—Such reg-
18 ulations with respect to specific elements or for-
19 mality of a program shall, in the case of an or-
20 ganization that operates 5 or more facilities,
21 vary with the size of the organization, such that
22 larger organizations should have a more formal
23 program and include established written policies
24 defining the standards and procedures to be fol-
25 lowed by its employees. Such requirements may

1 *specifically apply to the corporate level manage-*
2 *ment of multi unit nursing home chains.*

3 “(C) *EVALUATION.*—*Not later than 3 years*
4 *after the date of the promulgation of regulations*
5 *under this paragraph, the Secretary shall com-*
6 *plete an evaluation of the compliance and ethics*
7 *programs required to be established under this*
8 *subsection. Such evaluation shall determine if*
9 *such programs led to changes in deficiency cita-*
10 *tions, changes in quality performance, or*
11 *changes in other metrics of patient quality of*
12 *care. The Secretary shall submit to Congress a*
13 *report on such evaluation and shall include in*
14 *such report such recommendations regarding*
15 *changes in the requirements for such programs*
16 *as the Secretary determines appropriate.*

17 “(3) *REQUIREMENTS FOR COMPLIANCE AND ETH-*
18 *ICS PROGRAMS.*—*In this subsection, the term ‘compli-*
19 *ance and ethics program’ means, with respect to a fa-*
20 *ility, a program of the operating organization*
21 *that—*

22 “(A) *has been reasonably designed, imple-*
23 *mented, and enforced so that it generally will be*
24 *effective in preventing and detecting criminal,*

1 *civil, and administrative violations under this*
2 *Act and in promoting quality of care; and*

3 “(B) *includes at least the required compo-*
4 *nents specified in paragraph (4).*

5 “(4) *REQUIRED COMPONENTS OF PROGRAM.—*
6 *The required components of a compliance and ethics*
7 *program of an operating organization are the fol-*
8 *lowing:*

9 “(A) *The organization must have estab-*
10 *lished compliance standards and procedures to be*
11 *followed by its employees and other agents that*
12 *are reasonably capable of reducing the prospect*
13 *of criminal, civil, and administrative violations*
14 *under this Act.*

15 “(B) *Specific individuals within high-level*
16 *personnel of the organization must have been as-*
17 *signed overall responsibility to oversee compli-*
18 *ance with such standards and procedures and*
19 *have sufficient resources and authority to assure*
20 *such compliance.*

21 “(C) *The organization must have used due*
22 *care not to delegate substantial discretionary au-*
23 *thority to individuals whom the organization*
24 *knew, or should have known through the exercise*
25 *of due diligence, had a propensity to engage in*

1 *criminal, civil, and administrative violations*
2 *under this Act.*

3 “(D) *The organization must have taken*
4 *steps to communicate effectively its standards*
5 *and procedures to all employees and other*
6 *agents, such as by requiring participation in*
7 *training programs or by disseminating publica-*
8 *tions that explain in a practical manner what*
9 *is required.*

10 “(E) *The organization must have taken rea-*
11 *sonable steps to achieve compliance with its*
12 *standards, such as by utilizing monitoring and*
13 *auditing systems reasonably designed to detect*
14 *criminal, civil, and administrative violations*
15 *under this Act by its employees and other agents*
16 *and by having in place and publicizing a report-*
17 *ing system whereby employees and other agents*
18 *could report violations by others within the orga-*
19 *nization without fear of retribution.*

20 “(F) *The standards must have been consist-*
21 *ently enforced through appropriate disciplinary*
22 *mechanisms, including, as appropriate, dis-*
23 *cipline of individuals responsible for the failure*
24 *to detect an offense.*

1 “(G) After an offense has been detected, the
2 organization must have taken all reasonable
3 steps to respond appropriately to the offense and
4 to prevent further similar offenses, including any
5 necessary modification to its program to prevent
6 and detect criminal, civil, and administrative
7 violations under this Act.

8 “(H) The organization must periodically
9 undertake reassessment of its compliance pro-
10 gram to identify changes necessary to reflect
11 changes within the organization and its facili-
12 ties.

13 “(c) *QUALITY ASSURANCE AND PERFORMANCE IM-*
14 *PROVEMENT PROGRAM.—*

15 “(1) *IN GENERAL.—*Not later than December 31,
16 2011, the Secretary shall establish and implement a
17 quality assurance and performance improvement pro-
18 gram (in this subparagraph referred to as the ‘QAPI
19 program’) for facilities, including multi unit chains
20 of facilities. Under the QAPI program, the Secretary
21 shall establish standards relating to quality assurance
22 and performance improvement with respect to facili-
23 ties and provide technical assistance to facilities on
24 the development of best practices in order to meet such
25 standards. Not later than 1 year after the date on

1 *which the regulations are promulgated under para-*
2 *graph (2), a facility must submit to the Secretary a*
3 *plan for the facility to meet such standards and im-*
4 *plement such best practices, including how to coordi-*
5 *nate the implementation of such plan with quality as-*
6 *essment and assurance activities conducted under*
7 *sections 1819(b)(1)(B) and 1919(b)(1)(B), as applica-*
8 *ble.*

9 “(2) *REGULATIONS.*—*The Secretary shall pro-*
10 *mulgate regulations to carry out this subsection.”.*

11 **SEC. 6103. NURSING HOME COMPARE MEDICARE WEBSITE.**

12 *(a) SKILLED NURSING FACILITIES.*—

13 *(1) IN GENERAL.*—*Section 1819 of the Social Se-*
14 *curity Act (42 U.S.C. 1395i–3) is amended—*

15 *(A) by redesignating subsection (i) as sub-*
16 *section (j); and*

17 *(B) by inserting after subsection (h) the fol-*
18 *lowing new subsection:*

19 “(i) *NURSING HOME COMPARE WEBSITE.*—

20 “(1) *INCLUSION OF ADDITIONAL INFORMATION.*—

21 “(A) *IN GENERAL.*—*The Secretary shall en-*
22 *sure that the Department of Health and Human*
23 *Services includes, as part of the information pro-*
24 *vided for comparison of nursing homes on the of-*
25 *ficial Internet website of the Federal Government*

1 *for Medicare beneficiaries (commonly referred to*
2 *as the ‘Nursing Home Compare’ Medicare*
3 *website) (or a successor website), the following*
4 *information in a manner that is prominent, up-*
5 *dated on a timely basis, easily accessible, readily*
6 *understandable to consumers of long-term care*
7 *services, and searchable:*

8 *“(i) Staffing data for each facility (in-*
9 *cluding resident census data and data on*
10 *the hours of care provided per resident per*
11 *day) based on data submitted under section*
12 *1128I(g), including information on staffing*
13 *turnover and tenure, in a format that is*
14 *clearly understandable to consumers of long-*
15 *term care services and allows such con-*
16 *sumers to compare differences in staffing be-*
17 *tween facilities and State and national*
18 *averages for the facilities. Such format shall*
19 *include—*

20 *“(I) concise explanations of how*
21 *to interpret the data (such as a plain*
22 *English explanation of data reflecting*
23 *‘nursing home staff hours per resident*
24 *day’);*

1 “(II) differences in types of staff
2 (such as training associated with dif-
3 ferent categories of staff);

4 “(III) the relationship between
5 nurse staffing levels and quality of
6 care; and

7 “(IV) an explanation that appro-
8 priate staffing levels vary based on pa-
9 tient case mix.

10 “(ii) Links to State Internet websites
11 with information regarding State survey
12 and certification programs, links to Form
13 2567 State inspection reports (or a suc-
14 cessor form) on such websites, information
15 to guide consumers in how to interpret and
16 understand such reports, and the facility
17 plan of correction or other response to such
18 report. Any such links shall be posted on a
19 timely basis.

20 “(iii) The standardized complaint form
21 developed under section 1128I(f), including
22 explanatory material on what complaint
23 forms are, how they are used, and how to
24 file a complaint with the State survey and

1 *certification program and the State long-*
2 *term care ombudsman program.*

3 “(iv) *Summary information on the*
4 *number, type, severity, and outcome of sub-*
5 *stantiated complaints.*

6 “(v) *The number of adjudicated in-*
7 *stances of criminal violations by a facility*
8 *or the employees of a facility—*

9 “(I) *that were committed inside*
10 *the facility;*

11 “(II) *with respect to such in-*
12 *stances of violations or crimes com-*
13 *mitted inside of the facility that were*
14 *the violations or crimes of abuse, ne-*
15 *glect, and exploitation, criminal sexual*
16 *abuse, or other violations or crimes*
17 *that resulted in serious bodily injury;*
18 *and*

19 “(III) *the number of civil mone-*
20 *tary penalties levied against the facil-*
21 *ity, employees, contractors, and other*
22 *agents.*

23 “(B) *DEADLINE FOR PROVISION OF INFOR-*
24 *MATION.—*

1 “(i) *IN GENERAL.*—*Except as provided*
2 *in clause (ii), the Secretary shall ensure*
3 *that the information described in subpara-*
4 *graph (A) is included on such website (or a*
5 *successor website) not later than 1 year*
6 *after the date of the enactment of this sub-*
7 *section.*

8 “(ii) *EXCEPTION.*—*The Secretary shall*
9 *ensure that the information described in*
10 *subparagraph (A)(i) is included on such*
11 *website (or a successor website) not later*
12 *than the date on which the requirements*
13 *under section 1128I(g) are implemented.*

14 “(2) *REVIEW AND MODIFICATION OF WEBSITE.*—

15 “(A) *IN GENERAL.*—*The Secretary shall es-*
16 *tablish a process—*

17 “(i) *to review the accuracy, clarity of*
18 *presentation, timeliness, and comprehensive-*
19 *ness of information reported on such website*
20 *as of the day before the date of the enact-*
21 *ment of this subsection; and*

22 “(ii) *not later than 1 year after the*
23 *date of the enactment of this subsection, to*
24 *modify or revamp such website in accord-*

1 *ance with the review conducted under clause*
2 *(i).*

3 *“(B) CONSULTATION.—In conducting the*
4 *review under subparagraph (A)(i), the Secretary*
5 *shall consult with—*

6 *“(i) State long-term care ombudsman*
7 *programs;*

8 *“(ii) consumer advocacy groups;*

9 *“(iii) provider stakeholder groups; and*

10 *“(iv) any other representatives of pro-*
11 *grams or groups the Secretary determines*
12 *appropriate.”.*

13 *(2) TIMELINESS OF SUBMISSION OF SURVEY AND*
14 *CERTIFICATION INFORMATION.—*

15 *(A) IN GENERAL.—Section 1819(g)(5) of the*
16 *Social Security Act (42 U.S.C. 1395i–3(g)(5)) is*
17 *amended by adding at the end the following new*
18 *subparagraph:*

19 *“(E) SUBMISSION OF SURVEY AND CERTIFI-*
20 *CATION INFORMATION TO THE SECRETARY.—In*
21 *order to improve the timeliness of information*
22 *made available to the public under subparagraph*
23 *(A) and provided on the Nursing Home Compare*
24 *Medicare website under subsection (i), each State*
25 *shall submit information respecting any survey*

1 *or certification made respecting a skilled nursing*
2 *facility (including any enforcement actions taken*
3 *by the State) to the Secretary not later than the*
4 *date on which the State sends such information*
5 *to the facility. The Secretary shall use the infor-*
6 *mation submitted under the preceding sentence*
7 *to update the information provided on the Nurs-*
8 *ing Home Compare Medicare website as expedi-*
9 *tiously as practicable but not less frequently*
10 *than quarterly.”.*

11 *(B) EFFECTIVE DATE.—The amendment*
12 *made by this paragraph shall take effect 1 year*
13 *after the date of the enactment of this Act.*

14 *(3) SPECIAL FOCUS FACILITY PROGRAM.—Sec-*
15 *tion 1819(f) of the Social Security Act (42 U.S.C.*
16 *1395i–3(f)) is amended by adding at the end the fol-*
17 *lowing new paragraph:*

18 *“(8) SPECIAL FOCUS FACILITY PROGRAM.—*

19 *“(A) IN GENERAL.—The Secretary shall*
20 *conduct a special focus facility program for en-*
21 *forcement of requirements for skilled nursing fa-*
22 *ilities that the Secretary has identified as hav-*
23 *ing substantially failed to meet applicable re-*
24 *quirement of this Act.*

1 “(B) *PERIODIC SURVEYS*.—Under such pro-
2 gram the Secretary shall conduct surveys of each
3 facility in the program not less than once every
4 6 months.”.

5 (b) *NURSING FACILITIES*.—

6 (1) *IN GENERAL*.—Section 1919 of the Social Se-
7 curity Act (42 U.S.C. 1396r) is amended—

8 (A) by redesignating subsection (i) as sub-
9 section (j); and

10 (B) by inserting after subsection (h) the fol-
11 lowing new subsection:

12 “(i) *NURSING HOME COMPARE WEBSITE*.—

13 “(1) *INCLUSION OF ADDITIONAL INFORMATION*.—

14 “(A) *IN GENERAL*.—The Secretary shall en-
15 sure that the Department of Health and Human
16 Services includes, as part of the information pro-
17 vided for comparison of nursing homes on the of-
18 ficial Internet website of the Federal Government
19 for Medicare beneficiaries (commonly referred to
20 as the ‘Nursing Home Compare’ Medicare
21 website) (or a successor website), the following
22 information in a manner that is prominent, up-
23 dated on a timely basis, easily accessible, readily
24 understandable to consumers of long-term care
25 services, and searchable:

1 “(i) Staffing data for each facility (in-
2 cluding resident census data and data on
3 the hours of care provided per resident per
4 day) based on data submitted under section
5 1128I(g), including information on staffing
6 turnover and tenure, in a format that is
7 clearly understandable to consumers of long-
8 term care services and allows such con-
9 sumers to compare differences in staffing be-
10 tween facilities and State and national
11 averages for the facilities. Such format shall
12 include—

13 “(I) concise explanations of how
14 to interpret the data (such as plain
15 English explanation of data reflecting
16 ‘nursing home staff hours per resident
17 day’);

18 “(II) differences in types of staff
19 (such as training associated with dif-
20 ferent categories of staff);

21 “(III) the relationship between
22 nurse staffing levels and quality of
23 care; and

1 “(IV) an explanation that appro-
2 priate staffing levels vary based on pa-
3 tient case mix.

4 “(ii) Links to State Internet websites
5 with information regarding State survey
6 and certification programs, links to Form
7 2567 State inspection reports (or a suc-
8 cessor form) on such websites, information
9 to guide consumers in how to interpret and
10 understand such reports, and the facility
11 plan of correction or other response to such
12 report. Any such links shall be posted on a
13 timely basis.

14 “(iii) The standardized complaint form
15 developed under section 1128I(f), including
16 explanatory material on what complaint
17 forms are, how they are used, and how to
18 file a complaint with the State survey and
19 certification program and the State long-
20 term care ombudsman program.

21 “(iv) Summary information on the
22 number, type, severity, and outcome of sub-
23 stantiated complaints.

1 “(v) *The number of adjudicated in-*
2 *stances of criminal violations by a facility*
3 *or the employees of a facility—*

4 “(I) *that were committed inside of*
5 *the facility; and*

6 “(II) *with respect to such in-*
7 *stances of violations or crimes com-*
8 *mitted outside of the facility, that were*
9 *violations or crimes that resulted in*
10 *the serious bodily injury of an elder.*

11 “(B) *DEADLINE FOR PROVISION OF INFOR-*
12 *MATION.—*

13 “(i) *IN GENERAL.—Except as provided*
14 *in clause (ii), the Secretary shall ensure*
15 *that the information described in subpara-*
16 *graph (A) is included on such website (or a*
17 *successor website) not later than 1 year*
18 *after the date of the enactment of this sub-*
19 *section.*

20 “(ii) *EXCEPTION.—The Secretary shall*
21 *ensure that the information described in*
22 *subparagraph (A)(i) is included on such*
23 *website (or a successor website) not later*
24 *than the date on which the requirements*
25 *under section 1128I(g) are implemented.*

1 “(2) *REVIEW AND MODIFICATION OF WEBSITE.*—

2 “(A) *IN GENERAL.*—*The Secretary shall es-*
3 *tablish a process—*

4 “(i) *to review the accuracy, clarity of*
5 *presentation, timeliness, and comprehensive-*
6 *ness of information reported on such website*
7 *as of the day before the date of the enact-*
8 *ment of this subsection; and*

9 “(ii) *not later than 1 year after the*
10 *date of the enactment of this subsection, to*
11 *modify or revamp such website in accord-*
12 *ance with the review conducted under clause*
13 *(i).*

14 “(B) *CONSULTATION.*—*In conducting the*
15 *review under subparagraph (A)(i), the Secretary*
16 *shall consult with—*

17 “(i) *State long-term care ombudsman*
18 *programs;*

19 “(ii) *consumer advocacy groups;*

20 “(iii) *provider stakeholder groups;*

21 “(iv) *skilled nursing facility employees*
22 *and their representatives; and*

23 “(v) *any other representatives of pro-*
24 *grams or groups the Secretary determines*
25 *appropriate.”.*

1 (2) *TIMELINESS OF SUBMISSION OF SURVEY AND*
2 *CERTIFICATION INFORMATION.*—

3 (A) *IN GENERAL.*—*Section 1919(g)(5) of the*
4 *Social Security Act (42 U.S.C. 1396r(g)(5)) is*
5 *amended by adding at the end the following new*
6 *subparagraph:*

7 “(E) *SUBMISSION OF SURVEY AND CERTIFI-*
8 *CATION INFORMATION TO THE SECRETARY.*—*In*
9 *order to improve the timeliness of information*
10 *made available to the public under subparagraph*
11 *(A) and provided on the Nursing Home Compare*
12 *Medicare website under subsection (i), each State*
13 *shall submit information respecting any survey*
14 *or certification made respecting a nursing facil-*
15 *ity (including any enforcement actions taken by*
16 *the State) to the Secretary not later than the*
17 *date on which the State sends such information*
18 *to the facility. The Secretary shall use the infor-*
19 *mation submitted under the preceding sentence*
20 *to update the information provided on the Nurs-*
21 *ing Home Compare Medicare website as expedi-*
22 *tiously as practicable but not less frequently*
23 *than quarterly.”.*

1 (B) *EFFECTIVE DATE.*—*The amendment*
2 *made by this paragraph shall take effect 1 year*
3 *after the date of the enactment of this Act.*

4 (3) *SPECIAL FOCUS FACILITY PROGRAM.*—*Sec-*
5 *tion 1919(f) of the Social Security Act (42 U.S.C.*
6 *1396r(f)) is amended by adding at the end of the fol-*
7 *lowing new paragraph:*

8 “(10) *SPECIAL FOCUS FACILITY PROGRAM.*—

9 “(A) *IN GENERAL.*—*The Secretary shall*
10 *conduct a special focus facility program for en-*
11 *forcement of requirements for nursing facilities*
12 *that the Secretary has identified as having sub-*
13 *stantially failed to meet applicable requirements*
14 *of this Act.*

15 “(B) *PERIODIC SURVEYS.*—*Under such pro-*
16 *gram the Secretary shall conduct surveys of each*
17 *facility in the program not less often than once*
18 *every 6 months.”.*

19 (c) *AVAILABILITY OF REPORTS ON SURVEYS, CERTIFI-*
20 *CATIONS, AND COMPLAINT INVESTIGATIONS.*—

21 (1) *SKILLED NURSING FACILITIES.*—*Section*
22 *1819(d)(1) of the Social Security Act (42 U.S.C.*
23 *1395i–3(d)(1)), as amended by section 6101, is*
24 *amended by adding at the end the following new sub-*
25 *paragraph:*

1 “(C) AVAILABILITY OF SURVEY, CERTIFI-
2 CATION, AND COMPLAINT INVESTIGATION RE-
3 PORTS.—A skilled nursing facility must—

4 “(i) have reports with respect to any
5 surveys, certifications, and complaint inves-
6 tigations made respecting the facility dur-
7 ing the 3 preceding years available for any
8 individual to review upon request; and

9 “(ii) post notice of the availability of
10 such reports in areas of the facility that are
11 prominent and accessible to the public.

12 *The facility shall not make available under*
13 *clause (i) identifying information about com-*
14 *plainants or residents.”.*

15 (2) NURSING FACILITIES.—Section 1919(d)(1) of
16 the Social Security Act (42 U.S.C. 1396r(d)(1)), as
17 amended by section 6101, is amended by adding at
18 the end the following new subparagraph:

19 “(V) AVAILABILITY OF SURVEY, CERTIFI-
20 CATION, AND COMPLAINT INVESTIGATION RE-
21 PORTS.—A nursing facility must—

22 “(i) have reports with respect to any
23 surveys, certifications, and complaint inves-
24 tigations made respecting the facility dur-

1 *ing the 3 preceding years available for any*
2 *individual to review upon request; and*

3 *“(ii) post notice of the availability of*
4 *such reports in areas of the facility that are*
5 *prominent and accessible to the public.*

6 *The facility shall not make available under*
7 *clause (i) identifying information about com-*
8 *plainants or residents.”.*

9 *(3) EFFECTIVE DATE.—The amendments made*
10 *by this subsection shall take effect 1 year after the*
11 *date of the enactment of this Act.*

12 *(d) GUIDANCE TO STATES ON FORM 2567 STATE IN-*
13 *SPECTION REPORTS AND COMPLAINT INVESTIGATION RE-*
14 *PORTS.—*

15 *(1) GUIDANCE.—The Secretary of Health and*
16 *Human Services (in this subtitle referred to as the*
17 *“Secretary”) shall provide guidance to States on how*
18 *States can establish electronic links to Form 2567*
19 *State inspection reports (or a successor form), com-*
20 *plaint investigation reports, and a facility’s plan of*
21 *correction or other response to such Form 2567 State*
22 *inspection reports (or a successor form) on the Inter-*
23 *net website of the State that provides information on*
24 *skilled nursing facilities and nursing facilities and*

1 *the Secretary shall, if possible, include such informa-*
2 *tion on Nursing Home Compare.*

3 (2) *REQUIREMENT.*—*Section 1902(a)(9) of the*
4 *Social Security Act (42 U.S.C. 1396a(a)(9)) is*
5 *amended—*

6 (A) *by striking “and” at the end of sub-*
7 *paragraph (B);*

8 (B) *by striking the semicolon at the end of*
9 *subparagraph (C) and inserting “, and”; and*

10 (C) *by adding at the end the following new*
11 *subparagraph:*

12 “(D) *that the State maintain a consumer-*
13 *oriented website providing useful information to*
14 *consumers regarding all skilled nursing facilities*
15 *and all nursing facilities in the State, including*
16 *for each facility, Form 2567 State inspection re-*
17 *ports (or a successor form), complaint investiga-*
18 *tion reports, the facility’s plan of correction, and*
19 *such other information that the State or the Sec-*
20 *retary considers useful in assisting the public to*
21 *assess the quality of long term care options and*
22 *the quality of care provided by individual facili-*
23 *ties;”.*

24 (3) *DEFINITIONS.*—*In this subsection:*

1 (A) *NURSING FACILITY*.—The term “nurs-
2 ing facility” has the meaning given such term in
3 section 1919(a) of the Social Security Act (42
4 U.S.C. 1396r(a)).

5 (B) *SECRETARY*.—The term “Secretary”
6 means the Secretary of Health and Human Serv-
7 ices.

8 (C) *SKILLED NURSING FACILITY*.—The term
9 “skilled nursing facility” has the meaning given
10 such term in section 1819(a) of the Social Secu-
11 rity Act (42 U.S.C. 1395i–3(a)).

12 (e) *DEVELOPMENT OF CONSUMER RIGHTS INFORMA-*
13 *TION PAGE ON NURSING HOME COMPARE WEBSITE*.—Not
14 later than 1 year after the date of enactment of this Act,
15 the Secretary shall ensure that the Department of Health
16 and Human Services, as part of the information provided
17 for comparison of nursing facilities on the Nursing Home
18 Compare Medicare website develops and includes a con-
19 sumer rights information page that contains links to de-
20 scriptions of, and information with respect to, the following:

21 (1) *The documentation on nursing facilities that*
22 *is available to the public.*

23 (2) *General information and tips on choosing a*
24 *nursing facility that meets the needs of the indi-*
25 *vidual.*

1 (3) *General information on consumer rights with*
2 *respect to nursing facilities.*

3 (4) *The nursing facility survey process (on a na-*
4 *tional and State-specific basis).*

5 (5) *On a State-specific basis, the services avail-*
6 *able through the State long-term care ombudsman for*
7 *such State.*

8 **SEC. 6104. REPORTING OF EXPENDITURES.**

9 *Section 1888 of the Social Security Act (42 U.S.C.*
10 *1395yy) is amended by adding at the end the following new*
11 *subsection:*

12 “(f) *REPORTING OF DIRECT CARE EXPENDITURES.—*

13 “(1) *IN GENERAL.—For cost reports submitted*
14 *under this title for cost reporting periods beginning*
15 *on or after the date that is 2 years after the date of*
16 *the enactment of this subsection, skilled nursing fa-*
17 *ilities shall separately report expenditures for wages*
18 *and benefits for direct care staff (breaking out (at a*
19 *minimum) registered nurses, licensed professional*
20 *nurses, certified nurse assistants, and other medical*
21 *and therapy staff).*

22 “(2) *MODIFICATION OF FORM.—The Secretary,*
23 *in consultation with private sector accountants expe-*
24 *rienced with Medicare and Medicaid nursing facility*
25 *home cost reports, shall redesign such reports to meet*

1 *the requirement of paragraph (1) not later than 1*
2 *year after the date of the enactment of this subsection.*

3 “(3) *CATEGORIZATION BY FUNCTIONAL AC-*
4 *COUNTS.—Not later than 30 months after the date of*
5 *the enactment of this subsection, the Secretary, work-*
6 *ing in consultation with the Medicare Payment Advi-*
7 *sory Commission, the Medicaid and CHIP Payment*
8 *and Access Commission, the Inspector General of the*
9 *Department of Health and Human Services, and*
10 *other expert parties the Secretary determines appro-*
11 *priate, shall take the expenditures listed on cost re-*
12 *ports, as modified under paragraph (1), submitted by*
13 *skilled nursing facilities and categorize such expendi-*
14 *tures, regardless of any source of payment for such ex-*
15 *penditures, for each skilled nursing facility into the*
16 *following functional accounts on an annual basis:*

17 “(A) *Spending on direct care services (in-*
18 *cluding nursing, therapy, and medical services).*

19 “(B) *Spending on indirect care (including*
20 *housekeeping and dietary services).*

21 “(C) *Capital assets (including building and*
22 *land costs).*

23 “(D) *Administrative services costs.*

24 “(4) *AVAILABILITY OF INFORMATION SUB-*
25 *MITTED.—The Secretary shall establish procedures to*

1 *make information on expenditures submitted under*
2 *this subsection readily available to interested parties*
3 *upon request, subject to such requirements as the Sec-*
4 *retary may specify under the procedures established*
5 *under this paragraph.”.*

6 **SEC. 6105. STANDARDIZED COMPLAINT FORM.**

7 *(a) IN GENERAL.—Section 1128I of the Social Secu-*
8 *urity Act, as added and amended by this Act, is amended*
9 *by adding at the end the following new subsection:*

10 “*(f) STANDARDIZED COMPLAINT FORM.—*

11 “*(1) DEVELOPMENT BY THE SECRETARY.—The*
12 *Secretary shall develop a standardized complaint*
13 *form for use by a resident (or a person acting on the*
14 *resident’s behalf) in filing a complaint with a State*
15 *survey and certification agency and a State long-term*
16 *care ombudsman program with respect to a facility.*

17 “*(2) COMPLAINT FORMS AND RESOLUTION PROC-*
18 *ESSES.—*

19 “*(A) COMPLAINT FORMS.—The State must*
20 *make the standardized complaint form developed*
21 *under paragraph (1) available upon request to—*

22 “*(i) a resident of a facility; and*

23 “*(ii) any person acting on the resi-*
24 *dent’s behalf.*

1 “(B) *COMPLAINT RESOLUTION PROCESS.*—
2 *The State must establish a complaint resolution*
3 *process in order to ensure that the legal rep-*
4 *resentative of a resident of a facility or other re-*
5 *sponsible party is not denied access to such resi-*
6 *dent or otherwise retaliated against if they have*
7 *complained about the quality of care provided by*
8 *the facility or other issues relating to the facility.*
9 *Such complaint resolution process shall in-*
10 *clude—*

11 “(i) *procedures to assure accurate*
12 *tracking of complaints received, including*
13 *notification to the complainant that a com-*
14 *plaint has been received;*

15 “(ii) *procedures to determine the likely*
16 *severity of a complaint and for the inves-*
17 *tigation of the complaint; and*

18 “(iii) *deadlines for responding to a*
19 *complaint and for notifying the complain-*
20 *ant of the outcome of the investigation.*

21 “(3) *RULE OF CONSTRUCTION.*—*Nothing in this*
22 *subsection shall be construed as preventing a resident*
23 *of a facility (or a person acting on the resident’s be-*
24 *half) from submitting a complaint in a manner or*
25 *format other than by using the standardized com-*

1 *plaint form developed under paragraph (1) (including*
2 *submitting a complaint orally).”.*

3 *(b) EFFECTIVE DATE.—The amendment made by this*
4 *section shall take effect 1 year after the date of the enact-*
5 *ment of this Act.*

6 **SEC. 6106. ENSURING STAFFING ACCOUNTABILITY.**

7 *Section 1128I of the Social Security Act, as added and*
8 *amended by this Act, is amended by adding at the end the*
9 *following new subsection:*

10 *“(g) SUBMISSION OF STAFFING INFORMATION BASED*
11 *ON PAYROLL DATA IN A UNIFORM FORMAT.—Beginning*
12 *not later than 2 years after the date of the enactment of*
13 *this subsection, and after consulting with State long-term*
14 *care ombudsman programs, consumer advocacy groups,*
15 *provider stakeholder groups, employees and their represent-*
16 *atives, and other parties the Secretary deems appropriate,*
17 *the Secretary shall require a facility to electronically sub-*
18 *mit to the Secretary direct care staffing information (in-*
19 *cluding information with respect to agency and contract*
20 *staff) based on payroll and other verifiable and auditable*
21 *data in a uniform format (according to specifications estab-*
22 *lished by the Secretary in consultation with such programs,*
23 *groups, and parties). Such specifications shall require that*
24 *the information submitted under the preceding sentence—*

1 “(1) specify the category of work a certified em-
2 ployee performs (such as whether the employee is a
3 registered nurse, licensed practical nurse, licensed vo-
4 cational nurse, certified nursing assistant, therapist,
5 or other medical personnel);

6 “(2) include resident census data and informa-
7 tion on resident case mix;

8 “(3) include a regular reporting schedule; and

9 “(4) include information on employee turnover
10 and tenure and on the hours of care provided by each
11 category of certified employees referenced in para-
12 graph (1) per resident per day.

13 *Nothing in this subsection shall be construed as preventing*
14 *the Secretary from requiring submission of such informa-*
15 *tion with respect to specific categories, such as nursing staff,*
16 *before other categories of certified employees. Information*
17 *under this subsection with respect to agency and contract*
18 *staff shall be kept separate from information on employee*
19 *staffing.”.*

20 **SEC. 6107. GAO STUDY AND REPORT ON FIVE-STAR QUALITY**
21 **RATING SYSTEM.**

22 (a) *STUDY.*—*The Comptroller General of the United*
23 *States (in this section referred to as the “Comptroller Gen-*
24 *eral”)* shall conduct a study on the Five-Star Quality Rat-
25 *ing System for nursing homes of the Centers for Medicare*

1 & Medicaid Services. Such study shall include an analysis
2 of—

3 (1) how such system is being implemented;

4 (2) any problems associated with such system or
5 its implementation; and

6 (3) how such system could be improved.

7 (b) *REPORT.*—Not later than 2 years after the date
8 of enactment of this Act, the Comptroller General shall sub-
9 mit to Congress a report containing the results of the study
10 conducted under subsection (a), together with recommenda-
11 tions for such legislation and administrative action as the
12 Comptroller General determines appropriate.

13 **PART II—TARGETING ENFORCEMENT**

14 **SEC. 6111. CIVIL MONEY PENALTIES.**

15 (a) *SKILLED NURSING FACILITIES.*—

16 (1) *IN GENERAL.*—Section 1819(h)(2)(B)(ii) of
17 the Social Security Act (42 U.S.C. 1395i-
18 3(h)(2)(B)(ii)) is amended—

19 (A) by striking “*PENALTIES.*—The Sec-
20 retary” and inserting “*PENALTIES.*—

21 “(I) *IN GENERAL.*—Subject to
22 subclause (II), the Secretary”; and

23 (B) by adding at the end the following new
24 subclauses:

1 “(II) *REDUCTION OF CIVIL MONEY*
2 *PENALTIES IN CERTAIN CIR-*
3 *CUMSTANCES.—Subject to subclause*
4 *(III), in the case where a facility self-*
5 *reports and promptly corrects a defi-*
6 *ciency for which a penalty was im-*
7 *posed under this clause not later than*
8 *10 calendar days after the date of such*
9 *imposition, the Secretary may reduce*
10 *the amount of the penalty imposed by*
11 *not more than 50 percent.*

12 “(III) *PROHIBITIONS ON REDUC-*
13 *TION FOR CERTAIN DEFICIENCIES.—*

14 “(aa) *REPEAT DEFICI-*
15 *ENCIES.—The Secretary may*
16 *not reduce the amount of a pen-*
17 *alty under subclause (II) if the*
18 *Secretary had reduced a penalty*
19 *imposed on the facility in the pre-*
20 *ceding year under such subclause*
21 *with respect to a repeat defi-*
22 *ciency.*

23 “(bb) *CERTAIN OTHER DEFICI-*
24 *ENCIES.—The Secretary may*
25 *not reduce the amount of a pen-*

1 *alty under subclause (II) if the*
2 *penalty is imposed on the facility*
3 *for a deficiency that is found to*
4 *result in a pattern of harm or*
5 *widespread harm, immediately*
6 *jeopardizes the health or safety of*
7 *a resident or residents of the facil-*
8 *ity, or results in the death of a*
9 *resident of the facility.*

10 *“(IV) COLLECTION OF CIVIL*
11 *MONEY PENALTIES.—In the case of a*
12 *civil money penalty imposed under*
13 *this clause, the Secretary shall issue*
14 *regulations that—*

15 *“(aa) subject to item (cc), not*
16 *later than 30 days after the impo-*
17 *sition of the penalty, provide for*
18 *the facility to have the oppor-*
19 *tunity to participate in an inde-*
20 *pendent informal dispute resolu-*
21 *tion process which generates a*
22 *written record prior to the collec-*
23 *tion of such penalty;*

24 *“(bb) in the case where the*
25 *penalty is imposed for each day of*

1 *noncompliance, provide that a*
2 *penalty may not be imposed for*
3 *any day during the period begin-*
4 *ning on the initial day of the im-*
5 *position of the penalty and ending*
6 *on the day on which the informal*
7 *dispute resolution process under*
8 *item (aa) is completed;*

9 *“(cc) may provide for the col-*
10 *lection of such civil money pen-*
11 *alty and the placement of such*
12 *amounts collected in an escrow*
13 *account under the direction of the*
14 *Secretary on the earlier of the*
15 *date on which the informal dis-*
16 *pute resolution process under item*
17 *(aa) is completed or the date that*
18 *is 90 days after the date of the*
19 *imposition of the penalty;*

20 *“(dd) may provide that such*
21 *amounts collected are kept in such*
22 *account pending the resolution of*
23 *any subsequent appeals;*

24 *“(ee) in the case where the*
25 *facility successfully appeals the*

1 *penalty, may provide for the re-*
2 *turn of such amounts collected*
3 *(plus interest) to the facility; and*

4 *“(ff) in the case where all*
5 *such appeals are unsuccessful,*
6 *may provide that some portion of*
7 *such amounts collected may be*
8 *used to support activities that*
9 *benefit residents, including assist-*
10 *ance to support and protect resi-*
11 *dents of a facility that closes (vol-*
12 *untarily or involuntarily) or is*
13 *decertified (including offsetting*
14 *costs of relocating residents to*
15 *home and community-based set-*
16 *tings or another facility), projects*
17 *that support resident and family*
18 *councils and other consumer in-*
19 *volvement in assuring quality*
20 *care in facilities, and facility im-*
21 *provement initiatives approved by*
22 *the Secretary (including joint*
23 *training of facility staff and sur-*
24 *veyors, technical assistance for fa-*
25 *cilities implementing quality as-*

1 *surance programs, the appoint-*
 2 *ment of temporary management*
 3 *firms, and other activities ap-*
 4 *proved by the Secretary).”.*

5 (2) *CONFORMING AMENDMENT.*—*The second sen-*
 6 *tence of section 1819(h)(5) of the Social Security Act*
 7 *(42 U.S.C. 1395i–3(h)(5)) is amended by inserting*
 8 *“(ii)(IV),” after “(i),”.*

9 (b) *NURSING FACILITIES.*—

10 (1) *IN GENERAL.*—*Section 1919(h)(3)(C)(ii) of*
 11 *the Social Security Act (42 U.S.C. 1396r(h)(3)(C)) is*
 12 *amended—*

13 (A) *by striking “PENALTIES.—The Sec-*
 14 *retary” and inserting “PENALTIES.—*

15 *“(I) IN GENERAL.—Subject to*
 16 *subclause (II), the Secretary”; and*

17 (B) *by adding at the end the following new*
 18 *subclauses:*

19 *“(II) REDUCTION OF CIVIL MONEY*
 20 *PENALTIES IN CERTAIN CIR-*
 21 *CUMSTANCES.—Subject to subclause*
 22 *(III), in the case where a facility self-*
 23 *reports and promptly corrects a defi-*
 24 *ciency for which a penalty was im-*
 25 *posed under this clause not later than*

1 10 calendar days after the date of such
2 imposition, the Secretary may reduce
3 the amount of the penalty imposed by
4 not more than 50 percent.

5 “(III) PROHIBITIONS ON REDUC-
6 TION FOR CERTAIN DEFICIENCIES.—

7 “(aa) REPEAT DEFICI-
8 CIENCIES.—The Secretary may
9 not reduce the amount of a pen-
10 alty under subclause (II) if the
11 Secretary had reduced a penalty
12 imposed on the facility in the pre-
13 ceding year under such subclause
14 with respect to a repeat defi-
15 ciency.

16 “(bb) CERTAIN OTHER DEFICI-
17 CIENCIES.—The Secretary may
18 not reduce the amount of a pen-
19 alty under subclause (II) if the
20 penalty is imposed on the facility
21 for a deficiency that is found to
22 result in a pattern of harm or
23 widespread harm, immediately
24 jeopardizes the health or safety of
25 a resident or residents of the facil-

1 *ity, or results in the death of a*
2 *resident of the facility.*

3 “(IV) *COLLECTION OF CIVIL*
4 *MONEY PENALTIES.—In the case of a*
5 *civil money penalty imposed under*
6 *this clause, the Secretary shall issue*
7 *regulations that—*

8 *“(aa) subject to item (cc), not*
9 *later than 30 days after the impo-*
10 *sition of the penalty, provide for*
11 *the facility to have the oppor-*
12 *tunity to participate in an inde-*
13 *pendent informal dispute resolu-*
14 *tion process which generates a*
15 *written record prior to the collec-*
16 *tion of such penalty;*

17 *“(bb) in the case where the*
18 *penalty is imposed for each day of*
19 *noncompliance, provide that a*
20 *penalty may not be imposed for*
21 *any day during the period begin-*
22 *ning on the initial day of the im-*
23 *position of the penalty and ending*
24 *on the day on which the informal*

1 *dispute resolution process under*
2 *item (aa) is completed;*

3 *“(cc) may provide for the col-*
4 *lection of such civil money pen-*
5 *alty and the placement of such*
6 *amounts collected in an escrow*
7 *account under the direction of the*
8 *Secretary on the earlier of the*
9 *date on which the informal dis-*
10 *pute resolution process under item*
11 *(aa) is completed or the date that*
12 *is 90 days after the date of the*
13 *imposition of the penalty;*

14 *“(dd) may provide that such*
15 *amounts collected are kept in such*
16 *account pending the resolution of*
17 *any subsequent appeals;*

18 *“(ee) in the case where the*
19 *facility successfully appeals the*
20 *penalty, may provide for the re-*
21 *turn of such amounts collected*
22 *(plus interest) to the facility; and*

23 *“(ff) in the case where all*
24 *such appeals are unsuccessful,*
25 *may provide that some portion of*

1 *such amounts collected may be*
2 *used to support activities that*
3 *benefit residents, including assist-*
4 *ance to support and protect resi-*
5 *dents of a facility that closes (vol-*
6 *untarily or involuntarily) or is*
7 *decertified (including offsetting*
8 *costs of relocating residents to*
9 *home and community-based set-*
10 *tings or another facility), projects*
11 *that support resident and family*
12 *councils and other consumer in-*
13 *volvement in assuring quality*
14 *care in facilities, and facility im-*
15 *provement initiatives approved by*
16 *the Secretary (including joint*
17 *training of facility staff and sur-*
18 *veyors, technical assistance for fa-*
19 *cilities implementing quality as-*
20 *urance programs, the appoint-*
21 *ment of temporary management*
22 *firms, and other activities ap-*
23 *proved by the Secretary).”.*

24 (2) *CONFORMING AMENDMENT.—Section*
25 *1919(h)(5)(8) of the Social Security Act (42 U.S.C.*

1 1396r(h)(5)(8)) is amended by inserting “(ii)(IV),”
2 after “(i),”.

3 (c) *EFFECTIVE DATE.*—The amendments made by this
4 section shall take effect 1 year after the date of the enact-
5 ment of this Act.

6 **SEC. 6112. NATIONAL INDEPENDENT MONITOR DEM-**
7 **ONSTRATION PROJECT.**

8 (a) *ESTABLISHMENT.*—

9 (1) *IN GENERAL.*—The Secretary, in consultation
10 with the Inspector General of the Department of
11 Health and Human Services, shall conduct a dem-
12 onstration project to develop, test, and implement an
13 independent monitor program to oversee interstate
14 and large intrastate chains of skilled nursing facili-
15 ties and nursing facilities.

16 (2) *SELECTION.*—The Secretary shall select
17 chains of skilled nursing facilities and nursing facili-
18 ties described in paragraph (1) to participate in the
19 demonstration project under this section from among
20 those chains that submit an application to the Sec-
21 retary at such time, in such manner, and containing
22 such information as the Secretary may require.

23 (3) *DURATION.*—The Secretary shall conduct the
24 demonstration project under this section for a 2-year
25 period.

1 (4) *IMPLEMENTATION.*—*The Secretary shall im-*
2 *plement the demonstration project under this section*
3 *not later than 1 year after the date of the enactment*
4 *of this Act.*

5 (b) *REQUIREMENTS.*—*The Secretary shall evaluate*
6 *chains selected to participate in the demonstration project*
7 *under this section based on criteria selected by the Sec-*
8 *retary, including where evidence suggests that a number of*
9 *the facilities of the chain are experiencing serious safety*
10 *and quality of care problems. Such criteria may include*
11 *the evaluation of a chain that includes a number of facili-*
12 *ties participating in the “Special Focus Facility” program*
13 *(or a successor program) or multiple facilities with a record*
14 *of repeated serious safety and quality of care deficiencies.*

15 (c) *RESPONSIBILITIES.*—*An independent monitor that*
16 *enters into a contract with the Secretary to participate in*
17 *the conduct of the demonstration project under this section*
18 *shall—*

19 (1) *conduct periodic reviews and prepare root-*
20 *cause quality and deficiency analyses of a chain to*
21 *assess if facilities of the chain are in compliance with*
22 *State and Federal laws and regulations applicable to*
23 *the facilities;*

24 (2) *conduct sustained oversight of the efforts of*
25 *the chain, whether publicly or privately held, to*

1 *achieve compliance by facilities of the chain with*
2 *State and Federal laws and regulations applicable to*
3 *the facilities;*

4 (3) *analyze the management structure, distribu-*
5 *tion of expenditures, and nurse staffing levels of fa-*
6 *cilities of the chain in relation to resident census,*
7 *staff turnover rates, and tenure;*

8 (4) *report findings and recommendations with*
9 *respect to such reviews, analyses, and oversight to the*
10 *chain and facilities of the chain, to the Secretary, and*
11 *to relevant States; and*

12 (5) *publish the results of such reviews, analyses,*
13 *and oversight.*

14 (d) *IMPLEMENTATION OF RECOMMENDATIONS.—*

15 (1) *RECEIPT OF FINDING BY CHAIN.—Not later*
16 *than 10 days after receipt of a finding of an inde-*
17 *pendent monitor under subsection (c)(4), a chain par-*
18 *ticipating in the demonstration project shall submit*
19 *to the independent monitor a report—*

20 (A) *outlining corrective actions the chain*
21 *will take to implement the recommendations in*
22 *such report; or*

23 (B) *indicating that the chain will not im-*
24 *plement such recommendations, and why it will*
25 *not do so.*

1 (2) *RECEIPT OF REPORT BY INDEPENDENT MON-*
2 *ITOR.*—Not later than 10 days after receipt of a re-
3 port submitted by a chain under paragraph (1), an
4 independent monitor shall finalize its recommenda-
5 tions and submit a report to the chain and facilities
6 of the chain, the Secretary, and the State or States,
7 as appropriate, containing such final recommenda-
8 tions.

9 (e) *COST OF APPOINTMENT.*—A chain shall be respon-
10 sible for a portion of the costs associated with the appoint-
11 ment of independent monitors under the demonstration
12 project under this section. The chain shall pay such portion
13 to the Secretary (in an amount and in accordance with
14 procedures established by the Secretary).

15 (f) *WAIVER AUTHORITY.*—The Secretary may waive
16 such requirements of titles XVIII and XIX of the Social Se-
17 curity Act (42 U.S.C. 1395 et seq.; 1396 et seq.) as may
18 be necessary for the purpose of carrying out the demonstra-
19 tion project under this section.

20 (g) *AUTHORIZATION OF APPROPRIATIONS.*—There are
21 authorized to be appropriated such sums as may be nec-
22 essary to carry out this section.

23 (h) *DEFINITIONS.*—In this section:

24 (1) *ADDITIONAL DISCLOSABLE PARTY.*—The term
25 “additional disclosable party” has the meaning given

1 *such term in section 1124(c)(5)(A) of the Social Secu-*
2 *rity Act, as added by section 4201(a).*

3 (2) *FACILITY.*—*The term “facility” means a*
4 *skilled nursing facility or a nursing facility.*

5 (3) *NURSING FACILITY.*—*The term “nursing fa-*
6 *cility” has the meaning given such term in section*
7 *1919(a) of the Social Security Act (42 U.S.C.*
8 *1396r(a)).*

9 (4) *SECRETARY.*—*The term “Secretary” means*
10 *the Secretary of Health and Human Services, acting*
11 *through the Assistant Secretary for Planning and*
12 *Evaluation.*

13 (5) *SKILLED NURSING FACILITY.*—*The term*
14 *“skilled nursing facility” has the meaning given such*
15 *term in section 1819(a) of the Social Security Act (42*
16 *U.S.C. 1395(a)).*

17 (i) *EVALUATION AND REPORT.*—

18 (1) *EVALUATION.*—*The Secretary, in consulta-*
19 *tion with the Inspector General of the Department of*
20 *Health and Human Services, shall evaluate the dem-*
21 *onstration project conducted under this section.*

22 (2) *REPORT.*—*Not later than 180 days after the*
23 *completion of the demonstration project under this*
24 *section, the Secretary shall submit to Congress a re-*
25 *port containing the results of the evaluation con-*

1 *ducted under paragraph (1), together with rec-*
2 *ommendations—*

3 *(A) as to whether the independent monitor*
4 *program should be established on a permanent*
5 *basis;*

6 *(B) if the Secretary recommends that such*
7 *program be so established, on appropriate proce-*
8 *dures and mechanisms for such establishment;*
9 *and*

10 *(C) for such legislation and administrative*
11 *action as the Secretary determines appropriate.*

12 **SEC. 6113. NOTIFICATION OF FACILITY CLOSURE.**

13 *(a) IN GENERAL.—Section 1128I of the Social Secu-*
14 *rity Act, as added and amended by this Act, is amended*
15 *by adding at the end the following new subsection:*

16 *“(h) NOTIFICATION OF FACILITY CLOSURE.—*

17 *“(1) IN GENERAL.—Any individual who is the*
18 *administrator of a facility must—*

19 *“(A) submit to the Secretary, the State*
20 *long-term care ombudsman, residents of the facil-*
21 *ity, and the legal representatives of such resi-*
22 *dents or other responsible parties, written notifi-*
23 *cation of an impending closure—*

1 “(i) subject to clause (ii), not later
2 than the date that is 60 days prior to the
3 date of such closure; and

4 “(ii) in the case of a facility where the
5 Secretary terminates the facility’s partici-
6 pation under this title, not later than the
7 date that the Secretary determines appro-
8 priate;

9 “(B) ensure that the facility does not admit
10 any new residents on or after the date on which
11 such written notification is submitted; and

12 “(C) include in the notice a plan for the
13 transfer and adequate relocation of the residents
14 of the facility by a specified date prior to closure
15 that has been approved by the State, including
16 assurances that the residents will be transferred
17 to the most appropriate facility or other setting
18 in terms of quality, services, and location, taking
19 into consideration the needs, choice, and best in-
20 terests of each resident.

21 “(2) RELOCATION.—

22 “(A) IN GENERAL.—The State shall ensure
23 that, before a facility closes, all residents of the
24 facility have been successfully relocated to an-

1 *other facility or an alternative home and com-*
2 *munity-based setting.*

3 “(B) *CONTINUATION OF PAYMENTS UNTIL*
4 *RESIDENTS RELOCATED.*—*The Secretary may, as*
5 *the Secretary determines appropriate, continue*
6 *to make payments under this title with respect*
7 *to residents of a facility that has submitted a no-*
8 *tification under paragraph (1) during the period*
9 *beginning on the date such notification is sub-*
10 *mitted and ending on the date on which the resi-*
11 *dent is successfully relocated.*

12 “(3) *SANCTIONS.*—*Any individual who is the ad-*
13 *ministrator of a facility that fails to comply with the*
14 *requirements of paragraph (1)—*

15 “(A) *shall be subject to a civil monetary*
16 *penalty of up to \$100,000;*

17 “(B) *may be subject to exclusion from par-*
18 *ticipation in any Federal health care program*
19 *(as defined in section 1128B(f)); and*

20 “(C) *shall be subject to any other penalties*
21 *that may be prescribed by law.*

22 “(4) *PROCEDURE.*—*The provisions of section*
23 *1128A (other than subsections (a) and (b) and the*
24 *second sentence of subsection (f)) shall apply to a civil*
25 *money penalty or exclusion under paragraph (3) in*

1 *the same manner as such provisions apply to a pen-*
2 *alty or proceeding under section 1128A(a).”.*

3 (b) *CONFORMING AMENDMENTS.*—Section 1819(h)(4)
4 *of the Social Security Act (42 U.S.C. 1395i–3(h)(4)) is*
5 *amended—*

6 (1) *in the first sentence, by striking “the Sec-*
7 *retary shall terminate” and inserting “the Secretary,*
8 *subject to section 1128I(h), shall terminate”;* and

9 (2) *in the second sentence, by striking “sub-*
10 *section (c)(2)” and inserting “subsection (c)(2) and*
11 *section 1128I(h).”.*

12 (c) *EFFECTIVE DATE.*—*The amendments made by this*
13 *section shall take effect 1 year after the date of the enact-*
14 *ment of this Act.*

15 **SEC. 6114. NATIONAL DEMONSTRATION PROJECTS ON CUL-**
16 **TURE CHANGE AND USE OF INFORMATION**
17 **TECHNOLOGY IN NURSING HOMES.**

18 (a) *IN GENERAL.*—*The Secretary shall conduct 2 dem-*
19 *onstration projects, 1 for the development of best practices*
20 *in skilled nursing facilities and nursing facilities that are*
21 *involved in the culture change movement (including the de-*
22 *velopment of resources for facilities to find and access fund-*
23 *ing in order to undertake culture change) and 1 for the de-*
24 *velopment of best practices in skilled nursing facilities and*

1 *nursing facilities for the use of information technology to*
2 *improve resident care.*

3 *(b) CONDUCT OF DEMONSTRATION PROJECTS.—*

4 *(1) GRANT AWARD.—Under each demonstration*
5 *project conducted under this section, the Secretary*
6 *shall award 1 or more grants to facility-based settings*
7 *for the development of best practices described in sub-*
8 *section (a) with respect to the demonstration project*
9 *involved. Such award shall be made on a competitive*
10 *basis and may be allocated in 1 lump-sum payment.*

11 *(2) CONSIDERATION OF SPECIAL NEEDS OF RESI-*
12 *DENTS.—Each demonstration project conducted under*
13 *this section shall take into consideration the special*
14 *needs of residents of skilled nursing facilities and*
15 *nursing facilities who have cognitive impairment, in-*
16 *cluding dementia.*

17 *(c) DURATION AND IMPLEMENTATION.—*

18 *(1) DURATION.—The demonstration projects*
19 *shall each be conducted for a period not to exceed 3*
20 *years.*

21 *(2) IMPLEMENTATION.—The demonstration*
22 *projects shall each be implemented not later than 1*
23 *year after the date of the enactment of this Act.*

24 *(d) DEFINITIONS.—In this section:*

1 (1) *NURSING FACILITY.*—*The term “nursing fa-*
2 *cility” has the meaning given such term in section*
3 *1919(a) of the Social Security Act (42 U.S.C.*
4 *1396r(a)).*

5 (2) *SECRETARY.*—*The term “Secretary” means*
6 *the Secretary of Health and Human Services.*

7 (3) *SKILLED NURSING FACILITY.*—*The term*
8 *“skilled nursing facility” has the meaning given such*
9 *term in section 1819(a) of the Social Security Act (42*
10 *U.S.C. 1395(a)).*

11 (e) *AUTHORIZATION OF APPROPRIATIONS.*—*There are*
12 *authorized to be appropriated such sums as may be nec-*
13 *essary to carry out this section.*

14 (f) *REPORT.*—*Not later than 9 months after the com-*
15 *pletion of the demonstration project, the Secretary shall sub-*
16 *mit to Congress a report on such project, together with rec-*
17 *ommendations for such legislation and administrative ac-*
18 *tion as the Secretary determines appropriate.*

19 ***PART III—IMPROVING STAFF TRAINING***

20 ***SEC. 6121. DEMENTIA AND ABUSE PREVENTION TRAINING.***

21 (a) *SKILLED NURSING FACILITIES.*—

22 (1) *IN GENERAL.*—*Section 1819(f)(2)(A)(i)(I) of*
23 *the Social Security Act (42 U.S.C. 1395i-*
24 *3(f)(2)(A)(i)(I)) is amended by inserting “(including,*
25 *in the case of initial training and, if the Secretary*

1 *determines appropriate, in the case of ongoing train-*
2 *ing, dementia management training, and patient*
3 *abuse prevention training” before “, (II)”.*

4 (2) *CLARIFICATION OF DEFINITION OF NURSE*
5 *AIDE.—Section 1819(b)(5)(F) of the Social Security*
6 *Act (42 U.S.C. 1395i–3(b)(5)(F)) is amended by add-*
7 *ing at the end the following flush sentence:*

8 “*Such term includes an individual who provides*
9 *such services through an agency or under a con-*
10 *tract with the facility.”.*

11 (b) *NURSING FACILITIES.—*

12 (1) *IN GENERAL.—Section 1919(f)(2)(A)(i)(I) of*
13 *the Social Security Act (42 U.S.C.*
14 *1396r(f)(2)(A)(i)(I)) is amended by inserting “(in-*
15 *cluding, in the case of initial training and, if the Sec-*
16 *retary determines appropriate, in the case of ongoing*
17 *training, dementia management training, and pa-*
18 *tient abuse prevention training” before “, (II)”.*

19 (2) *CLARIFICATION OF DEFINITION OF NURSE*
20 *AIDE.—Section 1919(b)(5)(F) of the Social Security*
21 *Act (42 U.S.C. 1396r(b)(5)(F)) is amended by adding*
22 *at the end the following flush sentence:*

23 “*Such term includes an individual who provides*
24 *such services through an agency or under a con-*
25 *tract with the facility.”.*

1 (c) *EFFECTIVE DATE.*—*The amendments made by this*
2 *section shall take effect 1 year after the date of the enact-*
3 *ment of this Act.*

4 ***Subtitle C—Nationwide Program***
5 ***for National and State Back-***
6 ***ground Checks on Direct Patient***
7 ***Access Employees of Long-term***
8 ***Care Facilities and Providers***

9 ***SEC. 6201. NATIONWIDE PROGRAM FOR NATIONAL AND***
10 ***STATE BACKGROUND CHECKS ON DIRECT PA-***
11 ***TIENT ACCESS EMPLOYEES OF LONG-TERM***
12 ***CARE FACILITIES AND PROVIDERS.***

13 (a) *IN GENERAL.*—*The Secretary of Health and*
14 *Human Services (in this section referred to as the “Sec-*
15 *retary”), shall establish a program to identify efficient, ef-*
16 *fective, and economical procedures for long term care facili-*
17 *ties or providers to conduct background checks on prospec-*
18 *tive direct patient access employees on a nationwide basis*
19 *(in this subsection, such program shall be referred to as the*
20 *“nationwide program”). Except for the following modifica-*
21 *tions, the Secretary shall carry out the nationwide program*
22 *under similar terms and conditions as the pilot program*
23 *under section 307 of the Medicare Prescription Drug, Im-*
24 *provement, and Modernization Act of 2003 (Public Law*
25 *108–173; 117 Stat. 2257), including the prohibition on hir-*

1 *ing abusive workers and the authorization of the imposition*
2 *of penalties by a participating State under subsection*
3 *(b)(3)(A) and (b)(6), respectively, of such section 307:*

4 (1) *AGREEMENTS.—*

5 (A) *NEWLY PARTICIPATING STATES.—The*
6 *Secretary shall enter into agreements with each*
7 *State—*

8 (i) *that the Secretary has not entered*
9 *into an agreement with under subsection*
10 *(c)(1) of such section 307;*

11 (ii) *that agrees to conduct background*
12 *checks under the nationwide program on a*
13 *Statewide basis; and*

14 (iii) *that submits an application to the*
15 *Secretary containing such information and*
16 *at such time as the Secretary may specify.*

17 (B) *CERTAIN PREVIOUSLY PARTICIPATING*
18 *STATES.—The Secretary shall enter into agree-*
19 *ments with each State—*

20 (i) *that the Secretary has entered into*
21 *an agreement with under such subsection*
22 *(c)(1), but only in the case where such*
23 *agreement did not require the State to con-*
24 *duct background checks under the program*

1 *established under subsection (a) of such sec-*
2 *tion 307 on a Statewide basis;*

3 *(ii) that agrees to conduct background*
4 *checks under the nationwide program on a*
5 *Statewide basis; and*

6 *(iii) that submits an application to the*
7 *Secretary containing such information and*
8 *at such time as the Secretary may specify.*

9 (2) *NONAPPLICATION OF SELECTION CRITERIA.—*
10 *The selection criteria required under subsection*
11 *(c)(3)(B) of such section 307 shall not apply.*

12 (3) *REQUIRED FINGERPRINT CHECK AS PART OF*
13 *CRIMINAL HISTORY BACKGROUND CHECK.—The proce-*
14 *dures established under subsection (b)(1) of such sec-*
15 *tion 307 shall—*

16 *(A) require that the long-term care facility*
17 *or provider (or the designated agent of the long-*
18 *term care facility or provider) obtain State and*
19 *national criminal history background checks on*
20 *the prospective employee through such means as*
21 *the Secretary determines appropriate, efficient,*
22 *and effective that utilize a search of State-based*
23 *abuse and neglect registries and databases, in-*
24 *cluding the abuse and neglect registries of an-*
25 *other State in the case where a prospective em-*

1 *ployee previously resided in that State, State*
2 *criminal history records, the records of any pro-*
3 *ceedings in the State that may contain disquali-*
4 *fying information about prospective employees*
5 *(such as proceedings conducted by State profes-*
6 *sional licensing and disciplinary boards and*
7 *State Medicaid Fraud Control Units), and Fed-*
8 *eral criminal history records, including a finger-*
9 *print check using the Integrated Automated Fin-*
10 *gerprint Identification System of the Federal*
11 *Bureau of Investigation;*

12 *(B) require States to describe and test meth-*
13 *ods that reduce duplicative fingerprinting, in-*
14 *cluding providing for the development of “rap*
15 *back” capability by the State such that, if a di-*
16 *rect patient access employee of a long-term care*
17 *facility or provider is convicted of a crime fol-*
18 *lowing the initial criminal history background*
19 *check conducted with respect to such employee,*
20 *and the employee’s fingerprints match the prints*
21 *on file with the State law enforcement depart-*
22 *ment, the department will immediately inform*
23 *the State and the State will immediately inform*
24 *the long-term care facility or provider which em-*

1 *employs the direct patient access employee of such*
2 *conviction; and*

3 *(C) require that criminal history back-*
4 *ground checks conducted under the nationwide*
5 *program remain valid for a period of time speci-*
6 *fied by the Secretary.*

7 *(4) STATE REQUIREMENTS.—An agreement en-*
8 *tered into under paragraph (1) shall require that a*
9 *participating State—*

10 *(A) be responsible for monitoring compli-*
11 *ance with the requirements of the nationwide*
12 *program;*

13 *(B) have procedures in place to—*

14 *(i) conduct screening and criminal his-*
15 *tory background checks under the nation-*
16 *wide program in accordance with the re-*
17 *quirements of this section;*

18 *(ii) monitor compliance by long-term*
19 *care facilities and providers with the proce-*
20 *dures and requirements of the nationwide*
21 *program;*

22 *(iii) as appropriate, provide for a pro-*
23 *visional period of employment by a long-*
24 *term care facility or provider of a direct*
25 *patient access employee, not to exceed 60*

1 *days, pending completion of the required*
2 *criminal history background check and, in*
3 *the case where the employee has appealed*
4 *the results of such background check, pend-*
5 *ing completion of the appeals process, dur-*
6 *ing which the employee shall be subject to*
7 *direct on-site supervision (in accordance*
8 *with procedures established by the State to*
9 *ensure that a long-term care facility or pro-*
10 *vider furnishes such direct on-site super-*
11 *vision);*

12 *(iv) provide an independent process by*
13 *which a provisional employee or an em-*
14 *ployee may appeal or dispute the accuracy*
15 *of the information obtained in a back-*
16 *ground check performed under the nation-*
17 *wide program, including the specification of*
18 *criteria for appeals for direct patient access*
19 *employees found to have disqualifying infor-*
20 *mation which shall include consideration of*
21 *the passage of time, extenuating cir-*
22 *cumstances, demonstration of rehabilitation,*
23 *and relevancy of the particular disquali-*
24 *fying information with respect to the cur-*
25 *rent employment of the individual;*

1 (v) provide for the designation of a
2 single State agency as responsible for—

3 (I) overseeing the coordination of
4 any State and national criminal his-
5 tory background checks requested by a
6 long-term care facility or provider (or
7 the designated agent of the long-term
8 care facility or provider) utilizing a
9 search of State and Federal criminal
10 history records, including a fingerprint
11 check of such records;

12 (II) overseeing the design of ap-
13 propriate privacy and security safe-
14 guards for use in the review of the re-
15 sults of any State or national criminal
16 history background checks conducted
17 regarding a prospective direct patient
18 access employee to determine whether
19 the employee has any conviction for a
20 relevant crime;

21 (III) immediately reporting to the
22 long-term care facility or provider that
23 requested the criminal history back-
24 ground check the results of such review;
25 and

1 (IV) *in the case of an employee*
2 *with a conviction for a relevant crime*
3 *that is subject to reporting under sec-*
4 *tion 1128E of the Social Security Act*
5 *(42 U.S.C. 1320a–7e), reporting the ex-*
6 *istence of such conviction to the data-*
7 *base established under that section;*
8 (i) *determine which individuals are*
9 *direct patient access employees (as defined*
10 *in paragraph (6)(B)) for purposes of the*
11 *nationwide program;*
12 (ii) *as appropriate, specify offenses,*
13 *including convictions for violent crimes, for*
14 *purposes of the nationwide program; and*
15 (iii) *describe and test methods that re-*
16 *duce duplicative fingerprinting, including*
17 *providing for the development of “rap back”*
18 *capability such that, if a direct patient ac-*
19 *cess employee of a long-term care facility or*
20 *provider is convicted of a crime following*
21 *the initial criminal history background*
22 *check conducted with respect to such em-*
23 *ployee, and the employee’s fingerprints*
24 *match the prints on file with the State law*
25 *enforcement department—*

1 (I) the department will imme-
2 diately inform the State agency des-
3 ignated under clause (v) and such
4 agency will immediately inform the fa-
5 cility or provider which employs the
6 direct patient access employee of such
7 conviction; and

8 (II) the State will provide, or will
9 require the facility to provide, to the
10 employee a copy of the results of the
11 criminal history background check con-
12 ducted with respect to the employee at
13 no charge in the case where the indi-
14 vidual requests such a copy.

15 (5) PAYMENTS.—

16 (A) NEWLY PARTICIPATING STATES.—

17 (i) IN GENERAL.—As part of the appli-
18 cation submitted by a State under para-
19 graph (1)(A)(iii), the State shall guarantee,
20 with respect to the costs to be incurred by
21 the State in carrying out the nationwide
22 program, that the State will make available
23 (directly or through donations from public
24 or private entities) a particular amount of
25 non-Federal contributions, as a condition of

1 receiving the Federal match under clause
2 (ii).

3 (ii) FEDERAL MATCH.—The payment
4 amount to each State that the Secretary en-
5 ters into an agreement with under para-
6 graph (1)(A) shall be 3 times the amount
7 that the State guarantees to make available
8 under clause (i), except that in no case may
9 the payment amount exceed \$3,000,000.

10 (B) PREVIOUSLY PARTICIPATING STATES.—

11 (i) IN GENERAL.—As part of the appli-
12 cation submitted by a State under para-
13 graph (1)(B)(iii), the State shall guarantee,
14 with respect to the costs to be incurred by
15 the State in carrying out the nationwide
16 program, that the State will make available
17 (directly or through donations from public
18 or private entities) a particular amount of
19 non-Federal contributions, as a condition of
20 receiving the Federal match under clause
21 (ii).

22 (ii) FEDERAL MATCH.—The payment
23 amount to each State that the Secretary en-
24 ters into an agreement with under para-
25 graph (1)(B) shall be 3 times the amount

1 that the State guarantees to make available
2 under clause (i), except that in no case may
3 the payment amount exceed \$1,500,000.

4 (6) *DEFINITIONS.*—Under the nationwide pro-
5 gram:

6 (A) *CONVICTION FOR A RELEVANT CRIME.*—
7 The term “conviction for a relevant crime”
8 means any Federal or State criminal conviction
9 for—

10 (i) any offense described in section
11 1128(a) of the Social Security Act (42
12 U.S.C. 1320a-7); or

13 (ii) such other types of offenses as a
14 participating State may specify for pur-
15 poses of conducting the program in such
16 State.

17 (B) *DISQUALIFYING INFORMATION.*—The
18 term “disqualifying information” means a con-
19 viction for a relevant crime or a finding of pa-
20 tient or resident abuse.

21 (C) *FINDING OF PATIENT OR RESIDENT*
22 *ABUSE.*—The term “finding of patient or resi-
23 dent abuse” means any substantiated finding by
24 a State agency under section 1819(g)(1)(C) or
25 1919(g)(1)(C) of the Social Security Act (42

1 U.S.C. 1395i-3(g)(1)(C), 1396r(g)(1)(C)) or a
2 Federal agency that a direct patient access em-
3 ployee has committed—

4 (i) an act of patient or resident abuse
5 or neglect or a misappropriation of patient
6 or resident property; or

7 (ii) such other types of acts as a par-
8 ticipating State may specify for purposes of
9 conducting the program in such State.

10 (D) *DIRECT PATIENT ACCESS EMPLOYEE.*—

11 The term “direct patient access employee” means
12 any individual who has access to a patient or
13 resident of a long-term care facility or provider
14 through employment or through a contract with
15 such facility or provider and has duties that in-
16 volve (or may involve) one-on-one contact with a
17 patient or resident of the facility or provider, as
18 determined by the State for purposes of the na-
19 tionwide program. Such term does not include a
20 volunteer unless the volunteer has duties that are
21 equivalent to the duties of a direct patient access
22 employee and those duties involve (or may in-
23 volve) one-on-one contact with a patient or resi-
24 dent of the long-term care facility or provider.

1 (E) *LONG-TERM CARE FACILITY OR PRO-*
2 *VIDER.—The term “long-term care facility or*
3 *provider” means the following facilities or pro-*
4 *viders which receive payment for services under*
5 *title XVIII or XIX of the Social Security Act:*

6 (i) *A skilled nursing facility (as de-*
7 *defined in section 1819(a) of the Social Secu-*
8 *rity Act (42 U.S.C. 1395i–3(a))).*

9 (ii) *A nursing facility (as defined in*
10 *section 1919(a) of such Act (42 U.S.C.*
11 *1396r(a))).*

12 (iii) *A home health agency.*

13 (iv) *A provider of hospice care (as de-*
14 *defined in section 1861(dd)(1) of such Act (42*
15 *U.S.C. 1395x(dd)(1))).*

16 (v) *A long-term care hospital (as de-*
17 *scribed in section 1886(d)(1)(B)(iv) of such*
18 *Act (42 U.S.C. 1395ww(d)(1)(B)(iv))).*

19 (vi) *A provider of personal care serv-*
20 *ices.*

21 (vii) *A provider of adult day care.*

22 (viii) *A residential care provider that*
23 *arranges for, or directly provides, long-term*
24 *care services, including an assisted living*

1 *facility that provides a level of care estab-*
2 *lished by the Secretary.*

3 *(ix) An intermediate care facility for*
4 *the mentally retarded (as defined in section*
5 *1905(d) of such Act (42 U.S.C. 1396d(d))).*

6 *(x) Any other facility or provider of*
7 *long-term care services under such titles as*
8 *the participating State determines appro-*
9 *priate.*

10 (7) *EVALUATION AND REPORT.—*

11 (A) *EVALUATION.—*

12 *(i) IN GENERAL.—The Inspector Gen-*
13 *eral of the Department of Health and*
14 *Human Services shall conduct an evalua-*
15 *tion of the nationwide program.*

16 *(ii) INCLUSION OF SPECIFIC TOPICS.—*
17 *The evaluation conducted under clause (i)*
18 *shall include the following:*

19 *(I) A review of the various proce-*
20 *dures implemented by participating*
21 *States for long-term care facilities or*
22 *providers, including staffing agencies,*
23 *to conduct background checks of direct*
24 *patient access employees under the na-*
25 *tionwide program and identification of*

1 *the most appropriate, efficient, and ef-*
2 *fective procedures for conducting such*
3 *background checks.*

4 *(II) An assessment of the costs of*
5 *conducting such background checks (in-*
6 *cluding start up and administrative*
7 *costs).*

8 *(III) A determination of the ex-*
9 *tent to which conducting such back-*
10 *ground checks leads to any unintended*
11 *consequences, including a reduction in*
12 *the available workforce for long-term*
13 *care facilities or providers.*

14 *(IV) An assessment of the impact*
15 *of the nationwide program on reducing*
16 *the number of incidents of neglect,*
17 *abuse, and misappropriation of resi-*
18 *dent property to the extent practicable.*

19 *(V) An evaluation of other aspects*
20 *of the nationwide program, as deter-*
21 *mined appropriate by the Secretary.*

22 *(B) REPORT.—Not later than 180 days*
23 *after the completion of the nationwide program,*
24 *the Inspector General of the Department of*
25 *Health and Human Services shall submit a re-*

1 *port to Congress containing the results of the*
2 *evaluation conducted under subparagraph (A).*

3 **(b) FUNDING.—**

4 **(1) NOTIFICATION.—***The Secretary of Health and*
5 *Human Services shall notify the Secretary of the*
6 *Treasury of the amount necessary to carry out the na-*
7 *tionwide program under this section for the period of*
8 *fiscal years 2010 through 2012, except that in no case*
9 *shall such amount exceed \$160,000,000.*

10 **(2) TRANSFER OF FUNDS.—**

11 **(A) IN GENERAL.—***Out of any funds in the*
12 *Treasury not otherwise appropriated, the Sec-*
13 *retary of the Treasury shall provide for the*
14 *transfer to the Secretary of Health and Human*
15 *Services of the amount specified as necessary to*
16 *carry out the nationwide program under para-*
17 *graph (1). Such amount shall remain available*
18 *until expended.*

19 **(B) RESERVATION OF FUNDS FOR CONDUCT**
20 **OF EVALUATION.—***The Secretary may reserve not*
21 *more than \$3,000,000 of the amount transferred*
22 *under subparagraph (A) to provide for the con-*
23 *duct of the evaluation under subsection*
24 *(a)(7)(A).*

1 ***Subtitle D—Patient-Centered***
2 ***Outcomes Research***

3 **SEC. 6301. PATIENT-CENTERED OUTCOMES RESEARCH.**

4 (a) *IN GENERAL.*—*Title XI of the Social Security Act*
5 *(42 U.S.C. 1301 et seq.) is amended by adding at the end*
6 *the following new part:*

7 “*PART D—COMPARATIVE CLINICAL EFFECTIVENESS*
8 *RESEARCH*

9 “*COMPARATIVE CLINICAL EFFECTIVENESS RESEARCH*

10 “*SEC. 1181. (a) DEFINITIONS.*—*In this section:*

11 “(1) *BOARD.*—*The term ‘Board’ means the*
12 *Board of Governors established under subsection (f).*

13 “(2) *COMPARATIVE CLINICAL EFFECTIVENESS*
14 *RESEARCH; RESEARCH.*—

15 “(A) *IN GENERAL.*—*The terms ‘comparative*
16 *clinical effectiveness research’ and ‘research’*
17 *mean research evaluating and comparing health*
18 *outcomes and the clinical effectiveness, risks, and*
19 *benefits of 2 or more medical treatments, serv-*
20 *ices, and items described in subparagraph (B).*

21 “(B) *MEDICAL TREATMENTS, SERVICES,*
22 *AND ITEMS DESCRIBED.*—*The medical treat-*
23 *ments, services, and items described in this sub-*
24 *paragraph are health care interventions, proto-*
25 *cols for treatment, care management, and deliv-*

1 *ery, procedures, medical devices, diagnostic tools,*
2 *pharmaceuticals (including drugs and*
3 *biologicals), integrative health practices, and any*
4 *other strategies or items being used in the treat-*
5 *ment, management, and diagnosis of, or preven-*
6 *tion of illness or injury in, individuals.*

7 “(3) *CONFLICT OF INTEREST.*—*The term ‘conflict*
8 *of interest’ means an association, including a finan-*
9 *cial or personal association, that have the potential to*
10 *bias or have the appearance of biasing an individ-*
11 *ual’s decisions in matters related to the Institute or*
12 *the conduct of activities under this section.*

13 “(4) *REAL CONFLICT OF INTEREST.*—*The term*
14 *‘real conflict of interest’ means any instance where a*
15 *member of the Board, the methodology committee es-*
16 *tablished under subsection (d)(6), or an advisory*
17 *panel appointed under subsection (d)(4), or a close*
18 *relative of such member, has received or could receive*
19 *either of the following:*

20 “(A) *A direct financial benefit of any*
21 *amount deriving from the result or findings of a*
22 *study conducted under this section.*

23 “(B) *A financial benefit from individuals or*
24 *companies that own or manufacture medical*
25 *treatments, services, or items to be studied under*

1 *this section that in the aggregate exceeds \$10,000*
2 *per year. For purposes of the preceding sentence,*
3 *a financial benefit includes honoraria, fees, stock,*
4 *or other financial benefit and the current value*
5 *of the member or close relative's already existing*
6 *stock holdings, in addition to any direct finan-*
7 *cial benefit deriving from the results or findings*
8 *of a study conducted under this section.*

9 “(b) *PATIENT-CENTERED OUTCOMES RESEARCH IN-*
10 *STITUTE.*—

11 “(1) *ESTABLISHMENT.*—*There is authorized to*
12 *be established a nonprofit corporation, to be known as*
13 *the ‘Patient-Centered Outcomes Research Institute’*
14 *(referred to in this section as the ‘Institute’) which is*
15 *neither an agency nor establishment of the United*
16 *States Government.*

17 “(2) *APPLICATION OF PROVISIONS.*—*The Insti-*
18 *tute shall be subject to the provisions of this section,*
19 *and, to the extent consistent with this section, to the*
20 *District of Columbia Nonprofit Corporation Act.*

21 “(3) *FUNDING OF COMPARATIVE CLINICAL EF-*
22 *ECTIVENESS RESEARCH.*—*For fiscal year 2010 and*
23 *each subsequent fiscal year, amounts in the Patient-*
24 *Centered Outcomes Research Trust Fund (referred to*
25 *in this section as the ‘PCORTF’) under section 9511*

1 of the Internal Revenue Code of 1986 shall be avail-
2 able, without further appropriation, to the Institute
3 to carry out this section.

4 “(c) *PURPOSE.*—The purpose of the Institute is to as-
5 sist patients, clinicians, purchasers, and policy-makers in
6 making informed health decisions by advancing the quality
7 and relevance of evidence concerning the manner in which
8 diseases, disorders, and other health conditions can effec-
9 tively and appropriately be prevented, diagnosed, treated,
10 monitored, and managed through research and evidence
11 synthesis that considers variations in patient subpopula-
12 tions, and the dissemination of research findings with re-
13 spect to the relative health outcomes, clinical effectiveness,
14 and appropriateness of the medical treatments, services,
15 and items described in subsection (a)(2)(B).

16 “(d) *DUTIES.*—

17 “(1) *IDENTIFYING RESEARCH PRIORITIES AND*
18 *ESTABLISHING RESEARCH PROJECT AGENDA.*—

19 “(A) *IDENTIFYING RESEARCH PRIOR-*
20 *ITIES.*—The Institute shall identify national pri-
21 orities for research, taking into account factors of
22 disease incidence, prevalence, and burden in the
23 United States (with emphasis on chronic condi-
24 tions), gaps in evidence in terms of clinical out-
25 comes, practice variations and health disparities

1 *in terms of delivery and outcomes of care, the po-*
2 *tential for new evidence to improve patient*
3 *health, well-being, and the quality of care, the ef-*
4 *fect on national expenditures associated with a*
5 *health care treatment, strategy, or health condi-*
6 *tions, as well as patient needs, outcomes, and*
7 *preferences, the relevance to patients and clini-*
8 *cians in making informed health decisions, and*
9 *priorities in the National Strategy for quality*
10 *care established under section 399H of the Public*
11 *Health Service Act that are consistent with this*
12 *section.*

13 “(B) *ESTABLISHING RESEARCH PROJECT*
14 *AGENDA.—The Institute shall establish and up-*
15 *date a research project agenda for research to ad-*
16 *dress the priorities identified under subpara-*
17 *graph (A), taking into consideration the types of*
18 *research that might address each priority and*
19 *the relative value (determined based on the cost*
20 *of conducting research compared to the potential*
21 *usefulness of the information produced by re-*
22 *search) associated with the different types of re-*
23 *search, and such other factors as the Institute de-*
24 *termines appropriate.*

1 “(2) *CARRYING OUT RESEARCH PROJECT AGEN-*
2 *DA.—*

3 “(A) *RESEARCH.—The Institute shall carry*
4 *out the research project agenda established under*
5 *paragraph (1)(B) in accordance with the meth-*
6 *odological standards adopted under paragraph*
7 *(9) using methods, including the following:*

8 “(i) *Systematic reviews and assess-*
9 *ments of existing and future research and*
10 *evidence including original research con-*
11 *ducted subsequent to the date of the enact-*
12 *ment of this section.*

13 “(ii) *Primary research, such as ran-*
14 *domized clinical trials, molecularly in-*
15 *formed trials, and observational studies.*

16 “(iii) *Any other methodologies rec-*
17 *ommended by the methodology committee es-*
18 *tablished under paragraph (6) that are*
19 *adopted by the Board under paragraph (9).*

20 “(B) *CONTRACTS FOR THE MANAGEMENT OF*
21 *FUNDING AND CONDUCT OF RESEARCH.—*

22 “(i) *CONTRACTS.—*

23 “(I) *IN GENERAL.—In accordance*
24 *with the research project agenda estab-*
25 *lished under paragraph (1)(B), the In-*

1 *stitute shall enter into contracts for the*
2 *management of funding and conduct of*
3 *research in accordance with the fol-*
4 *lowing:*

5 *“(aa) Appropriate agencies*
6 *and instrumentalities of the Fed-*
7 *eral Government.*

8 *“(bb) Appropriate academic*
9 *research, private sector research,*
10 *or study-conducting entities.*

11 *“(II) PREFERENCE.—In entering*
12 *into contracts under subclause (I), the*
13 *Institute shall give preference to the*
14 *Agency for Healthcare Research and*
15 *Quality and the National Institutes of*
16 *Health, but only if the research to be*
17 *conducted or managed under such con-*
18 *tract is authorized by the governing*
19 *statutes of such Agency or Institutes.*

20 *“(ii) CONDITIONS FOR CONTRACTS.—A*
21 *contract entered into under this subpara-*
22 *graph shall require that the agency, instru-*
23 *mentality, or other entity—*

24 *“(I) abide by the transparency*
25 *and conflicts of interest requirements*

1 *under subsection (h) that apply to the*
2 *Institute with respect to the research*
3 *managed or conducted under such con-*
4 *tract;*

5 *“(II) comply with the methodo-*
6 *logical standards adopted under para-*
7 *graph (9) with respect to such research;*

8 *“(III) consult with the expert ad-*
9 *visory panels for clinical trials and*
10 *rare disease appointed under clauses*
11 *(ii) and (iii), respectively, of para-*
12 *graph (4)(A);*

13 *“(IV) subject to clause (iv), permit*
14 *a researcher who conducts original re-*
15 *search under the contract for the agen-*
16 *cy, instrumentality, or other entity to*
17 *have such research published in a peer-*
18 *reviewed journal or other publication;*

19 *“(V) have appropriate processes*
20 *in place to manage data privacy and*
21 *meet ethical standards for the research;*

22 *“(VI) comply with the require-*
23 *ments of the Institute for making the*
24 *information available to the public*
25 *under paragraph (8); and*

1 “(VII) *comply with other terms*
2 *and conditions determined necessary*
3 *by the Institute to carry out the re-*
4 *search agenda adopted under para-*
5 *graph (2).*

6 “(iii) *COVERAGE OF COPAYMENTS OR*
7 *COINSURANCE.—A contract entered into*
8 *under this subparagraph may allow for the*
9 *coverage of copayments or coinsurance, or*
10 *allow for other appropriate measures, to the*
11 *extent that such coverage or other measures*
12 *are necessary to preserve the validity of a*
13 *research project, such as in the case where*
14 *the research project must be blinded.*

15 “(iv) *REQUIREMENTS FOR PUBLICA-*
16 *TION OF RESEARCH.—Any research pub-*
17 *lished under clause (ii)(IV) shall be within*
18 *the bounds of and entirely consistent with*
19 *the evidence and findings produced under*
20 *the contract with the Institute under this*
21 *subparagraph. If the Institute determines*
22 *that those requirements are not met, the In-*
23 *stitute shall not enter into another contract*
24 *with the agency, instrumentality, or entity*
25 *which managed or conducted such research*

1 *for a period determined appropriate by the*
2 *Institute (but not less than 5 years).*

3 “(C) *REVIEW AND UPDATE OF EVIDENCE.*—
4 *The Institute shall review and update evidence*
5 *on a periodic basis as appropriate.*

6 “(D) *TAKING INTO ACCOUNT POTENTIAL*
7 *DIFFERENCES.*—*Research shall be designed, as*
8 *appropriate, to take into account the potential*
9 *for differences in the effectiveness of health care*
10 *treatments, services, and items as used with var-*
11 *ious subpopulations, such as racial and ethnic*
12 *minorities, women, age, and groups of individ-*
13 *uals with different comorbidities, genetic and*
14 *molecular sub-types, or quality of life preferences*
15 *and include members of such subpopulations as*
16 *subjects in the research as feasible and appro-*
17 *priate.*

18 “(E) *DIFFERENCES IN TREATMENT MODALI-*
19 *TIES.*—*Research shall be designed, as appro-*
20 *priate, to take into account different characteris-*
21 *tics of treatment modalities that may affect re-*
22 *search outcomes, such as the phase of the treat-*
23 *ment modality in the innovation cycle and the*
24 *impact of the skill of the operator of the treat-*
25 *ment modality.*

1 “(3) *DATA COLLECTION.*—

2 “(A) *IN GENERAL.*—*The Secretary shall,*
3 *with appropriate safeguards for privacy, make*
4 *available to the Institute such data collected by*
5 *the Centers for Medicare & Medicaid Services*
6 *under the programs under titles XVIII, XIX, and*
7 *XXI, as well as provide access to the data net-*
8 *works developed under section 937(f) of the Pub-*
9 *lic Health Service Act, as the Institute and its*
10 *contractors may require to carry out this section.*
11 *The Institute may also request and obtain data*
12 *from Federal, State, or private entities, includ-*
13 *ing data from clinical databases and registries.*

14 “(B) *USE OF DATA.*—*The Institute shall*
15 *only use data provided to the Institute under*
16 *subparagraph (A) in accordance with laws and*
17 *regulations governing the release and use of such*
18 *data, including applicable confidentiality and*
19 *privacy standards.*

20 “(4) *APPOINTING EXPERT ADVISORY PANELS.*—

21 “(A) *APPOINTMENT.*—

22 “(i) *IN GENERAL.*—*The Institute may*
23 *appoint permanent or ad hoc expert advi-*
24 *sory panels as determined appropriate to*
25 *assist in identifying research priorities and*

1 *establishing the research project agenda*
2 *under paragraph (1) and for other pur-*
3 *poses.*

4 “(ii) *EXPERT ADVISORY PANELS FOR*
5 *CLINICAL TRIALS.—The Institute shall ap-*
6 *point expert advisory panels in carrying*
7 *out randomized clinical trials under the re-*
8 *search project agenda under paragraph*
9 *(2)(A)(ii). Such expert advisory panels shall*
10 *advise the Institute and the agency, instru-*
11 *mentality, or entity conducting the research*
12 *on the research question involved and the*
13 *research design or protocol, including im-*
14 *portant patient subgroups and other pa-*
15 *rameters of the research. Such panels shall*
16 *be available as a resource for technical ques-*
17 *tions that may arise during the conduct of*
18 *such research.*

19 “(iii) *EXPERT ADVISORY PANEL FOR*
20 *RARE DISEASE.—In the case of a research*
21 *study for rare disease, the Institute shall*
22 *appoint an expert advisory panel for pur-*
23 *poses of assisting in the design of the re-*
24 *search study and determining the relative*

1 *value and feasibility of conducting the re-*
2 *search study.*

3 “(B) *COMPOSITION.*—*An expert advisory*
4 *panel appointed under subparagraph (A) shall*
5 *include representatives of practicing and re-*
6 *search clinicians, patients, and experts in sci-*
7 *entific and health services research, health serv-*
8 *ices delivery, and evidence-based medicine who*
9 *have experience in the relevant topic, and as ap-*
10 *propriate, experts in integrative health and pri-*
11 *mary prevention strategies. The Institute may*
12 *include a technical expert of each manufacturer*
13 *or each medical technology that is included*
14 *under the relevant topic, project, or category for*
15 *which the panel is established.*

16 “(5) *SUPPORTING PATIENT AND CONSUMER REP-*
17 *RESENTATIVES.*—*The Institute shall provide support*
18 *and resources to help patient and consumer represent-*
19 *atives effectively participate on the Board and expert*
20 *advisory panels appointed by the Institute under*
21 *paragraph (4).*

22 “(6) *ESTABLISHING METHODOLOGY COM-*
23 *MITTEE.*—

24 “(A) *IN GENERAL.*—*The Institute shall es-*
25 *tablish a standing methodology committee to*

1 *carry out the functions described in subpara-*
2 *graph (C).*

3 “(B) *APPOINTMENT AND COMPOSITION.*—

4 *The methodology committee established under*
5 *subparagraph (A) shall be composed of not more*
6 *than 15 members appointed by the Comptroller*
7 *General of the United States. Members appointed*
8 *to the methodology committee shall be experts in*
9 *their scientific field, such as health services re-*
10 *search, clinical research, comparative clinical ef-*
11 *fectiveness research, biostatistics, genomics, and*
12 *research methodologies. Stakeholders with such*
13 *expertise may be appointed to the methodology*
14 *committee. In addition to the members appointed*
15 *under the first sentence, the Directors of the Na-*
16 *tional Institutes of Health and the Agency for*
17 *Healthcare Research and Quality (or their des-*
18 *ignees) shall each be included as members of the*
19 *methodology committee.*

20 “(C) *FUNCTIONS.*—*Subject to subparagraph*
21 *(D), the methodology committee shall work to de-*
22 *velop and improve the science and methods of*
23 *comparative clinical effectiveness research by,*
24 *not later than 18 months after the establishment*
25 *of the Institute, directly or through subcontract,*

1 *developing and periodically updating the fol-*
2 *lowing:*

3 “(i) *Methodological standards for re-*
4 *search. Such methodological standards shall*
5 *provide specific criteria for internal valid-*
6 *ity, generalizability, feasibility, and timeli-*
7 *ness of research and for health outcomes*
8 *measures, risk adjustment, and other rel-*
9 *evant aspects of research and assessment*
10 *with respect to the design of research. Any*
11 *methodological standards developed and up-*
12 *dated under this subclause shall be scientif-*
13 *ically based and include methods by which*
14 *new information, data, or advances in tech-*
15 *nology are considered and incorporated into*
16 *ongoing research projects by the Institute,*
17 *as appropriate. The process for developing*
18 *and updating such standards shall include*
19 *input from relevant experts, stakeholders,*
20 *and decisionmakers, and shall provide op-*
21 *portunities for public comment. Such stand-*
22 *ards shall also include methods by which*
23 *patient subpopulations can be accounted for*
24 *and evaluated in different types of research.*
25 *As appropriate, such standards shall build*

1 *on existing work on methodological stand-*
2 *ards for defined categories of health inter-*
3 *ventions and for each of the major cat-*
4 *egories of comparative clinical effectiveness*
5 *research methods (determined as of the date*
6 *of enactment of the Patient Protection and*
7 *Affordable Care Act).*

8 “(ii) *A translation table that is de-*
9 *signed to provide guidance and act as a ref-*
10 *erence for the Board to determine research*
11 *methods that are most likely to address each*
12 *specific research question.*

13 “(D) *CONSULTATION AND CONDUCT OF EX-*
14 *AMINATIONS.—The methodology committee may*
15 *consult and contract with the Institute of Medi-*
16 *cine of the National Academies and academic,*
17 *nonprofit, or other private and governmental en-*
18 *tities with relevant expertise to carry out activi-*
19 *ties described in subparagraph (C) and may con-*
20 *sult with relevant stakeholders to carry out such*
21 *activities.*

22 “(E) *REPORTS.—The methodology com-*
23 *mittee shall submit reports to the Board on the*
24 *committee’s performance of the functions de-*
25 *scribed in subparagraph (C). Reports shall con-*

1 *tain recommendations for the Institute to adopt*
2 *methodological standards developed and updated*
3 *by the methodology committee as well as other*
4 *actions deemed necessary to comply with such*
5 *methodological standards.*

6 “(7) *PROVIDING FOR A PEER-REVIEW PROCESS*
7 *FOR PRIMARY RESEARCH.—*

8 “(A) *IN GENERAL.—The Institute shall en-*
9 *sure that there is a process for peer review of*
10 *primary research described in subparagraph*
11 *(A)(ii) of paragraph (2) that is conducted under*
12 *such paragraph. Under such process—*

13 “(i) *evidence from such primary re-*
14 *search shall be reviewed to assess scientific*
15 *integrity and adherence to methodological*
16 *standards adopted under paragraph (9);*
17 *and*

18 “(ii) *a list of the names of individuals*
19 *contributing to any peer-review process dur-*
20 *ing the preceding year or years shall be*
21 *made public and included in annual reports*
22 *in accordance with paragraph (10)(D).*

23 “(B) *COMPOSITION.—Such peer-review*
24 *process shall be designed in a manner so as to*
25 *avoid bias and conflicts of interest on the part*

1 *of the reviewers and shall be composed of experts*
2 *in the scientific field relevant to the research*
3 *under review.*

4 “(C) *USE OF EXISTING PROCESSES.—*

5 “(i) *PROCESSES OF ANOTHER ENTI-*
6 *TY.—In the case where the Institute enters*
7 *into a contract or other agreement with an-*
8 *other entity for the conduct or management*
9 *of research under this section, the Institute*
10 *may utilize the peer-review process of such*
11 *entity if such process meets the requirements*
12 *under subparagraphs (A) and (B).*

13 “(ii) *PROCESSES OF APPROPRIATE*
14 *MEDICAL JOURNALS.—The Institute may*
15 *utilize the peer-review process of appro-*
16 *priate medical journals if such process*
17 *meets the requirements under subpara-*
18 *graphs (A) and (B).*

19 “(8) *RELEASE OF RESEARCH FINDINGS.—*

20 “(A) *IN GENERAL.—The Institute shall, not*
21 *later than 90 days after the conduct or receipt*
22 *of research findings under this part, make such*
23 *research findings available to clinicians, pa-*
24 *tients, and the general public. The Institute shall*
25 *ensure that the research findings—*

1 “(i) convey the findings of research in
2 a manner that is comprehensible and useful
3 to patients and providers in making health
4 care decisions;

5 “(ii) fully convey findings and discuss
6 considerations specific to certain subpopula-
7 tions, risk factors, and comorbidities, as ap-
8 propriate;

9 “(iii) include limitations of the re-
10 search and what further research may be
11 needed as appropriate;

12 “(iv) not be construed as mandates for
13 practice guidelines, coverage recommenda-
14 tions, payment, or policy recommendations;
15 and

16 “(v) not include any data which would
17 violate the privacy of research participants
18 or any confidentiality agreements made
19 with respect to the use of data under this
20 section.

21 “(B) *DEFINITION OF RESEARCH FIND-*
22 *INGS.—In this paragraph, the term ‘research*
23 *findings’ means the results of a study or assess-*
24 *ment.*

1 “(9) *ADOPTION.*—Subject to subsection (h)(1),
2 *the Institute shall adopt the national priorities iden-*
3 *tified under paragraph (1)(A), the research project*
4 *agenda established under paragraph (1)(B), the meth-*
5 *odological standards developed and updated by the*
6 *methodology committee under paragraph (6)(C)(i),*
7 *and any peer-review process provided under para-*
8 *graph (7) by majority vote. In the case where the In-*
9 *stitute does not adopt such processes in accordance*
10 *with the preceding sentence, the processes shall be re-*
11 *ferred to the appropriate staff or entity within the In-*
12 *stitute (or, in the case of the methodological stand-*
13 *ards, the methodology committee) for further review.*

14 “(10) *ANNUAL REPORTS.*—The Institute shall
15 *submit an annual report to Congress and the Presi-*
16 *dent, and shall make the annual report available to*
17 *the public. Such report shall contain—*

18 “(A) *a description of the activities con-*
19 *ducted under this section, research priorities*
20 *identified under paragraph (1)(A) and methodo-*
21 *logical standards developed and updated by the*
22 *methodology committee under paragraph*
23 *(6)(C)(i) that are adopted under paragraph (9)*
24 *during the preceding year;*

1 “(B) *the research project agenda and budget*
2 *of the Institute for the following year;*

3 “(C) *any administrative activities con-*
4 *ducted by the Institute during the preceding*
5 *year;*

6 “(D) *the names of individuals contributing*
7 *to any peer-review process under paragraph (7),*
8 *without identifying them with a particular re-*
9 *search project; and*

10 “(E) *any other relevant information (in-*
11 *cluding information on the membership of the*
12 *Board, expert advisory panels, methodology com-*
13 *mittee, and the executive staff of the Institute,*
14 *any conflicts of interest with respect to these in-*
15 *dividuals, and any bylaws adopted by the Board*
16 *during the preceding year).*

17 “(e) *ADMINISTRATION.—*

18 “(1) *IN GENERAL.—Subject to paragraph (2), the*
19 *Board shall carry out the duties of the Institute.*

20 “(2) *NONDELEGABLE DUTIES.—The activities de-*
21 *scribed in subsections (d)(1) and (d)(9) are nondele-*
22 *gable.*

23 “(f) *BOARD OF GOVERNORS.—*

1 “(1) *IN GENERAL.*—*The Institute shall have a*
2 *Board of Governors, which shall consist of the fol-*
3 *lowing members:*

4 “(A) *The Director of Agency for Healthcare*
5 *Research and Quality (or the Director’s des-*
6 *ignee).*

7 “(B) *The Director of the National Institutes*
8 *of Health (or the Director’s designee).*

9 “(C) *Seventeen members appointed, not*
10 *later than 6 months after the date of enactment*
11 *of this section, by the Comptroller General of the*
12 *United States as follows:*

13 “(i) *3 members representing patients*
14 *and health care consumers.*

15 “(ii) *5 members representing physi-*
16 *cians and providers, including at least 1*
17 *surgeon, nurse, State-licensed integrative*
18 *health care practitioner, and representative*
19 *of a hospital.*

20 “(iii) *3 members representing private*
21 *payers, of whom at least 1 member shall*
22 *represent health insurance issuers and at*
23 *least 1 member shall represent employers*
24 *who self-insure employee benefits.*

1 “(iv) 3 members representing pharma-
2 ceutical, device, and diagnostic manufactur-
3 ers or developers.

4 “(v) 1 member representing quality
5 improvement or independent health service
6 researchers.

7 “(vi) 2 members representing the Fed-
8 eral Government or the States, including at
9 least 1 member representing a Federal
10 health program or agency.

11 “(2) QUALIFICATIONS.—The Board shall rep-
12 resent a broad range of perspectives and collectively
13 have scientific expertise in clinical health sciences re-
14 search, including epidemiology, decisions sciences,
15 health economics, and statistics. In appointing the
16 Board, the Comptroller General of the United States
17 shall consider and disclose any conflicts of interest in
18 accordance with subsection (h)(4)(B). Members of the
19 Board shall be recused from relevant Institute activi-
20 ties in the case where the member (or an immediate
21 family member of such member) has a real conflict of
22 interest directly related to the research project or the
23 matter that could affect or be affected by such partici-
24 pation.

1 “(3) *TERMS; VACANCIES.*—A member of the
2 *Board shall be appointed for a term of 6 years, except*
3 *with respect to the members first appointed, whose*
4 *terms of appointment shall be staggered evenly over 2-*
5 *year increments. No individual shall be appointed to*
6 *the Board for more than 2 terms. Vacancies shall be*
7 *filled in the same manner as the original appoint-*
8 *ment was made.*

9 “(4) *CHAIRPERSON AND VICE-CHAIRPERSON.*—
10 *The Comptroller General of the United States shall*
11 *designate a Chairperson and Vice Chairperson of the*
12 *Board from among the members of the Board. Such*
13 *members shall serve as Chairperson or Vice Chair-*
14 *person for a period of 3 years.*

15 “(5) *COMPENSATION.*—Each member of the
16 *Board who is not an officer or employee of the Fed-*
17 *eral Government shall be entitled to compensation*
18 *(equivalent to the rate provided for level IV of the Ex-*
19 *ecutive Schedule under section 5315 of title 5, United*
20 *States Code) and expenses incurred while performing*
21 *the duties of the Board. An officer or employee of the*
22 *Federal government who is a member of the Board*
23 *shall be exempt from compensation.*

24 “(6) *DIRECTOR AND STAFF; EXPERTS AND CON-*
25 *SULTANTS.*—The Board may employ and fix the com-

1 *persation of an Executive Director and such other*
2 *personnel as may be necessary to carry out the duties*
3 *of the Institute and may seek such assistance and*
4 *support of, or contract with, experts and consultants*
5 *that may be necessary for the performance of the du-*
6 *ties of the Institute.*

7 “(7) *MEETINGS AND HEARINGS.*—*The Board*
8 *shall meet and hold hearings at the call of the Chair-*
9 *person or a majority of its members. Meetings not*
10 *solely concerning matters of personnel shall be adver-*
11 *tised at least 7 days in advance and open to the pub-*
12 *lic. A majority of the Board members shall constitute*
13 *a quorum, but a lesser number of members may meet*
14 *and hold hearings.*

15 “(g) *FINANCIAL AND GOVERNMENTAL OVERSIGHT.*—

16 “(1) *CONTRACT FOR AUDIT.*—*The Institute shall*
17 *provide for the conduct of financial audits of the In-*
18 *stitute on an annual basis by a private entity with*
19 *expertise in conducting financial audits.*

20 “(2) *REVIEW AND ANNUAL REPORTS.*—

21 “(A) *REVIEW.*—*The Comptroller General of*
22 *the United States shall review the following:*

23 “(i) *Not less frequently than on an an-*
24 *ual basis, the financial audits conducted*
25 *under paragraph (1).*

1 “(ii) Not less frequently than every 5
2 years, the processes established by the Insti-
3 tute, including the research priorities and
4 the conduct of research projects, in order to
5 determine whether information produced by
6 such research projects is objective and cred-
7 ible, is produced in a manner consistent
8 with the requirements under this section,
9 and is developed through a transparent
10 process.

11 “(iii) Not less frequently than every 5
12 years, the dissemination and training ac-
13 tivities and data networks established under
14 section 937 of the Public Health Service
15 Act, including the methods and products
16 used to disseminate research, the types of
17 training conducted and supported, and the
18 types and functions of the data networks es-
19 tablished, in order to determine whether the
20 activities and data are produced in a man-
21 ner consistent with the requirements under
22 such section.

23 “(iv) Not less frequently than every 5
24 years, the overall effectiveness of activities
25 conducted under this section and the dis-

1 *semination, training, and capacity building*
2 *activities conducted under section 937 of the*
3 *Public Health Service Act. Such review*
4 *shall include an analysis of the extent to*
5 *which research findings are used by health*
6 *care decision-makers, the effect of the dis-*
7 *semination of such findings on reducing*
8 *practice variation and disparities in health*
9 *care, and the effect of the research conducted*
10 *and disseminated on innovation and the*
11 *health care economy of the United States.*

12 “(v) Not later than 8 years after the
13 date of enactment of this section, the ade-
14 quacy and use of the funding for the Insti-
15 tute and the activities conducted under sec-
16 tion 937 of the Public Health Service Act,
17 including a determination as to whether,
18 based on the utilization of research findings
19 by public and private payers, funding
20 sources for the Patient-Centered Outcomes
21 Research Trust Fund under section 9511 of
22 the Internal Revenue Code of 1986 are ap-
23 propriate and whether such sources of fund-
24 ing should be continued or adjusted.

1 “(B) *ANNUAL REPORTS.*—Not later than
2 *April 1 of each year, the Comptroller General of*
3 *the United States shall submit to Congress a re-*
4 *port containing the results of the review con-*
5 *ducted under subparagraph (A) with respect to*
6 *the preceding year (or years, if applicable), to-*
7 *gether with recommendations for such legislation*
8 *and administrative action as the Comptroller*
9 *General determines appropriate.*

10 “(h) *ENSURING TRANSPARENCY, CREDIBILITY, AND*
11 *ACCESS.*—*The Institute shall establish procedures to ensure*
12 *that the following requirements for ensuring transparency,*
13 *credibility, and access are met:*

14 “(1) *PUBLIC COMMENT PERIODS.*—*The Institute*
15 *shall provide for a public comment period of not less*
16 *than 45 days and not more than 60 days prior to the*
17 *adoption under subsection (d)(9) of the national pri-*
18 *orities identified under subsection (d)(1)(A), the re-*
19 *search project agenda established under subsection*
20 *(d)(1)(B), the methodological standards developed and*
21 *updated by the methodology committee under sub-*
22 *section (d)(6)(C)(i), and the peer-review process pro-*
23 *vided under paragraph (7), and after the release of*
24 *draft findings with respect to systematic reviews of*
25 *existing research and evidence.*

1 “(2) *ADDITIONAL FORUMS.*—*The Institute shall*
2 *support forums to increase public awareness and ob-*
3 *tain and incorporate public input and feedback*
4 *through media (such as an Internet website) on re-*
5 *search priorities, research findings, and other duties,*
6 *activities, or processes the Institute determines appro-*
7 *priate.*

8 “(3) *PUBLIC AVAILABILITY.*—*The Institute shall*
9 *make available to the public and disclose through the*
10 *official public Internet website of the Institute the fol-*
11 *lowing:*

12 “(A) *Information contained in research*
13 *findings as specified in subsection (d)(9).*

14 “(B) *The process and methods for the con-*
15 *duct of research, including the identity of the en-*
16 *tity and the investigators conducting such re-*
17 *search and any conflicts of interests of such par-*
18 *ties, any direct or indirect links the entity has*
19 *to industry, and research protocols, including*
20 *measures taken, methods of research and anal-*
21 *ysis, research results, and such other information*
22 *the Institute determines appropriate) concurrent*
23 *with the release of research findings.*

1 “(C) Notice of public comment periods
2 under paragraph (1), including deadlines for
3 public comments.

4 “(D) Subsequent comments received during
5 each of the public comment periods.

6 “(E) In accordance with applicable laws
7 and processes and as the Institute determines ap-
8 propriate, proceedings of the Institute.

9 “(4) DISCLOSURE OF CONFLICTS OF INTER-
10 EST.—

11 “(A) IN GENERAL.—A conflict of interest
12 shall be disclosed in the following manner:

13 “(i) By the Institute in appointing
14 members to an expert advisory panel under
15 subsection (d)(4), in selecting individuals to
16 contribute to any peer-review process under
17 subsection (d)(7), and for employment as
18 executive staff of the Institute.

19 “(ii) By the Comptroller General in
20 appointing members of the methodology
21 committee under subsection (d)(6);

22 “(iii) By the Institute in the annual
23 report under subsection (d)(10), except that,
24 in the case of individuals contributing to
25 any such peer review process, such descrip-

1 *tion shall be in a manner such that those*
2 *individuals cannot be identified with a par-*
3 *ticular research project.*

4 “(B) *MANNER OF DISCLOSURE.*—*Conflicts*
5 *of interest shall be disclosed as described in sub-*
6 *paragraph (A) as soon as practicable on the*
7 *Internet web site of the Institute and of the Gov-*
8 *ernment Accountability Office. The information*
9 *disclosed under the preceding sentence shall in-*
10 *clude the type, nature, and magnitude of the in-*
11 *terests of the individual involved, except to the*
12 *extent that the individual recuses himself or her-*
13 *self from participating in the consideration of or*
14 *any other activity with respect to the study as*
15 *to which the potential conflict exists.*

16 “(i) *RULES.*—*The Institute, its Board or staff, shall*
17 *be prohibited from accepting gifts, bequeaths, or donations*
18 *of services or property. In addition, the Institute shall be*
19 *prohibited from establishing a corporation or generating*
20 *revenues from activities other than as provided under this*
21 *section.*

22 “(j) *RULES OF CONSTRUCTION.*—

23 “(1) *COVERAGE.*—*Nothing in this section shall*
24 *be construed—*

1 “(A) to permit the Institute to mandate cov-
2 erage, reimbursement, or other policies for any
3 public or private payer; or

4 “(B) as preventing the Secretary from cov-
5 ering the routine costs of clinical care received by
6 an individual entitled to, or enrolled for, benefits
7 under title XVIII, XIX, or XXI in the case where
8 such individual is participating in a clinical
9 trial and such costs would otherwise be covered
10 under such title with respect to the beneficiary.”.

11 (b) *DISSEMINATION AND BUILDING CAPACITY FOR RE-*
12 *SEARCH.—Title IX of the Public Health Service Act (42*
13 *U.S.C. 299 et seq.), as amended by section 3606, is further*
14 *amended by inserting after section 936 the following:*

15 **“SEC. 937. DISSEMINATION AND BUILDING CAPACITY FOR**
16 **RESEARCH.**

17 “(a) *IN GENERAL.—*

18 “(1) *DISSEMINATION.—The Office of Commu-*
19 *nication and Knowledge Transfer (referred to in this*
20 *section as the ‘Office’) at the Agency for Healthcare*
21 *Research and Quality (or any other relevant office*
22 *designated by Agency for Healthcare Research and*
23 *Quality), in consultation with the National Institutes*
24 *of Health, shall broadly disseminate the research find-*
25 *ings that are published by the Patient Centered Out-*

1 comes Research Institute established under section
2 1181(b) of the Social Security Act (referred to in this
3 section as the ‘Institute’) and other government-fund-
4 ed research relevant to comparative clinical effective-
5 ness research. The Office shall create informational
6 tools that organize and disseminate research findings
7 for physicians, health care providers, patients, payers,
8 and policy makers. The Office shall also develop a
9 publicly available resource database that collects and
10 contains government-funded evidence and research
11 from public, private, not-for profit, and academic
12 sources.

13 “(2) *REQUIREMENTS.*—The Office shall provide
14 for the dissemination of the Institute’s research find-
15 ings and government-funded research relevant to com-
16 parative clinical effectiveness research to physicians,
17 health care providers, patients, vendors of health in-
18 formation technology focused on clinical decision sup-
19 port, appropriate professional associations, and Fed-
20 eral and private health plans. Materials, forums, and
21 media used to disseminate the findings, informational
22 tools, and resource databases shall—

23 “(A) include a description of considerations
24 for specific subpopulations, the research method-
25 ology, and the limitations of the research, and

1 *the names of the entities, agencies, instrumental-*
2 *ities, and individuals who conducted any re-*
3 *search which was published by the Institute; and*

4 “(B) *not be construed as mandates, guide-*
5 *lines, or recommendations for payment, coverage,*
6 *or treatment.*

7 “(b) *INCORPORATION OF RESEARCH FINDINGS.—The*
8 *Office, in consultation with relevant medical and clinical*
9 *associations, shall assist users of health information tech-*
10 *nology focused on clinical decision support to promote the*
11 *timely incorporation of research findings disseminated*
12 *under subsection (a) into clinical practices and to promote*
13 *the ease of use of such incorporation.*

14 “(c) *FEEDBACK.—The Office shall establish a process*
15 *to receive feedback from physicians, health care providers,*
16 *patients, and vendors of health information technology fo-*
17 *cused on clinical decision support, appropriate professional*
18 *associations, and Federal and private health plans about*
19 *the value of the information disseminated and the assist-*
20 *ance provided under this section.*

21 “(d) *RULE OF CONSTRUCTION.—Nothing in this sec-*
22 *tion shall preclude the Institute from making its research*
23 *findings publicly available as required under section*
24 *1181(d)(8) of the Social Security Act.*

1 “(e) *TRAINING OF RESEARCHERS.*—*The Agency for*
2 *Health Care Research and Quality, in consultation with*
3 *the National Institutes of Health, shall build capacity for*
4 *comparative clinical effectiveness research by establishing a*
5 *grant program that provides for the training of researchers*
6 *in the methods used to conduct such research, including sys-*
7 *tematic reviews of existing research and primary research*
8 *such as clinical trials. At a minimum, such training shall*
9 *be in methods that meet the methodological standards*
10 *adopted under section 1181(d)(9) of the Social Security Act.*

11 “(f) *BUILDING DATA FOR RESEARCH.*—*The Secretary*
12 *shall provide for the coordination of relevant Federal health*
13 *programs to build data capacity for comparative clinical*
14 *effectiveness research, including the development and use of*
15 *clinical registries and health outcomes research data net-*
16 *works, in order to develop and maintain a comprehensive,*
17 *interoperable data network to collect, link, and analyze data*
18 *on outcomes and effectiveness from multiple sources, includ-*
19 *ing electronic health records.*

20 “(g) *AUTHORITY TO CONTRACT WITH THE INSTI-*
21 *TUTE.*—*Agencies and instrumentalities of the Federal Gov-*
22 *ernment may enter into agreements with the Institute, and*
23 *accept and retain funds, for the conduct and support of re-*
24 *search described in this part, provided that the research to*
25 *be conducted or supported under such agreements is author-*

1 ized under the governing statutes of such agencies and in-
2 strumentalities.”.

3 (c) *IN GENERAL.*—Part D of title XI of the Social Se-
4 curity Act, as added by subsection (a), is amended by add-
5 ing at the end the following new section:

6 “LIMITATIONS ON CERTAIN USES OF COMPARATIVE
7 CLINICAL EFFECTIVENESS RESEARCH

8 “SEC. 1182. (a) *The Secretary may only use evidence*
9 *and findings from research conducted under section 1181*
10 *to make a determination regarding coverage under title*
11 *XVIII if such use is through an iterative and transparent*
12 *process which includes public comment and considers the*
13 *effect on subpopulations.*

14 “(b) *Nothing in section 1181 shall be construed as—*

15 “(1) *superceding or modifying the coverage of*
16 *items or services under title XVIII that the Secretary*
17 *determines are reasonable and necessary under section*
18 *1862(l)(1); or*

19 “(2) *authorizing the Secretary to deny coverage*
20 *of items or services under such title solely on the basis*
21 *of comparative clinical effectiveness research.*

22 “(c)(1) *The Secretary shall not use evidence or findings*
23 *from comparative clinical effectiveness research conducted*
24 *under section 1181 in determining coverage, reimburse-*
25 *ment, or incentive programs under title XVIII in a manner*
26 *that treats extending the life of an elderly, disabled, or ter-*

1 *minally ill individual as of lower value than extending the*
2 *life of an individual who is younger, nondisabled, or not*
3 *terminally ill.*

4 “(2) Paragraph (1) shall not be construed as pre-
5 *venting the Secretary from using evidence or findings from*
6 *such comparative clinical effectiveness research in deter-*
7 *mining coverage, reimbursement, or incentive programs*
8 *under title XVIII based upon a comparison of the difference*
9 *in the effectiveness of alternative treatments in extending*
10 *an individual’s life due to the individual’s age, disability,*
11 *or terminal illness.*

12 “(d)(1) *The Secretary shall not use evidence or find-*
13 *ings from comparative clinical effectiveness research con-*
14 *ducted under section 1181 in determining coverage, reim-*
15 *bursement, or incentive programs under title XVIII in a*
16 *manner that precludes, or with the intent to discourage, an*
17 *individual from choosing a health care treatment based on*
18 *how the individual values the tradeoff between extending*
19 *the length of their life and the risk of disability.*

20 “(2)(A) Paragraph (1) shall not be construed to—

21 “(i) *limit the application of differential copay-*
22 *ments under title XVIII based on factors such as cost*
23 *or type of service; or*

24 “(ii) *prevent the Secretary from using evidence*
25 *or findings from such comparative clinical effective-*

1 *ness research in determining coverage, reimbursement,*
2 *or incentive programs under such title based upon a*
3 *comparison of the difference in the effectiveness of al-*
4 *ternative health care treatments in extending an indi-*
5 *vidual's life due to that individual's age, disability,*
6 *or terminal illness.*

7 *“(3) Nothing in the provisions of, or amendments*
8 *made by the Patient Protection and Affordable Care Act,*
9 *shall be construed to limit comparative clinical effectiveness*
10 *research or any other research, evaluation, or dissemination*
11 *of information concerning the likelihood that a health care*
12 *treatment will result in disability.*

13 *“(e) The Patient-Centered Outcomes Research Institute*
14 *established under section 1181(b)(1) shall not develop or*
15 *employ a dollars-per-quality adjusted life year (or similar*
16 *measure that discounts the value of a life because of an indi-*
17 *vidual's disability) as a threshold to establish what type*
18 *of health care is cost effective or recommended. The Sec-*
19 *retary shall not utilize such an adjusted life year (or such*
20 *a similar measure) as a threshold to determine coverage,*
21 *reimbursement, or incentive programs under title XVIII.”.*

22 *(d) IN GENERAL.—Part D of title XI of the Social Se-*
23 *curity Act, as added by subsection (a) and amended by sub-*
24 *section (c), is amended by adding at the end the following*
25 *new section:*

1 “*TRUST FUND TRANSFERS TO PATIENT-CENTERED*
2 *OUTCOMES RESEARCH TRUST FUND*

3 “*SEC. 1183. (a) IN GENERAL.—The Secretary shall*
4 *provide for the transfer, from the Federal Hospital Insur-*
5 *ance Trust Fund under section 1817 and the Federal Sup-*
6 *plementary Medical Insurance Trust Fund under section*
7 *1841, in proportion (as estimated by the Secretary) to the*
8 *total expenditures during such fiscal year that are made*
9 *under title XVIII from the respective trust fund, to the Pa-*
10 *tient-Centered Outcomes Research Trust Fund (referred to*
11 *in this section as the ‘PCORTF’) under section 9511 of the*
12 *Internal Revenue Code of 1986, of the following:*

13 “(1) *For fiscal year 2013, an amount equal to*
14 *\$1 multiplied by the average number of individuals*
15 *entitled to benefits under part A, or enrolled under*
16 *part B, of title XVIII during such fiscal year.*

17 “(2) *For each of fiscal years 2014, 2015, 2016,*
18 *2017, 2018, and 2019, an amount equal to \$2 multi-*
19 *plied by the average number of individuals entitled to*
20 *benefits under part A, or enrolled under part B, of*
21 *title XVIII during such fiscal year.*

22 “(b) *ADJUSTMENTS FOR INCREASES IN HEALTH CARE*
23 *SPENDING.—In the case of any fiscal year beginning after*
24 *September 30, 2014, the dollar amount in effect under sub-*
25 *section (a)(2) for such fiscal year shall be equal to the sum*

1 of such dollar amount for the previous fiscal year (deter-
 2 mined after the application of this subsection), plus an
 3 amount equal to the product of—

4 “(1) such dollar amount for the previous fiscal
 5 year, multiplied by

6 “(2) the percentage increase in the projected per
 7 capita amount of National Health Expenditures, as
 8 most recently published by the Secretary before the be-
 9 ginning of the fiscal year.”.

10 (e) *PATIENT-CENTERED OUTCOMES RESEARCH TRUST*
 11 *FUND; FINANCING FOR TRUST FUND.*—

12 (1) *ESTABLISHMENT OF TRUST FUND.*—

13 (A) *IN GENERAL.*—Subchapter A of chapter
 14 98 of the Internal Revenue Code of 1986 (relat-
 15 ing to establishment of trust funds) is amended
 16 by adding at the end the following new section:

17 **“SEC. 9511. PATIENT-CENTERED OUTCOMES RESEARCH**
 18 **TRUST FUND.**

19 “(a) *CREATION OF TRUST FUND.*—There is established
 20 in the Treasury of the United States a trust fund to be
 21 known as the ‘Patient-Centered Outcomes Research Trust
 22 Fund’ (hereafter in this section referred to as the
 23 ‘PCORTF’), consisting of such amounts as may be appro-
 24 priated or credited to such Trust Fund as provided in this
 25 section and section 9602(b).

1 “(b) *TRANSFERS TO FUND.*—

2 “(1) *APPROPRIATION.*—*There are hereby appro-*
3 *propriated to the Trust Fund the following:*

4 “(A) *For fiscal year 2010, \$10,000,000.*

5 “(B) *For fiscal year 2011, \$50,000,000.*

6 “(C) *For fiscal year 2012, \$150,000,000.*

7 “(D) *For fiscal year 2013—*

8 “(i) *an amount equivalent to the net*
9 *revenues received in the Treasury from the*
10 *fees imposed under subchapter B of chapter*
11 *34 (relating to fees on health insurance and*
12 *self-insured plans) for such fiscal year; and*

13 “(ii) *\$150,000,000.*

14 “(E) *For each of fiscal years 2014, 2015,*
15 *2016, 2017, 2018, and 2019—*

16 “(i) *an amount equivalent to the net*
17 *revenues received in the Treasury from the*
18 *fees imposed under subchapter B of chapter*
19 *34 (relating to fees on health insurance and*
20 *self-insured plans) for such fiscal year; and*

21 “(ii) *\$150,000,000.*

22 *The amounts appropriated under subparagraphs*
23 *(A), (B), (C), (D)(ii), and (E)(ii) shall be trans-*
24 *ferred from the general fund of the Treasury,*
25 *from funds not otherwise appropriated.*

1 “(2) *TRUST FUND TRANSFERS.*—*In addition to*
2 *the amounts appropriated under paragraph (1), there*
3 *shall be credited to the PCORTF the amounts trans-*
4 *ferred under section 1183 of the Social Security Act.*

5 “(3) *LIMITATION ON TRANSFERS TO PCORTF.*—
6 *No amount may be appropriated or transferred to the*
7 *PCORTF on and after the date of any expenditure*
8 *from the PCORTF which is not an expenditure per-*
9 *mitted under this section. The determination of*
10 *whether an expenditure is so permitted shall be made*
11 *without regard to—*

12 “(A) *any provision of law which is not con-*
13 *tained or referenced in this chapter or in a rev-*
14 *enue Act, and*

15 “(B) *whether such provision of law is a sub-*
16 *sequently enacted provision or directly or indi-*
17 *rectly seeks to waive the application of this para-*
18 *graph.*

19 “(c) *TRUSTEE.*—*The Secretary of the Treasury shall*
20 *be a trustee of the PCORTF.*

21 “(d) *EXPENDITURES FROM FUND.*—

22 “(1) *AMOUNTS AVAILABLE TO THE PATIENT-CEN-*
23 *TERED OUTCOMES RESEARCH INSTITUTE.*—*Subject to*
24 *paragraph (2), amounts in the PCORTF are avail-*
25 *able, without further appropriation, to the Patient-*

1 *Centered Outcomes Research Institute established*
2 *under section 1181(b) of the Social Security Act for*
3 *carrying out part D of title XI of the Social Security*
4 *Act (as in effect on the date of enactment of such Act).*

5 “(2) *TRANSFER OF FUNDS.—*

6 “(A) *IN GENERAL.—The trustee of the*
7 *PCORTF shall provide for the transfer from the*
8 *PCORTF of 20 percent of the amounts appro-*
9 *propriated or credited to the PCORTF for each of*
10 *fiscal years 2011 through 2019 to the Secretary*
11 *of Health and Human Services to carry out sec-*
12 *tion 937 of the Public Health Service Act.*

13 “(B) *AVAILABILITY.—Amounts transferred*
14 *under subparagraph (A) shall remain available*
15 *until expended.*

16 “(C) *REQUIREMENTS.—Of the amounts*
17 *transferred under subparagraph (A) with respect*
18 *to a fiscal year, the Secretary of Health and*
19 *Human Services shall distribute—*

20 “(i) *80 percent to the Office of Commu-*
21 *nication and Knowledge Transfer of the*
22 *Agency for Healthcare Research and Qual-*
23 *ity (or any other relevant office designated*
24 *by Agency for Healthcare Research and*
25 *Quality) to carry out the activities de-*

1 scribed in section 937 of the Public Health
2 Service Act; and

3 “(ii) 20 percent to the Secretary to
4 carry out the activities described in such
5 section 937.

6 “(e) *NET REVENUES*.—For purposes of this section, the
7 term ‘net revenues’ means the amount estimated by the Sec-
8 retary of the Treasury based on the excess of—

9 “(1) the fees received in the Treasury under sub-
10 chapter B of chapter 34, over

11 “(2) the decrease in the tax imposed by chapter
12 1 resulting from the fees imposed by such subchapter.

13 “(f) *TERMINATION*.—No amounts shall be available for
14 expenditure from the *PCORTF* after September 30, 2019,
15 and any amounts in such Trust Fund after such date shall
16 be transferred to the general fund of the Treasury.”.

17 (B) *CLERICAL AMENDMENT*.—The table of
18 sections for subchapter A of chapter 98 of such
19 Code is amended by adding at the end the fol-
20 lowing new item:

“Sec. 9511. Patient-centered outcomes research trust fund.”.

21 (2) *FINANCING FOR FUND FROM FEES ON IN-*
22 *SURED AND SELF-INSURED HEALTH PLANS*.—

23 (A) *GENERAL RULE*.—Chapter 34 of the *In-*
24 *ternal Revenue Code of 1986* is amended by add-
25 *ing at the end the following new subchapter:*

1 **“Subchapter B—Insured and Self-Insured**
2 **Health Plans**

“Sec. 4375. Health insurance.

“Sec. 4376. Self-insured health plans.

“Sec. 4377. Definitions and special rules.

3 **“SEC. 4375. HEALTH INSURANCE.**

4 “(a) *IMPOSITION OF FEE.*—*There is hereby imposed*
5 *on each specified health insurance policy for each policy*
6 *year ending after September 30, 2012, a fee equal to the*
7 *product of \$2 (\$1 in the case of policy years ending during*
8 *fiscal year 2013) multiplied by the average number of lives*
9 *covered under the policy.*

10 “(b) *LIABILITY FOR FEE.*—*The fee imposed by sub-*
11 *section (a) shall be paid by the issuer of the policy.*

12 “(c) *SPECIFIED HEALTH INSURANCE POLICY.*—*For*
13 *purposes of this section:*

14 “(1) *IN GENERAL.*—*Except as otherwise provided*
15 *in this section, the term ‘specified health insurance*
16 *policy’ means any accident or health insurance policy*
17 *(including a policy under a group health plan) issued*
18 *with respect to individuals residing in the United*
19 *States.*

20 “(2) *EXEMPTION FOR CERTAIN POLICIES.*—*The*
21 *term ‘specified health insurance policy’ does not in-*
22 *clude any insurance if substantially all of its coverage*
23 *is of excepted benefits described in section 9832(c).*

1 “(3) *TREATMENT OF PREPAID HEALTH COV-*
2 *ERAGE ARRANGEMENTS.—*

3 “(A) *IN GENERAL.—In the case of any ar-*
4 *rangement described in subparagraph (B), such*
5 *arrangement shall be treated as a specified*
6 *health insurance policy, and the person referred*
7 *to in such subparagraph shall be treated as the*
8 *issuer.*

9 “(B) *DESCRIPTION OF ARRANGEMENTS.—*
10 *An arrangement is described in this subpara-*
11 *graph if under such arrangement fixed payments*
12 *or premiums are received as consideration for*
13 *any person’s agreement to provide or arrange for*
14 *the provision of accident or health coverage to*
15 *residents of the United States, regardless of how*
16 *such coverage is provided or arranged to be pro-*
17 *vided.*

18 “(d) *ADJUSTMENTS FOR INCREASES IN HEALTH CARE*
19 *SPENDING.—In the case of any policy year ending in any*
20 *fiscal year beginning after September 30, 2014, the dollar*
21 *amount in effect under subsection (a) for such policy year*
22 *shall be equal to the sum of such dollar amount for policy*
23 *years ending in the previous fiscal year (determined after*
24 *the application of this subsection), plus an amount equal*
25 *to the product of—*

1 “(1) such dollar amount for policy years ending
2 in the previous fiscal year, multiplied by

3 “(2) the percentage increase in the projected per
4 capita amount of National Health Expenditures, as
5 most recently published by the Secretary before the be-
6 ginning of the fiscal year.

7 “(e) *TERMINATION*.—This section shall not apply to
8 policy years ending after September 30, 2019.

9 **“SEC. 4376. SELF-INSURED HEALTH PLANS.**

10 “(a) *IMPOSITION OF FEE*.—In the case of any applica-
11 ble self-insured health plan for each plan year ending after
12 September 30, 2012, there is hereby imposed a fee equal to
13 \$2 (\$1 in the case of plan years ending during fiscal year
14 2013) multiplied by the average number of lives covered
15 under the plan.

16 “(b) *LIABILITY FOR FEE*.—

17 “(1) *IN GENERAL*.—The fee imposed by sub-
18 section (a) shall be paid by the plan sponsor.

19 “(2) *PLAN SPONSOR*.—For purposes of para-
20 graph (1) the term ‘plan sponsor’ means—

21 “(A) the employer in the case of a plan es-
22 tablished or maintained by a single employer,

23 “(B) the employee organization in the case
24 of a plan established or maintained by an em-
25 ployee organization,

1 “(C) *in the case of—*

2 “(i) *a plan established or maintained*
3 *by 2 or more employers or jointly by 1 or*
4 *more employers and 1 or more employee or-*
5 *ganizations,*

6 “(ii) *a multiple employer welfare ar-*
7 *rangement, or*

8 “(iii) *a voluntary employees’ bene-*
9 *ficiary association described in section*
10 *501(c)(9), the association, committee, joint*
11 *board of trustees, or other similar group of*
12 *representatives of the parties who establish*
13 *or maintain the plan, or*

14 “(D) *the cooperative or association de-*
15 *scribed in subsection (c)(2)(F) in the case of a*
16 *plan established or maintained by such a cooper-*
17 *ative or association.*

18 “(c) *APPLICABLE SELF-INSURED HEALTH PLAN.—For*
19 *purposes of this section, the term ‘applicable self-insured*
20 *health plan’ means any plan for providing accident or*
21 *health coverage if—*

22 “(1) *any portion of such coverage is provided*
23 *other than through an insurance policy, and*

24 “(2) *such plan is established or maintained—*

1 “(A) by 1 or more employers for the benefit
2 of their employees or former employees,

3 “(B) by 1 or more employee organizations
4 for the benefit of their members or former mem-
5 bers,

6 “(C) jointly by 1 or more employers and 1
7 or more employee organizations for the benefit of
8 employees or former employees,

9 “(D) by a voluntary employees’ beneficiary
10 association described in section 501(c)(9),

11 “(E) by any organization described in sec-
12 tion 501(c)(6), or

13 “(F) in the case of a plan not described in
14 the preceding subparagraphs, by a multiple em-
15 ployer welfare arrangement (as defined in sec-
16 tion 3(40) of Employee Retirement Income Secu-
17 rity Act of 1974), a rural electric cooperative (as
18 defined in section 3(40)(B)(iv) of such Act), or
19 a rural telephone cooperative association (as de-
20 fined in section 3(40)(B)(v) of such Act).

21 “(d) *ADJUSTMENTS FOR INCREASES IN HEALTH CARE*
22 *SPENDING.*—In the case of any plan year ending in any
23 fiscal year beginning after September 30, 2014, the dollar
24 amount in effect under subsection (a) for such plan year
25 shall be equal to the sum of such dollar amount for plan

1 *years ending in the previous fiscal year (determined after*
2 *the application of this subsection), plus an amount equal*
3 *to the product of—*

4 “(1) *such dollar amount for plan years ending*
5 *in the previous fiscal year, multiplied by*

6 “(2) *the percentage increase in the projected per*
7 *capita amount of National Health Expenditures, as*
8 *most recently published by the Secretary before the be-*
9 *ginning of the fiscal year.*

10 “(e) *TERMINATION.—This section shall not apply to*
11 *plan years ending after September 30, 2019.*

12 **“SEC. 4377. DEFINITIONS AND SPECIAL RULES.**

13 “(a) *DEFINITIONS.—For purposes of this subchapter—*

14 “(1) *ACCIDENT AND HEALTH COVERAGE.—The*
15 *term ‘accident and health coverage’ means any cov-*
16 *erage which, if provided by an insurance policy,*
17 *would cause such policy to be a specified health insur-*
18 *ance policy (as defined in section 4375(c)).*

19 “(2) *INSURANCE POLICY.—The term ‘insurance*
20 *policy’ means any policy or other instrument whereby*
21 *a contract of insurance is issued, renewed, or ex-*
22 *tended.*

23 “(3) *UNITED STATES.—The term ‘United States’*
24 *includes any possession of the United States.*

25 “(b) *TREATMENT OF GOVERNMENTAL ENTITIES.—*

1 “(1) *IN GENERAL.*—*For purposes of this sub-*
2 *chapter—*

3 “(A) *the term ‘person’ includes any govern-*
4 *mental entity, and*

5 “(B) *notwithstanding any other law or rule*
6 *of law, governmental entities shall not be exempt*
7 *from the fees imposed by this subchapter except*
8 *as provided in paragraph (2).*

9 “(2) *TREATMENT OF EXEMPT GOVERNMENTAL*
10 *PROGRAMS.*—*In the case of an exempt governmental*
11 *program, no fee shall be imposed under section 4375*
12 *or section 4376 on any covered life under such pro-*
13 *gram.*

14 “(3) *EXEMPT GOVERNMENTAL PROGRAM DE-*
15 *FINED.*—*For purposes of this subchapter, the term ‘ex-*
16 *empt governmental program’ means—*

17 “(A) *any insurance program established*
18 *under title XVIII of the Social Security Act,*

19 “(B) *the medical assistance program estab-*
20 *lished by title XIX or XXI of the Social Security*
21 *Act,*

22 “(C) *any program established by Federal*
23 *law for providing medical care (other than*
24 *through insurance policies) to individuals (or the*
25 *spouses and dependents thereof) by reason of*

1 *such individuals being members of the Armed*
 2 *Forces of the United States or veterans, and*

3 “(D) *any program established by Federal*
 4 *law for providing medical care (other than*
 5 *through insurance policies) to members of Indian*
 6 *tribes (as defined in section 4(d) of the Indian*
 7 *Health Care Improvement Act).*

8 “(c) *TREATMENT AS TAX.—For purposes of subtitle F,*
 9 *the fees imposed by this subchapter shall be treated as if*
 10 *they were taxes.*

11 “(d) *NO COVER OVER TO POSSESSIONS.—Notwith-*
 12 *standing any other provision of law, no amount collected*
 13 *under this subchapter shall be covered over to any posses-*
 14 *sion of the United States.”.*

15 (B) *CLERICAL AMENDMENTS.—*

16 (i) *Chapter 34 of such Code is amend-*
 17 *ed by striking the chapter heading and in-*
 18 *serting the following:*

19 **“CHAPTER 34—TAXES ON CERTAIN**
 20 **INSURANCE POLICIES**

 “SUBCHAPTER A. *POLICIES ISSUED BY FOREIGN INSURERS*

 “SUBCHAPTER B. *INSURED AND SELF-INSURED HEALTH PLANS*

21 **“Subchapter A—Policies Issued By Foreign**
 22 **Insurers”.**

23 (ii) *The table of chapters for subtitle D*
 24 *of such Code is amended by striking the*

1 *item relating to chapter 34 and inserting*
2 *the following new item:*

 “CHAPTER 34—TAXES ON CERTAIN INSURANCE POLICIES”.

3 (f) *TAX-EXEMPT STATUS OF THE PATIENT-CENTERED*
4 *OUTCOMES RESEARCH INSTITUTE.*—Subsection 501(l) of
5 *the Internal Revenue Code of 1986 is amended by adding*
6 *at the end the following new paragraph:*

7 “(4) *The Patient-Centered Outcomes Research*
8 *Institute established under section 1181(b) of the So-*
9 *cial Security Act.*”.

10 **SEC. 6302. FEDERAL COORDINATING COUNCIL FOR COM-**
11 **PARATIVE EFFECTIVENESS RESEARCH.**

12 *Notwithstanding any other provision of law, the Fed-*
13 *eral Coordinating Council for Comparative Effectiveness*
14 *Research established under section 804 of Division A of the*
15 *American Recovery and Reinvestment Act of 2009 (42*
16 *U.S.C. 299b–8), including the requirement under subsection*
17 *(e)(2) of such section, shall terminate on the date of enact-*
18 *ment of this Act.*

1 ***Subtitle E—Medicare, Medicaid,***
2 ***and CHIP Program Integrity***
3 ***Provisions***

4 ***SEC. 6401. PROVIDER SCREENING AND OTHER ENROLL-***
5 ***MENT REQUIREMENTS UNDER MEDICARE,***
6 ***MEDICAID, AND CHIP.***

7 *(a) MEDICARE.—Section 1866(j) of the Social Security*
8 *Act (42 U.S.C. 1395cc(j)) is amended—*

9 *(1) in paragraph (1)(A), by adding at the end*
10 *the following: “Such process shall include screening of*
11 *providers and suppliers in accordance with para-*
12 *graph (2), a provisional period of enhanced oversight*
13 *in accordance with paragraph (3), disclosure require-*
14 *ments in accordance with paragraph (4), the imposi-*
15 *tion of temporary enrollment moratoria in accordance*
16 *with paragraph (5), and the establishment of compli-*
17 *ance programs in accordance with paragraph (6).”;*

18 *(2) by redesignating paragraph (2) as para-*
19 *graph (7); and*

20 *(3) by inserting after paragraph (1) the fol-*
21 *lowing:*

22 *“(2) PROVIDER SCREENING.—*

23 *“(A) PROCEDURES.—Not later than 180*
24 *days after the date of enactment of this para-*
25 *graph, the Secretary, in consultation with the*

1 *Inspector General of the Department of Health*
2 *and Human Services, shall establish procedures*
3 *under which screening is conducted with respect*
4 *to providers of medical or other items or services*
5 *and suppliers under the program under this*
6 *title, the Medicaid program under title XIX, and*
7 *the CHIP program under title XXI.*

8 “(B) *LEVEL OF SCREENING.*—*The Secretary*
9 *shall determine the level of screening conducted*
10 *under this paragraph according to the risk of*
11 *fraud, waste, and abuse, as determined by the*
12 *Secretary, with respect to the category of pro-*
13 *vider of medical or other items or services or*
14 *supplier. Such screening—*

15 “(i) *shall include a licensure check,*
16 *which may include such checks across*
17 *States; and*

18 “(ii) *may, as the Secretary determines*
19 *appropriate based on the risk of fraud,*
20 *waste, and abuse described in the preceding*
21 *sentence, include—*

22 “(I) *a criminal background check;*

23 “(II) *fingerprinting;*

1 “(III) *unscheduled and unan-*
2 *nounced site visits, including*
3 *preenrollment site visits;*

4 “(IV) *database checks (including*
5 *such checks across States); and*

6 “(V) *such other screening as the*
7 *Secretary determines appropriate.*

8 “(C) *APPLICATION FEES.—*

9 “(i) *INDIVIDUAL PROVIDERS.—Except*
10 *as provided in clause (iii), the Secretary*
11 *shall impose a fee on each individual pro-*
12 *vider of medical or other items or services*
13 *or supplier (such as a physician, physician*
14 *assistant, nurse practitioner, or clinical*
15 *nurse specialist) with respect to which*
16 *screening is conducted under this paragraph*
17 *in an amount equal to—*

18 “(I) *for 2010, \$200; and*

19 “(II) *for 2011 and each subse-*
20 *quent year, the amount determined*
21 *under this clause for the preceding*
22 *year, adjusted by the percentage change*
23 *in the consumer price index for all*
24 *urban consumers (all items; United*
25 *States city average) for the 12-month*

1 *period ending with June of the pre-*
2 *vious year.*

3 “(ii) *INSTITUTIONAL PROVIDERS.—Ex-*
4 *cept as provided in clause (iii), the Sec-*
5 *retary shall impose a fee on each institu-*
6 *tional provider of medical or other items or*
7 *services or supplier (such as a hospital or*
8 *skilled nursing facility) with respect to*
9 *which screening is conducted under this*
10 *paragraph in an amount equal to—*

11 *“(I) for 2010, \$500; and*

12 *“(II) for 2011 and each subse-*
13 *quent year, the amount determined*
14 *under this clause for the preceding*
15 *year, adjusted by the percentage change*
16 *in the consumer price index for all*
17 *urban consumers (all items; United*
18 *States city average) for the 12-month*
19 *period ending with June of the pre-*
20 *vious year.*

21 “(iii) *HARDSHIP EXCEPTION; WAIVER*
22 *FOR CERTAIN MEDICAID PROVIDERS.—The*
23 *Secretary may, on a case-by-case basis, ex-*
24 *empt a provider of medical or other items*
25 *or services or supplier from the imposition*

1 of an application fee under this subpara-
2 graph if the Secretary determines that the
3 imposition of the application fee would re-
4 sult in a hardship. The Secretary may
5 waive the application fee under this sub-
6 paragraph for providers enrolled in a State
7 Medicaid program for whom the State dem-
8 onstrates that imposition of the fee would
9 impede beneficiary access to care.

10 “(iv) *USE OF FUNDS.*—Amounts col-
11 lected as a result of the imposition of a fee
12 under this subparagraph shall be used by
13 the Secretary for program integrity efforts,
14 including to cover the costs of conducting
15 screening under this paragraph and to
16 carry out this subsection and section 1128J.

17 “(D) *APPLICATION AND ENFORCEMENT.*—

18 “(i) *NEW PROVIDERS OF SERVICES AND*
19 *SUPPLIERS.*—The screening under this
20 paragraph shall apply, in the case of a pro-
21 vider of medical or other items or services
22 or supplier who is not enrolled in the pro-
23 gram under this title, title XIX , or title
24 XXI as of the date of enactment of this

1 paragraph, on or after the date that is 1
2 year after such date of enactment.

3 “(ii) *CURRENT PROVIDERS OF SERV-*
4 *ICES AND SUPPLIERS.*—The screening under
5 this paragraph shall apply, in the case of a
6 provider of medical or other items or serv-
7 ices or supplier who is enrolled in the pro-
8 gram under this title, title XIX, or title XXI
9 as of such date of enactment, on or after the
10 date that is 2 years after such date of enact-
11 ment.

12 “(iii) *REVALIDATION OF ENROLL-*
13 *MENT.*—Effective beginning on the date that
14 is 180 days after such date of enactment,
15 the screening under this paragraph shall
16 apply with respect to the revalidation of en-
17 rollment of a provider of medical or other
18 items or services or supplier in the program
19 under this title, title XIX, or title XXI.

20 “(iv) *LIMITATION ON ENROLLMENT*
21 *AND REVALIDATION OF ENROLLMENT.*—In
22 no case may a provider of medical or other
23 items or services or supplier who has not
24 been screened under this paragraph be ini-
25 tially enrolled or reenrolled in the program

1 *under this title, title XIX, or title XXI on*
2 *or after the date that is 3 years after such*
3 *date of enactment.*

4 “(E) *EXPEDITED RULEMAKING.*—*The Sec-*
5 *retary may promulgate an interim final rule to*
6 *carry out this paragraph.*

7 “(3) *PROVISIONAL PERIOD OF ENHANCED OVER-*
8 *SIGHT FOR NEW PROVIDERS OF SERVICES AND SUP-*
9 *PLIERS.*—

10 “(A) *IN GENERAL.*—*The Secretary shall es-*
11 *tablish procedures to provide for a provisional*
12 *period of not less than 30 days and not more*
13 *than 1 year during which new providers of med-*
14 *ical or other items or services and suppliers, as*
15 *the Secretary determines appropriate, including*
16 *categories of providers or suppliers, would be*
17 *subject to enhanced oversight, such as prepay-*
18 *ment review and payment caps, under the pro-*
19 *gram under this title, the Medicaid program*
20 *under title XIX, and the CHIP program under*
21 *title XXI.*

22 “(B) *IMPLEMENTATION.*—*The Secretary*
23 *may establish by program instruction or other-*
24 *wise the procedures under this paragraph.*

25 “(4) *INCREASED DISCLOSURE REQUIREMENTS.*—

1 “(A) *DISCLOSURE.*—A provider of medical
2 or other items or services or supplier who sub-
3 mits an application for enrollment or revalida-
4 tion of enrollment in the program under this
5 title, title XIX, or title XXI on or after the date
6 that is 1 year after the date of enactment of this
7 paragraph shall disclose (in a form and manner
8 and at such time as determined by the Sec-
9 retary) any current or previous affiliation (di-
10 rectly or indirectly) with a provider of medical
11 or other items or services or supplier that has
12 uncollected debt, has been or is subject to a pay-
13 ment suspension under a Federal health care
14 program (as defined in section 1128B(f)), has
15 been excluded from participation under the pro-
16 gram under this title, the Medicaid program
17 under title XIX, or the CHIP program under
18 title XXI, or has had its billing privileges denied
19 or revoked.

20 “(B) *AUTHORITY TO DENY ENROLLMENT.*—
21 If the Secretary determines that such previous
22 affiliation poses an undue risk of fraud, waste,
23 or abuse, the Secretary may deny such applica-
24 tion. Such a denial shall be subject to appeal in
25 accordance with paragraph (7).

1 “(5) *AUTHORITY TO ADJUST PAYMENTS OF PRO-*
2 *VIDERS OF SERVICES AND SUPPLIERS WITH THE*
3 *SAME TAX IDENTIFICATION NUMBER FOR PAST-DUE*
4 *OBLIGATIONS.—*

5 “(A) *IN GENERAL.—Notwithstanding any*
6 *other provision of this title, in the case of an ap-*
7 *licable provider of services or supplier, the Sec-*
8 *retary may make any necessary adjustments to*
9 *payments to the applicable provider of services*
10 *or supplier under the program under this title in*
11 *order to satisfy any past-due obligations de-*
12 *scribed in subparagraph (B)(ii) of an obligated*
13 *provider of services or supplier.*

14 “(B) *DEFINITIONS.—In this paragraph:*

15 “(i) *IN GENERAL.—The term ‘applica-*
16 *ble provider of services or supplier’ means a*
17 *provider of services or supplier that has the*
18 *same taxpayer identification number as-*
19 *signed under section 6109 of the Internal*
20 *Revenue Code of 1986 as is assigned to the*
21 *obligated provider of services or supplier*
22 *under such section, regardless of whether the*
23 *applicable provider of services or supplier is*
24 *assigned a different billing number or na-*
25 *tional provider identification number under*

1 the program under this title than is as-
2 signed to the obligated provider of services
3 or supplier.

4 “(i) *OBLIGATED PROVIDER OF SERV-*
5 *ICES OR SUPPLIER.*—*The term ‘obligated*
6 *provider of services or supplier’ means a*
7 *provider of services or supplier that owes a*
8 *past-due obligation under the program*
9 *under this title (as determined by the Sec-*
10 *retary).*

11 “(6) *TEMPORARY MORATORIUM ON ENROLLMENT*
12 *OF NEW PROVIDERS.*—

13 “(A) *IN GENERAL.*—*The Secretary may im-*
14 *pose a temporary moratorium on the enrollment*
15 *of new providers of services and suppliers, in-*
16 *cluding categories of providers of services and*
17 *suppliers, in the program under this title, under*
18 *the Medicaid program under title XIX, or under*
19 *the CHIP program under title XXI if the Sec-*
20 *retary determines such moratorium is necessary*
21 *to prevent or combat fraud, waste, or abuse*
22 *under either such program.*

23 “(B) *LIMITATION ON REVIEW.*—*There shall*
24 *be no judicial review under section 1869, section*

1 1878, or otherwise, of a temporary moratorium
2 imposed under subparagraph (A).

3 “(7) COMPLIANCE PROGRAMS.—

4 “(A) *IN GENERAL.*—On or after the date of
5 implementation determined by the Secretary
6 under subparagraph (C), a provider of medical
7 or other items or services or supplier within a
8 particular industry sector or category shall, as a
9 condition of enrollment in the program under
10 this title, title XIX, or title XXI, establish a com-
11 pliance program that contains the core elements
12 established under subparagraph (B) with respect
13 to that provider or supplier and industry or cat-
14 egory.

15 “(B) *ESTABLISHMENT OF CORE ELE-*
16 *MENTS.*—The Secretary, in consultation with the
17 Inspector General of the Department of Health
18 and Human Services, shall establish core ele-
19 ments for a compliance program under subpara-
20 graph (A) for providers or suppliers within a
21 particular industry or category.

22 “(C) *TIMELINE FOR IMPLEMENTATION.*—
23 The Secretary shall determine the timeline for
24 the establishment of the core elements under sub-
25 paragraph (B) and the date of the implementa-

1 tion of subparagraph (A) for providers or sup-
2 pliers within a particular industry or category.
3 The Secretary shall, in determining such date of
4 implementation, consider the extent to which the
5 adoption of compliance programs by a provider
6 of medical or other items or services or supplier
7 is widespread in a particular industry sector or
8 with respect to a particular provider or supplier
9 category.”.

10 (b) *MEDICAID*.—

11 (1) *STATE PLAN AMENDMENT*.—Section 1902(a)
12 of the Social Security Act (42 U.S.C. 1396a(a)), as
13 amended by section 4302(b), is amended—

14 (A) in subsection (a)—

15 (i) by striking “and” at the end of
16 paragraph (75);

17 (ii) by striking the period at the end of
18 paragraph (76) and inserting a semicolon;

19 and

20 (iii) by inserting after paragraph (76)

21 the following:

22 “(77) provide that the State shall comply with
23 provider and supplier screening, oversight, and re-
24 porting requirements in accordance with subsection
25 (ii);” and

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

2 “(ii) *PROVIDER AND SUPPLIER SCREENING, OVER-*
3 *SIGHT, AND REPORTING REQUIREMENTS.*—For purposes of
4 *subsection (a)(77), the requirements of this subsection are*
5 *the following:*

6 “(1) *SCREENING.*—The State complies with the
7 *process for screening providers and suppliers under*
8 *this title, as established by the Secretary under sec-*
9 *tion 1886(j)(2).*

10 “(2) *PROVISIONAL PERIOD OF ENHANCED OVER-*
11 *SIGHT FOR NEW PROVIDERS AND SUPPLIERS.*—The
12 *State complies with procedures to provide for a provi-*
13 *sional period of enhanced oversight for new providers*
14 *and suppliers under this title, as established by the*
15 *Secretary under section 1886(j)(3).*

16 “(3) *DISCLOSURE REQUIREMENTS.*—The State
17 *requires providers and suppliers under the State plan*
18 *or under a waiver of the plan to comply with the dis-*
19 *closure requirements established by the Secretary*
20 *under section 1886(j)(4).*

21 “(4) *TEMPORARY MORATORIUM ON ENROLLMENT*
22 *OF NEW PROVIDERS OR SUPPLIERS.*—

23 “(A) *TEMPORARY MORATORIUM IMPOSED BY*
24 *THE SECRETARY.*—

1 “(i) *IN GENERAL.*—*Subject to clause*
2 *(ii), the State complies with any temporary*
3 *moratorium on the enrollment of new pro-*
4 *viders or suppliers imposed by the Secretary*
5 *under section 1886(j)(6).*

6 “(ii) *EXCEPTION.*—*A State shall not be*
7 *required to comply with a temporary mora-*
8 *torium described in clause (i) if the State*
9 *determines that the imposition of such tem-*
10 *porary moratorium would adversely impact*
11 *beneficiaries’ access to medical assistance.*

12 “(B) *MORATORIUM ON ENROLLMENT OF*
13 *PROVIDERS AND SUPPLIERS.*—*At the option of*
14 *the State, the State imposes, for purposes of en-*
15 *tering into participation agreements with pro-*
16 *viders or suppliers under the State plan or*
17 *under a waiver of the plan, periods of enrollment*
18 *moratoria, or numerical caps or other limits, for*
19 *providers or suppliers identified by the Secretary*
20 *as being at high-risk for fraud, waste, or abuse*
21 *as necessary to combat fraud, waste, or abuse,*
22 *but only if the State determines that the imposi-*
23 *tion of any such period, cap, or other limits*
24 *would not adversely impact beneficiaries’ access*
25 *to medical assistance.*

1 “(5) *COMPLIANCE PROGRAMS.*—*The State re-*
2 *quires providers and suppliers under the State plan*
3 *or under a waiver of the plan to establish, in accord-*
4 *ance with the requirements of section 1866(j)(7), a*
5 *compliance program that contains the core elements*
6 *established under subparagraph (B) of that section*
7 *1866(j)(7) for providers or suppliers within a par-*
8 *ticular industry or category.*

9 “(6) *REPORTING OF ADVERSE PROVIDER AC-*
10 *TIONS.*—*The State complies with the national system*
11 *for reporting criminal and civil convictions, sanc-*
12 *tions, negative licensure actions, and other adverse*
13 *provider actions to the Secretary, through the Admin-*
14 *istrator of the Centers for Medicare & Medicaid Serv-*
15 *ices, in accordance with regulations of the Secretary.*

16 “(7) *ENROLLMENT AND NPI OF ORDERING OR*
17 *REFERRING PROVIDERS.*—*The State requires—*

18 “(A) *all ordering or referring physicians or*
19 *other professionals to be enrolled under the State*
20 *plan or under a waiver of the plan as a partici-*
21 *parting provider; and*

22 “(B) *the national provider identifier of any*
23 *ordering or referring physician or other profes-*
24 *sional to be specified on any claim for payment*

1 *that is based on an order or referral of the physi-*
2 *cian or other professional.*

3 “(8) *OTHER STATE OVERSIGHT.*—*Nothing in*
4 *this subsection shall be interpreted to preclude or*
5 *limit the ability of a State to engage in provider and*
6 *supplier screening or enhanced provider and supplier*
7 *oversight activities beyond those required by the Sec-*
8 *retary.”.*

9 (2) *DISCLOSURE OF MEDICARE TERMINATED*
10 *PROVIDERS AND SUPPLIERS TO STATES.*—*The Admin-*
11 *istrator of the Centers for Medicare & Medicaid Serv-*
12 *ices shall establish a process for making available to*
13 *the each State agency with responsibility for admin-*
14 *istering a State Medicaid plan (or a waiver of such*
15 *plan) under title XIX of the Social Security Act or*
16 *a child health plan under title XXI the name, na-*
17 *tional provider identifier, and other identifying infor-*
18 *mation for any provider of medical or other items or*
19 *services or supplier under the Medicare program*
20 *under title XVIII or under the CHIP program under*
21 *title XXI that is terminated from participation under*
22 *that program within 30 days of the termination (and,*
23 *with respect to all such providers or suppliers who are*
24 *terminated from the Medicare program on the date of*
25 *enactment of this Act, within 90 days of such date).*

1 (3) *CONFORMING AMENDMENT.*—Section
2 1902(a)(23) of the Social Security Act (42 U.S.C.
3 1396a), is amended by inserting before the semicolon
4 at the end the following: “or by a provider or supplier
5 to which a moratorium under subsection (ii)(4) is ap-
6 plied during the period of such moratorium”.

7 (c) *CHIP.*—Section 2107(e)(1) of the Social Security
8 Act (42 U.S.C. 1397gg(e)(1)), as amended by section
9 2101(d), is amended—

10 (1) by redesignating subparagraphs (D) through
11 (M) as subparagraphs (E) through (N), respectively;
12 and

13 (2) by inserting after subparagraph (C), the fol-
14 lowing:

15 “(D) Subsections (a)(77) and (ii) of section
16 1902 (relating to provider and supplier screen-
17 ing, oversight, and reporting requirements).”.

18 **SEC. 6402. ENHANCED MEDICARE AND MEDICAID PROGRAM**

19 **INTEGRITY PROVISIONS.**

20 (a) *IN GENERAL.*—Part A of title XI of the Social Se-
21 curity Act (42 U.S.C. 1301 et seq.), as amended by sections
22 6002, 6004, and 6102, is amended by inserting after section
23 1128I the following new section:

1 **“SEC. 1128J. MEDICARE AND MEDICAID PROGRAM INTEG-**
2 **RITY PROVISIONS.**

3 *“(a) DATA MATCHING.—*

4 *“(1) INTEGRATED DATA REPOSITORY.—*

5 *“(A) INCLUSION OF CERTAIN DATA.—*

6 *“(i) IN GENERAL.—The Integrated*
7 *Data Repository of the Centers for Medicare*
8 *& Medicaid Services shall include, at a*
9 *minimum, claims and payment data from*
10 *the following:*

11 *“(I) The programs under titles*
12 *XVIII and XIX (including parts A, B,*
13 *C, and D of title XVIII).*

14 *“(II) The program under title*
15 *XXI.*

16 *“(III) Health-related programs*
17 *administered by the Secretary of Vet-*
18 *erans Affairs.*

19 *“(IV) Health-related programs ad-*
20 *ministered by the Secretary of Defense.*

21 *“(V) The program of old-age, sur-*
22 *vivors, and disability insurance bene-*
23 *fits established under title II.*

24 *“(VI) The Indian Health Service*
25 *and the Contract Health Service pro-*
26 *gram.*

1 “(i) *PRIORITY FOR INCLUSION OF*
2 *CERTAIN DATA.—Inclusion of the data de-*
3 *scribed in subclause (I) of such clause in the*
4 *Integrated Data Repository shall be a pri-*
5 *ority. Data described in subclauses (II)*
6 *through (VI) of such clause shall be included*
7 *in the Integrated Data Repository as appro-*
8 *priate.*

9 “(B) *DATA SHARING AND MATCHING.—*

10 “(i) *IN GENERAL.—The Secretary shall*
11 *enter into agreements with the individuals*
12 *described in clause (ii) under which such*
13 *individuals share and match data in the*
14 *system of records of the respective agencies*
15 *of such individuals with data in the system*
16 *of records of the Department of Health and*
17 *Human Services for the purpose of identi-*
18 *fying potential fraud, waste, and abuse*
19 *under the programs under titles XVIII and*
20 *XIX.*

21 “(ii) *INDIVIDUALS DESCRIBED.—The*
22 *following individuals are described in this*
23 *clause:*

24 “(I) *The Commissioner of Social*
25 *Security.*

1 “(II) *The Secretary of Veterans*
2 *Affairs.*

3 “(III) *The Secretary of Defense.*

4 “(IV) *The Director of the Indian*
5 *Health Service.*

6 “(iii) *DEFINITION OF SYSTEM OF*
7 *RECORDS.—For purposes of this paragraph,*
8 *the term ‘system of records’ has the meaning*
9 *given such term in section 552a(a)(5) of*
10 *title 5, United States Code.*

11 “(2) *ACCESS TO CLAIMS AND PAYMENT DATA-*
12 *BASES.—For purposes of conducting law enforcement*
13 *and oversight activities and to the extent consistent*
14 *with applicable information, privacy, security, and*
15 *disclosure laws, including the regulations promul-*
16 *gated under the Health Insurance Portability and Ac-*
17 *countability Act of 1996 and section 552a of title 5,*
18 *United States Code, and subject to any information*
19 *systems security requirements under such laws or oth-*
20 *erwise required by the Secretary, the Inspector Gen-*
21 *eral of the Department of Health and Human Serv-*
22 *ices and the Attorney General shall have access to*
23 *claims and payment data of the Department of*
24 *Health and Human Services and its contractors re-*
25 *lated to titles XVIII, XIX, and XXI.*

1 “(b) *OIG AUTHORITY TO OBTAIN INFORMATION.*—

2 “(1) *IN GENERAL.*—*Notwithstanding and in ad-*
3 *dition to any other provision of law, the Inspector*
4 *General of the Department of Health and Human*
5 *Services may, for purposes of protecting the integrity*
6 *of the programs under titles XVIII and XIX, obtain*
7 *information from any individual (including a bene-*
8 *ficiary provided all applicable privacy protections are*
9 *followed) or entity that—*

10 “(A) *is a provider of medical or other items*
11 *or services, supplier, grant recipient, contractor,*
12 *or subcontractor; or*

13 “(B) *directly or indirectly provides, orders,*
14 *manufactures, distributes, arranges for, pre-*
15 *scribes, supplies, or receives medical or other*
16 *items or services payable by any Federal health*
17 *care program (as defined in section 1128B(f)) re-*
18 *gardless of how the item or service is paid for,*
19 *or to whom such payment is made.*

20 “(2) *INCLUSION OF CERTAIN INFORMATION.*—*In-*
21 *formation which the Inspector General may obtain*
22 *under paragraph (1) includes any supporting docu-*
23 *mentation necessary to validate claims for payment*
24 *or payments under title XVIII or XIX, including a*
25 *prescribing physician’s medical records for an indi-*

1 *vidual who is prescribed an item or service which is*
2 *covered under part B of title XVIII, a covered part*
3 *D drug (as defined in section 1860D–2(e)) for which*
4 *payment is made under an MA–PD plan under part*
5 *C of such title, or a prescription drug plan under*
6 *part D of such title, and any records necessary for*
7 *evaluation of the economy, efficiency, and effectiveness*
8 *of the programs under titles XVIII and XIX.*

9 “(c) *ADMINISTRATIVE REMEDY FOR KNOWING PAR-*
10 *TICIPATION BY BENEFICIARY IN HEALTH CARE FRAUD*
11 *SCHEME.—*

12 “(1) *IN GENERAL.—In addition to any other ap-*
13 *plicable remedies, if an applicable individual has*
14 *knowingly participated in a Federal health care*
15 *fraud offense or a conspiracy to commit a Federal*
16 *health care fraud offense, the Secretary shall impose*
17 *an appropriate administrative penalty commensurate*
18 *with the offense or conspiracy.*

19 “(2) *APPLICABLE INDIVIDUAL.—For purposes of*
20 *paragraph (1), the term ‘applicable individual’ means*
21 *an individual—*

22 “(A) *entitled to, or enrolled for, benefits*
23 *under part A of title XVIII or enrolled under*
24 *part B of such title;*

1 “(B) eligible for medical assistance under a
2 State plan under title XIX or under a waiver of
3 such plan; or

4 “(C) eligible for child health assistance
5 under a child health plan under title XXI.

6 “(d) REPORTING AND RETURNING OF OVERPAY-
7 MENTS.—

8 “(1) IN GENERAL.—If a person has received an
9 overpayment, the person shall—

10 “(A) report and return the overpayment to
11 the Secretary, the State, an intermediary, a car-
12 rier, or a contractor, as appropriate, at the cor-
13 rect address; and

14 “(B) notify the Secretary, State, inter-
15 mediary, carrier, or contractor to whom the over-
16 payment was returned in writing of the reason
17 for the overpayment.

18 “(2) DEADLINE FOR REPORTING AND RETURNING
19 OVERPAYMENTS.—An overpayment must be reported
20 and returned under paragraph (1) by the later of—

21 “(A) the date which is 60 days after the
22 date on which the overpayment was identified; or

23 “(B) the date any corresponding cost report
24 is due, if applicable.

1 “(3) *ENFORCEMENT.*—*Any overpayment re-*
2 *tained by a person after the deadline for reporting*
3 *and returning the overpayment under paragraph (2)*
4 *is an obligation (as defined in section 3729(b)(3) of*
5 *title 31, United States Code) for purposes of section*
6 *3729 of such title.*

7 “(4) *DEFINITIONS.*—*In this subsection:*

8 “(A) *KNOWING AND KNOWINGLY.*—*The*
9 *terms ‘knowing’ and ‘knowingly’ have the mean-*
10 *ing given those terms in section 3729(b) of title*
11 *31, United States Code.*

12 “(B) *OVERPAYMENT.*—*The term “overpay-*
13 *ment” means any funds that a person receives or*
14 *retains under title XVIII or XIX to which the*
15 *person, after applicable reconciliation, is not en-*
16 *titled under such title.*

17 “(C) *PERSON.*—

18 “(i) *IN GENERAL.*—*The term ‘person’*
19 *means a provider of services, supplier, med-*
20 *icaid managed care organization (as de-*
21 *defined in section 1903(m)(1)(A)), Medicare*
22 *Advantage organization (as defined in sec-*
23 *tion 1859(a)(1)), or PDP sponsor (as de-*
24 *defined in section 1860D–41(a)(13)).*

1 “(ii) *EXCLUSION.*—*Such term does not*
2 *include a beneficiary.*”

3 “(e) *INCLUSION OF NATIONAL PROVIDER IDENTIFIER*
4 *ON ALL APPLICATIONS AND CLAIMS.*—*The Secretary shall*
5 *promulgate a regulation that requires, not later than Janu-*
6 *ary 1, 2011, all providers of medical or other items or serv-*
7 *ices and suppliers under the programs under titles XVIII*
8 *and XIX that qualify for a national provider identifier to*
9 *include their national provider identifier on all applica-*
10 *tions to enroll in such programs and on all claims for pay-*
11 *ment submitted under such programs.”.*

12 (b) *ACCESS TO DATA.*—

13 (1) *MEDICARE PART D.*—*Section 1860D–15(f)(2)*
14 *of the Social Security Act (42 U.S.C. 1395w–*
15 *116(f)(2)) is amended by striking “may be used by”*
16 *and all that follows through the period at the end and*
17 *inserting “may be used—*

18 *“(A) by officers, employees, and contractors*
19 *of the Department of Health and Human Serv-*
20 *ices for the purposes of, and to the extent nec-*
21 *essary in—*

22 *“(i) carrying out this section; and*

23 *“(ii) conducting oversight, evaluation,*
24 *and enforcement under this title; and*

1 “(B) by the Attorney General and the
2 Comptroller General of the United States for the
3 purposes of, and to the extent necessary in, car-
4 rying out health oversight activities.”.

5 (2) *DATA MATCHING*.—Section 552a(a)(8)(B) of
6 title 5, United States Code, is amended—

7 (A) in clause (vii), by striking “or” at the
8 end;

9 (B) in clause (viii), by inserting “or” after
10 the semicolon; and

11 (C) by adding at the end the following new
12 clause:

13 “(ix) matches performed by the Sec-
14 retary of Health and Human Services or
15 the Inspector General of the Department of
16 Health and Human Services with respect to
17 potential fraud, waste, and abuse, including
18 matches of a system of records with non-
19 Federal records;”.

20 (3) *MATCHING AGREEMENTS WITH THE COMMIS-*
21 *SIONER OF SOCIAL SECURITY*.—Section 205(r) of the
22 *Social Security Act (42 U.S.C. 405(r))* is amended by
23 adding at the end the following new paragraph:

24 “(9)(A) The Commissioner of Social Security
25 shall, upon the request of the Secretary or the Inspec-

1 *tor General of the Department of Health and Human*
2 *Services—*

3 *“(i) enter into an agreement with the Sec-*
4 *retary or such Inspector General for the purpose*
5 *of matching data in the system of records of the*
6 *Social Security Administration and the system*
7 *of records of the Department of Health and*
8 *Human Services; and*

9 *“(ii) include in such agreement safeguards*
10 *to assure the maintenance of the confidentiality*
11 *of any information disclosed.*

12 *“(B) For purposes of this paragraph, the term*
13 *‘system of records’ has the meaning given such term*
14 *in section 552a(a)(5) of title 5, United States Code.”.*

15 *(c) WITHHOLDING OF FEDERAL MATCHING PAYMENTS*
16 *FOR STATES THAT FAIL TO REPORT ENROLLEE ENCOUN-*
17 *TER DATA IN THE MEDICAID STATISTICAL INFORMATION*
18 *SYSTEM.—Section 1903(i) of the Social Security Act (42*
19 *U.S.C. 1396b(i)) is amended—*

20 *(1) in paragraph (23), by striking “or” at the*
21 *end;*

22 *(2) in paragraph (24), by striking the period at*
23 *the end and inserting “; or”; and*

24 *(3) by adding at the end the following new para-*
25 *graph.:*

1 “(25) *with respect to any amounts expended for*
2 *medical assistance for individuals for whom the State*
3 *does not report enrollee encounter data (as defined by*
4 *the Secretary) to the Medicaid Statistical Information*
5 *System (MSIS) in a timely manner (as determined*
6 *by the Secretary).”.*

7 (d) *PERMISSIVE EXCLUSIONS AND CIVIL MONETARY*
8 *PENALTIES.—*

9 (1) *PERMISSIVE EXCLUSIONS.—Section 1128(b)*
10 *of the Social Security Act (42 U.S.C. 1320a–7(b)) is*
11 *amended by adding at the end the following new*
12 *paragraph:*

13 “(16) *MAKING FALSE STATEMENTS OR MIS-*
14 *REPRESENTATION OF MATERIAL FACTS.—Any indi-*
15 *vidual or entity that knowingly makes or causes to be*
16 *made any false statement, omission, or misrepresenta-*
17 *tion of a material fact in any application, agreement,*
18 *bid, or contract to participate or enroll as a provider*
19 *of services or supplier under a Federal health care*
20 *program (as defined in section 1128B(f)), including*
21 *Medicare Advantage organizations under part C of*
22 *title XVIII, prescription drug plan sponsors under*
23 *part D of title XVIII, medicaid managed care organi-*
24 *zations under title XIX, and entities that apply to*

1 *participate as providers of services or suppliers in*
2 *such managed care organizations and such plans.”.*

3 (2) *CIVIL MONETARY PENALTIES.—*

4 (A) *IN GENERAL.—Section 1128A(a) of the*
5 *Social Security Act (42 U.S.C. 1320a–7a(a)) is*
6 *amended—*

7 (i) *in paragraph (1)(D), by striking*
8 *“was excluded” and all that follows through*
9 *the period at the end and inserting “was ex-*
10 *cluded from the Federal health care pro-*
11 *gram (as defined in section 1128B(f)) under*
12 *which the claim was made pursuant to Fed-*
13 *eral law.”;*

14 (ii) *in paragraph (6), by striking “or”*
15 *at the end;*

16 (iii) *by inserting after paragraph (7),*
17 *the following new paragraphs:*

18 *“(8) orders or prescribes a medical or other item*
19 *or service during a period in which the person was*
20 *excluded from a Federal health care program (as so*
21 *defined), in the case where the person knows or should*
22 *know that a claim for such medical or other item or*
23 *service will be made under such a program;*

24 *“(9) knowingly makes or causes to be made any*
25 *false statement, omission, or misrepresentation of a*

1 *material fact in any application, bid, or contract to*
2 *participate or enroll as a provider of services or a*
3 *supplier under a Federal health care program (as so*
4 *defined), including Medicare Advantage organizations*
5 *under part C of title XVIII, prescription drug plan*
6 *sponsors under part D of title XVIII, medicaid man-*
7 *aged care organizations under title XIX, and entities*
8 *that apply to participate as providers of services or*
9 *suppliers in such managed care organizations and*
10 *such plans;*

11 *“(10) knows of an overpayment (as defined in*
12 *paragraph (4) of section 1128J(d)) and does not re-*
13 *port and return the overpayment in accordance with*
14 *such section;”;*

15 *(iv) in the first sentence—*

16 *(I) by striking the “or” after*
17 *“prohibited relationship occurs;”;* and

18 *(II) by striking “act)” and insert-*
19 *ing “act; or in cases under paragraph*
20 *(9), \$50,000 for each false statement or*
21 *misrepresentation of a material fact)”;*

22 *and*

23 *(v) in the second sentence, by striking*
24 *“purpose)” and inserting “purpose; or in*
25 *cases under paragraph (9), an assessment of*

1 *not more than 3 times the total amount*
2 *claimed for each item or service for which*
3 *payment was made based upon the applica-*
4 *tion containing the false statement or mis-*
5 *representation of a material fact)”.*

6 *(B) CLARIFICATION OF TREATMENT OF CER-*
7 *TAIN CHARITABLE AND OTHER INNOCUOUS PRO-*
8 *GRAMS.—Section 1128A(i)(6) of the Social Secu-*
9 *rity Act (42 U.S.C. 1320a–7a(i)(6)) is amend-*
10 *ed—*

11 *(i) in subparagraph (C), by striking*
12 *“or” at the end;*

13 *(ii) in subparagraph (D), as redesign-*
14 *ated by section 4331(e) of the Balanced*
15 *Budget Act of 1997 (Public Law 105–33),*
16 *by striking the period at the end and insert-*
17 *ing a semicolon;*

18 *(iii) by redesignating subparagraph*
19 *(D), as added by section 4523(c) of such*
20 *Act, as subparagraph (E) and striking the*
21 *period at the end and inserting “; or”; and*

22 *(iv) by adding at the end the following*
23 *new subparagraphs:*

24 *“(F) any other remuneration which pro-*
25 *notes access to care and poses a low risk of harm*

1 to patients and Federal health care programs (as
2 defined in section 1128B(f) and designated by
3 the Secretary under regulations);

4 “(G) the offer or transfer of items or services
5 for free or less than fair market value by a per-
6 son, if—

7 “(i) the items or services consist of cou-
8 pons, rebates, or other rewards from a re-
9 tailer;

10 “(ii) the items or services are offered or
11 transferred on equal terms available to the
12 general public, regardless of health insur-
13 ance status; and

14 “(iii) the offer or transfer of the items
15 or services is not tied to the provision of
16 other items or services reimbursed in whole
17 or in part by the program under title XVIII
18 or a State health care program (as defined
19 in section 1128(h));

20 “(H) the offer or transfer of items or serv-
21 ices for free or less than fair market value by a
22 person, if—

23 “(i) the items or services are not of-
24 fered as part of any advertisement or solici-
25 tation;

1 “(ii) the items or services are not tied
2 to the provision of other services reimbursed
3 in whole or in part by the program under
4 title XVIII or a State health care program
5 (as so defined);

6 “(iii) there is a reasonable connection
7 between the items or services and the med-
8 ical care of the individual; and

9 “(iv) the person provides the items or
10 services after determining in good faith that
11 the individual is in financial need; or

12 “(I) effective on a date specified by the Sec-
13 retary (but not earlier than January 1, 2011),
14 the waiver by a PDP sponsor of a prescription
15 drug plan under part D of title XVIII or an MA
16 organization offering an MA-PD plan under
17 part C of such title of any copayment for the
18 first fill of a covered part D drug (as defined in
19 section 1860D-2(e)) that is a generic drug for
20 individuals enrolled in the prescription drug
21 plan or MA-PD plan, respectively.”.

22 (e) *TESTIMONIAL SUBPOENA AUTHORITY IN EXCLU-*
23 *SION-ONLY CASES.*—Section 1128(f) of the Social Security
24 Act (42 U.S.C. 1320a-7(f)) is amended by adding at the
25 end the following new paragraph:

1 “(4) *The provisions of subsections (d) and (e) of*
2 *section 205 shall apply with respect to this section to*
3 *the same extent as they are applicable with respect to*
4 *title II. The Secretary may delegate the authority*
5 *granted by section 205(d) (as made applicable to this*
6 *section) to the Inspector General of the Department of*
7 *Health and Human Services for purposes of any in-*
8 *vestigation under this section.”.*

9 (f) *HEALTH CARE FRAUD.—*

10 (1) *KICKBACKS.—Section 1128B of the Social*
11 *Security Act (42 U.S.C. 1320a–7b) is amended by*
12 *adding at the end the following new subsection:*

13 “(g) *In addition to the penalties provided for in this*
14 *section or section 1128A, a claim that includes items or*
15 *services resulting from a violation of this section constitutes*
16 *a false or fraudulent claim for purposes of subchapter III*
17 *of chapter 37 of title 31, United States Code.”.*

18 (2) *REVISING THE INTENT REQUIREMENT.—Sec-*
19 *tion 1128B of the Social Security Act (42 U.S.C.*
20 *1320a–7b), as amended by paragraph (1), is amended*
21 *by adding at the end the following new subsection:*

22 “(h) *With respect to violations of this section, a person*
23 *need not have actual knowledge of this section or specific*
24 *intent to commit a violation of this section.”.*

25 (g) *SURETY BOND REQUIREMENTS.—*

1 (1) *DURABLE MEDICAL EQUIPMENT.*—Section
2 1834(a)(16)(B) of the Social Security Act (42 U.S.C.
3 1395m(a)(16)(B)) is amended by inserting “that the
4 Secretary determines is commensurate with the vol-
5 ume of the billing of the supplier” before the period
6 at the end.

7 (2) *HOME HEALTH AGENCIES.*—Section
8 1861(o)(7)(C) of the Social Security Act (42 U.S.C.
9 1395x(o)(7)(C)) is amended by inserting “that the
10 Secretary determines is commensurate with the vol-
11 ume of the billing of the home health agency” before
12 the semicolon at the end.

13 (3) *REQUIREMENTS FOR CERTAIN OTHER PRO-*
14 *VIDERS OF SERVICES AND SUPPLIERS.*—Section 1862
15 of the Social Security Act (42 U.S.C. 1395y) is
16 amended by adding at the end the following new sub-
17 section:

18 “(n) *REQUIREMENT OF A SURETY BOND FOR CERTAIN*
19 *PROVIDERS OF SERVICES AND SUPPLIERS.*—

20 “(1) *IN GENERAL.*—The Secretary may require a
21 provider of services or supplier described in para-
22 graph (2) to provide the Secretary on a continuing
23 basis with a surety bond in a form specified by the
24 Secretary in an amount (not less than \$50,000) that
25 the Secretary determines is commensurate with the

1 *volume of the billing of the provider of services or*
 2 *supplier. The Secretary may waive the requirement of*
 3 *a bond under the preceding sentence in the case of a*
 4 *provider of services or supplier that provides a com-*
 5 *parable surety bond under State law.*

6 “(2) *PROVIDER OF SERVICES OR SUPPLIER DE-*
 7 *SCRIBED.—A provider of services or supplier de-*
 8 *scribed in this paragraph is a provider of services or*
 9 *supplier the Secretary determines appropriate based*
 10 *on the level of risk involved with respect to the pro-*
 11 *vider of services or supplier, and consistent with the*
 12 *surety bond requirements under sections*
 13 *1834(a)(16)(B) and 1861(o)(7)(C).”*

14 *(h) SUSPENSION OF MEDICARE AND MEDICAID PAY-*
 15 *MENTS PENDING INVESTIGATION OF CREDIBLE ALLEGA-*
 16 *TIONS OF FRAUD.—*

17 *(1) MEDICARE.—Section 1862 of the Social Se-*
 18 *curity Act (42 U.S.C. 1395y), as amended by sub-*
 19 *section (g)(3), is amended by adding at the end the*
 20 *following new subsection:*

21 “(o) *SUSPENSION OF PAYMENTS PENDING INVESTIGA-*
 22 *TION OF CREDIBLE ALLEGATIONS OF FRAUD.—*

23 *“(1) IN GENERAL.—The Secretary may suspend*
 24 *payments to a provider of services or supplier under*
 25 *this title pending an investigation of a credible alle-*

1 *gation of fraud against the provider of services or*
2 *supplier, unless the Secretary determines there is good*
3 *cause not to suspend such payments.*

4 “(2) *CONSULTATION.*—*The Secretary shall con-*
5 *sult with the Inspector General of the Department of*
6 *Health and Human Services in determining whether*
7 *there is a credible allegation of fraud against a pro-*
8 *vider of services or supplier.*

9 “(3) *PROMULGATION OF REGULATIONS.*—*The*
10 *Secretary shall promulgate regulations to carry out*
11 *this subsection and section 1903(i)(2)(C).”*

12 (2) *MEDICAID.*—*Section 1903(i)(2) of such Act*
13 *(42 U.S.C. 1396b(i)(2)) is amended—*

14 (A) *in subparagraph (A), by striking “or”*
15 *at the end; and*

16 (B) *by inserting after subparagraph (B),*
17 *the following:*

18 “(C) *by any individual or entity to whom*
19 *the State has failed to suspend payments under*
20 *the plan during any period when there is pend-*
21 *ing an investigation of a credible allegation of*
22 *fraud against the individual or entity, as deter-*
23 *mined by the State in accordance with regula-*
24 *tions promulgated by the Secretary for purposes*
25 *of section 1862(o) and this subparagraph, unless*

1 *the State determines in accordance with such*
2 *regulations there is good cause not to suspend*
3 *such payments; or”.*

4 *(i) INCREASED FUNDING TO FIGHT FRAUD AND*
5 *ABUSE.—*

6 *(1) IN GENERAL.—Section 1817(k) of the Social*
7 *Security Act (42 U.S.C. 1395i(k)) is amended—*

8 *(A) by adding at the end the following new*
9 *paragraph:*

10 *“(7) ADDITIONAL FUNDING.—In addition to the*
11 *funds otherwise appropriated to the Account from the*
12 *Trust Fund under paragraphs (3) and (4) and for*
13 *purposes described in paragraphs (3)(C) and (4)(A),*
14 *there are hereby appropriated an additional*
15 *\$10,000,000 to such Account from such Trust Fund*
16 *for each of fiscal years 2011 through 2020. The funds*
17 *appropriated under this paragraph shall be allocated*
18 *in the same proportion as the total funding appro-*
19 *priated with respect to paragraphs (3)(A) and (4)(A)*
20 *was allocated with respect to fiscal year 2010, and*
21 *shall be available without further appropriation until*
22 *expended.”; and*

23 *(B) in paragraph (4)(A), by inserting*
24 *“until expended” after “appropriation”.*

25 *(2) INDEXING OF AMOUNTS APPROPRIATED.—*

1 (A) *DEPARTMENTS OF HEALTH AND HUMAN*
2 *SERVICES AND JUSTICE.*—Section
3 1817(k)(3)(A)(i) of the Social Security Act (42
4 U.S.C. 1395i(k)(3)(A)(i)) is amended—

5 (i) in subclause (III), by inserting
6 “and” at the end;

7 (ii) in subclause (IV)—

8 (I) by striking “for each of fiscal
9 years 2007, 2008, 2009, and 2010”
10 and inserting “for each fiscal year
11 after fiscal year 2006”; and

12 (II) by striking “; and” and in-
13 serting a period; and

14 (iii) by striking subclause (V).

15 (B) *OFFICE OF THE INSPECTOR GENERAL*
16 *OF THE DEPARTMENT OF HEALTH AND HUMAN*
17 *SERVICES.*—Section 1817(k)(3)(A)(ii) of such
18 Act (42 U.S.C. 1395i(k)(3)(A)(ii)) is amended—

19 (i) in subclause (VIII), by inserting
20 “and” at the end;

21 (ii) in subclause (IX)—

22 (I) by striking “for each of fiscal
23 years 2008, 2009, and 2010” and in-
24 serting “for each fiscal year after fiscal
25 year 2007”; and

1 (II) by striking “; and” and in-
2 serting a period; and

3 (iii) by striking subclause (X).

4 (C) *FEDERAL BUREAU OF INVESTIGA-*
5 *TION.—Section 1817(k)(3)(B) of the Social Secu-*
6 *rity Act (42 U.S.C. 1395i(k)(3)(B)) is amend-*
7 *ed—*

8 (i) in clause (vii), by inserting “and”
9 at the end;

10 (ii) in clause (viii)—

11 (I) by striking “for each of fiscal
12 years 2007, 2008, 2009, and 2010”
13 and inserting “for each fiscal year
14 after fiscal year 2006”; and

15 (II) by striking “; and” and in-
16 serting a period; and

17 (iii) by striking clause (ix).

18 (D) *MEDICARE INTEGRITY PROGRAM.—Sec-*
19 *tion 1817(k)(4)(C) of the Social Security Act (42*
20 *U.S.C. 1395i(k)(4)(C)) is amended by adding at*
21 *the end the following new clause:*

22 “(i) For each fiscal year after 2010,
23 by the percentage increase in the consumer
24 price index for all urban consumers (all

1 *items; United States city average) over the*
2 *previous year.”.*

3 (j) *MEDICARE INTEGRITY PROGRAM AND MEDICAID*
4 *INTEGRITY PROGRAM.—*

5 (1) *MEDICARE INTEGRITY PROGRAM.—*

6 (A) *REQUIREMENT TO PROVIDE PERFORM-*
7 *ANCE STATISTICS.—Section 1893(c) of the Social*
8 *Security Act (42 U.S.C. 1395ddd(c)) is amend-*
9 *ed—*

10 (i) *in paragraph (3), by striking*
11 *“and” at the end;*

12 (ii) *by redesignating paragraph (4) as*
13 *paragraph (5); and*

14 (iii) *by inserting after paragraph (3)*
15 *the following new paragraph:*

16 *“(4) the entity agrees to provide the Secretary*
17 *and the Inspector General of the Department of*
18 *Health and Human Services with such performance*
19 *statistics (including the number and amount of over-*
20 *payments recovered, the number of fraud referrals,*
21 *and the return on investment of such activities by the*
22 *entity) as the Secretary or the Inspector General may*
23 *request; and”.*

24 (B) *EVALUATIONS AND ANNUAL REPORT.—*

25 *Section 1893 of the Social Security Act (42*

1 *U.S.C. 1395ddd) is amended by adding at the*
2 *end the following new subsection:*

3 “(i) *EVALUATIONS AND ANNUAL REPORT.*—

4 “(1) *EVALUATIONS.*—*The Secretary shall con-*
5 *duct evaluations of eligible entities which the Sec-*
6 *retary contracts with under the Program not less fre-*
7 *quently than every 3 years.*

8 “(2) *ANNUAL REPORT.*—*Not later than 180 days*
9 *after the end of each fiscal year (beginning with fiscal*
10 *year 2011), the Secretary shall submit a report to*
11 *Congress which identifies—*

12 “(A) *the use of funds, including funds*
13 *transferred from the Federal Hospital Insurance*
14 *Trust Fund under section 1817 and the Federal*
15 *Supplementary Insurance Trust Fund under sec-*
16 *tion 1841, to carry out this section; and*

17 “(B) *the effectiveness of the use of such*
18 *funds.*”.

19 “(C) *FLEXIBILITY IN PURSUING FRAUD AND*
20 *ABUSE.*—*Section 1893(a) of the Social Security*
21 *Act (42 U.S.C. 1395ddd(a)) is amended by in-*
22 *serting “, or otherwise,” after “entities”.*

23 (2) *MEDICAID INTEGRITY PROGRAM.*—

24 “(A) *REQUIREMENT TO PROVIDE PERFORM-*
25 *ANCE STATISTICS.*—*Section 1936(c)(2) of the So-*

1 *cial Security Act (42 U.S.C. 1396u-6(c)(2)) is*
2 *amended—*

3 *(i) by redesignating subparagraph (D)*
4 *as subparagraph (E); and*

5 *(ii) by inserting after subparagraph*
6 *(C) the following new subparagraph:*

7 *“(D) The entity agrees to provide the Sec-*
8 *retary and the Inspector General of the Depart-*
9 *ment of Health and Human Services with such*
10 *performance statistics (including the number*
11 *and amount of overpayments recovered, the num-*
12 *ber of fraud referrals, and the return on invest-*
13 *ment of such activities by the entity) as the Sec-*
14 *retary or the Inspector General may request.”.*

15 *(B) EVALUATIONS AND ANNUAL REPORT.—*
16 *Section 1936(e) of the Social Security Act (42*
17 *U.S.C. 1396u-7(e)) is amended—*

18 *(i) by redesignating paragraph (4) as*
19 *paragraph (5); and*

20 *(ii) by inserting after paragraph (3)*
21 *the following new paragraph:*

22 *“(4) EVALUATIONS.—The Secretary shall con-*
23 *duct evaluations of eligible entities which the Sec-*
24 *retary contracts with under the Program not less fre-*
25 *quently than every 3 years.”.*

1 (k) *EXPANDED APPLICATION OF HARDSHIP WAIVERS*
2 *FOR EXCLUSIONS.*—Section 1128(c)(3)(B) of the Social Se-
3 *curity Act (42 U.S.C. 1320a–7(c)(3)(B)) is amended by*
4 *striking “individuals entitled to benefits under part A of*
5 *title XVIII or enrolled under part B of such title, or both”*
6 *and inserting “beneficiaries (as defined in section*
7 *1128A(i)(5)) of that program”.*

8 **SEC. 6403. ELIMINATION OF DUPLICATION BETWEEN THE**
9 **HEALTHCARE INTEGRITY AND PROTECTION**
10 **DATA BANK AND THE NATIONAL PRACTI-**
11 **TIONER DATA BANK.**

12 (a) *INFORMATION REPORTED BY FEDERAL AGENCIES*
13 *AND HEALTH PLANS.*—Section 1128E of the Social Secu-
14 *rity Act (42 U.S.C. 1320a–7e) is amended—*

15 (1) *by striking subsection (a) and inserting the*
16 *following:*

17 “(a) *IN GENERAL.*—The Secretary shall maintain a
18 *national health care fraud and abuse data collection pro-*
19 *gram under this section for the reporting of certain final*
20 *adverse actions (not including settlements in which no find-*
21 *ings of liability have been made) against health care pro-*
22 *viders, suppliers, or practitioners as required by subsection*
23 *(b), with access as set forth in subsection (d), and shall fur-*
24 *nish the information collected under this section to the Na-*
25 *tional Practitioner Data Bank established pursuant to the*

1 *Health Care Quality Improvement Act of 1986 (42 U.S.C.*
2 *11101 et seq.)*.”;

3 (2) *by striking subsection (d) and inserting the*
4 *following:*

5 “(d) *ACCESS TO REPORTED INFORMATION.*—

6 “(1) *AVAILABILITY.*—*The information collected*
7 *under this section shall be available from the National*
8 *Practitioner Data Bank to the agencies, authorities,*
9 *and officials which are provided under section*
10 *1921(b) information reported under section 1921(a).*

11 “(2) *FEEES FOR DISCLOSURE.*—*The Secretary*
12 *may establish or approve reasonable fees for the dis-*
13 *closure of information under this section. The amount*
14 *of such a fee may not exceed the costs of processing*
15 *the requests for disclosure and of providing such in-*
16 *formation. Such fees shall be available to the Sec-*
17 *retary to cover such costs.*”;

18 (3) *by striking subsection (f) and inserting the*
19 *following:*

20 “(f) *APPROPRIATE COORDINATION.*—*In implementing*
21 *this section, the Secretary shall provide for the maximum*
22 *appropriate coordination with part B of the Health Care*
23 *Quality Improvement Act of 1986 (42 U.S.C. 11131 et seq.)*
24 *and section 1921.*”;

25 (4) *in subsection (g)—*

- 1 (A) in paragraph (1)(A)—
- 2 (i) in clause (iii)—
- 3 (I) by striking “or State” each
- 4 place it appears;
- 5 (II) by redesignating subclauses
- 6 (II) and (III) as subclauses (III) and
- 7 (IV), respectively; and
- 8 (III) by inserting after subclause
- 9 (I) the following new subclause:
- 10 “(II) any dismissal or closure of
- 11 the proceedings by reason of the pro-
- 12 vider, supplier, or practitioner surren-
- 13 dering their license or leaving the State
- 14 or jurisdiction”; and
- 15 (ii) by striking clause (iv) and insert-
- 16 ing the following:
- 17 “(iv) Exclusion from participation in
- 18 a Federal health care program (as defined
- 19 in section 1128B(f)).”;
- 20 (B) in paragraph (3)—
- 21 (i) by striking subparagraphs (D) and
- 22 (E); and
- 23 (ii) by redesignating subparagraph (F)
- 24 as subparagraph (D); and

1 (C) in subparagraph (D) (as so redesign-
2 nated), by striking “or State”.

3 (b) *INFORMATION REPORTED BY STATE LAW OR*
4 *FRAUD ENFORCEMENT AGENCIES.*—Section 1921 of the So-
5 *cial Security Act (42 U.S.C. 1396r-2) is amended—*

6 (1) in subsection (a)—

7 (A) in paragraph (1)—

8 (i) by striking “SYSTEM.—The State”
9 and all that follows through the semicolon
10 and inserting SYSTEM.—

11 “(A) *LICENSING OR CERTIFICATION AC-*
12 *TIONS.—The State must have in effect a system*
13 *of reporting the following information with re-*
14 *spect to formal proceedings (as defined by the*
15 *Secretary in regulations) concluded against a*
16 *health care practitioner or entity by a State li-*
17 *censing or certification agency:”;*

18 (ii) by redesignating subparagraphs
19 (A) through (D) as clauses (i) through (iv),
20 respectively, and indenting appropriately;

21 (iii) in subparagraph (A)(iii) (as so
22 redesignated)—

23 (I) by striking “the license of”
24 and inserting “license or the right to
25 apply for, or renew, a license by”; and

1 (II) by inserting “nonrenew-
2 ability,” after “voluntary surrender;”
3 and

4 (iv) by adding at the end the following
5 new subparagraph:

6 “(B) OTHER FINAL ADVERSE ACTIONS.—
7 The State must have in effect a system of report-
8 ing information with respect to any final ad-
9 verse action (not including settlements in which
10 no findings of liability have been made) taken
11 against a health care provider, supplier, or prac-
12 titioner by a State law or fraud enforcement
13 agency.”; and

14 (B) in paragraph (2), by striking “the au-
15 thority described in paragraph (1)” and insert-
16 ing “a State licensing or certification agency or
17 State law or fraud enforcement agency”;

18 (2) in subsection (b)—

19 (A) by striking paragraph (2) and inserting
20 the following:

21 “(2) to State licensing or certification agencies
22 and Federal agencies responsible for the licensing and
23 certification of health care providers, suppliers, and
24 licensed health care practitioners;”;

1 (B) in each of paragraphs (4) and (6), by
2 inserting “, but only with respect to information
3 provided pursuant to subsection (a)(1)(A)” before
4 the comma at the end;

5 (C) by striking paragraph (5) and inserting
6 the following:

7 “(5) to State law or fraud enforcement agen-
8 cies,”;

9 (D) by redesignating paragraphs (7) and
10 (8) as paragraphs (8) and (9), respectively; and

11 (E) by inserting after paragraph (6) the fol-
12 lowing new paragraph:

13 “(7) to health plans (as defined in section
14 1128C(e));”;

15 (3) by redesignating subsection (d) as subsection
16 (h), and by inserting after subsection (c) the following
17 new subsections:

18 “(d) *DISCLOSURE AND CORRECTION OF INFORMA-*
19 *TION.—*

20 “(1) *DISCLOSURE.—*With respect to information
21 reported pursuant to subsection (a)(1), the Secretary
22 shall—

23 “(A) provide for disclosure of the informa-
24 tion, upon request, to the health care practitioner

1 *who, or the entity that, is the subject of the infor-*
2 *mation reported; and*

3 “(B) *establish procedures for the case where*
4 *the health care practitioner or entity disputes the*
5 *accuracy of the information reported.*

6 “(2) *CORRECTIONS.—Each State licensing or*
7 *certification agency and State law or fraud enforce-*
8 *ment agency shall report corrections of information*
9 *already reported about any formal proceeding or final*
10 *adverse action described in subsection (a), in such*
11 *form and manner as the Secretary prescribes by regu-*
12 *lation.*

13 “(e) *FEEES FOR DISCLOSURE.—The Secretary may es-*
14 *tablish or approve reasonable fees for the disclosure of infor-*
15 *mation under this section. The amount of such a fee may*
16 *not exceed the costs of processing the requests for disclosure*
17 *and of providing such information. Such fees shall be avail-*
18 *able to the Secretary to cover such costs.*

19 “(f) *PROTECTION FROM LIABILITY FOR REPORTING.—*
20 *No person or entity, including any agency designated by*
21 *the Secretary in subsection (b), shall be held liable in any*
22 *civil action with respect to any reporting of information*
23 *as required under this section, without knowledge of the fal-*
24 *sity of the information contained in the report.*

25 “(g) *REFERENCES.—For purposes of this section:*

1 “(1) *STATE LICENSING OR CERTIFICATION AGEN-*
2 *CY.—The term ‘State licensing or certification agen-*
3 *cy’ includes any authority of a State (or of a political*
4 *subdivision thereof) responsible for the licensing of*
5 *health care practitioners (or any peer review organi-*
6 *zation or private accreditation entity reviewing the*
7 *services provided by health care practitioners) or enti-*
8 *ties.*

9 “(2) *STATE LAW OR FRAUD ENFORCEMENT*
10 *AGENCY.—The term ‘State law or fraud enforcement*
11 *agency’ includes—*

12 “(A) *a State law enforcement agency; and*

13 “(B) *a State medicaid fraud control unit*
14 *(as defined in section 1903(q)).*

15 “(3) *FINAL ADVERSE ACTION.—*

16 “(A) *IN GENERAL.—Subject to subpara-*
17 *graph (B), the term ‘final adverse action’ in-*
18 *cludes—*

19 “(i) *civil judgments against a health*
20 *care provider, supplier, or practitioner in*
21 *State court related to the delivery of a*
22 *health care item or service;*

23 “(ii) *State criminal convictions related*
24 *to the delivery of a health care item or serv-*
25 *ice;*

1 “(iii) exclusion from participation in
2 State health care programs (as defined in
3 section 1128(h));

4 “(iv) any licensing or certification ac-
5 tion described in subsection (a)(1)(A) taken
6 against a supplier by a State licensing or
7 certification agency; and

8 “(v) any other adjudicated actions or
9 decisions that the Secretary shall establish
10 by regulation.

11 “(B) EXCEPTION.—Such term does not in-
12 clude any action with respect to a malpractice
13 claim.”; and

14 (4) in subsection (h), as so redesignated, by
15 striking “The Secretary” and all that follows through
16 the period at the end and inserting “In implementing
17 this section, the Secretary shall provide for the max-
18 imum appropriate coordination with part B of the
19 Health Care Quality Improvement Act of 1986 (42
20 U.S.C. 11131 et seq.) and section 1128E.”.

21 (c) CONFORMING AMENDMENT.—Section 1128C(a)(1)
22 of the Social Security Act (42 U.S.C. 1320a-7c(a)(1)) is
23 amended—

24 (1) in subparagraph (C), by adding “and” after
25 the comma at the end;

1 (2) *in subparagraph (D), by striking “, and”*
2 *and inserting a period; and*

3 (3) *by striking subparagraph (E).*

4 (d) *TRANSITION PROCESS; EFFECTIVE DATE.—*

5 (1) *IN GENERAL.—Effective on the date of enact-*
6 *ment of this Act, the Secretary of Health and Human*
7 *Services (in this section referred to as the “Sec-*
8 *retary”) shall implement a transition process under*
9 *which, by not later than the end of the transition pe-*
10 *riod described in paragraph (5), the Secretary shall*
11 *cease operating the Healthcare Integrity and Protec-*
12 *tion Data Bank established under section 1128E of*
13 *the Social Security Act (as in effect before the effective*
14 *date specified in paragraph (6)) and shall transfer all*
15 *data collected in the Healthcare Integrity and Protec-*
16 *tion Data Bank to the National Practitioner Data*
17 *Bank established pursuant to the Health Care Quality*
18 *Improvement Act of 1986 (42 U.S.C. 11101 et seq.).*
19 *During such transition process, the Secretary shall*
20 *have in effect appropriate procedures to ensure that*
21 *data collection and access to the Healthcare Integrity*
22 *and Protection Data Bank and the National Practi-*
23 *tioner Data Bank are not disrupted.*

1 (2) *REGULATIONS.*—*The Secretary shall promul-*
2 *gate regulations to carry out the amendments made*
3 *by subsections (a) and (b).*

4 (3) *FUNDING.*—

5 (A) *AVAILABILITY OF FEES.*—*Fees collected*
6 *pursuant to section 1128E(d)(2) of the Social*
7 *Security Act prior to the effective date specified*
8 *in paragraph (6) for the disclosure of informa-*
9 *tion in the Healthcare Integrity and Protection*
10 *Data Bank shall be available to the Secretary,*
11 *without fiscal year limitation, for payment of*
12 *costs related to the transition process described*
13 *in paragraph (1). Any such fees remaining after*
14 *the transition period is complete shall be avail-*
15 *able to the Secretary, without fiscal year limita-*
16 *tion, for payment of the costs of operating the*
17 *National Practitioner Data Bank.*

18 (B) *AVAILABILITY OF ADDITIONAL FUNDS.*—
19 *In addition to the fees described in subparagraph*
20 *(A), any funds available to the Secretary or to*
21 *the Inspector General of the Department of*
22 *Health and Human Services for a purpose re-*
23 *lated to combating health care fraud, waste, or*
24 *abuse shall be available to the extent necessary*
25 *for operating the Healthcare Integrity and Pro-*

1 *tection Data Bank during the transition period,*
2 *including systems testing and other activities*
3 *necessary to ensure that information formerly re-*
4 *ported to the Healthcare Integrity and Protec-*
5 *tion Data Bank will be accessible through the*
6 *National Practitioner Data Bank after the end*
7 *of such transition period.*

8 (4) *SPECIAL PROVISION FOR ACCESS TO THE NA-*
9 *TIONAL PRACTITIONER DATA BANK BY THE DEPART-*
10 *MENT OF VETERANS AFFAIRS.—*

11 (A) *IN GENERAL.—Notwithstanding any*
12 *other provision of law, during the 1-year period*
13 *that begins on the effective date specified in*
14 *paragraph (6), the information described in sub-*
15 *paragraph (B) shall be available from the Na-*
16 *tional Practitioner Data Bank to the Secretary*
17 *of Veterans Affairs without charge.*

18 (B) *INFORMATION DESCRIBED.—For pur-*
19 *poses of subparagraph (A), the information de-*
20 *scribed in this subparagraph is the information*
21 *that would, but for the amendments made by this*
22 *section, have been available to the Secretary of*
23 *Veterans Affairs from the Healthcare Integrity*
24 *and Protection Data Bank.*

1 (5) *TRANSITION PERIOD DEFINED.*—For pur-
2 poses of this subsection, the term “transition period”
3 means the period that begins on the date of enactment
4 of this Act and ends on the later of—

5 (A) the date that is 1 year after such date
6 of enactment; or

7 (B) the effective date of the regulations pro-
8 mulgated under paragraph (2).

9 (6) *EFFECTIVE DATE.*—The amendments made
10 by subsections (a), (b), and (c) shall take effect on the
11 first day after the final day of the transition period.

12 **SEC. 6404. MAXIMUM PERIOD FOR SUBMISSION OF MEDI-**
13 **CARE CLAIMS REDUCED TO NOT MORE THAN**
14 **12 MONTHS.**

15 (a) *REDUCING MAXIMUM PERIOD FOR SUBMISSION.*—

16 (1) *PART A.*—Section 1814(a) of the Social Secu-
17 rity Act (42 U.S.C. 1395f(a)(1)) is amended—

18 (A) in paragraph (1), by striking “period of
19 3 calendar years” and all that follows through
20 the semicolon and inserting “period ending 1
21 calendar year after the date of service;”; and

22 (B) by adding at the end the following new
23 sentence: “In applying paragraph (1), the Sec-
24 retary may specify exceptions to the 1 calendar
25 year period specified in such paragraph.”

1 (2) *PART B.*—

2 (A) *Section 1842(b)(3) of such Act (42*
3 *U.S.C. 1395u(b)(3)(B)) is amended—*

4 (i) *in subparagraph (B), in the flush*
5 *language following clause (ii), by striking*
6 *“close of the calendar year following the*
7 *year in which such service is furnished*
8 *(deeming any service furnished in the last 3*
9 *months of any calendar year to have been*
10 *furnished in the succeeding calendar year)”*
11 *and inserting “period ending 1 calendar*
12 *year after the date of service”; and*

13 (ii) *by adding at the end the following*
14 *new sentence: “In applying subparagraph*
15 *(B), the Secretary may specify exceptions to*
16 *the 1 calendar year period specified in such*
17 *subparagraph.”*

18 (B) *Section 1835(a) of such Act (42 U.S.C.*
19 *1395n(a)) is amended—*

20 (i) *in paragraph (1), by striking “pe-*
21 *riod of 3 calendar years” and all that fol-*
22 *lows through the semicolon and inserting*
23 *“period ending 1 calendar year after the*
24 *date of service;”; and*

1 (ii) by adding at the end the following
2 new sentence: “In applying paragraph (1),
3 the Secretary may specify exceptions to the
4 1 calendar year period specified in such
5 paragraph.”

6 (b) *EFFECTIVE DATE.*—

7 (1) *IN GENERAL.*—The amendments made by
8 subsection (a) shall apply to services furnished on or
9 after January 1, 2010.

10 (2) *SERVICES FURNISHED BEFORE 2010.*—In the
11 case of services furnished before January 1, 2010, a
12 bill or request for payment under section 1814(a)(1),
13 1842(b)(3)(B), or 1835(a) shall be filed not later than
14 December 31, 2010.

15 **SEC. 6405. PHYSICIANS WHO ORDER ITEMS OR SERVICES**
16 **REQUIRED TO BE MEDICARE ENROLLED PHY-**
17 **SICIANS OR ELIGIBLE PROFESSIONALS.**

18 (a) *DME.*—Section 1834(a)(11)(B) of the Social Secu-
19 rity Act (42 U.S.C. 1395m(a)(11)(B)) is amended by strik-
20 ing “physician” and inserting “physician enrolled under
21 section 1866(j) or an eligible professional under section
22 1848(k)(3)(B) that is enrolled under section 1866(j)”.

23 (b) *HOME HEALTH SERVICES.*—

24 (1) *PART A.*—Section 1814(a)(2) of such Act (42
25 U.S.C. 1395(a)(2)) is amended in the matter pre-

1 ceding subparagraph (A) by inserting “in the case of
2 services described in subparagraph (C), a physician
3 enrolled under section 1866(j) or an eligible profes-
4 sional under section 1848(k)(3)(B),” before “or, in the
5 case of services”.

6 (2) *PART B.*—Section 1835(a)(2) of such Act (42
7 U.S.C. 1395n(a)(2)) is amended in the matter pre-
8 ceding subparagraph (A) by inserting “, or in the
9 case of services described in subparagraph (A), a phy-
10 sician enrolled under section 1866(j) or an eligible
11 professional under section 1848(k)(3)(B),” after “a
12 physician”.

13 (c) *APPLICATION TO OTHER ITEMS OR SERVICES.*—
14 The Secretary may extend the requirement applied by the
15 amendments made by subsections (a) and (b) to durable
16 medical equipment and home health services (relating to re-
17 quiring certifications and written orders to be made by en-
18 rolled physicians and health professions) to all other cat-
19 egories of items or services under title XVIII of the Social
20 Security Act (42 U.S.C. 1395 et seq.), including covered
21 part D drugs as defined in section 1860D–2(e) of such Act
22 (42 U.S.C. 1395w–102), that are ordered, prescribed, or re-
23 ferred by a physician enrolled under section 1866(j) of such
24 Act (42 U.S.C. 1395cc(j)) or an eligible professional under

1 *section 1848(k)(3)(B) of such Act (42 U.S.C. 1395w-*
2 *4(k)(3)(B)).*

3 *(d) EFFECTIVE DATE.—The amendments made by this*
4 *section shall apply to written orders and certifications*
5 *made on or after July 1, 2010.*

6 **SEC. 6406. REQUIREMENT FOR PHYSICIANS TO PROVIDE**
7 **DOCUMENTATION ON REFERRALS TO PRO-**
8 **GRAMS AT HIGH RISK OF WASTE AND ABUSE.**

9 *(a) PHYSICIANS AND OTHER SUPPLIERS.—Section*
10 *1842(h) of the Social Security Act (42 U.S.C. 1395u(h))*
11 *is amended by adding at the end the following new para-*
12 *graph:*

13 *“(9) The Secretary may revoke enrollment, for a period*
14 *of not more than one year for each act, for a physician*
15 *or supplier under section 1866(j) if such physician or sup-*
16 *plier fails to maintain and, upon request of the Secretary,*
17 *provide access to documentation relating to written orders*
18 *or requests for payment for durable medical equipment, cer-*
19 *tifications for home health services, or referrals for other*
20 *items or services written or ordered by such physician or*
21 *supplier under this title, as specified by the Secretary.”.*

22 *(b) PROVIDERS OF SERVICES.—Section 1866(a)(1) of*
23 *such Act (42 U.S.C. 1395cc) is further amended—*

24 *(1) in subparagraph (U), by striking at the end*
25 *“and”;*

1 (2) *in subparagraph (V), by striking the period*
2 *at the end and adding “; and”; and*

3 (3) *by adding at the end the following new sub-*
4 *paragraph:*

5 “(W) *maintain and, upon request of the*
6 *Secretary, provide access to documentation relat-*
7 *ing to written orders or requests for payment for*
8 *durable medical equipment, certifications for*
9 *home health services, or referrals for other items*
10 *or services written or ordered by the provider*
11 *under this title, as specified by the Secretary.”.*

12 (c) *OIG PERMISSIVE EXCLUSION AUTHORITY.—Sec-*
13 *tion 1128(b)(11) of the Social Security Act (42 U.S.C.*
14 *1320a–7(b)(11)) is amended by inserting “, ordering, refer-*
15 *ring for furnishing, or certifying the need for” after “fur-*
16 *nishing”.*

17 (d) *EFFECTIVE DATE.—The amendments made by this*
18 *section shall apply to orders, certifications, and referrals*
19 *made on or after January 1, 2010.*

1 **SEC. 6407. FACE TO FACE ENCOUNTER WITH PATIENT RE-**
2 **QUIRED BEFORE PHYSICIANS MAY CERTIFY**
3 **ELIGIBILITY FOR HOME HEALTH SERVICES**
4 **OR DURABLE MEDICAL EQUIPMENT UNDER**
5 **MEDICARE.**

6 (a) *CONDITION OF PAYMENT FOR HOME HEALTH*
7 *SERVICES.*—

8 (1) *PART A.*—Section 1814(a)(2)(C) of such Act
9 is amended—

10 (A) by striking “and such services” and in-
11 serting “such services”; and

12 (B) by inserting after “care of a physician”
13 the following: “, and, in the case of a certifi-
14 cation made by a physician after January 1,
15 2010, prior to making such certification the phy-
16 sician must document that the physician himself
17 or herself has had a face-to-face encounter (in-
18 cluding through use of telehealth, subject to the
19 requirements in section 1834(m), and other than
20 with respect to encounters that are incident to
21 services involved) with the individual within a
22 reasonable timeframe as determined by the Sec-
23 retary”.

24 (2) *PART B.*—Section 1835(a)(2)(A) of the Social
25 Security Act is amended—

26 (A) by striking “and” before “(iii)”; and

1 (B) by inserting after “care of a physician”
2 the following: “, and (iv) in the case of a certifi-
3 cation after January 1, 2010, prior to making
4 such certification the physician must document
5 that the physician has had a face-to-face encoun-
6 ter (including through use of telehealth and other
7 than with respect to encounters that are incident
8 to services involved) with the individual during
9 the 6-month period preceding such certification,
10 or other reasonable timeframe as determined by
11 the Secretary”.

12 (b) *CONDITION OF PAYMENT FOR DURABLE MEDICAL*
13 *EQUIPMENT.*—Section 1834(a)(11)(B) of the Social Secu-
14 *rity Act (42 U.S.C. 1395m(a)(11)(B)) is amended—*

15 (1) by striking “ORDER.—The Secretary” and
16 inserting “ORDER.—

17 “(i) *IN GENERAL.*—The Secretary”;
18 and

19 (2) by adding at the end the following new
20 clause:

21 “(ii) *REQUIREMENT FOR FACE TO*
22 *FACE ENCOUNTER.*—The Secretary shall re-
23 quire that such an order be written pursu-
24 ant to the physician documenting that a
25 physician, a physician assistant, a nurse

1 *practitioner, or a clinical nurse specialist*
2 *(as those terms are defined in section*
3 *1861(aa)(5)) has had a face-to-face encoun-*
4 *ter (including through use of telehealth*
5 *under subsection (m) and other than with*
6 *respect to encounters that are incident to*
7 *services involved) with the individual in-*
8 *olved during the 6-month period preceding*
9 *such written order, or other reasonable*
10 *timeframe as determined by the Secretary.”.*

11 *(c) APPLICATION TO OTHER AREAS UNDER MEDI-*
12 *CARE.—The Secretary may apply the face-to-face encounter*
13 *requirement described in the amendments made by sub-*
14 *sections (a) and (b) to other items and services for which*
15 *payment is provided under title XVIII of the Social Secu-*
16 *rity Act based upon a finding that such an decision would*
17 *reduce the risk of waste, fraud, or abuse.*

18 *(d) APPLICATION TO MEDICAID.—The requirements*
19 *pursuant to the amendments made by subsections (a) and*
20 *(b) shall apply in the case of physicians making certifi-*
21 *cations for home health services under title XIX of the So-*
22 *cial Security Act in the same manner and to the same ex-*
23 *tent as such requirements apply in the case of physicians*
24 *making such certifications under title XVIII of such Act.*

1 **SEC. 6408. ENHANCED PENALTIES.**

2 (a) *CIVIL MONETARY PENALTIES FOR FALSE STATE-*
3 *MENTS OR DELAYING INSPECTIONS.*—Section 1128A(a) of
4 *the Social Security Act (42 U.S.C. 1320a–7a(a)), as*
5 *amended by section 5002(d)(2)(A), is amended—*

6 (1) *in paragraph (6), by striking “or” at the*
7 *end; and*

8 (2) *by inserting after paragraph (7) the fol-*
9 *lowing new paragraphs:*

10 “(8) *knowingly makes, uses, or causes to be made*
11 *or used, a false record or statement material to a false*
12 *or fraudulent claim for payment for items and serv-*
13 *ices furnished under a Federal health care program;*
14 *or*

15 “(9) *fails to grant timely access, upon reasonable*
16 *request (as defined by the Secretary in regulations),*
17 *to the Inspector General of the Department of Health*
18 *and Human Services, for the purpose of audits, inves-*
19 *tigations, evaluations, or other statutory functions of*
20 *the Inspector General of the Department of Health*
21 *and Human Services;”;* and

22 (3) *in the first sentence—*

23 (A) *by striking “or in cases under para-*
24 *graph (7)” and inserting “in cases under para-*
25 *graph (7)”;* and

1 (B) by striking “act)” and inserting “act,
2 in cases under paragraph (8), \$50,000 for each
3 false record or statement, or in cases under para-
4 graph (9), \$15,000 for each day of the failure de-
5 scribed in such paragraph)”.

6 (b) *MEDICARE ADVANTAGE AND PART D PLANS.*—

7 (1) *ENSURING TIMELY INSPECTIONS RELATING*
8 *TO CONTRACTS WITH MA ORGANIZATIONS.*—Section
9 1857(d)(2) of such Act (42 U.S.C. 1395w–27(d)(2)) is
10 amended—

11 (A) in subparagraph (A), by inserting
12 “timely” before “inspect”; and

13 (B) in subparagraph (B), by inserting
14 “timely” before “audit and inspect”.

15 (2) *MARKETING VIOLATIONS.*—Section
16 1857(g)(1) of the Social Security Act (42 U.S.C.
17 1395w–27(g)(1)) is amended—

18 (A) in subparagraph (F), by striking “or”
19 at the end;

20 (B) by inserting after subparagraph (G) the
21 following new subparagraphs:

22 “(H) except as provided under subpara-
23 graph (C) or (D) of section 1860D–1(b)(1), en-
24 rolls an individual in any plan under this part

1 *without the prior consent of the individual or the*
2 *designee of the individual;*

3 “(I) transfers an individual enrolled under
4 this part from one plan to another without the
5 prior consent of the individual or the designee of
6 the individual or solely for the purpose of earn-
7 ing a commission;

8 “(J) fails to comply with marketing restric-
9 tions described in subsections (h) and (j) of sec-
10 tion 1851 or applicable implementing regula-
11 tions or guidance; or

12 “(K) employs or contracts with any indi-
13 vidual or entity who engages in the conduct de-
14 scribed in subparagraphs (A) through (J) of this
15 paragraph;” and

16 (C) by adding at the end the following new
17 sentence: “The Secretary may provide, in addi-
18 tion to any other remedies authorized by law, for
19 any of the remedies described in paragraph (2),
20 if the Secretary determines that any employee or
21 agent of such organization, or any provider or
22 supplier who contracts with such organization,
23 has engaged in any conduct described in sub-
24 paragraphs (A) through (K) of this paragraph.”.

1 (3) *PROVISION OF FALSE INFORMATION.*—Section
2 *1857(g)(2)(A) of the Social Security Act (42*
3 *U.S.C. 1395w–27(g)(2)(A)) is amended by inserting*
4 *“except with respect to a determination under sub-*
5 *paragraph (E), an assessment of not more than the*
6 *amount claimed by such plan or plan sponsor based*
7 *upon the misrepresentation or falsified information*
8 *involved,” after “for each such determination,”.*

9 (c) *OBSTRUCTION OF PROGRAM AUDITS.*—Section
10 *1128(b)(2) of the Social Security Act (42 U.S.C. 1320a–*
11 *7(b)(2)) is amended—*

12 (1) *in the heading, by inserting “OR AUDIT”*
13 *after “INVESTIGATION”; and*

14 (2) *by striking “investigation into” and all that*
15 *follows through the period and inserting “investiga-*
16 *tion or audit related to—”*

17 *“(i) any offense described in para-*
18 *graph (1) or in subsection (a); or*

19 *“(ii) the use of funds received, directly*
20 *or indirectly, from any Federal health care*
21 *program (as defined in section 1128B(f)).”.*

22 (d) *EFFECTIVE DATE.*—

23 (1) *IN GENERAL.*—*Except as provided in para-*
24 *graph (2), the amendments made by this section shall*
25 *apply to acts committed on or after January 1, 2010.*

1 (2) *EXCEPTION.*—*The amendments made by sub-*
2 *section (b)(1) take effect on the date of enactment of*
3 *this Act.*

4 **SEC. 6409. MEDICARE SELF-REFERRAL DISCLOSURE PRO-**
5 **TOCOL.**

6 (a) *DEVELOPMENT OF SELF-REFERRAL DISCLOSURE*
7 *PROTOCOL.*—

8 (1) *IN GENERAL.*—*The Secretary of Health and*
9 *Human Services, in cooperation with the Inspector*
10 *General of the Department of Health and Human*
11 *Services, shall establish, not later than 6 months after*
12 *the date of the enactment of this Act, a protocol to en-*
13 *able health care providers of services and suppliers to*
14 *disclose an actual or potential violation of section*
15 *1877 of the Social Security Act (42 U.S.C. 1395nn)*
16 *pursuant to a self-referral disclosure protocol (in this*
17 *section referred to as an “SRDP”). The SRDP shall*
18 *include direction to health care providers of services*
19 *and suppliers on—*

20 (A) *a specific person, official, or office to*
21 *whom such disclosures shall be made; and*

22 (B) *instruction on the implication of the*
23 *SRDP on corporate integrity agreements and*
24 *corporate compliance agreements.*

1 (2) *PUBLICATION ON INTERNET WEBSITE OF*
2 *SRDP INFORMATION.—The Secretary of Health and*
3 *Human Services shall post information on the public*
4 *Internet website of the Centers for Medicare & Med-*
5 *icaid Services to inform relevant stakeholders of how*
6 *to disclose actual or potential violations pursuant to*
7 *an SRDP.*

8 (3) *RELATION TO ADVISORY OPINIONS.—The*
9 *SRDP shall be separate from the advisory opinion*
10 *process set forth in regulations implementing section*
11 *1877(g) of the Social Security Act.*

12 (b) *REDUCTION IN AMOUNTS OWED.—The Secretary*
13 *of Health and Human Services is authorized to reduce the*
14 *amount due and owing for all violations under section 1877*
15 *of the Social Security Act to an amount less than that speci-*
16 *fied in subsection (g) of such section. In establishing such*
17 *amount for a violation, the Secretary may consider the fol-*
18 *lowing factors:*

19 (1) *The nature and extent of the improper or il-*
20 *legal practice.*

21 (2) *The timeliness of such self-disclosure.*

22 (3) *The cooperation in providing additional in-*
23 *formation related to the disclosure.*

24 (4) *Such other factors as the Secretary considers*
25 *appropriate.*

1 (c) *REPORT.*—Not later than 18 months after the date
 2 on which the SRDP protocol is established under subsection
 3 (a)(1), the Secretary shall submit to Congress a report on
 4 the implementation of this section. Such report shall in-
 5 clude—

6 (1) the number of health care providers of serv-
 7 ices and suppliers making disclosures pursuant to the
 8 SRDP;

9 (2) the amounts collected pursuant to the SRDP;

10 (3) the types of violations reported under the
 11 SRDP; and

12 (4) such other information as may be necessary
 13 to evaluate the impact of this section.

14 **SEC. 6410. ADJUSTMENTS TO THE MEDICARE DURABLE**
 15 **MEDICAL EQUIPMENT, PROSTHETICS,**
 16 **ORTHOTICS, AND SUPPLIES COMPETITIVE AC-**
 17 **QUISITION PROGRAM.**

18 (a) *EXPANSION OF ROUND 2 OF THE DME COMPETI-*
 19 *TIVE BIDDING PROGRAM.*—Section 1847(a)(1) of the Social
 20 Security Act (42 U.S.C. 1395w–3(a)(1)) is amended—

21 (1) in subparagraph (B)(i)(II), by striking “70”
 22 and inserting “91”; and

23 (2) in subparagraph (D)(ii)—

24 (A) in subclause (I), by striking “and” at
 25 the end;

1 (B) by redesignating subclause (II) as sub-
2 clause (III); and

3 (C) by inserting after subclause (I) the fol-
4 lowing new subclause:

5 “(II) the Secretary shall include
6 the next 21 largest metropolitan statis-
7 tical areas by total population (after
8 those selected under subclause (I)) for
9 such round; and”.

10 (b) *REQUIREMENT TO EITHER COMPETITIVELY BID*
11 *AREAS OR USE COMPETITIVE BID PRICES BY 2016.*—*Sec-*
12 *tion 1834(a)(1)(F) of the Social Security Act (42 U.S.C.*
13 *1395m(a)(1)(F)) is amended—*

14 (1) in clause (i), by striking “and” at the end;

15 (2) in clause (ii)—

16 (A) by inserting “(and, in the case of cov-
17 ered items furnished on or after January 1,
18 2016, subject to clause (iii), shall)” after “may”;
19 and

20 (B) by striking the period at the end and
21 inserting “; and”; and

22 (3) by adding at the end the following new
23 clause:

24 “(iii) in the case of covered items fur-
25 nished on or after January 1, 2016, the

1 *Secretary shall continue to make such ad-*
2 *justments described in clause (ii) as, under*
3 *such competitive acquisition programs, ad-*
4 *ditional covered items are phased in or in-*
5 *formation is updated as contracts under*
6 *section 1847 are recompeted in accordance*
7 *with section 1847(b)(3)(B).”.*

8 **SEC. 6411. EXPANSION OF THE RECOVERY AUDIT CON-**
9 **TRACTOR (RAC) PROGRAM.**

10 *(a) EXPANSION TO MEDICAID.—*

11 *(1) STATE PLAN AMENDMENT.—Section*
12 *1902(a)(42) of the Social Security Act (42 U.S.C.*
13 *1396a(a)(42)) is amended—*

14 *(A) by striking “that the records” and in-*
15 *serting “that—*

16 *“(A) the records”;*

17 *(B) by inserting “and” after the semicolon;*

18 *and*

19 *(C) by adding at the end the following:*

20 *“(B) not later than December 31, 2010, the*
21 *State shall—*

22 *“(i) establish a program under which*
23 *the State contracts (consistent with State*
24 *law and in the same manner as the Sec-*
25 *retary enters into contracts with recovery*

1 *audit contractors under section 1893(h),*
2 *subject to such exceptions or requirements as*
3 *the Secretary may require for purposes of*
4 *this title or a particular State) with 1 or*
5 *more recovery audit contractors for the pur-*
6 *pose of identifying underpayments and*
7 *overpayments and recouping overpayments*
8 *under the State plan and under any waiver*
9 *of the State plan with respect to all services*
10 *for which payment is made to any entity*
11 *under such plan or waiver; and*

12 *“(ii) provide assurances satisfactory to*
13 *the Secretary that—*

14 *“(I) under such contracts, pay-*
15 *ment shall be made to such a con-*
16 *tractor only from amounts recovered;*

17 *“(II) from such amounts recov-*
18 *ered, payment—*

19 *“(aa) shall be made on a*
20 *contingent basis for collecting*
21 *overpayments; and*

22 *“(bb) may be made in such*
23 *amounts as the State may specify*
24 *for identifying underpayments;*

1 “(III) the State has an adequate
2 process for entities to appeal any ad-
3 verse determination made by such con-
4 tractors; and

5 “(IV) such program is carried out
6 in accordance with such requirements
7 as the Secretary shall specify, includ-
8 ing—

9 “(aa) for purposes of section
10 1903(a)(7), that amounts ex-
11 pended by the State to carry out
12 the program shall be considered
13 amounts expended as necessary
14 for the proper and efficient ad-
15 ministration of the State plan or
16 a waiver of the plan;

17 “(bb) that section 1903(d)
18 shall apply to amounts recovered
19 under the program; and

20 “(cc) that the State and any
21 such contractors under contract
22 with the State shall coordinate
23 such recovery audit efforts with
24 other contractors or entities per-
25 forming audits of entities receiv-

1 *ing payments under the State*
2 *plan or waiver in the State, in-*
3 *cluding efforts with Federal and*
4 *State law enforcement with re-*
5 *spect to the Department of Jus-*
6 *tice, including the Federal Bureau*
7 *of Investigations, the Inspector*
8 *General of the Department of*
9 *Health and Human Services, and*
10 *the State medicaid fraud control*
11 *unit; and”.*

12 (2) *COORDINATION; REGULATIONS.—*

13 (A) *IN GENERAL.—The Secretary of Health*
14 *and Human Services, acting through the Admin-*
15 *istrator of the Centers for Medicare & Medicaid*
16 *Services, shall coordinate the expansion of the*
17 *Recovery Audit Contractor program to Medicaid*
18 *with States, particularly with respect to each*
19 *State that enters into a contract with a recovery*
20 *audit contractor for purposes of the State’s Med-*
21 *icaid program prior to December 31, 2010.*

22 (B) *REGULATIONS.—The Secretary of*
23 *Health and Human Services shall promulgate*
24 *regulations to carry out this subsection and the*
25 *amendments made by this subsection, including*

1 *with respect to conditions of Federal financial*
2 *participation, as specified by the Secretary.*

3 **(b) EXPANSION TO MEDICARE PARTS C AND D.**—*Sec-*
4 *tion 1893(h) of the Social Security Act (42 U.S.C.*
5 *1395ddd(h)) is amended—*

6 (1) *in paragraph (1), in the matter preceding*
7 *subparagraph (A), by striking “part A or B” and in-*
8 *serting “this title”;*

9 (2) *in paragraph (2), by striking “parts A and*
10 *B” and inserting “this title”;*

11 (3) *in paragraph (3), by inserting “(not later*
12 *than December 31, 2010, in the case of contracts re-*
13 *lating to payments made under part C or D)” after*
14 *“2010”;*

15 (4) *in paragraph (4), in the matter preceding*
16 *subparagraph (A), by striking “part A or B” and in-*
17 *serting “this title”; and*

18 (5) *by adding at the end the following:*

19 **“(9) SPECIAL RULES RELATING TO PARTS C AND**
20 *D.—The Secretary shall enter into contracts under*
21 *paragraph (1) to require recovery audit contractors*
22 *to—*

23 *“(A) ensure that each MA plan under part*
24 *C has an anti-fraud plan in effect and to review*
25 *the effectiveness of each such anti-fraud plan;*

1 “(B) ensure that each prescription drug
2 plan under part D has an anti-fraud plan in ef-
3 fect and to review the effectiveness of each such
4 anti-fraud plan;

5 “(C) examine claims for reinsurance pay-
6 ments under section 1860D–15(b) to determine
7 whether prescription drug plans submitting such
8 claims incurred costs in excess of the allowable
9 reinsurance costs permitted under paragraph (2)
10 of that section; and

11 “(D) review estimates submitted by pre-
12 scription drug plans by private plans with re-
13 spect to the enrollment of high cost beneficiaries
14 (as defined by the Secretary) and to compare
15 such estimates with the numbers of such bene-
16 ficiaries actually enrolled by such plans.”.

17 (c) *ANNUAL REPORT.*—The Secretary of Health and
18 Human Services, acting through the Administrator of the
19 Centers for Medicare & Medicaid Services, shall submit an
20 annual report to Congress concerning the effectiveness of the
21 Recovery Audit Contractor program under Medicaid and
22 Medicare and shall include such reports recommendations
23 for expanding or improving the program.

1 ***Subtitle F—Additional Medicaid***
2 ***Program Integrity Provisions***

3 ***SEC. 6501. TERMINATION OF PROVIDER PARTICIPATION***
4 ***UNDER MEDICAID IF TERMINATED UNDER***
5 ***MEDICARE OR OTHER STATE PLAN.***

6 *Section 1902(a)(39) of the Social Security Act (42*
7 *U.S.C. 42 U.S.C. 1396a(a)) is amended by inserting after*
8 *“1128A,” the following: “terminate the participation of any*
9 *individual or entity in such program if (subject to such ex-*
10 *ceptions as are permitted with respect to exclusion under*
11 *sections 1128(c)(3)(B) and 1128(d)(3)(B)) participation of*
12 *such individual or entity is terminated under title XVIII*
13 *or any other State plan under this title.”.*

14 ***SEC. 6502. MEDICAID EXCLUSION FROM PARTICIPATION RE-***
15 ***LATING TO CERTAIN OWNERSHIP, CONTROL,***
16 ***AND MANAGEMENT AFFILIATIONS.***

17 *Section 1902(a) of the Social Security Act (42 U.S.C.*
18 *1396a(a)), as amended by section 6401(b), is amended by*
19 *inserting after paragraph (77) the following:*

20 *“(78) provide that the State agency described in*
21 *paragraph (9) exclude, with respect to a period, any*
22 *individual or entity from participation in the pro-*
23 *gram under the State plan if such individual or enti-*
24 *ty owns, controls, or manages an entity that (or if*

1 *such entity is owned, controlled, or managed by an*
2 *individual or entity that)—*

3 *“(A) has unpaid overpayments (as defined*
4 *by the Secretary) under this title during such pe-*
5 *riod determined by the Secretary or the State*
6 *agency to be delinquent;*

7 *“(B) is suspended or excluded from partici-*
8 *pation under or whose participation is termi-*
9 *nated under this title during such period; or*

10 *“(C) is affiliated with an individual or en-*
11 *tity that has been suspended or excluded from*
12 *participation under this title or whose participa-*
13 *tion is terminated under this title during such*
14 *period;”.*

15 **SEC. 6503. BILLING AGENTS, CLEARINGHOUSES, OR OTHER**
16 **ALTERNATE PAYEES REQUIRED TO REGISTER**
17 **UNDER MEDICAID.**

18 *(a) IN GENERAL.—Section 1902(a) of the Social Secu-*
19 *rity Act (42 U.S.C. 42 U.S.C. 1396a(a)), as amended by*
20 *section 6502(a), is amended by inserting after paragraph*
21 *(78), the following:*

22 *“(79) provide that any agent, clearinghouse, or*
23 *other alternate payee (as defined by the Secretary)*
24 *that submits claims on behalf of a health care pro-*

1 *vider must register with the State and the Secretary*
2 *in a form and manner specified by the Secretary;”.*

3 **SEC. 6504. REQUIREMENT TO REPORT EXPANDED SET OF**
4 **DATA ELEMENTS UNDER MMIS TO DETECT**
5 **FRAUD AND ABUSE.**

6 *(a) IN GENERAL.—Section 1903(r)(1)(F) of the Social*
7 *Security Act (42 U.S.C. 1396b(r)(1)(F)) is amended by in-*
8 *serting after “necessary” the following: “and including, for*
9 *data submitted to the Secretary on or after January 1,*
10 *2010, data elements from the automated data system that*
11 *the Secretary determines to be necessary for program integ-*
12 *rity, program oversight, and administration, at such fre-*
13 *quency as the Secretary shall determine”.*

14 *(b) MANAGED CARE ORGANIZATIONS.—*

15 *(1) IN GENERAL.—Section 1903(m)(2)(A)(xi) of*
16 *the Social Security Act (42 U.S.C.*
17 *1396b(m)(2)(A)(xi)) is amended by inserting “and for*
18 *the provision of such data to the State at a frequency*
19 *and level of detail to be specified by the Secretary”*
20 *after “patients”.*

21 *(2) EFFECTIVE DATE.—The amendment made by*
22 *paragraph (1) shall apply with respect to contract*
23 *years beginning on or after January 1, 2010.*

1 **SEC. 6505. PROHIBITION ON PAYMENTS TO INSTITUTIONS**
2 **OR ENTITIES LOCATED OUTSIDE OF THE**
3 **UNITED STATES.**

4 *Section 1902(a) of the Social Security Act (42 U.S.C.*
5 *1396b(a)), as amended by section 6503, is amended by in-*
6 *serting after paragraph (79) the following new paragraph:*

7 *“(80) provide that the State shall not provide*
8 *any payments for items or services provided under*
9 *the State plan or under a waiver to any financial in-*
10 *stitution or entity located outside of the United*
11 *States;”.*

12 **SEC. 6506. OVERPAYMENTS.**

13 *(a) EXTENSION OF PERIOD FOR COLLECTION OF*
14 *OVERPAYMENTS DUE TO FRAUD.—*

15 *(1) IN GENERAL.—Section 1903(d)(2) of the So-*
16 *cial Security Act (42 U.S.C. 1396b(d)(2)) is amend-*
17 *ed—*

18 *(A) in subparagraph (C)—*

19 *(i) in the first sentence, by striking*
20 *“60 days” and inserting “1 year”; and*

21 *(ii) in the second sentence, by striking*
22 *“60 days” and inserting “1-year period”;*
23 *and*

24 *(B) in subparagraph (D)—*

25 *(i) in inserting “(i)” after “(D)”;* and
26 *(ii) by adding at the end the following:*

1 “(ii) *In any case where the State is unable to recover*
2 *a debt which represents an overpayment (or any portion*
3 *thereof) made to a person or other entity due to fraud with-*
4 *in 1 year of discovery because there is not a final deter-*
5 *mination of the amount of the overpayment under an ad-*
6 *ministrative or judicial process (as applicable), including*
7 *as a result of a judgment being under appeal, no adjustment*
8 *shall be made in the Federal payment to such State on ac-*
9 *count of such overpayment (or portion thereof) before the*
10 *date that is 30 days after the date on which a final judg-*
11 *ment (including, if applicable, a final determination on an*
12 *appeal) is made.”.*

13 (2) *EFFECTIVE DATE.*—*The amendments made*
14 *by this subsection take effect on the date of enactment*
15 *of this Act and apply to overpayments discovered on*
16 *or after that date.*

17 (b) *CORRECTIVE ACTION.*—*The Secretary shall pro-*
18 *mulgate regulations that require States to correct Federally*
19 *identified claims overpayments, of an ongoing or recurring*
20 *nature, with new Medicaid Management Information Sys-*
21 *tem (MMIS) edits, audits, or other appropriate corrective*
22 *action.*

1 **SEC. 6507. MANDATORY STATE USE OF NATIONAL CORRECT**
2 **CODING INITIATIVE.**

3 *Section 1903(r) of the Social Security Act (42 U.S.C.*
4 *1396b(r)) is amended—*

5 *(1) in paragraph (1)(B)—*

6 *(A) in clause (ii), by striking “and” at the*
7 *end;*

8 *(B) in clause (iii), by adding “and” after*
9 *the semi-colon; and*

10 *(C) by adding at the end the following new*
11 *clause:*

12 *“(iv) effective for claims filed on or*
13 *after October 1, 2010, incorporate compat-*
14 *ible methodologies of the National Correct*
15 *Coding Initiative administered by the Sec-*
16 *retary (or any successor initiative to pro-*
17 *mote correct coding and to control improper*
18 *coding leading to inappropriate payment)*
19 *and such other methodologies of that Initia-*
20 *tive (or such other national correct coding*
21 *methodologies) as the Secretary identifies in*
22 *accordance with paragraph (4);”;* and

23 *(2) by adding at the end the following new para-*
24 *graph:*

25 *“(4) For purposes of paragraph (1)(B)(iv), the Sec-*
26 *retary shall do the following:*

1 “(A) Not later than September 1, 2010:

2 “(i) Identify those methodologies of the Na-
3 tional Correct Coding Initiative administered by
4 the Secretary (or any successor initiative to pro-
5 mote correct coding and to control improper cod-
6 ing leading to inappropriate payment) which
7 are compatible to claims filed under this title.

8 “(ii) Identify those methodologies of such
9 Initiative (or such other national correct coding
10 methodologies) that should be incorporated into
11 claims filed under this title with respect to items
12 or services for which States provide medical as-
13 sistance under this title and no national correct
14 coding methodologies have been established under
15 such Initiative with respect to title XVIII.

16 “(iii) Notify States of—

17 “(I) the methodologies identified under
18 subparagraphs (A) and (B) (and of any
19 other national correct coding methodologies
20 identified under subparagraph (B)); and

21 “(II) how States are to incorporate
22 such methodologies into claims filed under
23 this title.

24 “(B) Not later than March 1, 2011, submit a re-
25 port to Congress that includes the notice to States

1 *under clause (iii) of subparagraph (A) and an anal-*
2 *ysis supporting the identification of the methodologies*
3 *made under clauses (i) and (ii) of subparagraph*
4 *(A).”.*

5 **SEC. 6508. GENERAL EFFECTIVE DATE.**

6 *(a) IN GENERAL.—Except as otherwise provided in*
7 *this subtitle, this subtitle and the amendments made by this*
8 *subtitle take effect on January 1, 2011, without regard to*
9 *whether final regulations to carry out such amendments*
10 *and subtitle have been promulgated by that date.*

11 *(b) DELAY IF STATE LEGISLATION REQUIRED.—In the*
12 *case of a State plan for medical assistance under title XIX*
13 *of the Social Security Act or a child health plan under title*
14 *XXI of such Act which the Secretary of Health and Human*
15 *Services determines requires State legislation (other than*
16 *legislation appropriating funds) in order for the plan to*
17 *meet the additional requirement imposed by the amend-*
18 *ments made by this subtitle, the State plan or child health*
19 *plan shall not be regarded as failing to comply with the*
20 *requirements of such title solely on the basis of its failure*
21 *to meet this additional requirement before the first day of*
22 *the first calendar quarter beginning after the close of the*
23 *first regular session of the State legislature that begins after*
24 *the date of the enactment of this Act. For purposes of the*
25 *previous sentence, in the case of a State that has a 2-year*

1 *legislative session, each year of such session shall be deemed*
2 *to be a separate regular session of the State legislature.*

3 ***Subtitle G—Additional Program***
4 ***Integrity Provisions***

5 ***SEC. 6601. PROHIBITION ON FALSE STATEMENTS AND REP-***
6 ***RESENTATIONS.***

7 (a) *PROHIBITION.*—Part 5 of subtitle B of title I of
8 *the Employee Retirement Income Security Act of 1974 (29*
9 *U.S.C. 1131 et seq.) is amended by adding at the end the*
10 *following:*

11 ***“SEC. 519. PROHIBITION ON FALSE STATEMENTS AND REP-***
12 ***RESENTATIONS.***

13 *“No person, in connection with a plan or other ar-*
14 *rangement that is multiple employer welfare arrangement*
15 *described in section 3(40), shall make a false statement or*
16 *false representation of fact, knowing it to be false, in con-*
17 *nection with the marketing or sale of such plan or arrange-*
18 *ment, to any employee, any member of an employee organi-*
19 *zation, any beneficiary, any employer, any employee orga-*
20 *nization, the Secretary, or any State, or the representative*
21 *or agent of any such person, State, or the Secretary, con-*
22 *cerning—*

23 *“(1) the financial condition or solvency of such*
24 *plan or arrangement;*

1 “(2) the benefits provided by such plan or ar-
2 rangement;

3 “(3) the regulatory status of such plan or other
4 arrangement under any Federal or State law gov-
5 erning collective bargaining, labor management rela-
6 tions, or intern union affairs; or

7 “(4) the regulatory status of such plan or other
8 arrangement regarding exemption from state regu-
9 latory authority under this Act.

10 *This section shall not apply to any plan or arrangement*
11 *that does not fall within the meaning of the term ‘multiple*
12 *employer welfare arrangement’ under section 3(40)(A).”.*

13 **(b) CRIMINAL PENALTIES.**—*Section 501 of the Em-*
14 *ployee Retirement Income Security Act of 1974 (29 U.S.C.*
15 *1131) is amended—*

16 (1) *by inserting “(a)” before “Any person”; and*

17 (2) *by adding at the end the following:*

18 “(b) *Any person that violates section 519 shall upon*
19 *conviction be imprisoned not more than 10 years or fined*
20 *under title 18, United States Code, or both.”.*

21 **(c) CONFORMING AMENDMENT.**—*The table of sections*
22 *for part 5 of subtitle B of title I of the Employee Retirement*
23 *Income Security Act of 1974 is amended by adding at the*
24 *end the following:*

“Sec. 519. Prohibition on false statement and representations.”.

1 **SEC. 6602. CLARIFYING DEFINITION.**

2 Section 24(a)(2) of title 18, United States Code, is
3 amended by inserting “or section 411, 518, or 511 of the
4 Employee Retirement Income Security Act of 1974,” after
5 “1954 of this title”.

6 **SEC. 6603. DEVELOPMENT OF MODEL UNIFORM REPORT**
7 **FORM.**

8 Part C of title XXVII of the Public Health Service Act
9 (42 U.S.C. 300gg–91 et seq.) is amended by adding at the
10 end the following:

11 **“SEC. 2794. UNIFORM FRAUD AND ABUSE REFERRAL FOR-**
12 **MAT.**

13 *“The Secretary shall request the National Association*
14 *of Insurance Commissioners to develop a model uniform re-*
15 *port form for private health insurance issuer seeking to refer*
16 *suspected fraud and abuse to State insurance departments*
17 *or other responsible State agencies for investigation. The*
18 *Secretary shall request that the National Association of In-*
19 *surance Commissioners develop recommendations for uni-*
20 *form reporting standards for such referrals.”.*

21 **SEC. 6604. APPLICABILITY OF STATE LAW TO COMBAT**
22 **FRAUD AND ABUSE.**

23 (a) *IN GENERAL.*—Part 5 of subtitle B of title I of
24 the Employee Retirement Income Security Act of 1974 (29
25 U.S.C. 1131 et seq.), as amended by section 6601, is further
26 amended by adding at the end the following:

1 **“SEC. 520. APPLICABILITY OF STATE LAW TO COMBAT**
2 **FRAUD AND ABUSE.**

3 *“The Secretary may, for the purpose of identifying,*
4 *preventing, or prosecuting fraud and abuse, adopt regu-*
5 *latory standards establishing, or issue an order relating to*
6 *a specific person establishing, that a person engaged in the*
7 *business of providing insurance through a multiple em-*
8 *ployer welfare arrangement described in section 3(40) is*
9 *subject to the laws of the States in which such person oper-*
10 *ates which regulate insurance in such State, notwith-*
11 *standing section 514(b)(6) of this Act or the Liability Risk*
12 *Retention Act of 1986, and regardless of whether the law*
13 *of the State is otherwise preempted under any of such provi-*
14 *sions. This section shall not apply to any plan or arrange-*
15 *ment that does not fall within the meaning of the term ‘mul-*
16 *tiple employer welfare arrangement’ under section*
17 *3(40)(A).”.*

18 **(b) CONFORMING AMENDMENT.**—*The table of sections*
19 *for part 5 of subtitle B of title I of the Employee Retirement*
20 *Income Security Act of 1974, as amended by section 6601,*
21 *is further amended by adding at the end the following:*

“Sec. 520. Applicability of State law to combat fraud and abuse.”.

1 **SEC. 6605. ENABLING THE DEPARTMENT OF LABOR TO**
2 **ISSUE ADMINISTRATIVE SUMMARY CEASE**
3 **AND DESIST ORDERS AND SUMMARY SEI-**
4 **ZURES ORDERS AGAINST PLANS THAT ARE IN**
5 **FINANCIALLY HAZARDOUS CONDITION.**

6 (a) *IN GENERAL.*—Part 5 of subtitle B of title I of
7 the Employee Retirement Income Security Act of 1974 (29
8 U.S.C. 1131 et seq.), as amended by section 6604, is further
9 amended by adding at the end the following:

10 **“SEC. 521. ADMINISTRATIVE SUMMARY CEASE AND DESIST**
11 **ORDERS AND SUMMARY SEIZURE ORDERS**
12 **AGAINST MULTIPLE EMPLOYER WELFARE AR-**
13 **RANGEMENTS IN FINANCIALLY HAZARDOUS**
14 **CONDITION.**

15 “(a) *IN GENERAL.*—The Secretary may issue a cease
16 and desist (*ex parte*) order under this title if it appears
17 to the Secretary that the alleged conduct of a multiple em-
18 ployer welfare arrangement described in section 3(40), other
19 than a plan or arrangement described in subsection (g), is
20 fraudulent, or creates an immediate danger to the public
21 safety or welfare, or is causing or can be reasonably ex-
22 pected to cause significant, imminent, and irreparable pub-
23 lic injury.

24 “(b) *HEARING.*—A person that is adversely affected by
25 the issuance of a cease and desist order under subsection
26 (a) may request a hearing by the Secretary regarding such

1 *order. The Secretary may require that a proceeding under*
2 *this section, including all related information and evidence,*
3 *be conducted in a confidential manner.*

4 “(c) *BURDEN OF PROOF.*—*The burden of proof in any*
5 *hearing conducted under subsection (b) shall be on the party*
6 *requesting the hearing to show cause why the cease and de-*
7 *sist order should be set aside.*

8 “(d) *DETERMINATION.*—*Based upon the evidence pre-*
9 *sented at a hearing under subsection (b), the cease and de-*
10 *sist order involved may be affirmed, modified, or set aside*
11 *by the Secretary in whole or in part.*

12 “(e) *SEIZURE.*—*The Secretary may issue a summary*
13 *seizure order under this title if it appears that a multiple*
14 *employer welfare arrangement is in a financially hazardous*
15 *condition.*

16 “(f) *REGULATIONS.*—*The Secretary may promulgate*
17 *such regulations or other guidance as may be necessary or*
18 *appropriate to carry out this section.*

19 “(g) *EXCEPTION.*—*This section shall not apply to any*
20 *plan or arrangement that does not fall within the meaning*
21 *of the term ‘multiple employer welfare arrangement’ under*
22 *section 3(40)(A).’.*

23 “(b) *CONFORMING AMENDMENT.*—*The table of sections*
24 *for part 5 of subtitle B of title I of the Employee Retirement*

1 *Income Security Act of 1974, as amended by section 6604,*
 2 *is further amended by adding at the end the following:*

“Sec. 521. Administrative summary cease and desist orders and summary seizure orders against health plans in financially hazardous condition.”.

3 **SEC. 6606. MEWA PLAN REGISTRATION WITH DEPARTMENT**
 4 **OF LABOR.**

5 *Section 101(g) of the Employee Retirement Income Se-*
 6 *curity Act of 1974 (29 U.S.C. 1021(g)) is amended—*

7 *(1) by striking “Secretary may” and inserting*
 8 *“Secretary shall”; and*

9 *(2) by inserting “to register with the Secretary*
 10 *prior to operating in a State and may, by regulation,*
 11 *require such multiple employer welfare arrangements”*
 12 *after “not group health plans”.*

13 **SEC. 6607. PERMITTING EVIDENTIARY PRIVILEGE AND CON-**
 14 **FIDENTIAL COMMUNICATIONS.**

15 *Section 504 of the Employee Retirement Income Secu-*
 16 *rity Act of 1974 (29 U.S.C. 1134) is amended by adding*
 17 *at the end the following:*

18 *“(d) The Secretary may promulgate a regulation that*
 19 *provides an evidentiary privilege for, and provides for the*
 20 *confidentiality of communications between or among, any*
 21 *of the following entities or their agents, consultants, or em-*
 22 *ployees:*

23 *“(1) A State insurance department.*

24 *“(2) A State attorney general.*

1 “(3) *The National Association of Insurance Com-*
2 *missioners.*

3 “(4) *The Department of Labor.*

4 “(5) *The Department of the Treasury.*

5 “(6) *The Department of Justice.*

6 “(7) *The Department of Health and Human*
7 *Services.*

8 “(8) *Any other Federal or State authority that*
9 *the Secretary determines is appropriate for the pur-*
10 *poses of enforcing the provisions of this title.*

11 “(e) *The privilege established under subsection (d)*
12 *shall apply to communications related to any investigation,*
13 *audit, examination, or inquiry conducted or coordinated by*
14 *any of the agencies. A communication that is privileged*
15 *under subsection (d) shall not waive any privilege otherwise*
16 *available to the communicating agency or to any person*
17 *who provided the information that is communicated.”.*

18 ***Subtitle H—Elder Justice Act***

19 ***SEC. 6701. SHORT TITLE OF SUBTITLE.***

20 *This subtitle may be cited as the “Elder Justice Act*
21 *of 2009”.*

22 ***SEC. 6702. DEFINITIONS.***

23 *Except as otherwise specifically provided, any term*
24 *that is defined in section 2011 of the Social Security Act*

1 *(as added by section 6703(a)) and is used in this subtitle*
 2 *has the meaning given such term by such section.*

3 **SEC. 6703. ELDER JUSTICE.**

4 *(a) ELDER JUSTICE.—*

5 *(1) IN GENERAL.—Title XX of the Social Secu-*
 6 *urity Act (42 U.S.C. 1397 et seq.) is amended—*

7 *(A) in the heading, by inserting “AND*
 8 ***ELDER JUSTICE****” after “SOCIAL*
 9 ***SERVICES****”;*

10 *(B) by inserting before section 2001 the fol-*
 11 *lowing:*

12 ***“Subtitle A—Block Grants to States***
 13 ***for Social Services”;***

14 *and*

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

16 ***“Subtitle B—Elder Justice***

17 ***“SEC. 2011. DEFINITIONS.***

18 *“In this subtitle:*

19 *“(1) ABUSE.—The term ‘abuse’ means the know-*
 20 *ing infliction of physical or psychological harm or the*
 21 *knowing deprivation of goods or services that are nec-*
 22 *essary to meet essential needs or to avoid physical or*
 23 *psychological harm.*

24 *“(2) ADULT PROTECTIVE SERVICES.—The term*
 25 *‘adult protective services’ means such services pro-*

1 *vided to adults as the Secretary may specify and in-*
2 *cludes services such as—*

3 *“(A) receiving reports of adult abuse, ne-*
4 *glect, or exploitation;*

5 *“(B) investigating the reports described in*
6 *subparagraph (A);*

7 *“(C) case planning, monitoring, evaluation,*
8 *and other case work and services; and*

9 *“(D) providing, arranging for, or facili-*
10 *tating the provision of medical, social service,*
11 *economic, legal, housing, law enforcement, or*
12 *other protective, emergency, or support services.*

13 *“(3) CAREGIVER.—The term ‘caregiver’ means*
14 *an individual who has the responsibility for the care*
15 *of an elder, either voluntarily, by contract, by receipt*
16 *of payment for care, or as a result of the operation*
17 *of law, and means a family member or other indi-*
18 *vidual who provides (on behalf of such individual or*
19 *of a public or private agency, organization, or insti-*
20 *tution) compensated or uncompensated care to an*
21 *elder who needs supportive services in any setting.*

22 *“(4) DIRECT CARE.—The term ‘direct care’*
23 *means care by an employee or contractor who pro-*
24 *vides assistance or long-term care services to a recipi-*
25 *ent.*

1 “(5) *ELDER*.—The term ‘elder’ means an indi-
2 vidual age 60 or older.

3 “(6) *ELDER JUSTICE*.—The term ‘elder justice’
4 means—

5 “(A) from a societal perspective, efforts to—

6 “(i) prevent, detect, treat, intervene in,
7 and prosecute elder abuse, neglect, and ex-
8 ploitation; and

9 “(ii) protect elders with diminished ca-
10 pacity while maximizing their autonomy;
11 and

12 “(B) from an individual perspective, the
13 recognition of an elder’s rights, including the
14 right to be free of abuse, neglect, and exploi-
15 tation.

16 “(7) *ELIGIBLE ENTITY*.—The term ‘eligible enti-
17 ty’ means a State or local government agency, Indian
18 tribe or tribal organization, or any other public or
19 private entity that is engaged in and has expertise in
20 issues relating to elder justice or in a field necessary
21 to promote elder justice efforts.

22 “(8) *EXPLOITATION*.—The term ‘exploitation’
23 means the fraudulent or otherwise illegal, unauthor-
24 ized, or improper act or process of an individual, in-
25 cluding a caregiver or fiduciary, that uses the re-

1 *sources of an elder for monetary or personal benefit,*
2 *profit, or gain, or that results in depriving an elder*
3 *of rightful access to, or use of, benefits, resources, be-*
4 *longings, or assets.*

5 *“(9) FIDUCIARY.—The term ‘fiduciary’—*

6 *“(A) means a person or entity with the*
7 *legal responsibility—*

8 *“(i) to make decisions on behalf of and*
9 *for the benefit of another person; and*

10 *“(ii) to act in good faith and with*
11 *fairness; and*

12 *“(B) includes a trustee, a guardian, a con-*
13 *servator, an executor, an agent under a financial*
14 *power of attorney or health care power of attor-*
15 *ney, or a representative payee.*

16 *“(10) GRANT.—The term ‘grant’ includes a con-*
17 *tract, cooperative agreement, or other mechanism for*
18 *providing financial assistance.*

19 *“(11) GUARDIANSHIP.—The term ‘guardianship’*
20 *means—*

21 *“(A) the process by which a State court de-*
22 *termines that an adult individual lacks capacity*
23 *to make decisions about self-care or property,*
24 *and appoints another individual or entity*

1 *known as a guardian, as a conservator, or by a*
2 *similar term, as a surrogate decisionmaker;*

3 “(B) *the manner in which the court-ap-*
4 *pointed surrogate decisionmaker carries out du-*
5 *ties to the individual and the court; or*

6 “(C) *the manner in which the court exer-*
7 *cises oversight of the surrogate decisionmaker.*

8 “(12) *INDIAN TRIBE.—*

9 “(A) *IN GENERAL.—The term ‘Indian tribe’*
10 *has the meaning given such term in section 4 of*
11 *the Indian Self-Determination and Education*
12 *Assistance Act (25 U.S.C. 450b).*

13 “(B) *INCLUSION OF PUEBLO AND*
14 *RANCHERIA.—The term ‘Indian tribe’ includes*
15 *any Pueblo or Rancheria.*

16 “(13) *LAW ENFORCEMENT.—The term ‘law en-*
17 *forcement’ means the full range of potential respond-*
18 *ers to elder abuse, neglect, and exploitation includ-*
19 *ing—*

20 “(A) *police, sheriffs, detectives, public safety*
21 *officers, and corrections personnel;*

22 “(B) *prosecutors;*

23 “(C) *medical examiners;*

24 “(D) *investigators; and*

25 “(E) *coroners.*

1 “(14) *LONG-TERM CARE.*—

2 “(A) *IN GENERAL.*—*The term ‘long-term*
3 *care’ means supportive and health services speci-*
4 *fied by the Secretary for individuals who need*
5 *assistance because the individuals have a loss of*
6 *capacity for self-care due to illness, disability, or*
7 *vulnerability.*

8 “(B) *LOSS OF CAPACITY FOR SELF-CARE.*—
9 *For purposes of subparagraph (A), the term ‘loss*
10 *of capacity for self-care’ means an inability to*
11 *engage in 1 or more activities of daily living, in-*
12 *cluding eating, dressing, bathing, management of*
13 *one’s financial affairs, and other activities the*
14 *Secretary determines appropriate.*

15 “(15) *LONG-TERM CARE FACILITY.*—*The term*
16 *‘long-term care facility’ means a residential care pro-*
17 *vider that arranges for, or directly provides, long-*
18 *term care.*

19 “(16) *NEGLECT.*—*The term ‘neglect’ means—*

20 “(A) *the failure of a caregiver or fiduciary*
21 *to provide the goods or services that are nec-*
22 *essary to maintain the health or safety of an*
23 *elder; or*

24 “(B) *self-neglect.*

25 “(17) *NURSING FACILITY.*—

1 “(A) *IN GENERAL.*—*The term ‘nursing fa-*
2 *cility’ has the meaning given such term under*
3 *section 1919(a).*

4 “(B) *INCLUSION OF SKILLED NURSING FA-*
5 *CILITY.*—*The term ‘nursing facility’ includes a*
6 *skilled nursing facility (as defined in section*
7 *1819(a)).*

8 “(18) *SELF-NEGLECT.*—*The term ‘self-neglect’*
9 *means an adult’s inability, due to physical or mental*
10 *impairment or diminished capacity, to perform essen-*
11 *tial self-care tasks including—*

12 “(A) *obtaining essential food, clothing, shel-*
13 *ter, and medical care;*

14 “(B) *obtaining goods and services necessary*
15 *to maintain physical health, mental health, or*
16 *general safety; or*

17 “(C) *managing one’s own financial affairs.*

18 “(19) *SERIOUS BODILY INJURY.*—

19 “(A) *IN GENERAL.*—*The term ‘serious bod-*
20 *ily injury’ means an injury—*

21 “(i) *involving extreme physical pain;*

22 “(ii) *involving substantial risk of*
23 *death;*

1 “(iii) involving protracted loss or im-
2 pairment of the function of a bodily mem-
3 ber, organ, or mental faculty; or

4 “(iv) requiring medical intervention
5 such as surgery, hospitalization, or physical
6 rehabilitation.

7 “(B) *CRIMINAL SEXUAL ABUSE*.—*Serious*
8 *bodily injury shall be considered to have oc-*
9 *curring if the conduct causing the injury is con-*
10 *duct described in section 2241 (relating to aggra-*
11 *vated sexual abuse) or 2242 (relating to sexual*
12 *abuse) of title 18, United States Code, or any*
13 *similar offense under State law.*

14 “(20) *SOCIAL*.—*The term ‘social’, when used*
15 *with respect to a service, includes adult protective*
16 *services.*

17 “(21) *STATE LEGAL ASSISTANCE DEVELOPER*.—
18 *The term ‘State legal assistance developer’ means an*
19 *individual described in section 731 of the Older*
20 *Americans Act of 1965.*

21 “(22) *STATE LONG-TERM CARE OMBUDSMAN*.—
22 *The term ‘State Long-Term Care Ombudsman’ means*
23 *the State Long-Term Care Ombudsman described in*
24 *section 712(a)(2) of the Older Americans Act of 1965.*

1 **“SEC. 2012. GENERAL PROVISIONS.**

2 “(a) *PROTECTION OF PRIVACY.*—*In pursuing activi-*
3 *ties under this subtitle, the Secretary shall ensure the pro-*
4 *tection of individual health privacy consistent with the reg-*
5 *ulations promulgated under section 264(c) of the Health In-*
6 *surance Portability and Accountability Act of 1996 and ap-*
7 *plicable State and local privacy regulations.*

8 “(b) *RULE OF CONSTRUCTION.*—*Nothing in this sub-*
9 *title shall be construed to interfere with or abridge an elder’s*
10 *right to practice his or her religion through reliance on*
11 *prayer alone for healing when this choice—*

12 “(1) *is contemporaneously expressed, either oral-*
13 *ly or in writing, with respect to a specific illness or*
14 *injury which the elder has at the time of the decision*
15 *by an elder who is competent at the time of the deci-*
16 *sion;*

17 “(2) *is previously set forth in a living will,*
18 *health care proxy, or other advance directive docu-*
19 *ment that is validly executed and applied under State*
20 *law; or*

21 “(3) *may be unambiguously deduced from the el-*
22 *der’s life history.*

1 **“PART I—NATIONAL COORDINATION OF ELDER**
2 **JUSTICE ACTIVITIES AND RESEARCH**
3 **“Subpart A—Elder Justice Coordinating Council and**
4 **Advisory Board on Elder Abuse, Neglect, and Ex-**
5 **ploitation**

6 **“SEC. 2021. ELDER JUSTICE COORDINATING COUNCIL.**

7 “(a) *ESTABLISHMENT.*—*There is established within*
8 *the Office of the Secretary an Elder Justice Coordinating*
9 *Council (in this section referred to as the ‘Council’).*

10 “(b) *MEMBERSHIP.*—

11 “(1) *IN GENERAL.*—*The Council shall be com-*
12 *posed of the following members:*

13 “(A) *The Secretary (or the Secretary’s des-*
14 *ignee).*

15 “(B) *The Attorney General (or the Attorney*
16 *General’s designee).*

17 “(C) *The head of each Federal department*
18 *or agency or other governmental entity identified*
19 *by the Chair referred to in subsection (d) as hav-*
20 *ing responsibilities, or administering programs,*
21 *relating to elder abuse, neglect, and exploitation.*

22 “(2) *REQUIREMENT.*—*Each member of the Coun-*
23 *cil shall be an officer or employee of the Federal Gov-*
24 *ernment.*

1 “(c) *VACANCIES.*—Any vacancy in the Council shall
2 not affect its powers, but shall be filled in the same manner
3 as the original appointment was made.

4 “(d) *CHAIR.*—The member described in subsection
5 (b)(1)(A) shall be Chair of the Council.

6 “(e) *MEETINGS.*—The Council shall meet at least 2
7 times per year, as determined by the Chair.

8 “(f) *DUTIES.*—

9 “(1) *IN GENERAL.*—The Council shall make rec-
10 ommendations to the Secretary for the coordination of
11 activities of the Department of Health and Human
12 Services, the Department of Justice, and other rel-
13 evant Federal, State, local, and private agencies and
14 entities, relating to elder abuse, neglect, and exploi-
15 tation and other crimes against elders.

16 “(2) *REPORT.*—Not later than the date that is 2
17 years after the date of enactment of the Elder Justice
18 Act of 2009 and every 2 years thereafter, the Council
19 shall submit to the Committee on Finance of the Sen-
20 ate and the Committee on Ways and Means and the
21 Committee on Energy and Commerce of the House of
22 Representatives a report that—

23 “(A) describes the activities and accomplish-
24 ments of, and challenges faced by—

25 “(i) the Council; and

1 “(ii) *the entities represented on the*
2 *Council; and*

3 “(B) *makes such recommendations for legis-*
4 *lation, model laws, or other action as the Council*
5 *determines to be appropriate.*

6 “(g) *POWERS OF THE COUNCIL.—*

7 “(1) *INFORMATION FROM FEDERAL AGENCIES.—*
8 *Subject to the requirements of section 2012(a), the*
9 *Council may secure directly from any Federal depart-*
10 *ment or agency such information as the Council con-*
11 *siders necessary to carry out this section. Upon re-*
12 *quest of the Chair of the Council, the head of such de-*
13 *partment or agency shall furnish such information to*
14 *the Council.*

15 “(2) *POSTAL SERVICES.—The Council may use*
16 *the United States mails in the same manner and*
17 *under the same conditions as other departments and*
18 *agencies of the Federal Government.*

19 “(h) *TRAVEL EXPENSES.—The members of the Council*
20 *shall not receive compensation for the performance of serv-*
21 *ices for the Council. The members shall be allowed travel*
22 *expenses, including per diem in lieu of subsistence, at rates*
23 *authorized for employees of agencies under subchapter I of*
24 *chapter 57 of title 5, United States Code, while away from*
25 *their homes or regular places of business in the performance*

1 of services for the Council. Notwithstanding section 1342
2 of title 31, United States Code, the Secretary may accept
3 the voluntary and uncompensated services of the members
4 of the Council.

5 “(i) *DETAIL OF GOVERNMENT EMPLOYEES.*—Any
6 Federal Government employee may be detailed to the Coun-
7 cil without reimbursement, and such detail shall be without
8 interruption or loss of civil service status or privilege.

9 “(j) *STATUS AS PERMANENT COUNCIL.*—Section 14 of
10 the Federal Advisory Committee Act (5 U.S.C. App.) shall
11 not apply to the Council.

12 “(k) *AUTHORIZATION OF APPROPRIATIONS.*—There
13 are authorized to be appropriated such sums as are nec-
14 essary to carry out this section.

15 **“SEC. 2022. ADVISORY BOARD ON ELDER ABUSE, NEGLECT,**
16 **AND EXPLOITATION.**

17 “(a) *ESTABLISHMENT.*—There is established a board
18 to be known as the ‘Advisory Board on Elder Abuse, Neglect,
19 and Exploitation’ (in this section referred to as the ‘Advi-
20 sory Board’) to create short- and long-term multidisci-
21 plinary strategic plans for the development of the field of
22 elder justice and to make recommendations to the Elder
23 Justice Coordinating Council established under section
24 2021.

1 “(b) *COMPOSITION.*—*The Advisory Board shall be*
2 *composed of 27 members appointed by the Secretary from*
3 *among members of the general public who are individuals*
4 *with experience and expertise in elder abuse, neglect, and*
5 *exploitation prevention, detection, treatment, intervention,*
6 *or prosecution.*

7 “(c) *SOLICITATION OF NOMINATIONS.*—*The Secretary*
8 *shall publish a notice in the Federal Register soliciting*
9 *nominations for the appointment of members of the Advi-*
10 *sory Board under subsection (b).*

11 “(d) *TERMS.*—

12 “(1) *IN GENERAL.*—*Each member of the Advi-*
13 *sory Board shall be appointed for a term of 3 years,*
14 *except that, of the members first appointed—*

15 “(A) *9 shall be appointed for a term of 3*
16 *years;*

17 “(B) *9 shall be appointed for a term of 2*
18 *years; and*

19 “(C) *9 shall be appointed for a term of 1*
20 *year.*

21 “(2) *VACANCIES.*—

22 “(A) *IN GENERAL.*—*Any vacancy on the*
23 *Advisory Board shall not affect its powers, but*
24 *shall be filled in the same manner as the original*
25 *appointment was made.*

1 “(B) *FILLING UNEXPIRED TERM.*—*An indi-*
2 *vidual chosen to fill a vacancy shall be ap-*
3 *pointed for the unexpired term of the member re-*
4 *placed.*

5 “(3) *EXPIRATION OF TERMS.*—*The term of any*
6 *member shall not expire before the date on which the*
7 *member’s successor takes office.*

8 “(e) *ELECTION OF OFFICERS.*—*The Advisory Board*
9 *shall elect a Chair and Vice Chair from among its members.*
10 *The Advisory Board shall elect its initial Chair and Vice*
11 *Chair at its initial meeting.*

12 “(f) *DUTIES.*—

13 “(1) *ENHANCE COMMUNICATION ON PROMOTING*
14 *QUALITY OF, AND PREVENTING ABUSE, NEGLECT, AND*
15 *EXPLOITATION IN, LONG-TERM CARE.*—*The Advisory*
16 *Board shall develop collaborative and innovative ap-*
17 *proaches to improve the quality of, including pre-*
18 *venting abuse, neglect, and exploitation in, long-term*
19 *care.*

20 “(2) *COLLABORATIVE EFFORTS TO DEVELOP*
21 *CONSENSUS AROUND THE MANAGEMENT OF CERTAIN*
22 *QUALITY-RELATED FACTORS.*—

23 “(A) *IN GENERAL.*—*The Advisory Board*
24 *shall establish multidisciplinary panels to ad-*
25 *dress, and develop consensus on, subjects relating*

1 to improving the quality of long-term care. At
2 least 1 such panel shall address, and develop con-
3 sensus on, methods for managing resident-to-resi-
4 dent abuse in long-term care.

5 “(B) *ACTIVITIES CONDUCTED.*—The multi-
6 disciplinary panels established under subpara-
7 graph (A) shall examine relevant research and
8 data, identify best practices with respect to the
9 subject of the panel, determine the best way to
10 carry out those best practices in a practical and
11 feasible manner, and determine an effective man-
12 ner of distributing information on such subject.

13 “(3) *REPORT.*—Not later than the date that is
14 18 months after the date of enactment of the Elder
15 Justice Act of 2009, and annually thereafter, the Ad-
16 visory Board shall prepare and submit to the Elder
17 Justice Coordinating Council, the Committee on Fi-
18 nance of the Senate, and the Committee on Ways and
19 Means and the Committee on Energy and Commerce
20 of the House of Representatives a report containing—

21 “(A) information on the status of Federal,
22 State, and local public and private elder justice
23 activities;

24 “(B) recommendations (including rec-
25 ommended priorities) regarding—

1 “(i) elder justice programs, research,
2 training, services, practice, enforcement,
3 and coordination;

4 “(ii) coordination between entities pur-
5 suing elder justice efforts and those involved
6 in related areas that may inform or overlap
7 with elder justice efforts, such as activities
8 to combat violence against women and child
9 abuse and neglect; and

10 “(iii) activities relating to adult fidu-
11 ciary systems, including guardianship and
12 other fiduciary arrangements;

13 “(C) recommendations for specific modifica-
14 tions needed in Federal and State laws (includ-
15 ing regulations) or for programs, research, and
16 training to enhance prevention, detection, and
17 treatment (including diagnosis) of, intervention
18 in (including investigation of), and prosecution
19 of elder abuse, neglect, and exploitation;

20 “(D) recommendations on methods for the
21 most effective coordinated national data collec-
22 tion with respect to elder justice, and elder abuse,
23 neglect, and exploitation; and

1 “(E) recommendations for a multidisci-
2 plinary strategic plan to guide the effective and
3 efficient development of the field of elder justice.

4 “(g) *POWERS OF THE ADVISORY BOARD.*—

5 “(1) *INFORMATION FROM FEDERAL AGENCIES.*—
6 Subject to the requirements of section 2012(a), the Ad-
7 visory Board may secure directly from any Federal
8 department or agency such information as the Advi-
9 sory Board considers necessary to carry out this sec-
10 tion. Upon request of the Chair of the Advisory
11 Board, the head of such department or agency shall
12 furnish such information to the Advisory Board.

13 “(2) *SHARING OF DATA AND REPORTS.*—The Ad-
14 visory Board may request from any entity pursuing
15 elder justice activities under the Elder Justice Act of
16 2009 or an amendment made by that Act, any data,
17 reports, or recommendations generated in connection
18 with such activities.

19 “(3) *POSTAL SERVICES.*—The Advisory Board
20 may use the United States mails in the same manner
21 and under the same conditions as other departments
22 and agencies of the Federal Government.

23 “(h) *TRAVEL EXPENSES.*—The members of the Advi-
24 sory Board shall not receive compensation for the perform-
25 ance of services for the Advisory Board. The members shall

1 *be allowed travel expenses for up to 4 meetings per year,*
2 *including per diem in lieu of subsistence, at rates author-*
3 *ized for employees of agencies under subchapter I of chapter*
4 *57 of title 5, United States Code, while away from their*
5 *homes or regular places of business in the performance of*
6 *services for the Advisory Board. Notwithstanding section*
7 *1342 of title 31, United States Code, the Secretary may ac-*
8 *cept the voluntary and uncompensated services of the mem-*
9 *bers of the Advisory Board.*

10 “(i) *DETAIL OF GOVERNMENT EMPLOYEES.—Any*
11 *Federal Government employee may be detailed to the Advi-*
12 *sory Board without reimbursement, and such detail shall*
13 *be without interruption or loss of civil service status or*
14 *privilege.*

15 “(j) *STATUS AS PERMANENT ADVISORY COMMITTEE.—*
16 *Section 14 of the Federal Advisory Committee Act (5 U.S.C.*
17 *App.) shall not apply to the advisory board.*

18 “(k) *AUTHORIZATION OF APPROPRIATIONS.—There*
19 *are authorized to be appropriated such sums as are nec-*
20 *essary to carry out this section.*

21 **“SEC. 2023. RESEARCH PROTECTIONS.**

22 “(a) *GUIDELINES.—The Secretary shall promulgate*
23 *guidelines to assist researchers working in the area of elder*
24 *abuse, neglect, and exploitation, with issues relating to*
25 *human subject protections.*

1 “(b) *DEFINITION OF LEGALLY AUTHORIZED REP-*
2 *RESENTATIVE FOR APPLICATION OF REGULATIONS.*—For
3 *purposes of the application of subpart A of part 46 of title*
4 *45, Code of Federal Regulations, to research conducted*
5 *under this subpart, the term ‘legally authorized representa-*
6 *tive’ means, unless otherwise provided by law, the indi-*
7 *vidual or judicial or other body authorized under the appli-*
8 *cable law to consent to medical treatment on behalf of an-*
9 *other person.*

10 **“SEC. 2024. AUTHORIZATION OF APPROPRIATIONS.**

11 *“There are authorized to be appropriated to carry out*
12 *this subpart—*

13 *“(1) for fiscal year 2011, \$6,500,000; and*

14 *“(2) for each of fiscal years 2012 through 2014,*
15 *\$7,000,000.*

16 **“Subpart B—Elder Abuse, Neglect, and Exploitation**
17 **Forensic Centers**

18 **“SEC. 2031. ESTABLISHMENT AND SUPPORT OF ELDER**
19 **ABUSE, NEGLECT, AND EXPLOITATION FO-**
20 **RENSIC CENTERS.**

21 “(a) *IN GENERAL.*—*The Secretary, in consultation*
22 *with the Attorney General, shall make grants to eligible en-*
23 *tities to establish and operate stationary and mobile foren-*
24 *sic centers, to develop forensic expertise regarding, and pro-*

1 *vide services relating to, elder abuse, neglect, and exploi-*
2 *tation.*

3 “(b) *STATIONARY FORENSIC CENTERS.*—*The Sec-*
4 *retary shall make 4 of the grants described in subsection*
5 *(a) to institutions of higher education with demonstrated*
6 *expertise in forensics or commitment to preventing or treat-*
7 *ing elder abuse, neglect, or exploitation, to establish and*
8 *operate stationary forensic centers.*

9 “(c) *MOBILE CENTERS.*—*The Secretary shall make 6*
10 *of the grants described in subsection (a) to appropriate enti-*
11 *ties to establish and operate mobile forensic centers.*

12 “(d) *AUTHORIZED ACTIVITIES.*—

13 “(1) *DEVELOPMENT OF FORENSIC MARKERS AND*
14 *METHODOLOGIES.*—*An eligible entity that receives a*
15 *grant under this section shall use funds made avail-*
16 *able through the grant to assist in determining wheth-*
17 *er abuse, neglect, or exploitation occurred and whether*
18 *a crime was committed and to conduct research to de-*
19 *scribe and disseminate information on—*

20 “(A) *forensic markers that indicate a case*
21 *in which elder abuse, neglect, or exploitation*
22 *may have occurred; and*

23 “(B) *methodologies for determining, in such*
24 *a case, when and how health care, emergency*
25 *service, social and protective services, and legal*

1 *service providers should intervene and when the*
2 *providers should report the case to law enforce-*
3 *ment authorities.*

4 “(2) *DEVELOPMENT OF FORENSIC EXPERTISE.*—
5 *An eligible entity that receives a grant under this sec-*
6 *tion shall use funds made available through the grant*
7 *to develop forensic expertise regarding elder abuse, ne-*
8 *glect, and exploitation in order to provide medical*
9 *and forensic evaluation, therapeutic intervention, vic-*
10 *tim support and advocacy, case review, and case*
11 *tracking.*

12 “(3) *COLLECTION OF EVIDENCE.*—*The Secretary,*
13 *in coordination with the Attorney General, shall use*
14 *data made available by grant recipients under this*
15 *section to develop the capacity of geriatric health care*
16 *professionals and law enforcement to collect forensic*
17 *evidence, including collecting forensic evidence relat-*
18 *ing to a potential determination of elder abuse, ne-*
19 *glect, or exploitation.*

20 “(e) *APPLICATION.*—*To be eligible to receive a grant*
21 *under this section, an entity shall submit an application*
22 *to the Secretary at such time, in such manner, and con-*
23 *taining such information as the Secretary may require.*

24 “(f) *AUTHORIZATION OF APPROPRIATIONS.*—*There are*
25 *authorized to be appropriated to carry out this section—*

1 “(1) for fiscal year 2011, \$4,000,000;
2 “(2) for fiscal year 2012, \$6,000,000; and
3 “(3) for each of fiscal years 2013 and 2014,
4 \$8,000,000.

5 **“PART II—PROGRAMS TO PROMOTE ELDER**
6 **JUSTICE**

7 **“SEC. 2041. ENHANCEMENT OF LONG-TERM CARE.**

8 “(a) *GRANTS AND INCENTIVES FOR LONG-TERM CARE*
9 *STAFFING.—*

10 “(1) *IN GENERAL.—The Secretary shall carry*
11 *out activities, including activities described in para-*
12 *graphs (2) and (3), to provide incentives for individ-*
13 *uals to train for, seek, and maintain employment*
14 *providing direct care in long-term care.*

15 “(2) *SPECIFIC PROGRAMS TO ENHANCE TRAIN-*
16 *ING, RECRUITMENT, AND RETENTION OF STAFF.—*

17 “(A) *COORDINATION WITH SECRETARY OF*
18 *LABOR TO RECRUIT AND TRAIN LONG-TERM CARE*
19 *STAFF.—The Secretary shall coordinate activities*
20 *under this subsection with the Secretary of Labor*
21 *in order to provide incentives for individuals to*
22 *train for and seek employment providing direct*
23 *care in long-term care.*

1 “(B) *CAREER LADDERS AND WAGE OR BEN-*
2 *EFIT INCREASES TO INCREASE STAFFING IN*
3 *LONG-TERM CARE.*—

4 “(i) *IN GENERAL.*—*The Secretary shall*
5 *make grants to eligible entities to carry out*
6 *programs through which the entities—*

7 “(I) *offer, to employees who pro-*
8 *vide direct care to residents of an eligi-*
9 *ble entity or individuals receiving com-*
10 *munity-based long-term care from an*
11 *eligible entity, continuing training and*
12 *varying levels of certification, based on*
13 *observed clinical care practices and the*
14 *amount of time the employees spend*
15 *providing direct care; and*

16 “(II) *provide, or make arrange-*
17 *ments to provide, bonuses or other in-*
18 *creased compensation or benefits to em-*
19 *ployees who achieve certification under*
20 *such a program.*

21 “(ii) *APPLICATION.*—*To be eligible to*
22 *receive a grant under this subparagraph, an*
23 *eligible entity shall submit an application*
24 *to the Secretary at such time, in such man-*
25 *ner, and containing such information as the*

1 *Secretary may require (which may include*
2 *evidence of consultation with the State in*
3 *which the eligible entity is located with re-*
4 *spect to carrying out activities funded*
5 *under the grant).*

6 *“(iii) AUTHORITY TO LIMIT NUMBER*
7 *OF APPLICANTS.—Nothing in this subpara-*
8 *graph shall be construed as prohibiting the*
9 *Secretary from limiting the number of ap-*
10 *plicants for a grant under this subpara-*
11 *graph.*

12 *“(3) SPECIFIC PROGRAMS TO IMPROVE MANAGE-*
13 *MENT PRACTICES.—*

14 *“(A) IN GENERAL.—The Secretary shall*
15 *make grants to eligible entities to enable the enti-*
16 *ties to provide training and technical assistance.*

17 *“(B) AUTHORIZED ACTIVITIES.—An eligible*
18 *entity that receives a grant under subparagraph*
19 *(A) shall use funds made available through the*
20 *grant to provide training and technical assist-*
21 *ance regarding management practices using*
22 *methods that are demonstrated to promote reten-*
23 *tion of individuals who provide direct care, such*
24 *as—*

1 “(i) the establishment of standard
2 human resource policies that reward high
3 performance, including policies that provide
4 for improved wages and benefits on the
5 basis of job reviews;

6 “(ii) the establishment of motivational
7 and thoughtful work organization practices;

8 “(iii) the creation of a workplace cul-
9 ture that respects and values caregivers and
10 their needs;

11 “(iv) the promotion of a workplace cul-
12 ture that respects the rights of residents of
13 an eligible entity or individuals receiving
14 community-based long-term care from an el-
15 igible entity and results in improved care
16 for the residents or the individuals; and

17 “(v) the establishment of other pro-
18 grams that promote the provision of high
19 quality care, such as a continuing edu-
20 cation program that provides additional
21 hours of training, including on-the-job
22 training, for employees who are certified
23 nurse aides.

24 “(C) APPLICATION.—To be eligible to re-
25 ceive a grant under this paragraph, an eligible

1 *entity shall submit an application to the Sec-*
2 *retary at such time, in such manner, and con-*
3 *taining such information as the Secretary may*
4 *require (which may include evidence of consulta-*
5 *tion with the State in which the eligible entity*
6 *is located with respect to carrying out activities*
7 *funded under the grant).*

8 *“(D) AUTHORITY TO LIMIT NUMBER OF AP-*
9 *PLICANTS.—Nothing in this paragraph shall be*
10 *construed as prohibiting the Secretary from lim-*
11 *iting the number of applicants for a grant under*
12 *this paragraph.*

13 *“(4) ACCOUNTABILITY MEASURES.—The Sec-*
14 *retary shall develop accountability measures to ensure*
15 *that the activities conducted using funds made avail-*
16 *able under this subsection benefit individuals who*
17 *provide direct care and increase the stability of the*
18 *long-term care workforce.*

19 *“(5) DEFINITIONS.—In this subsection:*

20 *“(A) COMMUNITY-BASED LONG-TERM*
21 *CARE.—The term ‘community-based long-term*
22 *care’ has the meaning given such term by the*
23 *Secretary.*

24 *“(B) ELIGIBLE ENTITY.—The term ‘eligible*
25 *entity’ means the following:*

1 “(i) *A long-term care facility.*

2 “(ii) *A community-based long-term*
3 *care entity (as defined by the Secretary).*

4 “(b) *CERTIFIED EHR TECHNOLOGY GRANT PRO-*
5 *GRAM.—*

6 “(1) *GRANTS AUTHORIZED.—The Secretary is*
7 *authorized to make grants to long-term care facilities*
8 *for the purpose of assisting such entities in offsetting*
9 *the costs related to purchasing, leasing, developing,*
10 *and implementing certified EHR technology (as de-*
11 *fined in section 1848(o)(4)) designed to improve pa-*
12 *tient safety and reduce adverse events and health care*
13 *complications resulting from medication errors.*

14 “(2) *USE OF GRANT FUNDS.—Funds provided*
15 *under grants under this subsection may be used for*
16 *any of the following:*

17 “(A) *Purchasing, leasing, and installing*
18 *computer software and hardware, including*
19 *handheld computer technologies.*

20 “(B) *Making improvements to existing com-*
21 *puter software and hardware.*

22 “(C) *Making upgrades and other improve-*
23 *ments to existing computer software and hard-*
24 *ware to enable e-prescribing.*

1 “(D) *Providing education and training to*
2 *eligible long-term care facility staff on the use of*
3 *such technology to implement the electronic*
4 *transmission of prescription and patient infor-*
5 *mation.*

6 “(3) *APPLICATION.—*

7 “(A) *IN GENERAL.—To be eligible to receive*
8 *a grant under this subsection, a long-term care*
9 *facility shall submit an application to the Sec-*
10 *retary at such time, in such manner, and con-*
11 *taining such information as the Secretary may*
12 *require (which may include evidence of consulta-*
13 *tion with the State in which the long-term care*
14 *facility is located with respect to carrying out*
15 *activities funded under the grant).*

16 “(B) *AUTHORITY TO LIMIT NUMBER OF AP-*
17 *PLICANTS.—Nothing in this subsection shall be*
18 *construed as prohibiting the Secretary from lim-*
19 *iting the number of applicants for a grant under*
20 *this subsection.*

21 “(4) *PARTICIPATION IN STATE HEALTH EX-*
22 *CHANGES.—A long-term care facility that receives a*
23 *grant under this subsection shall, where available,*
24 *participate in activities conducted by a State or a*
25 *qualified State-designated entity (as defined in sec-*

1 *tion 3013(f) of the Public Health Service Act) under*
2 *a grant under section 3013 of the Public Health Serv-*
3 *ice Act to coordinate care and for other purposes de-*
4 *termined appropriate by the Secretary.*

5 *“(5) ACCOUNTABILITY MEASURES.—The Sec-*
6 *retary shall develop accountability measures to ensure*
7 *that the activities conducted using funds made avail-*
8 *able under this subsection help improve patient safety*
9 *and reduce adverse events and health care complica-*
10 *tions resulting from medication errors.*

11 *“(c) ADOPTION OF STANDARDS FOR TRANSACTIONS IN-*
12 *VOLVING CLINICAL DATA BY LONG-TERM CARE FACILI-*
13 *TIES.—*

14 *“(1) STANDARDS AND COMPATIBILITY.—The Sec-*
15 *retary shall adopt electronic standards for the ex-*
16 *change of clinical data by long-term care facilities,*
17 *including, where available, standards for messaging*
18 *and nomenclature. Standards adopted by the Sec-*
19 *retary under the preceding sentence shall be compat-*
20 *ible with standards established under part C of title*
21 *XI, standards established under subsections*
22 *(b)(2)(B)(i) and (e)(4) of section 1860D–4, standards*
23 *adopted under section 3004 of the Public Health Serv-*
24 *ice Act, and general health information technology*
25 *standards.*

1 “(2) *ELECTRONIC SUBMISSION OF DATA TO THE*
2 *SECRETARY.*—

3 “(A) *IN GENERAL.*—*Not later than 10 years*
4 *after the date of enactment of the Elder Justice*
5 *Act of 2009, the Secretary shall have procedures*
6 *in place to accept the optional electronic submis-*
7 *sion of clinical data by long-term care facilities*
8 *pursuant to the standards adopted under para-*
9 *graph (1).*

10 “(B) *RULE OF CONSTRUCTION.*—*Nothing in*
11 *this subsection shall be construed to require a*
12 *long-term care facility to submit clinical data*
13 *electronically to the Secretary.*

14 “(3) *REGULATIONS.*—*The Secretary shall pro-*
15 *mulgate regulations to carry out this subsection. Such*
16 *regulations shall require a State, as a condition of the*
17 *receipt of funds under this part, to conduct such data*
18 *collection and reporting as the Secretary determines*
19 *are necessary to satisfy the requirements of this sub-*
20 *section.*

21 “(d) *AUTHORIZATION OF APPROPRIATIONS.*—*There*
22 *are authorized to be appropriated to carry out this sec-*
23 *tion—*

24 “(1) *for fiscal year 2011, \$20,000,000;*

25 “(2) *for fiscal year 2012, \$17,500,000; and*

1 “(3) for each of fiscal years 2013 and 2014,
2 \$15,000,000.

3 **“SEC. 2042. ADULT PROTECTIVE SERVICES FUNCTIONS AND**
4 **GRANT PROGRAMS.**

5 “(a) *SECRETARIAL RESPONSIBILITIES.*—

6 “(1) *IN GENERAL.*—*The Secretary shall ensure*
7 *that the Department of Health and Human Serv-*
8 *ices—*

9 “(A) *provides funding authorized by this*
10 *part to State and local adult protective services*
11 *offices that investigate reports of the abuse, ne-*
12 *glect, and exploitation of elders;*

13 “(B) *collects and disseminates data annu-*
14 *ally relating to the abuse, exploitation, and ne-*
15 *glect of elders in coordination with the Depart-*
16 *ment of Justice;*

17 “(C) *develops and disseminates information*
18 *on best practices regarding, and provides train-*
19 *ing on, carrying out adult protective services;*

20 “(D) *conducts research related to the provi-*
21 *sion of adult protective services; and*

22 “(E) *provides technical assistance to States*
23 *and other entities that provide or fund the provi-*
24 *sion of adult protective services, including*

1 *through grants made under subsections (b) and*
2 *(c).*

3 “(2) *AUTHORIZATION OF APPROPRIATIONS.—*

4 *There are authorized to be appropriated to carry out*
5 *this subsection, \$3,000,000 for fiscal year 2011 and*
6 *\$4,000,000 for each of fiscal years 2012 through 2014.*

7 “(b) *GRANTS TO ENHANCE THE PROVISION OF ADULT*
8 *PROTECTIVE SERVICES.—*

9 “(1) *ESTABLISHMENT.—There is established an*
10 *adult protective services grant program under which*
11 *the Secretary shall annually award grants to States*
12 *in the amounts calculated under paragraph (2) for*
13 *the purposes of enhancing adult protective services*
14 *provided by States and local units of government.*

15 “(2) *AMOUNT OF PAYMENT.—*

16 “(A) *IN GENERAL.—Subject to the avail-*
17 *ability of appropriations and subparagraphs (B)*
18 *and (C), the amount paid to a State for a fiscal*
19 *year under the program under this subsection*
20 *shall equal the amount appropriated for that*
21 *year to carry out this subsection multiplied by*
22 *the percentage of the total number of elders who*
23 *reside in the United States who reside in that*
24 *State.*

1 “(B) *GUARANTEED MINIMUM PAYMENT*
2 *AMOUNT.*—

3 “(i) *50 STATES.*—*Subject to clause (ii),*
4 *if the amount determined under subpara-*
5 *graph (A) for a State for a fiscal year is*
6 *less than 0.75 percent of the amount appro-*
7 *priated for such year, the Secretary shall*
8 *increase such determined amount so that the*
9 *total amount paid under this subsection to*
10 *the State for the year is equal to 0.75 per-*
11 *cent of the amount so appropriated.*

12 “(ii) *TERRITORIES.*—*In the case of a*
13 *State other than 1 of the 50 States, clause*
14 *(i) shall be applied as if each reference to*
15 *‘0.75’ were a reference to ‘0.1’.*

16 “(C) *PRO RATA REDUCTIONS.*—*The Sec-*
17 *retary shall make such pro rata reductions to the*
18 *amounts described in subparagraph (A) as are*
19 *necessary to comply with the requirements of*
20 *subparagraph (B).*

21 “(3) *AUTHORIZED ACTIVITIES.*—

22 “(A) *ADULT PROTECTIVE SERVICES.*—
23 *Funds made available pursuant to this sub-*
24 *section may only be used by States and local*
25 *units of government to provide adult protective*

1 *services and may not be used for any other pur-*
2 *pose.*

3 “(B) *USE BY AGENCY.*—*Each State receiv-*
4 *ing funds pursuant to this subsection shall pro-*
5 *vide such funds to the agency or unit of State*
6 *government having legal responsibility for pro-*
7 *viding adult protective services within the State.*

8 “(C) *SUPPLEMENT NOT SUPPLANT.*—*Each*
9 *State or local unit of government shall use funds*
10 *made available pursuant to this subsection to*
11 *supplement and not supplant other Federal,*
12 *State, and local public funds expended to provide*
13 *adult protective services in the State.*

14 “(4) *STATE REPORTS.*—*Each State receiving*
15 *funds under this subsection shall submit to the Sec-*
16 *retary, at such time and in such manner as the Sec-*
17 *retary may require, a report on the number of elders*
18 *served by the grants awarded under this subsection.*

19 “(5) *AUTHORIZATION OF APPROPRIATIONS.*—
20 *There are authorized to be appropriated to carry out*
21 *this subsection, \$100,000,000 for each of fiscal years*
22 *2011 through 2014.*

23 “(c) *STATE DEMONSTRATION PROGRAMS.*—

24 “(1) *ESTABLISHMENT.*—*The Secretary shall*
25 *award grants to States for the purposes of conducting*

1 *demonstration programs in accordance with para-*
2 *graph (2).*

3 “(2) *DEMONSTRATION PROGRAMS.—Funds made*
4 *available pursuant to this subsection may be used by*
5 *States and local units of government to conduct dem-*
6 *onstration programs that test—*

7 “(A) *training modules developed for the*
8 *purpose of detecting or preventing elder abuse;*

9 “(B) *methods to detect or prevent financial*
10 *exploitation of elders;*

11 “(C) *methods to detect elder abuse;*

12 “(D) *whether training on elder abuse*
13 *forensics enhances the detection of elder abuse by*
14 *employees of the State or local unit of govern-*
15 *ment; or*

16 “(E) *other matters relating to the detection*
17 *or prevention of elder abuse.*

18 “(3) *APPLICATION.—To be eligible to receive a*
19 *grant under this subsection, a State shall submit an*
20 *application to the Secretary at such time, in such*
21 *manner, and containing such information as the Sec-*
22 *retary may require.*

23 “(4) *STATE REPORTS.—Each State that receives*
24 *funds under this subsection shall submit to the Sec-*
25 *retary a report at such time, in such manner, and*

1 *containing such information as the Secretary may re-*
2 *quire on the results of the demonstration program*
3 *conducted by the State using funds made available*
4 *under this subsection.*

5 “(5) *AUTHORIZATION OF APPROPRIATIONS.—*
6 *There are authorized to be appropriated to carry out*
7 *this subsection, \$25,000,000 for each of fiscal years*
8 *2011 through 2014.*

9 **“SEC. 2043. LONG-TERM CARE OMBUDSMAN PROGRAM**
10 **GRANTS AND TRAINING.**

11 “(a) *GRANTS TO SUPPORT THE LONG-TERM CARE*
12 *OMBUDSMAN PROGRAM.—*

13 “(1) *IN GENERAL.—The Secretary shall make*
14 *grants to eligible entities with relevant expertise and*
15 *experience in abuse and neglect in long-term care fa-*
16 *cilities or long-term care ombudsman programs and*
17 *responsibilities, for the purpose of—*

18 “(A) *improving the capacity of State long-*
19 *term care ombudsman programs to respond to*
20 *and resolve complaints about abuse and neglect;*

21 “(B) *conducting pilot programs with State*
22 *long-term care ombudsman offices or local om-*
23 *budsman entities; and*

24 “(C) *providing support for such State long-*
25 *term care ombudsman programs and such pilot*

1 *programs (such as through the establishment of*
2 *a national long-term care ombudsman resource*
3 *center).*

4 “(2) *AUTHORIZATION OF APPROPRIATIONS.—*
5 *There are authorized to be appropriated to carry out*
6 *this subsection—*

7 *“(A) for fiscal year 2011, \$5,000,000;*

8 *“(B) for fiscal year 2012, \$7,500,000; and*

9 *“(C) for each of fiscal years 2013 and 2014,*
10 *\$10,000,000.*

11 “(b) *OMBUDSMAN TRAINING PROGRAMS.—*

12 *“(1) IN GENERAL.—The Secretary shall establish*
13 *programs to provide and improve ombudsman train-*
14 *ing with respect to elder abuse, neglect, and exploi-*
15 *tation for national organizations and State long-term*
16 *care ombudsman programs.*

17 “(2) *AUTHORIZATION OF APPROPRIATIONS.—*
18 *There are authorized to be appropriated to carry out*
19 *this subsection, for each of fiscal years 2011 through*
20 *2014, \$10,000,000.*

21 **“SEC. 2044. PROVISION OF INFORMATION REGARDING, AND**
22 **EVALUATIONS OF, ELDER JUSTICE PRO-**
23 **GRAMS.**

24 “(a) *PROVISION OF INFORMATION.—To be eligible to*
25 *receive a grant under this part, an applicant shall agree—*

1 “(1) *except as provided in paragraph (2), to provide the eligible entity conducting an evaluation*
2 *under subsection (b) of the activities funded through*
3 *the grant with such information as the eligible entity*
4 *may require in order to conduct such evaluation; or*

5 “(2) *in the case of an applicant for a grant*
6 *under section 2041(b), to provide the Secretary with*
7 *such information as the Secretary may require to*
8 *conduct an evaluation or audit under subsection (c).*

9 “(b) *USE OF ELIGIBLE ENTITIES TO CONDUCT EVALUATIONS.—*
10 *UATIONS.—*

11 “(1) *EVALUATIONS REQUIRED.—Except as provided in paragraph (2), the Secretary shall—*

12 “(A) *reserve a portion (not less than 2 per-*
13 *cent) of the funds appropriated with respect to*
14 *each program carried out under this part; and*

15 “(B) *use the funds reserved under subparagraph (A) to provide assistance to eligible enti-*
16 *ties to conduct evaluations of the activities fund-*
17 *ed under each program carried out under this*
18 *part.*

19 “(2) *CERTIFIED EHR TECHNOLOGY GRANT PROGRAM NOT INCLUDED.—The provisions of this sub-*
20 *section shall not apply to the certified EHR tech-*
21 *nology grant program under section 2041(b).*

1 “(3) *AUTHORIZED ACTIVITIES.*—A recipient of
2 *assistance described in paragraph (1)(B) shall use the*
3 *funds made available through the assistance to con-*
4 *duct a validated evaluation of the effectiveness of the*
5 *activities funded under a program carried out under*
6 *this part.*

7 “(4) *APPLICATIONS.*—To be eligible to receive as-
8 *istance under paragraph (1)(B), an entity shall sub-*
9 *mit an application to the Secretary at such time, in*
10 *such manner, and containing such information as the*
11 *Secretary may require, including a proposal for the*
12 *evaluation.*

13 “(5) *REPORTS.*—Not later than a date specified
14 *by the Secretary, an eligible entity receiving assist-*
15 *ance under paragraph (1)(B) shall submit to the Sec-*
16 *retary, the Committee on Ways and Means and the*
17 *Committee on Energy and Commerce of the House of*
18 *Representatives, and the Committee on Finance of the*
19 *Senate a report containing the results of the evalua-*
20 *tion conducted using such assistance together with*
21 *such recommendations as the entity determines to be*
22 *appropriate.*

23 “(c) *EVALUATIONS AND AUDITS OF CERTIFIED EHR*
24 *TECHNOLOGY GRANT PROGRAM BY THE SECRETARY.*—

1 “(1) *EVALUATIONS.*—*The Secretary shall con-*
2 *duct an evaluation of the activities funded under the*
3 *certified EHR technology grant program under sec-*
4 *tion 2041(b). Such evaluation shall include an eval-*
5 *uation of whether the funding provided under the*
6 *grant is expended only for the purposes for which it*
7 *is made.*

8 “(2) *AUDITS.*—*The Secretary shall conduct ap-*
9 *propriate audits of grants made under section*
10 *2041(b).*

11 **“SEC. 2045. REPORT.**

12 *“Not later than October 1, 2014, the Secretary shall*
13 *submit to the Elder Justice Coordinating Council estab-*
14 *lished under section 2021, the Committee on Ways and*
15 *Means and the Committee on Energy and Commerce of the*
16 *House of Representatives, and the Committee on Finance*
17 *of the Senate a report—*

18 *“(1) compiling, summarizing, and analyzing the*
19 *information contained in the State reports submitted*
20 *under subsections (b)(4) and (c)(4) of section 2042;*
21 *and*

22 *“(2) containing such recommendations for legis-*
23 *lative or administrative action as the Secretary deter-*
24 *mines to be appropriate.*

1 **“SEC. 2046. RULE OF CONSTRUCTION.**

2 *“Nothing in this subtitle shall be construed as—*

3 *“(1) limiting any cause of action or other relief*
4 *related to obligations under this subtitle that is avail-*
5 *able under the law of any State, or political subdivi-*
6 *sion thereof; or*

7 *“(2) creating a private cause of action for a vio-*
8 *lation of this subtitle.”.*

9 (2) *OPTION FOR STATE PLAN UNDER PROGRAM*
10 *FOR TEMPORARY ASSISTANCE FOR NEEDY FAMI-*
11 *LIES.—*

12 (A) *IN GENERAL.—Section 402(a)(1)(B) of*
13 *the Social Security Act (42 U.S.C. 602(a)(1)(B))*
14 *is amended by adding at the end the following*
15 *new clause:*

16 *“(v) The document shall indicate*
17 *whether the State intends to assist individ-*
18 *uals to train for, seek, and maintain em-*
19 *ployment—*

20 *“(I) providing direct care in a*
21 *long-term care facility (as such terms*
22 *are defined under section 2011); or*

23 *“(II) in other occupations related*
24 *to elder care determined appropriate*
25 *by the State for which the State identi-*

1 *ties an unmet need for service per-*
2 *sonnel,*
3 *and, if so, shall include an overview of such*
4 *assistance.”.*

5 *(B) EFFECTIVE DATE.—The amendment*
6 *made by subparagraph (A) shall take effect on*
7 *January 1, 2011.*

8 *(b) PROTECTING RESIDENTS OF LONG-TERM CARE*
9 *FACILITIES.—*

10 *(1) NATIONAL TRAINING INSTITUTE FOR SUR-*
11 *VEYORS.—*

12 *(A) IN GENERAL.—The Secretary of Health*
13 *and Human Services shall enter into a contract*
14 *with an entity for the purpose of establishing*
15 *and operating a National Training Institute for*
16 *Federal and State surveyors. Such Institute shall*
17 *provide and improve the training of surveyors*
18 *with respect to investigating allegations of abuse,*
19 *neglect, and misappropriation of property in*
20 *programs and long-term care facilities that re-*
21 *ceive payments under title XVIII or XIX of the*
22 *Social Security Act.*

23 *(B) ACTIVITIES CARRIED OUT BY THE IN-*
24 *STITUTE.—The contract entered into under sub-*
25 *paragraph (A) shall require the Institute estab-*

1 *lished and operated under such contract to carry*
2 *out the following activities:*

3 *(i) Assess the extent to which State*
4 *agencies use specialized surveyors for the in-*
5 *vestigation of reported allegations of abuse,*
6 *neglect, and misappropriation of property*
7 *in such programs and long-term care facili-*
8 *ties.*

9 *(ii) Evaluate how the competencies of*
10 *surveyors may be improved to more effec-*
11 *tively investigate reported allegations of*
12 *such abuse, neglect, and misappropriation*
13 *of property, and provide feedback to Federal*
14 *and State agencies on the evaluations con-*
15 *ducted.*

16 *(iii) Provide a national program of*
17 *training, tools, and technical assistance to*
18 *Federal and State surveyors on inves-*
19 *tigating reports of such abuse, neglect, and*
20 *misappropriation of property.*

21 *(iv) Develop and disseminate informa-*
22 *tion on best practices for the investigation*
23 *of such abuse, neglect, and misappropria-*
24 *tion of property.*

1 (v) *Assess the performance of State*
2 *complaint intake systems, in order to ensure*
3 *that the intake of complaints occurs 24*
4 *hours per day, 7 days a week (including*
5 *holidays).*

6 (vi) *To the extent approved by the Sec-*
7 *retary of Health and Human Services, pro-*
8 *vide a national 24 hours per day, 7 days a*
9 *week (including holidays), back-up system*
10 *to State complaint intake systems in order*
11 *to ensure optimum national responsiveness*
12 *to complaints of such abuse, neglect, and*
13 *misappropriation of property.*

14 (vii) *Analyze and report annually on*
15 *the following:*

16 (I) *The total number and sources*
17 *of complaints of such abuse, neglect,*
18 *and misappropriation of property.*

19 (II) *The extent to which such com-*
20 *plaints are referred to law enforcement*
21 *agencies.*

22 (III) *General results of Federal*
23 *and State investigations of such com-*
24 *plaints.*

1 (viii) *Conduct a national study of the*
2 *cost to State agencies of conducting com-*
3 *plaint investigations of skilled nursing fa-*
4 *ilities and nursing facilities under sections*
5 *1819 and 1919, respectively, of the Social*
6 *Security Act (42 U.S.C. 1395i-3; 1396r),*
7 *and making recommendations to the Sec-*
8 *retary of Health and Human Services with*
9 *respect to options to increase the efficiency*
10 *and cost-effectiveness of such investigations.*

11 (C) *AUTHORIZATION.*—*There are authorized*
12 *to be appropriated to carry out this paragraph,*
13 *for the period of fiscal years 2011 through 2014,*
14 *\$12,000,000.*

15 (2) *GRANTS TO STATE SURVEY AGENCIES.*—

16 (A) *IN GENERAL.*—*The Secretary of Health*
17 *and Human Services shall make grants to State*
18 *agencies that perform surveys of skilled nursing*
19 *facilities or nursing facilities under sections*
20 *1819 or 1919, respectively, of the Social Security*
21 *Act (42 U.S.C. 1395i-3; 1395r).*

22 (B) *USE OF FUNDS.*—*A grant awarded*
23 *under subparagraph (A) shall be used for the*
24 *purpose of designing and implementing com-*
25 *plaint investigations systems that—*

1 (i) promptly prioritize complaints in
2 order to ensure a rapid response to the most
3 serious and urgent complaints;

4 (ii) respond to complaints with opti-
5 mum effectiveness and timeliness; and

6 (iii) optimize the collaboration between
7 local authorities, consumers, and providers,
8 including—

9 (I) such State agency;

10 (II) the State Long-Term Care
11 Ombudsman;

12 (III) local law enforcement agen-
13 cies;

14 (IV) advocacy and consumer orga-
15 nizations;

16 (V) State aging units;

17 (VI) Area Agencies on Aging; and

18 (VII) other appropriate entities.

19 (C) *AUTHORIZATION.*—*There are authorized*
20 *to be appropriated to carry out this paragraph,*
21 *for each of fiscal years 2011 through 2014,*
22 *\$5,000,000.*

23 (3) *REPORTING OF CRIMES IN FEDERALLY FUND-*
24 *ED LONG-TERM CARE FACILITIES.*—*Part A of title XI*
25 *of the Social Security Act (42 U.S.C. 1301 et seq.),*

1 *as amended by section 6005, is amended by inserting*
2 *after section 1150A the following new section:*

3 “*REPORTING TO LAW ENFORCEMENT OF CRIMES OCCUR-*
4 *RING IN FEDERALLY FUNDED LONG-TERM CARE FA-*
5 *CILITIES*

6 “*SEC. 1150B. (a) DETERMINATION AND NOTIFICA-*
7 *TION.—*

8 “(1) *DETERMINATION.—The owner or operator of*
9 *each long-term care facility that receives Federal*
10 *funds under this Act shall annually determine wheth-*
11 *er the facility received at least \$10,000 in such Fed-*
12 *eral funds during the preceding year.*

13 “(2) *NOTIFICATION.—If the owner or operator*
14 *determines under paragraph (1) that the facility re-*
15 *ceived at least \$10,000 in such Federal funds during*
16 *the preceding year, such owner or operator shall an-*
17 *nually notify each covered individual (as defined in*
18 *paragraph (3)) of that individual’s obligation to com-*
19 *ply with the reporting requirements described in sub-*
20 *section (b).*

21 “(3) *COVERED INDIVIDUAL DEFINED.—In this*
22 *section, the term ‘covered individual’ means each in-*
23 *dividual who is an owner, operator, employee, man-*
24 *ager, agent, or contractor of a long-term care facility*
25 *that is the subject of a determination described in*
26 *paragraph (1).*

1 “(b) *REPORTING REQUIREMENTS.*—

2 “(1) *IN GENERAL.*—*Each covered individual*
3 *shall report to the Secretary and 1 or more law en-*
4 *forcement entities for the political subdivision in*
5 *which the facility is located any reasonable suspicion*
6 *of a crime (as defined by the law of the applicable po-*
7 *litical subdivision) against any individual who is a*
8 *resident of, or is receiving care from, the facility.*

9 “(2) *TIMING.*—*If the events that cause the sus-*
10 *picion—*

11 “(A) *result in serious bodily injury, the in-*
12 *dividual shall report the suspicion immediately,*
13 *but not later than 2 hours after forming the sus-*
14 *picion; and*

15 “(B) *do not result in serious bodily injury,*
16 *the individual shall report the suspicion not*
17 *later than 24 hours after forming the suspicion.*

18 “(c) *PENALTIES.*—

19 “(1) *IN GENERAL.*—*If a covered individual vio-*
20 *lates subsection (b)—*

21 “(A) *the covered individual shall be subject*
22 *to a civil money penalty of not more than*
23 *\$200,000; and*

24 “(B) *the Secretary may make a determina-*
25 *tion in the same proceeding to exclude the cov-*

1 *ered individual from participation in any Fed-*
2 *eral health care program (as defined in section*
3 *1128B(f)).*

4 “(2) *INCREASED HARM.*—*If a covered individual*
5 *violates subsection (b) and the violation exacerbates*
6 *the harm to the victim of the crime or results in harm*
7 *to another individual—*

8 *“(A) the covered individual shall be subject*
9 *to a civil money penalty of not more than*
10 *\$300,000; and*

11 *“(B) the Secretary may make a determina-*
12 *tion in the same proceeding to exclude the cov-*
13 *ered individual from participation in any Fed-*
14 *eral health care program (as defined in section*
15 *1128B(f)).*

16 “(3) *EXCLUDED INDIVIDUAL.*—*During any pe-*
17 *riod for which a covered individual is classified as an*
18 *excluded individual under paragraph (1)(B) or*
19 *(2)(B), a long-term care facility that employs such*
20 *individual shall be ineligible to receive Federal funds*
21 *under this Act.*

22 “(4) *EXTENUATING CIRCUMSTANCES.*—

23 *“(A) IN GENERAL.*—*The Secretary may take*
24 *into account the financial burden on providers*

1 *with underserved populations in determining*
2 *any penalty to be imposed under this subsection.*

3 “(B) *UNDERSERVED POPULATION DE-*
4 *FINED.—In this paragraph, the term ‘under-*
5 *served population’ means the population of an*
6 *area designated by the Secretary as an area with*
7 *a shortage of elder justice programs or a popu-*
8 *lation group designated by the Secretary as hav-*
9 *ing a shortage of such programs. Such areas or*
10 *groups designated by the Secretary may in-*
11 *clude—*

12 “(i) *areas or groups that are geo-*
13 *graphically isolated (such as isolated in a*
14 *rural area);*

15 “(ii) *racial and ethnic minority popu-*
16 *lations; and*

17 “(iii) *populations underserved because*
18 *of special needs (such as language barriers,*
19 *disabilities, alien status, or age).*

20 “(d) *ADDITIONAL PENALTIES FOR RETALIATION.—*

21 “(1) *IN GENERAL.—A long-term care facility*
22 *may not—*

23 “(A) *discharge, demote, suspend, threaten,*
24 *harass, or deny a promotion or other employ-*
25 *ment-related benefit to an employee, or in any*

1 *other manner discriminate against an employee*
2 *in the terms and conditions of employment be-*
3 *cause of lawful acts done by the employee; or*

4 *“(B) file a complaint or a report against a*
5 *nurse or other employee with the appropriate*
6 *State professional disciplinary agency because of*
7 *lawful acts done by the nurse or employee,*
8 *for making a report, causing a report to be made, or*
9 *for taking steps in furtherance of making a report*
10 *pursuant to subsection (b)(1).*

11 *“(2) PENALTIES FOR RETALIATION.—If a long-*
12 *term care facility violates subparagraph (A) or (B) of*
13 *paragraph (1) the facility shall be subject to a civil*
14 *money penalty of not more than \$200,000 or the Sec-*
15 *retary may classify the entity as an excluded entity*
16 *for a period of 2 years pursuant to section 1128(b),*
17 *or both.*

18 *“(3) REQUIREMENT TO POST NOTICE.—Each*
19 *long-term care facility shall post conspicuously in an*
20 *appropriate location a sign (in a form specified by*
21 *the Secretary) specifying the rights of employees*
22 *under this section. Such sign shall include a state-*
23 *ment that an employee may file a complaint with the*
24 *Secretary against a long-term care facility that vio-*

1 *lates the provisions of this subsection and information*
2 *with respect to the manner of filing such a complaint.*

3 *“(e) PROCEDURE.—The provisions of section 1128A*
4 *(other than subsections (a) and (b) and the second sentence*
5 *of subsection (f)) shall apply to a civil money penalty or*
6 *exclusion under this section in the same manner as such*
7 *provisions apply to a penalty or proceeding under section*
8 *1128A(a).*

9 *“(f) DEFINITIONS.—In this section, the terms ‘elder*
10 *justice’, ‘long-term care facility’, and ‘law enforcement’ have*
11 *the meanings given those terms in section 2011.”.*

12 *(c) NATIONAL NURSE AIDE REGISTRY.—*

13 *(1) DEFINITION OF NURSE AIDE.—In this sub-*
14 *section, the term “nurse aide” has the meaning given*
15 *that term in sections 1819(b)(5)(F) and 1919(b)(5)(F)*
16 *of the Social Security Act (42 U.S.C. 1395i-*
17 *3(b)(5)(F); 1396r(b)(5)(F)).*

18 *(2) STUDY AND REPORT.—*

19 *(A) IN GENERAL.—The Secretary, in con-*
20 *sultation with appropriate government agencies*
21 *and private sector organizations, shall conduct a*
22 *study on establishing a national nurse aide reg-*
23 *istry.*

1 (B) *AREAS EVALUATED.*—*The study con-*
2 *ducted under this subsection shall include an*
3 *evaluation of—*

4 (i) *who should be included in the reg-*
5 *istry;*

6 (ii) *how such a registry would comply*
7 *with Federal and State privacy laws and*
8 *regulations;*

9 (iii) *how data would be collected for*
10 *the registry;*

11 (iv) *what entities and individuals*
12 *would have access to the data collected;*

13 (v) *how the registry would provide ap-*
14 *propriate information regarding violations*
15 *of Federal and State law by individuals in-*
16 *cluded in the registry;*

17 (vi) *how the functions of a national*
18 *nurse aide registry would be coordinated*
19 *with the nationwide program for national*
20 *and State background checks on direct pa-*
21 *tient access employees of long-term care fa-*
22 *cilities and providers under section 4301;*
23 *and*

24 (vii) *how the information included in*
25 *State nurse aide registries developed and*

1 *maintained under sections 1819(e)(2) and*
2 *1919(e)(2) of the Social Security Act (42*
3 *U.S.C. 1395i-3(e)(2); 1396r(e)(2)(2)) would*
4 *be provided as part of a national nurse aide*
5 *registry.*

6 (C) *CONSIDERATIONS.—In conducting the*
7 *study and preparing the report required under*
8 *this subsection, the Secretary shall take into con-*
9 *sideration the findings and conclusions of rel-*
10 *evant reports and other relevant resources, in-*
11 *cluding the following:*

12 (i) *The Department of Health and*
13 *Human Services Office of Inspector General*
14 *Report, Nurse Aide Registries: State Com-*
15 *pliance and Practices (February 2005).*

16 (ii) *The General Accounting Office*
17 *(now known as the Government Account-*
18 *ability Office) Report, Nursing Homes:*
19 *More Can Be Done to Protect Residents*
20 *from Abuse (March 2002).*

21 (iii) *The Department of Health and*
22 *Human Services Office of the Inspector*
23 *General Report, Nurse Aide Registries:*
24 *Long-Term Care Facility Compliance and*
25 *Practices (July 2005).*

1 (iv) *The Department of Health and*
2 *Human Services Health Resources and*
3 *Services Administration Report, Nursing*
4 *Aides, Home Health Aides, and Related*
5 *Health Care Occupations—National and*
6 *Local Workforce Shortages and Associated*
7 *Data Needs (2004) (in particular with re-*
8 *spect to chapter 7 and appendix F).*

9 (v) *The 2001 Report to CMS from the*
10 *School of Rural Public Health, Texas A&M*
11 *University, Preventing Abuse and Neglect*
12 *in Nursing Homes: The Role of Nurse Aide*
13 *Registries.*

14 (vi) *Information included in State*
15 *nurse aide registries developed and main-*
16 *tained under sections 1819(e)(2) and*
17 *1919(e)(2) of the Social Security Act (42*
18 *U.S.C. 1395i-3(e)(2); 1396r(e)(2)(2)).*

19 (D) *REPORT.—Not later than 18 months*
20 *after the date of enactment of this Act, the Sec-*
21 *retary shall submit to the Elder Justice Coordi-*
22 *nating Council established under section 2021 of*
23 *the Social Security Act, as added by section*
24 *1805(a), the Committee on Finance of the Sen-*
25 *ate, and the Committee on Ways and Means and*

1 *the Committee on Energy and Commerce of the*
2 *House of Representatives a report containing the*
3 *findings and recommendations of the study con-*
4 *ducted under this paragraph.*

5 *(E) FUNDING LIMITATION.—Funding for the*
6 *study conducted under this subsection shall not*
7 *exceed \$500,000.*

8 *(3) CONGRESSIONAL ACTION.—After receiving the*
9 *report submitted by the Secretary under paragraph*
10 *(2)(D), the Committee on Finance of the Senate and*
11 *the Committee on Ways and Means and the Com-*
12 *mittee on Energy and Commerce of the House of Rep-*
13 *resentatives shall, as they deem appropriate, take ac-*
14 *tion based on the recommendations contained in the*
15 *report.*

16 *(4) AUTHORIZATION OF APPROPRIATIONS.—*
17 *There are authorized to be appropriated such sums as*
18 *are necessary for the purpose of carrying out this sub-*
19 *section.*

20 *(d) CONFORMING AMENDMENTS.—*

21 *(1) TITLE XX.—Title XX of the Social Security*
22 *Act (42 U.S.C. 1397 et seq.), as amended by section*
23 *6703(a), is amended—*

24 *(A) in the heading of section 2001, by strik-*
25 *ing “TITLE” and inserting “SUBTITLE”; and*

1 (B) in subtitle 1, by striking “this title”
2 each place it appears and inserting “this sub-
3 title”.

4 (2) *TITLE IV.*—*Title IV of the Social Security*
5 *Act (42 U.S.C. 601 et seq.) is amended—*

6 (A) in section 404(d)—

7 (i) in paragraphs (1)(A), (2)(A), and
8 (3)(B), by inserting “subtitle 1 of” before
9 “title XX” each place it appears;

10 (ii) in the heading of paragraph (2),
11 by inserting “SUBTITLE 1 OF” before
12 “TITLE XX”; and

13 (iii) in the heading of paragraph
14 (3)(B), by inserting “SUBTITLE 1 OF” before
15 “TITLE XX”; and

16 (B) in sections 422(b), 471(a)(4), 472(h)(1),
17 and 473(b)(2), by inserting “subtitle 1 of” before
18 “title XX” each place it appears.

19 (3) *TITLE XI.*—*Title XI of the Social Security*
20 *Act (42 U.S.C. 1301 et seq.) is amended—*

21 (A) in section 1128(h)(3)—

22 (i) by inserting “subtitle 1 of” before
23 “title XX”; and

24 (ii) by striking “such title” and insert-
25 ing “such subtitle”; and

1 (B) in section 1128A(i)(1), by inserting
2 “subtitle 1 of” before “title XX”.

3 ***Subtitle I—Sense of the Senate***
4 ***Regarding Medical Malpractice***

5 ***SEC. 6801. SENSE OF THE SENATE REGARDING MEDICAL***
6 ***MALPRACTICE.***

7 *It is the sense of the Senate that—*

8 (1) *health care reform presents an opportunity to*
9 *address issues related to medical malpractice and*
10 *medical liability insurance;*

11 (2) *States should be encouraged to develop and*
12 *test alternatives to the existing civil litigation system*
13 *as a way of improving patient safety, reducing med-*
14 *ical errors, encouraging the efficient resolution of dis-*
15 *putes, increasing the availability of prompt and fair*
16 *resolution of disputes, and improving access to liabil-*
17 *ity insurance, while preserving an individual’s right*
18 *to seek redress in court; and*

19 (3) *Congress should consider establishing a State*
20 *demonstration program to evaluate alternatives to the*
21 *existing civil litigation system with respect to the res-*
22 *olution of medical malpractice claims.*

1 **TITLE VII—IMPROVING ACCESS**
 2 **TO INNOVATIVE MEDICAL**
 3 **THERAPIES**

4 **Subtitle A—Biologics Price**
 5 **Competition and Innovation**

6 **SEC. 7001. SHORT TITLE.**

7 (a) *IN GENERAL.*—*This subtitle may be cited as the*
 8 *“Biologics Price Competition and Innovation Act of 2009”.*

9 (b) *SENSE OF THE SENATE.*—*It is the sense of the Sen-*
 10 *ate that a biosimilars pathway balancing innovation and*
 11 *consumer interests should be established.*

12 **SEC. 7002. APPROVAL PATHWAY FOR BIOSIMILAR BIOLOGI-**
 13 **CAL PRODUCTS.**

14 (a) *LICENSURE OF BIOLOGICAL PRODUCTS AS BIO-*
 15 *SIMILAR OR INTERCHANGEABLE.*—*Section 351 of the Public*
 16 *Health Service Act (42 U.S.C. 262) is amended—*

17 (1) *in subsection (a)(1)(A), by inserting “under*
 18 *this subsection or subsection (k)” after “biologics li-*
 19 *cence”; and*

20 (2) *by adding at the end the following:*

21 *“(k) LICENSURE OF BIOLOGICAL PRODUCTS AS BIO-*
 22 *SIMILAR OR INTERCHANGEABLE.—*

23 *“(1) IN GENERAL.—Any person may submit an*
 24 *application for licensure of a biological product under*
 25 *this subsection.*

1 “(2) *CONTENT.*—

2 “(A) *IN GENERAL.*—

3 “(i) *REQUIRED INFORMATION.*—*An ap-*
4 *plication submitted under this subsection*
5 *shall include information demonstrating*
6 *that—*

7 “(I) *the biological product is bio-*
8 *similar to a reference product based*
9 *upon data derived from—*

10 “(aa) *analytical studies that*
11 *demonstrate that the biological*
12 *product is highly similar to the*
13 *reference product notwithstanding*
14 *minor differences in clinically in-*
15 *active components;*

16 “(bb) *animal studies (includ-*
17 *ing the assessment of toxicity);*
18 *and*

19 “(cc) *a clinical study or*
20 *studies (including the assessment*
21 *of immunogenicity and phar-*
22 *macokinetics or*
23 *pharmacodynamics) that are suf-*
24 *ficient to demonstrate safety, pu-*
25 *urity, and potency in 1 or more*

1 *appropriate conditions of use for*
2 *which the reference product is li-*
3 *icensed and intended to be used*
4 *and for which licensure is sought*
5 *for the biological product;*

6 “(II) *the biological product and*
7 *reference product utilize the same*
8 *mechanism or mechanisms of action*
9 *for the condition or conditions of use*
10 *prescribed, recommended, or suggested*
11 *in the proposed labeling, but only to*
12 *the extent the mechanism or mecha-*
13 *nisms of action are known for the ref-*
14 *erence product;*

15 “(III) *the condition or conditions*
16 *of use prescribed, recommended, or sug-*
17 *gested in the labeling proposed for the*
18 *biological product have been previously*
19 *approved for the reference product;*

20 “(IV) *the route of administration,*
21 *the dosage form, and the strength of the*
22 *biological product are the same as*
23 *those of the reference product; and*

24 “(V) *the facility in which the bio-*
25 *logical product is manufactured, proc-*

1 *essed, packed, or held meets standards*
2 *designed to assure that the biological*
3 *product continues to be safe, pure, and*
4 *potent.*

5 “(ii) *DETERMINATION BY SEC-*
6 *RETARY.—The Secretary may determine, in*
7 *the Secretary’s discretion, that an element*
8 *described in clause (i)(I) is unnecessary in*
9 *an application submitted under this sub-*
10 *section.*

11 “(iii) *ADDITIONAL INFORMATION.—An*
12 *application submitted under this sub-*
13 *section—*

14 *“(I) shall include publicly-avail-*
15 *able information regarding the Sec-*
16 *retary’s previous determination that*
17 *the reference product is safe, pure, and*
18 *potent; and*

19 *“(II) may include any additional*
20 *information in support of the applica-*
21 *tion, including publicly-available in-*
22 *formation with respect to the reference*
23 *product or another biological product.*

24 “(B) *INTERCHANGEABILITY.—An applica-*
25 *tion (or a supplement to an application) sub-*

1 mitted under this subsection may include infor-
2 mation demonstrating that the biological product
3 meets the standards described in paragraph (4).

4 “(3) *EVALUATION BY SECRETARY.*—Upon review
5 of an application (or a supplement to an application)
6 submitted under this subsection, the Secretary shall
7 license the biological product under this subsection
8 if—

9 “(A) the Secretary determines that the in-
10 formation submitted in the application (or the
11 supplement) is sufficient to show that the biologi-
12 cal product—

13 “(i) is biosimilar to the reference prod-
14 uct; or

15 “(ii) meets the standards described in
16 paragraph (4), and therefore is interchange-
17 able with the reference product; and

18 “(B) the applicant (or other appropriate
19 person) consents to the inspection of the facility
20 that is the subject of the application, in accord-
21 ance with subsection (c).

22 “(4) *SAFETY STANDARDS FOR DETERMINING*
23 *INTERCHANGEABILITY.*—Upon review of an applica-
24 tion submitted under this subsection or any supple-
25 ment to such application, the Secretary shall deter-

1 *mine the biological product to be interchangeable with*
2 *the reference product if the Secretary determines that*
3 *the information submitted in the application (or a*
4 *supplement to such application) is sufficient to show*
5 *that—*

6 *“(A) the biological product—*

7 *“(i) is biosimilar to the reference prod-*
8 *uct; and*

9 *“(ii) can be expected to produce the*
10 *same clinical result as the reference product*
11 *in any given patient; and*

12 *“(B) for a biological product that is admin-*
13 *istered more than once to an individual, the risk*
14 *in terms of safety or diminished efficacy of alter-*
15 *nating or switching between use of the biological*
16 *product and the reference product is not greater*
17 *than the risk of using the reference product with-*
18 *out such alternation or switch.*

19 *“(5) GENERAL RULES.—*

20 *“(A) ONE REFERENCE PRODUCT PER APPLI-*
21 *CATION.—A biological product, in an applica-*
22 *tion submitted under this subsection, may not be*
23 *evaluated against more than 1 reference product.*

24 *“(B) REVIEW.—An application submitted*
25 *under this subsection shall be reviewed by the di-*

1 *vision within the Food and Drug Administra-*
2 *tion that is responsible for the review and ap-*
3 *proval of the application under which the ref-*
4 *erence product is licensed.*

5 “(C) *RISK EVALUATION AND MITIGATION*
6 *STRATEGIES.—The authority of the Secretary*
7 *with respect to risk evaluation and mitigation*
8 *strategies under the Federal Food, Drug, and*
9 *Cosmetic Act shall apply to biological products*
10 *licensed under this subsection in the same man-*
11 *ner as such authority applies to biological prod-*
12 *ucts licensed under subsection (a).*

13 “(6) *EXCLUSIVITY FOR FIRST INTERCHANGEABLE*
14 *BIOLOGICAL PRODUCT.—Upon review of an applica-*
15 *tion submitted under this subsection relying on the*
16 *same reference product for which a prior biological*
17 *product has received a determination of interchange-*
18 *ability for any condition of use, the Secretary shall*
19 *not make a determination under paragraph (4) that*
20 *the second or subsequent biological product is inter-*
21 *changeable for any condition of use until the earlier*
22 *of—*

23 “(A) *1 year after the first commercial mar-*
24 *keting of the first interchangeable biosimilar bio-*

1 *logical product to be approved as interchangeable*
2 *for that reference product;*

3 “(B) 18 months after—

4 “(i) a final court decision on all pat-
5 *ents in suit in an action instituted under*
6 *subsection (l)(6) against the applicant that*
7 *submitted the application for the first ap-*
8 *proved interchangeable biosimilar biological*
9 *product; or*

10 “(ii) the dismissal with or without
11 *prejudice of an action instituted under sub-*
12 *section (l)(6) against the applicant that*
13 *submitted the application for the first ap-*
14 *proved interchangeable biosimilar biological*
15 *product; or*

16 “(C)(i) 42 months after approval of the first
17 *interchangeable biosimilar biological product if*
18 *the applicant that submitted such application*
19 *has been sued under subsection (l)(6) and such*
20 *litigation is still ongoing within such 42-month*
21 *period; or*

22 “(ii) 18 months after approval of the first
23 *interchangeable biosimilar biological product if*
24 *the applicant that submitted such application*
25 *has not been sued under subsection (l)(6).*

1 *For purposes of this paragraph, the term ‘final court*
2 *decision’ means a final decision of a court from which*
3 *no appeal (other than a petition to the United States*
4 *Supreme Court for a writ of certiorari) has been or*
5 *can be taken.*

6 “(7) *EXCLUSIVITY FOR REFERENCE PRODUCT.—*

7 “(A) *EFFECTIVE DATE OF BIOSIMILAR AP-*
8 *PLICATION APPROVAL.—Approval of an applica-*
9 *tion under this subsection may not be made ef-*
10 *fective by the Secretary until the date that is 12*
11 *years after the date on which the reference prod-*
12 *uct was first licensed under subsection (a).*

13 “(B) *FILING PERIOD.—An application*
14 *under this subsection may not be submitted to*
15 *the Secretary until the date that is 4 years after*
16 *the date on which the reference product was first*
17 *licensed under subsection (a).*

18 “(C) *FIRST LICENSURE.—Subparagraphs*
19 *(A) and (B) shall not apply to a license for or*
20 *approval of—*

21 “(i) *a supplement for the biological*
22 *product that is the reference product; or*

23 “(ii) *a subsequent application filed by*
24 *the same sponsor or manufacturer of the bi-*
25 *ological product that is the reference prod-*

1 *uct (or a licensor, predecessor in interest, or*
2 *other related entity) for—*

3 *“(I) a change (not including a*
4 *modification to the structure of the bio-*
5 *logical product) that results in a new*
6 *indication, route of administration,*
7 *dosing schedule, dosage form, delivery*
8 *system, delivery device, or strength; or*

9 *“(II) a modification to the struc-*
10 *ture of the biological product that does*
11 *not result in a change in safety, pu-*
12 *rity, or potency.*

13 *“(8) GUIDANCE DOCUMENTS.—*

14 *“(A) IN GENERAL.—The Secretary may,*
15 *after opportunity for public comment, issue*
16 *guidance in accordance, except as provided in*
17 *subparagraph (B)(i), with section 701(h) of the*
18 *Federal Food, Drug, and Cosmetic Act with re-*
19 *spect to the licensure of a biological product*
20 *under this subsection. Any such guidance may be*
21 *general or specific.*

22 *“(B) PUBLIC COMMENT.—*

23 *“(i) IN GENERAL.—The Secretary shall*
24 *provide the public an opportunity to com-*
25 *ment on any proposed guidance issued*

1 under subparagraph (A) before issuing final
2 guidance.

3 “(ii) *INPUT REGARDING MOST VALU-*
4 *ABLE GUIDANCE.—The Secretary shall es-*
5 *tablish a process through which the public*
6 *may provide the Secretary with input re-*
7 *garding priorities for issuing guidance.*

8 “(C) *NO REQUIREMENT FOR APPLICATION*
9 *CONSIDERATION.—The issuance (or non-*
10 *issuance) of guidance under subparagraph (A)*
11 *shall not preclude the review of, or action on, an*
12 *application submitted under this subsection.*

13 “(D) *REQUIREMENT FOR PRODUCT CLASS-*
14 *SPECIFIC GUIDANCE.—If the Secretary issues*
15 *product class-specific guidance under subpara-*
16 *graph (A), such guidance shall include a descrip-*
17 *tion of—*

18 “(i) *the criteria that the Secretary will*
19 *use to determine whether a biological prod-*
20 *uct is highly similar to a reference product*
21 *in such product class; and*

22 “(ii) *the criteria, if available, that the*
23 *Secretary will use to determine whether a*
24 *biological product meets the standards de-*
25 *scribed in paragraph (4).*

1 “(E) *CERTAIN PRODUCT CLASSES.*—

2 “(i) *GUIDANCE.*—*The Secretary may*
3 *indicate in a guidance document that the*
4 *science and experience, as of the date of*
5 *such guidance, with respect to a product or*
6 *product class (not including any recom-*
7 *binant protein) does not allow approval of*
8 *an application for a license as provided*
9 *under this subsection for such product or*
10 *product class.*

11 “(ii) *MODIFICATION OR REVERSAL.*—
12 *The Secretary may issue a subsequent guid-*
13 *ance document under subparagraph (A) to*
14 *modify or reverse a guidance document*
15 *under clause (i).*

16 “(iii) *NO EFFECT ON ABILITY TO DENY*
17 *LICENSE.*—*Clause (i) shall not be construed*
18 *to require the Secretary to approve a prod-*
19 *uct with respect to which the Secretary has*
20 *not indicated in a guidance document that*
21 *the science and experience, as described in*
22 *clause (i), does not allow approval of such*
23 *an application.*

24 “(l) *PATENTS.*—

1 “(1) *CONFIDENTIAL ACCESS TO SUBSECTION (k)*
2 *APPLICATION.—*

3 “(A) *APPLICATION OF PARAGRAPH.—Unless*
4 *otherwise agreed to by a person that submits an*
5 *application under subsection (k) (referred to in*
6 *this subsection as the ‘subsection (k) applicant’)*
7 *and the sponsor of the application for the ref-*
8 *erence product (referred to in this subsection as*
9 *the ‘reference product sponsor’), the provisions of*
10 *this paragraph shall apply to the exchange of in-*
11 *formation described in this subsection.*

12 “(B) *IN GENERAL.—*

13 “(i) *PROVISION OF CONFIDENTIAL IN-*
14 *FORMATION.—When a subsection (k) appli-*
15 *cant submits an application under sub-*
16 *section (k), such applicant shall provide to*
17 *the persons described in clause (ii), subject*
18 *to the terms of this paragraph, confidential*
19 *access to the information required to be pro-*
20 *duced pursuant to paragraph (2) and any*
21 *other information that the subsection (k)*
22 *applicant determines, in its sole discretion,*
23 *to be appropriate (referred to in this sub-*
24 *section as the ‘confidential information’).*

1 “(ii) *RECIPIENTS OF INFORMATION.*—

2 *The persons described in this clause are the*
3 *following:*

4 “(I) *OUTSIDE COUNSEL.*—*One or*
5 *more attorneys designated by the ref-*
6 *erence product sponsor who are em-*
7 *ployees of an entity other than the ref-*
8 *erence product sponsor (referred to in*
9 *this paragraph as the ‘outside coun-*
10 *sel’), provided that such attorneys do*
11 *not engage, formally or informally, in*
12 *patent prosecution relevant or related*
13 *to the reference product.*

14 “(II) *IN-HOUSE COUNSEL.*—*One*
15 *attorney that represents the reference*
16 *product sponsor who is an employee of*
17 *the reference product sponsor, provided*
18 *that such attorney does not engage, for-*
19 *mally or informally, in patent prosecu-*
20 *tion relevant or related to the reference*
21 *product.*

22 “(iii) *PATENT OWNER ACCESS.*—*A rep-*
23 *resentative of the owner of a patent exclu-*
24 *sively licensed to a reference product spon-*
25 *sor with respect to the reference product and*

1 *who has retained a right to assert the pat-*
2 *ent or participate in litigation concerning*
3 *the patent may be provided the confidential*
4 *information, provided that the representa-*
5 *tive informs the reference product sponsor*
6 *and the subsection (k) applicant of his or*
7 *her agreement to be subject to the confiden-*
8 *tiality provisions set forth in this para-*
9 *graph, including those under clause (ii).*

10 “(C) *LIMITATION ON DISCLOSURE.—No per-*
11 *son that receives confidential information pursu-*
12 *ant to subparagraph (B) shall disclose any con-*
13 *fidential information to any other person or en-*
14 *tity, including the reference product sponsor em-*
15 *ployees, outside scientific consultants, or other*
16 *outside counsel retained by the reference product*
17 *sponsor, without the prior written consent of the*
18 *subsection (k) applicant, which shall not be un-*
19 *reasonably withheld.*

20 “(D) *USE OF CONFIDENTIAL INFORMA-*
21 *TION.—Confidential information shall be used*
22 *for the sole and exclusive purpose of determining,*
23 *with respect to each patent assigned to or exclu-*
24 *sively licensed by the reference product sponsor,*
25 *whether a claim of patent infringement could*

1 *reasonably be asserted if the subsection (k) appli-*
2 *cant engaged in the manufacture, use, offering*
3 *for sale, sale, or importation into the United*
4 *States of the biological product that is the subject*
5 *of the application under subsection (k).*

6 “(E) OWNERSHIP OF CONFIDENTIAL INFOR-

7 MATION.—*The confidential information disclosed*
8 *under this paragraph is, and shall remain, the*
9 *property of the subsection (k) applicant. By pro-*
10 *viding the confidential information pursuant to*
11 *this paragraph, the subsection (k) applicant does*
12 *not provide the reference product sponsor or the*
13 *outside counsel any interest in or license to use*
14 *the confidential information, for purposes other*
15 *than those specified in subparagraph (D).*

16 “(F) EFFECT OF INFRINGEMENT ACTION.—

17 *In the event that the reference product sponsor*
18 *files a patent infringement suit, the use of con-*
19 *fidential information shall continue to be gov-*
20 *erned by the terms of this paragraph until such*
21 *time as a court enters a protective order regard-*
22 *ing the information. Upon entry of such order,*
23 *the subsection (k) applicant may redesignate*
24 *confidential information in accordance with the*
25 *terms of that order. No confidential information*

1 shall be included in any publicly-available com-
2 plaint or other pleading. In the event that the
3 reference product sponsor does not file an in-
4 fringement action by the date specified in para-
5 graph (6), the reference product sponsor shall re-
6 turn or destroy all confidential information re-
7 ceived under this paragraph, provided that if the
8 reference product sponsor opts to destroy such in-
9 formation, it will confirm destruction in writing
10 to the subsection (k) applicant.

11 “(G) *RULE OF CONSTRUCTION.*—Nothing in
12 this paragraph shall be construed—

13 “(i) as an admission by the subsection
14 (k) applicant regarding the validity, en-
15 forceability, or infringement of any patent;
16 or

17 “(ii) as an agreement or admission by
18 the subsection (k) applicant with respect to
19 the competency, relevance, or materiality of
20 any confidential information.

21 “(H) *EFFECT OF VIOLATION.*—The disclo-
22 sure of any confidential information in violation
23 of this paragraph shall be deemed to cause the
24 subsection (k) applicant to suffer irreparable
25 harm for which there is no adequate legal rem-

1 *edy and the court shall consider immediate in-*
2 *junction relief to be an appropriate and nec-*
3 *essary remedy for any violation or threatened*
4 *violation of this paragraph.*

5 “(2) *SUBSECTION (k) APPLICATION INFORMA-*
6 *TION.—Not later than 20 days after the Secretary no-*
7 *tifies the subsection (k) applicant that the application*
8 *has been accepted for review, the subsection (k) appli-*
9 *cant—*

10 “(A) *shall provide to the reference product*
11 *sponsor a copy of the application submitted to*
12 *the Secretary under subsection (k), and such*
13 *other information that describes the process or*
14 *processes used to manufacture the biological*
15 *product that is the subject of such application;*
16 *and*

17 “(B) *may provide to the reference product*
18 *sponsor additional information requested by or*
19 *on behalf of the reference product sponsor.*

20 “(3) *LIST AND DESCRIPTION OF PATENTS.—*

21 “(A) *LIST BY REFERENCE PRODUCT SPON-*
22 *SOR.—Not later than 60 days after the receipt of*
23 *the application and information under para-*
24 *graph (2), the reference product sponsor shall*
25 *provide to the subsection (k) applicant—*

1 “(i) a list of patents for which the ref-
2 erence product sponsor believes a claim of
3 patent infringement could reasonably be as-
4 serted by the reference product sponsor, or
5 by a patent owner that has granted an ex-
6 clusive license to the reference product spon-
7 sor with respect to the reference product, if
8 a person not licensed by the reference prod-
9 uct sponsor engaged in the making, using,
10 offering to sell, selling, or importing into
11 the United States of the biological product
12 that is the subject of the subsection (k) ap-
13 plication; and

14 “(ii) an identification of the patents
15 on such list that the reference product spon-
16 sor would be prepared to license to the sub-
17 section (k) applicant.

18 “(B) LIST AND DESCRIPTION BY SUB-
19 SECTION (k) APPLICANT.—Not later than 60 days
20 after receipt of the list under subparagraph (A),
21 the subsection (k) applicant—

22 “(i) may provide to the reference prod-
23 uct sponsor a list of patents to which the
24 subsection (k) applicant believes a claim of
25 patent infringement could reasonably be as-

1 *serted by the reference product sponsor if a*
2 *person not licensed by the reference product*
3 *sponsor engaged in the making, using, offer-*
4 *ing to sell, selling, or importing into the*
5 *United States of the biological product that*
6 *is the subject of the subsection (k) applica-*
7 *tion;*

8 *“(ii) shall provide to the reference*
9 *product sponsor, with respect to each patent*
10 *listed by the reference product sponsor*
11 *under subparagraph (A) or listed by the*
12 *subsection (k) applicant under clause (i)—*

13 *“(I) a detailed statement that de-*
14 *scribes, on a claim by claim basis, the*
15 *factual and legal basis of the opinion*
16 *of the subsection (k) applicant that*
17 *such patent is invalid, unenforceable,*
18 *or will not be infringed by the commer-*
19 *cial marketing of the biological product*
20 *that is the subject of the subsection (k)*
21 *application; or*

22 *“(II) a statement that the sub-*
23 *section (k) applicant does not intend to*
24 *begin commercial marketing of the bio-*

1 *logical product before the date that*
2 *such patent expires; and*

3 *“(iii) shall provide to the reference*
4 *product sponsor a response regarding each*
5 *patent identified by the reference product*
6 *sponsor under subparagraph (A)(ii).*

7 *“(C) DESCRIPTION BY REFERENCE PROD-*
8 *UCT SPONSOR.—Not later than 60 days after re-*
9 *ceipt of the list and statement under subpara-*
10 *graph (B), the reference product sponsor shall*
11 *provide to the subsection (k) applicant a detailed*
12 *statement that describes, with respect to each*
13 *patent described in subparagraph (B)(ii)(I), on*
14 *a claim by claim basis, the factual and legal*
15 *basis of the opinion of the reference product*
16 *sponsor that such patent will be infringed by the*
17 *commercial marketing of the biological product*
18 *that is the subject of the subsection (k) applica-*
19 *tion and a response to the statement concerning*
20 *validity and enforceability provided under sub-*
21 *paragraph (B)(ii)(I).*

22 *“(4) PATENT RESOLUTION NEGOTIATIONS.—*

23 *“(A) IN GENERAL.—After receipt by the*
24 *subsection (k) applicant of the statement under*
25 *paragraph (3)(C), the reference product sponsor*

1 *and the subsection (k) applicant shall engage in*
2 *good faith negotiations to agree on which, if any,*
3 *patents listed under paragraph (3) by the sub-*
4 *section (k) applicant or the reference product*
5 *sponsor shall be the subject of an action for pat-*
6 *ent infringement under paragraph (6).*

7 “(B) *FAILURE TO REACH AGREEMENT.*—*If,*
8 *within 15 days of beginning negotiations under*
9 *subparagraph (A), the subsection (k) applicant*
10 *and the reference product sponsor fail to agree on*
11 *a final and complete list of which, if any, pat-*
12 *ents listed under paragraph (3) by the subsection*
13 *(k) applicant or the reference product sponsor*
14 *shall be the subject of an action for patent in-*
15 *fringement under paragraph (6), the provisions*
16 *of paragraph (5) shall apply to the parties.*

17 “(5) *PATENT RESOLUTION IF NO AGREEMENT.*—

18 “(A) *NUMBER OF PATENTS.*—*The subsection*
19 *(k) applicant shall notify the reference product*
20 *sponsor of the number of patents that such appli-*
21 *cant will provide to the reference product sponsor*
22 *under subparagraph (B)(i)(I).*

23 “(B) *EXCHANGE OF PATENT LISTS.*—

24 “(i) *IN GENERAL.*—*On a date agreed*
25 *to by the subsection (k) applicant and the*

1 reference product sponsor, but in no case
2 later than 5 days after the subsection (k)
3 applicant notifies the reference product
4 sponsor under subparagraph (A), the sub-
5 section (k) applicant and the reference prod-
6 uct sponsor shall simultaneously exchange—

7 “(I) the list of patents that the
8 subsection (k) applicant believes should
9 be the subject of an action for patent
10 infringement under paragraph (6);
11 and

12 “(II) the list of patents, in accord-
13 ance with clause (ii), that the reference
14 product sponsor believes should be the
15 subject of an action for patent in-
16 fringement under paragraph (6).

17 “(ii) NUMBER OF PATENTS LISTED BY
18 REFERENCE PRODUCT SPONSOR.—

19 “(I) IN GENERAL.—Subject to
20 subclause (II), the number of patents
21 listed by the reference product sponsor
22 under clause (i)(II) may not exceed the
23 number of patents listed by the sub-
24 section (k) applicant under clause
25 (i)(I).

1 “(II) *EXCEPTION.*—If a subsection
2 (k) applicant does not list any patent
3 under clause (i)(I), the reference prod-
4 uct sponsor may list 1 patent under
5 clause (i)(II).

6 “(6) *IMMEDIATE PATENT INFRINGEMENT AC-*
7 *TION.*—

8 “(A) *ACTION IF AGREEMENT ON PATENT*
9 *LIST.*—If the subsection (k) applicant and the
10 reference product sponsor agree on patents as de-
11 scribed in paragraph (4), not later than 30 days
12 after such agreement, the reference product spon-
13 sor shall bring an action for patent infringement
14 with respect to each such patent.

15 “(B) *ACTION IF NO AGREEMENT ON PATENT*
16 *LIST.*—If the provisions of paragraph (5) apply
17 to the parties as described in paragraph (4)(B),
18 not later than 30 days after the exchange of lists
19 under paragraph (5)(B), the reference product
20 sponsor shall bring an action for patent in-
21 fringement with respect to each patent that is in-
22 cluded on such lists.

23 “(C) *NOTIFICATION AND PUBLICATION OF*
24 *COMPLAINT.*—

1 “(i) *NOTIFICATION TO SECRETARY.*—
2 *Not later than 30 days after a complaint is*
3 *served to a subsection (k) applicant in an*
4 *action for patent infringement described*
5 *under this paragraph, the subsection (k) ap-*
6 *plicant shall provide the Secretary with no-*
7 *tice and a copy of such complaint.*

8 “(ii) *PUBLICATION BY SECRETARY.*—
9 *The Secretary shall publish in the Federal*
10 *Register notice of a complaint received*
11 *under clause (i).*

12 “(7) *NEWLY ISSUED OR LICENSED PATENTS.*—*In*
13 *the case of a patent that—*

14 “(A) *is issued to, or exclusively licensed by,*
15 *the reference product sponsor after the date that*
16 *the reference product sponsor provided the list to*
17 *the subsection (k) applicant under paragraph*
18 *(3)(A); and*

19 “(B) *the reference product sponsor reason-*
20 *ably believes that, due to the issuance of such*
21 *patent, a claim of patent infringement could rea-*
22 *sonably be asserted by the reference product*
23 *sponsor if a person not licensed by the reference*
24 *product sponsor engaged in the making, using,*
25 *offering to sell, selling, or importing into the*

1 *United States of the biological product that is*
2 *the subject of the subsection (k) application,*
3 *not later than 30 days after such issuance or licens-*
4 *ing, the reference product sponsor shall provide to the*
5 *subsection (k) applicant a supplement to the list pro-*
6 *vided by the reference product sponsor under para-*
7 *graph (3)(A) that includes such patent, not later than*
8 *30 days after such supplement is provided, the sub-*
9 *section (k) applicant shall provide a statement to the*
10 *reference product sponsor in accordance with para-*
11 *graph (3)(B), and such patent shall be subject to*
12 *paragraph (8).*

13 *“(8) NOTICE OF COMMERCIAL MARKETING AND*
14 *PRELIMINARY INJUNCTION.—*

15 *“(A) NOTICE OF COMMERCIAL MAR-*
16 *KETING.—The subsection (k) applicant shall pro-*
17 *vide notice to the reference product sponsor not*
18 *later than 180 days before the date of the first*
19 *commercial marketing of the biological product*
20 *licensed under subsection (k).*

21 *“(B) PRELIMINARY INJUNCTION.—After re-*
22 *ceiving the notice under subparagraph (A) and*
23 *before such date of the first commercial mar-*
24 *keting of such biological product, the reference*
25 *product sponsor may seek a preliminary injunc-*

1 *tion prohibiting the subsection (k) applicant*
2 *from engaging in the commercial manufacture or*
3 *sale of such biological product until the court de-*
4 *cedes the issue of patent validity, enforcement,*
5 *and infringement with respect to any patent that*
6 *is—*

7 *“(i) included in the list provided by*
8 *the reference product sponsor under para-*
9 *graph (3)(A) or in the list provided by the*
10 *subsection (k) applicant under paragraph*
11 *(3)(B); and*

12 *“(ii) not included, as applicable, on—*

13 *“(I) the list of patents described*
14 *in paragraph (4); or*

15 *“(II) the lists of patents described*
16 *in paragraph (5)(B).*

17 *“(C) REASONABLE COOPERATION.—If the*
18 *reference product sponsor has sought a prelimi-*
19 *nary injunction under subparagraph (B), the*
20 *reference product sponsor and the subsection (k)*
21 *applicant shall reasonably cooperate to expedite*
22 *such further discovery as is needed in connection*
23 *with the preliminary injunction motion.*

24 *“(9) LIMITATION ON DECLARATORY JUDGMENT*
25 *ACTION.—*

1 “(A) *SUBSECTION (k) APPLICATION PRO-*
2 *VIDED.—If a subsection (k) applicant provides*
3 *the application and information required under*
4 *paragraph (2)(A), neither the reference product*
5 *sponsor nor the subsection (k) applicant may,*
6 *prior to the date notice is received under para-*
7 *graph (8)(A), bring any action under section*
8 *2201 of title 28, United States Code, for a dec-*
9 *laration of infringement, validity, or enforce-*
10 *ability of any patent that is described in clauses*
11 *(i) and (ii) of paragraph (8)(B).*

12 “(B) *SUBSEQUENT FAILURE TO ACT BY*
13 *SUBSECTION (k) APPLICANT.—If a subsection (k)*
14 *applicant fails to complete an action required of*
15 *the subsection (k) applicant under paragraph*
16 *(3)(B)(ii), paragraph (5), paragraph (6)(C)(i),*
17 *paragraph (7), or paragraph (8)(A), the ref-*
18 *erence product sponsor, but not the subsection (k)*
19 *applicant, may bring an action under section*
20 *2201 of title 28, United States Code, for a dec-*
21 *laration of infringement, validity, or enforce-*
22 *ability of any patent included in the list de-*
23 *scribed in paragraph (3)(A), including as pro-*
24 *vided under paragraph (7).*

1 “(C) *SUBSECTION (k) APPLICATION NOT*
2 *PROVIDED.—If a subsection (k) applicant fails to*
3 *provide the application and information re-*
4 *quired under paragraph (2)(A), the reference*
5 *product sponsor, but not the subsection (k) appli-*
6 *cant, may bring an action under section 2201 of*
7 *title 28, United States Code, for a declaration of*
8 *infringement, validity, or enforceability of any*
9 *patent that claims the biological product or a use*
10 *of the biological product.”.*

11 **(b) DEFINITIONS.—***Section 351(i) of the Public Health*
12 *Service Act (42 U.S.C. 262(i)) is amended—*

13 *(1) by striking “In this section, the term ‘biologi-*
14 *cal product’ means” and inserting the following: “In*
15 *this section:*

16 *“(1) The term ‘biological product’ means”;*

17 *(2) in paragraph (1), as so designated, by insert-*
18 *ing “protein (except any chemically synthesized*
19 *polypeptide),” after “allergenic product,”; and*

20 *(3) by adding at the end the following:*

21 *“(2) The term ‘biosimilar’ or ‘biosimilarity’, in*
22 *reference to a biological product that is the subject of*
23 *an application under subsection (k), means—*

24 *“(A) that the biological product is highly*
25 *similar to the reference product notwithstanding*

1 *minor differences in clinically inactive compo-*
2 *nents; and*

3 “(B) *there are no clinically meaningful dif-*
4 *ferences between the biological product and the*
5 *reference product in terms of the safety, purity,*
6 *and potency of the product.*

7 “(3) *The term ‘interchangeable’ or ‘interchange-*
8 *ability’, in reference to a biological product that is*
9 *shown to meet the standards described in subsection*
10 *(k)(4), means that the biological product may be sub-*
11 *stituted for the reference product without the interven-*
12 *tion of the health care provider who prescribed the*
13 *reference product.*

14 “(4) *The term ‘reference product’ means the sin-*
15 *gle biological product licensed under subsection (a)*
16 *against which a biological product is evaluated in an*
17 *application submitted under subsection (k).”.*

18 (c) *CONFORMING AMENDMENTS RELATING TO PAT-*
19 *ENTS.—*

20 (1) *PATENTS.—Section 271(e) of title 35, United*
21 *States Code, is amended—*

22 (A) *in paragraph (2)—*

23 (i) *in subparagraph (A), by striking*
24 “or” *at the end;*

1 (ii) in subparagraph (B), by adding
2 “or” at the end; and

3 (iii) by inserting after subparagraph
4 (B) the following:

5 “(C)(i) with respect to a patent that is identified
6 in the list of patents described in section 351(l)(3) of
7 the Public Health Service Act (including as provided
8 under section 351(l)(7) of such Act), an application
9 seeking approval of a biological product, or

10 “(ii) if the applicant for the application fails to
11 provide the application and information required
12 under section 351(l)(2)(A) of such Act, an application
13 seeking approval of a biological product for a patent
14 that could be identified pursuant to section
15 351(l)(3)(A)(i) of such Act,”; and

16 (iv) in the matter following subpara-
17 graph (C) (as added by clause (iii)), by
18 striking “or veterinary biological product”
19 and inserting “, veterinary biological prod-
20 uct, or biological product”;

21 (B) in paragraph (4)—

22 (i) in subparagraph (B), by—

23 (I) striking “or veterinary biologi-
24 cal product” and inserting “, veteri-

1 *nary biological product, or biological*
2 *product”*; and

3 (II) striking “and” at the end;

4 (ii) in subparagraph (C), by—

5 (I) striking “or veterinary biologi-
6 cal product” and inserting “, veteri-
7 nary biological product, or biological
8 product”; and

9 (II) striking the period and in-
10 sserting “, and”;

11 (iii) by inserting after subparagraph
12 (C) the following:

13 “(D) the court shall order a permanent injunc-
14 tion prohibiting any infringement of the patent by
15 the biological product involved in the infringement
16 until a date which is not earlier than the date of the
17 expiration of the patent that has been infringed under
18 paragraph (2)(C), provided the patent is the subject
19 of a final court decision, as defined in section
20 351(k)(6) of the Public Health Service Act, in an ac-
21 tion for infringement of the patent under section
22 351(l)(6) of such Act, and the biological product has
23 not yet been approved because of section 351(k)(7) of
24 such Act.”; and

1 (iv) in the matter following subpara-
2 graph (D) (as added by clause (iii)), by
3 striking “and (C)” and inserting “(C), and
4 (D)”; and
5 (C) by adding at the end the following:

6 “(6)(A) Subparagraph (B) applies, in lieu of para-
7 graph (4), in the case of a patent—

8 “(i) that is identified, as applicable, in the list
9 of patents described in section 351(l)(4) of the Public
10 Health Service Act or the lists of patents described in
11 section 351(l)(5)(B) of such Act with respect to a bio-
12 logical product; and

13 “(ii) for which an action for infringement of the
14 patent with respect to the biological product—

15 “(I) was brought after the expiration of the
16 30-day period described in subparagraph (A) or
17 (B), as applicable, of section 351(l)(6) of such
18 Act; or

19 “(II) was brought before the expiration of
20 the 30-day period described in subclause (I), but
21 which was dismissed without prejudice or was
22 not prosecuted to judgment in good faith.

23 “(B) In an action for infringement of a patent de-
24 scribed in subparagraph (A), the sole and exclusive remedy
25 that may be granted by a court, upon a finding that the

1 *making, using, offering to sell, selling, or importation into*
2 *the United States of the biological product that is the subject*
3 *of the action infringed the patent, shall be a reasonable roy-*
4 *alty.*

5 “(C) *The owner of a patent that should have been in-*
6 *cluded in the list described in section 351(l)(3)(A) of the*
7 *Public Health Service Act, including as provided under sec-*
8 *tion 351(l)(7) of such Act for a biological product, but was*
9 *not timely included in such list, may not bring an action*
10 *under this section for infringement of the patent with re-*
11 *spect to the biological product.”.*

12 (2) *CONFORMING AMENDMENT UNDER TITLE*
13 *28.—Section 2201(b) of title 28, United States Code,*
14 *is amended by inserting before the period the fol-*
15 *lowing: “, or section 351 of the Public Health Service*
16 *Act”.*

17 (d) *CONFORMING AMENDMENTS UNDER THE FEDERAL*
18 *FOOD, DRUG, AND COSMETIC ACT.—*

19 (1) *CONTENT AND REVIEW OF APPLICATIONS.—*
20 *Section 505(b)(5)(B) of the Federal Food, Drug, and*
21 *Cosmetic Act (21 U.S.C. 355(b)(5)(B)) is amended by*
22 *inserting before the period at the end of the first sen-*
23 *tence the following: “or, with respect to an applicant*
24 *for approval of a biological product under section*

1 351(k) of the Public Health Service Act, any nec-
2 essary clinical study or studies”.

3 (2) *NEW ACTIVE INGREDIENT.*—Section 505B of
4 the Federal Food, Drug, and Cosmetic Act (21 U.S.C.
5 355c) is amended by adding at the end the following:
6 “(n) *NEW ACTIVE INGREDIENT.*—

7 “(1) *NON-INTERCHANGEABLE BIOSIMILAR BIO-*
8 *LOGICAL PRODUCT.*—A biological product that is bio-
9 similar to a reference product under section 351 of the
10 Public Health Service Act, and that the Secretary has
11 not determined to meet the standards described in
12 subsection (k)(4) of such section for interchangeability
13 with the reference product, shall be considered to have
14 a new active ingredient under this section.

15 “(2) *INTERCHANGEABLE BIOSIMILAR BIOLOGICAL*
16 *PRODUCT.*—A biological product that is interchange-
17 able with a reference product under section 351 of the
18 Public Health Service Act shall not be considered to
19 have a new active ingredient under this section.”.

20 (e) *PRODUCTS PREVIOUSLY APPROVED UNDER SEC-*
21 *TION 505.*—

22 (1) *REQUIREMENT TO FOLLOW SECTION 351.*—
23 Except as provided in paragraph (2), an application
24 for a biological product shall be submitted under sec-

1 *tion 351 of the Public Health Service Act (42 U.S.C.*
2 *262) (as amended by this Act).*

3 (2) *EXCEPTION.—An application for a biological*
4 *product may be submitted under section 505 of the*
5 *Federal Food, Drug, and Cosmetic Act (21 U.S.C.*
6 *355) if—*

7 (A) *such biological product is in a product*
8 *class for which a biological product in such*
9 *product class is the subject of an application ap-*
10 *proved under such section 505 not later than the*
11 *date of enactment of this Act; and*

12 (B) *such application—*

13 (i) *has been submitted to the Secretary*
14 *of Health and Human Services (referred to*
15 *in this subtitle as the “Secretary”) before*
16 *the date of enactment of this Act; or*

17 (ii) *is submitted to the Secretary not*
18 *later than the date that is 10 years after the*
19 *date of enactment of this Act.*

20 (3) *LIMITATION.—Notwithstanding paragraph*
21 *(2), an application for a biological product may not*
22 *be submitted under section 505 of the Federal Food,*
23 *Drug, and Cosmetic Act (21 U.S.C. 355) if there is*
24 *another biological product approved under subsection*
25 *(a) of section 351 of the Public Health Service Act*

1 *that could be a reference product with respect to such*
2 *application (within the meaning of such section 351)*
3 *if such application were submitted under subsection*
4 *(k) of such section 351.*

5 (4) *DEEMED APPROVED UNDER SECTION 351.—*
6 *An approved application for a biological product*
7 *under section 505 of the Federal Food, Drug, and*
8 *Cosmetic Act (21 U.S.C. 355) shall be deemed to be*
9 *a license for the biological product under such section*
10 *351 on the date that is 10 years after the date of en-*
11 *actment of this Act.*

12 (5) *DEFINITIONS.—For purposes of this sub-*
13 *section, the term “biological product” has the mean-*
14 *ing given such term under section 351 of the Public*
15 *Health Service Act (42 U.S.C. 262) (as amended by*
16 *this Act).*

17 (f) *FOLLOW-ON BIOLOGICS USER FEES.—*

18 (1) *DEVELOPMENT OF USER FEES FOR BIO-*
19 *SIMILAR BIOLOGICAL PRODUCTS.—*

20 (A) *IN GENERAL.—Beginning not later than*
21 *October 1, 2010, the Secretary shall develop rec-*
22 *ommendations to present to Congress with re-*
23 *spect to the goals, and plans for meeting the*
24 *goals, for the process for the review of biosimilar*
25 *biological product applications submitted under*

1 *section 351(k) of the Public Health Service Act*
2 *(as added by this Act) for the first 5 fiscal years*
3 *after fiscal year 2012. In developing such rec-*
4 *ommendations, the Secretary shall consult*
5 *with—*

6 *(i) the Committee on Health, Edu-*
7 *cation, Labor, and Pensions of the Senate;*

8 *(ii) the Committee on Energy and*
9 *Commerce of the House of Representatives;*

10 *(iii) scientific and academic experts;*

11 *(iv) health care professionals;*

12 *(v) representatives of patient and con-*
13 *sumer advocacy groups; and*

14 *(vi) the regulated industry.*

15 *(B) PUBLIC REVIEW OF RECOMMENDA-*
16 *TIONS.—After negotiations with the regulated in-*
17 *dustry, the Secretary shall—*

18 *(i) present the recommendations devel-*
19 *oped under subparagraph (A) to the Con-*
20 *gressional committees specified in such sub-*
21 *paragraph;*

22 *(ii) publish such recommendations in*
23 *the Federal Register;*

1 (iii) provide for a period of 30 days for
2 the public to provide written comments on
3 such recommendations;

4 (iv) hold a meeting at which the public
5 may present its views on such recommenda-
6 tions; and

7 (v) after consideration of such public
8 views and comments, revise such rec-
9 ommendations as necessary.

10 (C) *TRANSMITTAL OF RECOMMENDA-*
11 *TIONS.*—Not later than January 15, 2012, the
12 Secretary shall transmit to Congress the revised
13 recommendations under subparagraph (B), a
14 summary of the views and comments received
15 under such subparagraph, and any changes
16 made to the recommendations in response to such
17 views and comments.

18 (2) *ESTABLISHMENT OF USER FEE PROGRAM.*—
19 It is the sense of the Senate that, based on the rec-
20 ommendations transmitted to Congress by the Sec-
21 retary pursuant to paragraph (1)(C), Congress should
22 authorize a program, effective on October 1, 2012, for
23 the collection of user fees relating to the submission of
24 biosimilar biological product applications under sec-

1 *tion 351(k) of the Public Health Service Act (as*
2 *added by this Act).*

3 (3) *TRANSITIONAL PROVISIONS FOR USER FEES*
4 *FOR BIOSIMILAR BIOLOGICAL PRODUCTS.—*

5 (A) *APPLICATION OF THE PRESCRIPTION*
6 *DRUG USER FEE PROVISIONS.—Section*
7 *735(1)(B) of the Federal Food, Drug, and Cos-*
8 *metic Act (21 U.S.C. 379g(1)(B)) is amended by*
9 *striking “section 351” and inserting “subsection*
10 *(a) or (k) of section 351”.*

11 (B) *EVALUATION OF COSTS OF REVIEWING*
12 *BIOSIMILAR BIOLOGICAL PRODUCT APPLICA-*
13 *TIONS.—During the period beginning on the date*
14 *of enactment of this Act and ending on October*
15 *1, 2010, the Secretary shall collect and evaluate*
16 *data regarding the costs of reviewing applica-*
17 *tions for biological products submitted under sec-*
18 *tion 351(k) of the Public Health Service Act (as*
19 *added by this Act) during such period.*

20 (C) *AUDIT.—*

21 (i) *IN GENERAL.—On the date that is*
22 *2 years after first receiving a user fee appli-*
23 *cable to an application for a biological*
24 *product under section 351(k) of the Public*
25 *Health Service Act (as added by this Act),*

1 and on a biennial basis thereafter until Oc-
2 tober 1, 2013, the Secretary shall perform
3 an audit of the costs of reviewing such ap-
4 plications under such section 351(k). Such
5 an audit shall compare—

6 (I) the costs of reviewing such ap-
7 plications under such section 351(k) to
8 the amount of the user fee applicable to
9 such applications; and

10 (II)(aa) such ratio determined
11 under subclause (I); to

12 (bb) the ratio of the costs of re-
13 viewing applications for biological
14 products under section 351(a) of such
15 Act (as amended by this Act) to the
16 amount of the user fee applicable to
17 such applications under such section
18 351(a).

19 (ii) *ALTERATION OF USER FEE.*—If the
20 audit performed under clause (i) indicates
21 that the ratios compared under subclause
22 (II) of such clause differ by more than 5
23 percent, then the Secretary shall alter the
24 user fee applicable to applications sub-
25 mitted under such section 351(k) to more

1 *appropriately account for the costs of re-*
2 *viewing such applications.*

3 (iii) *ACCOUNTING STANDARDS.—The*
4 *Secretary shall perform an audit under*
5 *clause (i) in conformance with the account-*
6 *ing principles, standards, and requirements*
7 *prescribed by the Comptroller General of the*
8 *United States under section 3511 of title 31,*
9 *United State Code, to ensure the validity of*
10 *any potential variability.*

11 (4) *AUTHORIZATION OF APPROPRIATIONS.—*
12 *There is authorized to be appropriated to carry out*
13 *this subsection such sums as may be necessary for*
14 *each of fiscal years 2010 through 2012.*

15 (g) *PEDIATRIC STUDIES OF BIOLOGICAL PRODUCTS.—*

16 (1) *IN GENERAL.—Section 351 of the Public*
17 *Health Service Act (42 U.S.C. 262) is amended by*
18 *adding at the end the following:*

19 “(m) *PEDIATRIC STUDIES.—*

20 “(1) *APPLICATION OF CERTAIN PROVISIONS.—*
21 *The provisions of subsections (a), (d), (e), (f), (i), (j),*
22 *(k), (l), (p), and (q) of section 505A of the Federal*
23 *Food, Drug, and Cosmetic Act shall apply with re-*
24 *spect to the extension of a period under paragraphs*
25 *(2) and (3) to the same extent and in the same man-*

1 *ner as such provisions apply with respect to the ex-*
2 *ension of a period under subsection (b) or (c) of sec-*
3 *tion 505A of the Federal Food, Drug, and Cosmetic*
4 *Act.*

5 *“(2) MARKET EXCLUSIVITY FOR NEW BIOLOGICAL*
6 *PRODUCTS.—If, prior to approval of an application*
7 *that is submitted under subsection (a), the Secretary*
8 *determines that information relating to the use of a*
9 *new biological product in the pediatric population*
10 *may produce health benefits in that population, the*
11 *Secretary makes a written request for pediatric stud-*
12 *ies (which shall include a timeframe for completing*
13 *such studies), the applicant agrees to the request, such*
14 *studies are completed using appropriate formulations*
15 *for each age group for which the study is requested*
16 *within any such timeframe, and the reports thereof*
17 *are submitted and accepted in accordance with sec-*
18 *tion 505A(d)(3) of the Federal Food, Drug, and Cos-*
19 *metic Act—*

20 *“(A) the periods for such biological product*
21 *referred to in subsection (k)(7) are deemed to be*
22 *4 years and 6 months rather than 4 years and*
23 *12 years and 6 months rather than 12 years;*
24 *and*

1 “(B) if the biological product is designated
2 under section 526 for a rare disease or condition,
3 the period for such biological product referred to
4 in section 527(a) is deemed to be 7 years and 6
5 months rather than 7 years.

6 “(3) *MARKET EXCLUSIVITY FOR ALREADY-MAR-*
7 *KETED BIOLOGICAL PRODUCTS.*—If the Secretary de-
8 termines that information relating to the use of a li-
9 censed biological product in the pediatric population
10 may produce health benefits in that population and
11 makes a written request to the holder of an approved
12 application under subsection (a) for pediatric studies
13 (which shall include a timeframe for completing such
14 studies), the holder agrees to the request, such studies
15 are completed using appropriate formulations for
16 each age group for which the study is requested with-
17 in any such timeframe, and the reports thereof are
18 submitted and accepted in accordance with section
19 505A(d)(3) of the Federal Food, Drug, and Cosmetic
20 Act—

21 “(A) the periods for such biological product
22 referred to in subsection (k)(7) are deemed to be
23 4 years and 6 months rather than 4 years and
24 12 years and 6 months rather than 12 years;
25 and

1 “(B) if the biological product is designated
2 under section 526 for a rare disease or condition,
3 the period for such biological product referred to
4 in section 527(a) is deemed to be 7 years and 6
5 months rather than 7 years.

6 “(4) *EXCEPTION.*—The Secretary shall not ex-
7 tend a period referred to in paragraph (2)(A), (2)(B),
8 (3)(A), or (3)(B) if the determination under section
9 505A(d)(3) is made later than 9 months prior to the
10 expiration of such period.”.

11 (2) *STUDIES REGARDING PEDIATRIC RE-*
12 *SEARCH.*—

13 (A) *PROGRAM FOR PEDIATRIC STUDY OF*
14 *DRUGS.*—Subsection (a)(1) of section 409I of the
15 Public Health Service Act (42 U.S.C. 284m) is
16 amended by inserting “, biological products,”
17 after “including drugs”.

18 (B) *INSTITUTE OF MEDICINE STUDY.*—Sec-
19 tion 505A(p) of the Federal Food, Drug, and
20 Cosmetic Act (21 U.S.C. 355b(p)) is amended by
21 striking paragraphs (4) and (5) and inserting
22 the following:

23 “(4) review and assess the number and impor-
24 tance of biological products for children that are being
25 tested as a result of the amendments made by the Bio-

1 *logics Price Competition and Innovation Act of 2009*
2 *and the importance for children, health care pro-*
3 *viders, parents, and others of labeling changes made*
4 *as a result of such testing;*

5 *“(5) review and assess the number, importance,*
6 *and prioritization of any biological products that are*
7 *not being tested for pediatric use; and*

8 *“(6) offer recommendations for ensuring pedi-*
9 *atric testing of biological products, including consid-*
10 *eration of any incentives, such as those provided*
11 *under this section or section 351(m) of the Public*
12 *Health Service Act.”.*

13 *(h) ORPHAN PRODUCTS.—If a reference product, as de-*
14 *finied in section 351 of the Public Health Service Act (42*
15 *U.S.C. 262) (as amended by this Act) has been designated*
16 *under section 526 of the Federal Food, Drug, and Cosmetic*
17 *Act (21 U.S.C. 360bb) for a rare disease or condition, a*
18 *biological product seeking approval for such disease or con-*
19 *dition under subsection (k) of such section 351 as biosimilar*
20 *to, or interchangeable with, such reference product may be*
21 *licensed by the Secretary only after the expiration for such*
22 *reference product of the later of—*

23 *(1) the 7-year period described in section 527(a)*
24 *of the Federal Food, Drug, and Cosmetic Act (21*
25 *U.S.C. 360cc(a)); and*

1 (2) the 12-year period described in subsection
2 (k)(7) of such section 351.

3 **SEC. 7003. SAVINGS.**

4 (a) *DETERMINATION.*—The Secretary of the Treasury,
5 in consultation with the Secretary of Health and Human
6 Services, shall for each fiscal year determine the amount
7 of savings to the Federal Government as a result of the en-
8 actment of this subtitle.

9 (b) *USE.*—Notwithstanding any other provision of this
10 subtitle (or an amendment made by this subtitle), the sav-
11 ings to the Federal Government generated as a result of the
12 enactment of this subtitle shall be used for deficit reduction.

13 ***Subtitle B—More Affordable Medi-***
14 ***cines for Children and Under-***
15 ***served Communities***

16 **SEC. 7101. EXPANDED PARTICIPATION IN 340B PROGRAM.**

17 (a) *EXPANSION OF COVERED ENTITIES RECEIVING*
18 *DISCOUNTED PRICES.*—Section 340B(a)(4) of the Public
19 Health Service Act (42 U.S.C. 256b(a)(4)) is amended by
20 adding at the end the following:

21 “(M) A children’s hospital excluded from the
22 Medicare prospective payment system pursuant
23 to section 1886(d)(1)(B)(iii) of the Social Secu-
24 rity Act, or a free-standing cancer hospital ex-
25 cluded from the Medicare prospective payment

1 *system pursuant to section 1886(d)(1)(B)(v) of*
2 *the Social Security Act, that would meet the re-*
3 *quirements of subparagraph (L), including the*
4 *disproportionate share adjustment percentage re-*
5 *quirement under clause (ii) of such subpara-*
6 *graph, if the hospital were a subsection (d) hos-*
7 *pital as defined by section 1886(d)(1)(B) of the*
8 *Social Security Act.*

9 *“(N) An entity that is a critical access hos-*
10 *pital (as determined under section 1820(c)(2) of*
11 *the Social Security Act), and that meets the re-*
12 *quirements of subparagraph (L)(i).*

13 *“(O) An entity that is a rural referral cen-*
14 *ter, as defined by section 1886(d)(5)(C)(i) of the*
15 *Social Security Act, or a sole community hos-*
16 *pital, as defined by section 1886(d)(5)(C)(iii) of*
17 *such Act, and that both meets the requirements*
18 *of subparagraph (L)(i) and has a dispropor-*
19 *tionate share adjustment percentage equal to or*
20 *greater than 8 percent.”.*

21 *(b) EXTENSION OF DISCOUNT TO INPATIENT DRUGS.—*
22 *Section 340B of the Public Health Service Act (42 U.S.C.*
23 *256b) is amended—*

1 (1) in paragraphs (2), (5), (7), and (9) of sub-
2 section (a), by striking “outpatient” each place it ap-
3 pears; and

4 (2) in subsection (b)—

5 (A) by striking “OTHER DEFINITION” and
6 all that follows through “In this section” and in-
7 serting the following: “OTHER DEFINITIONS.—

8 “(1) IN GENERAL.—In this section”; and

9 (B) by adding at the end the following new
10 paragraph:

11 “(2) COVERED DRUG.—In this section, the term
12 ‘covered drug’—

13 “(A) means a covered outpatient drug (as
14 defined in section 1927(k)(2) of the Social Secu-
15 rity Act); and

16 “(B) includes, notwithstanding paragraph
17 (3)(A) of section 1927(k) of such Act, a drug
18 used in connection with an inpatient or out-
19 patient service provided by a hospital described
20 in subparagraph (L), (M), (N), or (O) of sub-
21 section (a)(4) that is enrolled to participate in
22 the drug discount program under this section.”.

23 (c) PROHIBITION ON GROUP PURCHASING ARRANGE-
24 MENTS.—Section 340B(a) of the Public Health Service Act
25 (42 U.S.C. 256b(a)) is amended—

1 (1) *in paragraph (4)(L)—*

2 (A) *in clause (i), by adding “and” at the*
3 *end;*

4 (B) *in clause (ii), by striking “; and” and*
5 *inserting a period; and*

6 (C) *by striking clause (iii); and*

7 (2) *in paragraph (5), as amended by subsection*
8 (b)—

9 (A) *by redesignating subparagraphs (C)*
10 *and (D) as subparagraphs (D) and (E); respec-*
11 *tively; and*

12 (B) *by inserting after subparagraph (B),*
13 *the following:*

14 “(C) *PROHIBITION ON GROUP PURCHASING*
15 *ARRANGEMENTS.—*

16 “(i) *IN GENERAL.—A hospital de-*
17 *scribed in subparagraph (L), (M), (N), or*
18 *(O) of paragraph (4) shall not obtain cov-*
19 *ered outpatient drugs through a group pur-*
20 *chasing organization or other group pur-*
21 *chasing arrangement, except as permitted or*
22 *provided for pursuant to clauses (ii) or*
23 *(iii).*

1 “(ii) *INPATIENT DRUGS.*—Clause (i)
2 *shall not apply to drugs purchased for in-*
3 *patient use.*

4 “(iii) *EXCEPTIONS.*—The Secretary
5 *shall establish reasonable exceptions to*
6 *clause (i)—*

7 “(I) *with respect to a covered out-*
8 *patient drug that is unavailable to be*
9 *purchased through the program under*
10 *this section due to a drug shortage*
11 *problem, manufacturer noncompliance,*
12 *or any other circumstance beyond the*
13 *hospital’s control;*

14 “(II) *to facilitate generic substi-*
15 *tution when a generic covered out-*
16 *patient drug is available at a lower*
17 *price; or*

18 “(III) *to reduce in other ways the*
19 *administrative burdens of managing*
20 *both inventories of drugs subject to this*
21 *section and inventories of drugs that*
22 *are not subject to this section, so long*
23 *as the exceptions do not create a dupli-*
24 *cate discount problem in violation of*

1 subparagraph (A) or a diversion prob-
2 lem in violation of subparagraph (B).

3 “(iv) *PURCHASING ARRANGEMENTS*
4 *FOR INPATIENT DRUGS.*—*The Secretary*
5 *shall ensure that a hospital described in*
6 *subparagraph (L), (M), (N), or (O) of sub-*
7 *section (a)(4) that is enrolled to participate*
8 *in the drug discount program under this*
9 *section shall have multiple options for pur-*
10 *chasing covered drugs for inpatients, in-*
11 *cluding by utilizing a group purchasing or-*
12 *ganization or other group purchasing ar-*
13 *rangement, establishing and utilizing its*
14 *own group purchasing program, purchasing*
15 *directly from a manufacturer, and any*
16 *other purchasing arrangements that the Sec-*
17 *retary determines is appropriate to ensure*
18 *access to drug discount pricing under this*
19 *section for inpatient drugs taking into ac-*
20 *count the particular needs of small and*
21 *rural hospitals.”.*

22 (d) *MEDICAID CREDITS ON INPATIENT DRUGS.*—*Sec-*
23 *tion 340B of the Public Health Service Act (42 U.S.C. 256b)*
24 *is amended by striking subsection (c) and inserting the fol-*
25 *lowing:*

1 “(c) *MEDICAID CREDIT*.—Not later than 90 days after
2 the date of filing of the hospital’s most recently filed Medi-
3 care cost report, the hospital shall issue a credit as deter-
4 mined by the Secretary to the State Medicaid program for
5 inpatient covered drugs provided to Medicaid recipients.”.

6 (e) *EFFECTIVE DATES*.—

7 (1) *IN GENERAL*.—The amendments made by
8 this section and section 7102 shall take effect on Jan-
9 uary 1, 2010, and shall apply to drugs purchased on
10 or after January 1, 2010.

11 (2) *EFFECTIVENESS*.—The amendments made by
12 this section and section 7102 shall be effective and
13 shall be taken into account in determining whether a
14 manufacturer is deemed to meet the requirements of
15 section 340B(a) of the Public Health Service Act (42
16 U.S.C. 256b(a)), notwithstanding any other provision
17 of law.

18 **SEC. 7102. IMPROVEMENTS TO 340B PROGRAM INTEGRITY.**

19 (a) *INTEGRITY IMPROVEMENTS*.—Subsection (d) of sec-
20 tion 340B of the Public Health Service Act (42 U.S.C. 256b)
21 is amended to read as follows:

22 “(d) *IMPROVEMENTS IN PROGRAM INTEGRITY*.—

23 “(1) *MANUFACTURER COMPLIANCE*.—

24 “(A) *IN GENERAL*.—From amounts appro-
25 priated under paragraph (4), the Secretary shall

1 *provide for improvements in compliance by*
2 *manufacturers with the requirements of this sec-*
3 *tion in order to prevent overcharges and other*
4 *violations of the discounted pricing requirements*
5 *specified in this section.*

6 “(B) *IMPROVEMENTS.*—*The improvements*
7 *described in subparagraph (A) shall include the*
8 *following:*

9 “(i) *The development of a system to en-*
10 *able the Secretary to verify the accuracy of*
11 *ceiling prices calculated by manufacturers*
12 *under subsection (a)(1) and charged to cov-*
13 *ered entities, which shall include the fol-*
14 *lowing:*

15 “(I) *Developing and publishing*
16 *through an appropriate policy or regu-*
17 *latory issuance, precisely defined*
18 *standards and methodology for the cal-*
19 *culatation of ceiling prices under such*
20 *subsection.*

21 “(II) *Comparing regularly the*
22 *ceiling prices calculated by the Sec-*
23 *retary with the quarterly pricing data*
24 *that is reported by manufacturers to*
25 *the Secretary.*

1 “(III) *Performing spot checks of*
2 *sales transactions by covered entities.*

3 “(IV) *Inquiring into the cause of*
4 *any pricing discrepancies that may be*
5 *identified and either taking, or requir-*
6 *ing manufacturers to take, such correc-*
7 *tive action as is appropriate in re-*
8 *sponse to such price discrepancies.*

9 “(ii) *The establishment of procedures*
10 *for manufacturers to issue refunds to cov-*
11 *ered entities in the event that there is an*
12 *overcharge by the manufacturers, including*
13 *the following:*

14 “(I) *Providing the Secretary with*
15 *an explanation of why and how the*
16 *overcharge occurred, how the refunds*
17 *will be calculated, and to whom the re-*
18 *funds will be issued.*

19 “(II) *Oversight by the Secretary*
20 *to ensure that the refunds are issued*
21 *accurately and within a reasonable pe-*
22 *riod of time, both in routine instances*
23 *of retroactive adjustment to relevant*
24 *pricing data and exceptional cir-*

1 *cumstances such as erroneous or inten-*
2 *tional overcharging for covered drugs.*

3 *“(iii) The provision of access through*
4 *the Internet website of the Department of*
5 *Health and Human Services to the applica-*
6 *ble ceiling prices for covered drugs as cal-*
7 *culated and verified by the Secretary in ac-*
8 *cordance with this section, in a manner*
9 *(such as through the use of password protec-*
10 *tion) that limits such access to covered enti-*
11 *ties and adequately assures security and*
12 *protection of privileged pricing data from*
13 *unauthorized re-disclosure.*

14 *“(iv) The development of a mechanism*
15 *by which—*

16 *“(I) rebates and other discounts*
17 *provided by manufacturers to other*
18 *purchasers subsequent to the sale of*
19 *covered drugs to covered entities are re-*
20 *ported to the Secretary; and*

21 *“(II) appropriate credits and re-*
22 *funds are issued to covered entities if*
23 *such discounts or rebates have the effect*
24 *of lowering the applicable ceiling price*

1 *for the relevant quarter for the drugs*
2 *involved.*

3 “(v) *Selective auditing of manufactur-*
4 *ers and wholesalers to ensure the integrity*
5 *of the drug discount program under this*
6 *section.*

7 “(vi) *The imposition of sanctions in*
8 *the form of civil monetary penalties,*
9 *which—*

10 “(I) *shall be assessed according to*
11 *standards established in regulations to*
12 *be promulgated by the Secretary not*
13 *later than 180 days after the date of*
14 *enactment of the Patient Protection*
15 *and Affordable Care Act;*

16 “(II) *shall not exceed \$5,000 for*
17 *each instance of overcharging a covered*
18 *entity that may have occurred; and*

19 “(III) *shall apply to any manu-*
20 *facturer with an agreement under this*
21 *section that knowingly and inten-*
22 *tionally charges a covered entity a*
23 *price for purchase of a drug that ex-*
24 *ceeds the maximum applicable price*
25 *under subsection (a)(1).*

1 “(2) *COVERED ENTITY COMPLIANCE.*—

2 “(A) *IN GENERAL.*—*From amounts appro-*
3 *propriated under paragraph (4), the Secretary shall*
4 *provide for improvements in compliance by cov-*
5 *ered entities with the requirements of this section*
6 *in order to prevent diversion and violations of*
7 *the duplicate discount provision and other re-*
8 *quirements specified under subsection (a)(5).*

9 “(B) *IMPROVEMENTS.*—*The improvements*
10 *described in subparagraph (A) shall include the*
11 *following:*

12 “(i) *The development of procedures to*
13 *enable and require covered entities to regu-*
14 *larly update (at least annually) the infor-*
15 *mation on the Internet website of the De-*
16 *partment of Health and Human Services*
17 *relating to this section.*

18 “(ii) *The development of a system for*
19 *the Secretary to verify the accuracy of in-*
20 *formation regarding covered entities that is*
21 *listed on the website described in clause (i).*

22 “(iii) *The development of more detailed*
23 *guidance describing methodologies and op-*
24 *tions available to covered entities for billing*
25 *covered drugs to State Medicaid agencies in*

1 *a manner that avoids duplicate discounts*
2 *pursuant to subsection (a)(5)(A).*

3 “(iv) *The establishment of a single,*
4 *universal, and standardized identification*
5 *system by which each covered entity site can*
6 *be identified by manufacturers, distributors,*
7 *covered entities, and the Secretary for pur-*
8 *poses of facilitating the ordering, pur-*
9 *chasing, and delivery of covered drugs*
10 *under this section, including the processing*
11 *of chargebacks for such drugs.*

12 “(v) *The imposition of sanctions, in*
13 *appropriate cases as determined by the Sec-*
14 *retary, additional to those to which covered*
15 *entities are subject under subsection*
16 *(a)(5)(E), through one or more of the fol-*
17 *lowing actions:*

18 “(I) *Where a covered entity know-*
19 *ingly and intentionally violates sub-*
20 *section (a)(5)(B), the covered entity*
21 *shall be required to pay a monetary*
22 *penalty to a manufacturer or manufac-*
23 *turers in the form of interest on sums*
24 *for which the covered entity is found*
25 *liable under subsection (a)(5)(E), such*

1 *interest to be compounded monthly and*
2 *equal to the current short term interest*
3 *rate as determined by the Federal Re-*
4 *serve for the time period for which the*
5 *covered entity is liable.*

6 “(II) Where the Secretary deter-
7 mines a violation of subsection
8 (a)(5)(B) was systematic and egregious
9 as well as knowing and intentional, re-
10 moving the covered entity from the
11 drug discount program under this sec-
12 tion and disqualifying the entity from
13 re-entry into such program for a rea-
14 sonable period of time to be determined
15 by the Secretary.

16 “(III) Referring matters to appro-
17 priate Federal authorities within the
18 Food and Drug Administration, the
19 Office of Inspector General of Depart-
20 ment of Health and Human Services,
21 or other Federal agencies for consider-
22 ation of appropriate action under
23 other Federal statutes, such as the Pre-
24 scription Drug Marketing Act (21
25 U.S.C. 353).

1 “(3) *ADMINISTRATIVE DISPUTE RESOLUTION*
2 *PROCESS.*—

3 “(A) *IN GENERAL.*—*Not later than 180*
4 *days after the date of enactment of the Patient*
5 *Protection and Affordable Care Act, the Sec-*
6 *retary shall promulgate regulations to establish*
7 *and implement an administrative process for the*
8 *resolution of claims by covered entities that they*
9 *have been overcharged for drugs purchased under*
10 *this section, and claims by manufacturers, after*
11 *the conduct of audits as authorized by subsection*
12 *(a)(5)(D), of violations of subsections (a)(5)(A)*
13 *or (a)(5)(B), including appropriate procedures*
14 *for the provision of remedies and enforcement of*
15 *determinations made pursuant to such process*
16 *through mechanisms and sanctions described in*
17 *paragraphs (1)(B) and (2)(B).*

18 “(B) *DEADLINES AND PROCEDURES.*—*Reg-*
19 *ulations promulgated by the Secretary under*
20 *subparagraph (A) shall—*

21 “(i) *designate or establish a decision-*
22 *making official or decision-making body*
23 *within the Department of Health and*
24 *Human Services to be responsible for re-*
25 *viewing and finally resolving claims by cov-*

1 *ered entities that they have been charged*
2 *prices for covered drugs in excess of the ceil-*
3 *ing price described in subsection (a)(1), and*
4 *claims by manufacturers that violations of*
5 *subsection (a)(5)(A) or (a)(5)(B) have oc-*
6 *curred;*

7 *“(ii) establish such deadlines and pro-*
8 *cedures as may be necessary to ensure that*
9 *claims shall be resolved fairly, efficiently,*
10 *and expeditiously;*

11 *“(iii) establish procedures by which a*
12 *covered entity may discover and obtain such*
13 *information and documents from manufac-*
14 *turers and third parties as may be relevant*
15 *to demonstrate the merits of a claim that*
16 *charges for a manufacturer’s product have*
17 *exceeded the applicable ceiling price under*
18 *this section, and may submit such docu-*
19 *ments and information to the administra-*
20 *tive official or body responsible for adjudi-*
21 *cating such claim;*

22 *“(iv) require that a manufacturer con-*
23 *duct an audit of a covered entity pursuant*
24 *to subsection (a)(5)(D) as a prerequisite to*

1 *initiating administrative dispute resolution*
2 *proceedings against a covered entity;*

3 *“(v) permit the official or body des-*
4 *ignated under clause (i), at the request of a*
5 *manufacturer or manufacturers, to consoli-*
6 *date claims brought by more than one man-*
7 *ufacturer against the same covered entity*
8 *where, in the judgment of such official or*
9 *body, consolidation is appropriate and con-*
10 *sistent with the goals of fairness and econ-*
11 *omy of resources; and*

12 *“(vi) include provisions and proce-*
13 *dures to permit multiple covered entities to*
14 *jointly assert claims of overcharges by the*
15 *same manufacturer for the same drug or*
16 *drugs in one administrative proceeding,*
17 *and permit such claims to be asserted on be-*
18 *half of covered entities by associations or or-*
19 *ganizations representing the interests of*
20 *such covered entities and of which the cov-*
21 *ered entities are members.*

22 *“(C) FINALITY OF ADMINISTRATIVE RESO-*
23 *LUTION.—The administrative resolution of a*
24 *claim or claims under the regulations promul-*
25 *gated under subparagraph (A) shall be a final*

1 *agency decision and shall be binding upon the*
2 *parties involved, unless invalidated by an order*
3 *of a court of competent jurisdiction.*

4 “(4) *AUTHORIZATION OF APPROPRIATIONS.—*
5 *There are authorized to be appropriated to carry out*
6 *this subsection, such sums as may be necessary for fis-*
7 *cal year 2010 and each succeeding fiscal year.”.*

8 *(b) CONFORMING AMENDMENTS.—Section 340B(a) of*
9 *the Public Health Service Act (42 U.S.C. 256b(a)) is*
10 *amended—*

11 *(1) in subsection (a)(1), by adding at the end the*
12 *following: “Each such agreement shall require that the*
13 *manufacturer furnish the Secretary with reports, on*
14 *a quarterly basis, of the price for each covered drug*
15 *subject to the agreement that, according to the manu-*
16 *facturer, represents the maximum price that covered*
17 *entities may permissibly be required to pay for the*
18 *drug (referred to in this section as the ‘ceiling price’),*
19 *and shall require that the manufacturer offer each*
20 *covered entity covered drugs for purchase at or below*
21 *the applicable ceiling price if such drug is made*
22 *available to any other purchaser at any price.”; and*

23 *(2) in the first sentence of subsection (a)(5)(E),*
24 *as redesignated by section 7101(c), by inserting “after*

1 *audit as described in subparagraph (D) and” after*
2 *“finds,”.*

3 **SEC. 7103. GAO STUDY TO MAKE RECOMMENDATIONS ON**
4 **IMPROVING THE 340B PROGRAM.**

5 *(a) REPORT.—Not later than 18 months after the date*
6 *of enactment of this Act, the Comptroller General of the*
7 *United States shall submit to Congress a report that exam-*
8 *ines whether those individuals served by the covered entities*
9 *under the program under section 340B of the Public Health*
10 *Service Act (42 U.S.C. 256b) (referred to in this section*
11 *as the “340B program”) are receiving optimal health care*
12 *services.*

13 *(b) RECOMMENDATIONS.—The report under subsection*
14 *(a) shall include recommendations on the following:*

15 *(1) Whether the 340B program should be ex-*
16 *panded since it is anticipated that the 47,000,000 in-*
17 *dividuals who are uninsured as of the date of enact-*
18 *ment of this Act will have health care coverage once*
19 *this Act is implemented.*

20 *(2) Whether mandatory sales of certain products*
21 *by the 340B program could hinder patients access to*
22 *those therapies through any provider.*

23 *(3) Whether income from the 340B program is*
24 *being used by the covered entities under the program*
25 *to further the program objectives.*

1 **TITLE VIII—CLASS ACT**

2 **SEC. 8001. SHORT TITLE OF TITLE.**

3 *This title may be cited as the “Community Living As-*
 4 *istance Services and Supports Act” or the “CLASS Act”.*

5 **SEC. 8002. ESTABLISHMENT OF NATIONAL VOLUNTARY IN-**
 6 **SURANCE PROGRAM FOR PURCHASING COM-**
 7 **MUNITY LIVING ASSISTANCE SERVICES AND**
 8 **SUPPORT.**

9 *(a) ESTABLISHMENT OF CLASS PROGRAM.—*

10 *(1) IN GENERAL.—The Public Health Service Act*
 11 *(42 U.S.C. 201 et seq.), as amended by section*
 12 *4302(a), is amended by adding at the end the fol-*
 13 *lowing:*

14 **“TITLE XXXII—COMMUNITY LIV-**
 15 **ING ASSISTANCE SERVICES**
 16 **AND SUPPORTS**

17 **“SEC. 3201. PURPOSE.**

18 *“The purpose of this title is to establish a national vol-*
 19 *untary insurance program for purchasing community liv-*
 20 *ing assistance services and supports in order to—*

21 *“(1) provide individuals with functional limita-*
 22 *tions with tools that will allow them to maintain*
 23 *their personal and financial independence and live in*
 24 *the community through a new financing strategy for*
 25 *community living assistance services and supports;*

1 “(2) *establish an infrastructure that will help*
2 *address the Nation’s community living assistance*
3 *services and supports needs;*

4 “(3) *alleviate burdens on family caregivers; and*

5 “(4) *address institutional bias by providing a fi-*
6 *nancing mechanism that supports personal choice and*
7 *independence to live in the community.*

8 **“SEC. 3202. DEFINITIONS.**

9 *“In this title:*

10 “(1) *ACTIVE ENROLLEE.—The term ‘active en-*
11 *rollee’ means an individual who is enrolled in the*
12 *CLASS program in accordance with section 3204 and*
13 *who has paid any premiums due to maintain such*
14 *enrollment.*

15 “(2) *ACTIVELY EMPLOYED.—The term ‘actively*
16 *employed’ means an individual who—*

17 “(A) *is reporting for work at the individ-*
18 *ual’s usual place of employment or at another lo-*
19 *cation to which the individual is required to*
20 *travel because of the individual’s employment (or*
21 *in the case of an individual who is a member of*
22 *the uniformed services, is on active duty and is*
23 *physically able to perform the duties of the indi-*
24 *vidual’s position); and*

1 “(B) is able to perform all the usual and
2 customary duties of the individual’s employment
3 on the individual’s regular work schedule.

4 “(3) *ACTIVITIES OF DAILY LIVING.*—The term
5 ‘activities of daily living’ means each of the following
6 activities specified in section 7702B(c)(2)(B) of the
7 Internal Revenue Code of 1986:

8 “(A) *Eating.*

9 “(B) *Toileting.*

10 “(C) *Transferring.*

11 “(D) *Bathing.*

12 “(E) *Dressing.*

13 “(F) *Continence.*

14 “(4) *CLASS PROGRAM.*—The term ‘CLASS pro-
15 gram’ means the program established under this title.

16 “(5) *ELIGIBILITY ASSESSMENT SYSTEM.*—The
17 term ‘Eligibility Assessment System’ means the entity
18 established by the Secretary under section 3205(a)(2)
19 to make functional eligibility determinations for the
20 CLASS program.

21 “(6) *ELIGIBLE BENEFICIARY.*—

22 “(A) *IN GENERAL.*—The term ‘eligible bene-
23 ficiary’ means any individual who is an active
24 enrollee in the CLASS program and, as of the
25 date described in subparagraph (B)—

1 “(i) has paid premiums for enrollment
2 in such program for at least 60 months;

3 “(ii) has earned, with respect to at
4 least 3 calendar years that occur during the
5 first 60 months for which the individual has
6 paid premiums for enrollment in the pro-
7 gram, at least an amount equal to the
8 amount of wages and self-employment in-
9 come which an individual must have in
10 order to be credited with a quarter of cov-
11 erage under section 213(d) of the Social Se-
12 curity Act for the year; and

13 “(iii) has paid premiums for enroll-
14 ment in such program for at least 24 con-
15 secutive months, if a lapse in premium pay-
16 ments of more than 3 months has occurred
17 during the period that begins on the date of
18 the individual’s enrollment and ends on the
19 date of such determination.

20 “(B) *DATE DESCRIBED.*—For purposes of
21 subparagraph (A), the date described in this sub-
22 paragraph is the date on which the individual is
23 determined to have a functional limitation de-
24 scribed in section 3203(a)(1)(C) that is expected

1 to last for a continuous period of more than 90
2 days.

3 “(C) *REGULATIONS.*—*The Secretary shall*
4 *promulgate regulations specifying exceptions to*
5 *the minimum earnings requirements under sub-*
6 *paragraph (A)(ii) for purposes of being consid-*
7 *ered an eligible beneficiary for certain popu-*
8 *lations.*

9 “(7) *HOSPITAL; NURSING FACILITY; INTER-*
10 *MEDIATE CARE FACILITY FOR THE MENTALLY RE-*
11 *TARDED; INSTITUTION FOR MENTAL DISEASES.*—*The*
12 *terms ‘hospital’, ‘nursing facility’, ‘intermediate care*
13 *facility for the mentally retarded’, and ‘institution for*
14 *mental diseases’ have the meanings given such terms*
15 *for purposes of Medicaid.*

16 “(8) *CLASS INDEPENDENCE ADVISORY COUN-*
17 *CIL.*—*The term ‘CLASS Independence Advisory*
18 *Council’ or ‘Council’ means the Advisory Council es-*
19 *tablished under section 3207 to advise the Secretary.*

20 “(9) *CLASS INDEPENDENCE BENEFIT PLAN.*—
21 *The term ‘CLASS Independence Benefit Plan’ means*
22 *the benefit plan developed and designated by the Sec-*
23 *retary in accordance with section 3203.*

1 “(10) *CLASS INDEPENDENCE FUND*.—The term
2 ‘*CLASS Independence Fund*’ or ‘*Fund*’ means the
3 fund established under section 3206.

4 “(11) *MEDICAID*.—The term ‘*Medicaid*’ means
5 the program established under title XIX of the Social
6 Security Act (42 U.S.C. 1396 et seq.).

7 “(12) *POVERTY LINE*.—The term ‘*poverty line*’
8 has the meaning given that term in section 2110(c)(5)
9 of the Social Security Act (42 U.S.C. 1397jj(c)(5)).

10 “(13) *PROTECTION AND ADVOCACY SYSTEM*.—The
11 term ‘*Protection and Advocacy System*’ means the
12 system for each State established under section 143 of
13 the *Developmental Disabilities Assistance and Bill of*
14 *Rights Act of 2000* (42 U.S.C. 15043).

15 **“SEC. 3203. CLASS INDEPENDENCE BENEFIT PLAN.**

16 “(a) *PROCESS FOR DEVELOPMENT*.—

17 “(1) *IN GENERAL*.—The Secretary, in consulta-
18 tion with appropriate actuaries and other experts,
19 shall develop at least 3 actuarially sound benefit
20 plans as alternatives for consideration for designation
21 by the Secretary as the *CLASS Independence Benefit*
22 *Plan* under which eligible beneficiaries shall receive
23 benefits under this title. Each of the plan alternatives
24 developed shall be designed to provide eligible bene-

1 *ficiaries with the benefits described in section 3205*
2 *consistent with the following requirements:*

3 “(A) *PREMIUMS.*—

4 “(i) *IN GENERAL.*—*Beginning with the*
5 *first year of the CLASS program, and for*
6 *each year thereafter, subject to clauses (ii)*
7 *and (iii), the Secretary shall establish all*
8 *premiums to be paid by enrollees for the*
9 *year based on an actuarial analysis of the*
10 *75-year costs of the program that ensures*
11 *solvency throughout such 75-year period.*

12 “(ii) *NOMINAL PREMIUM FOR POOREST*
13 *INDIVIDUALS AND FULL-TIME STUDENTS.*—

14 “(I) *IN GENERAL.*—*The monthly*
15 *premium for enrollment in the CLASS*
16 *program shall not exceed the applicable*
17 *dollar amount per month determined*
18 *under subclause (II) for—*

19 “(aa) *any individual whose*
20 *income does not exceed the poverty*
21 *line; and*

22 “(bb) *any individual who*
23 *has not attained age 22, and is*
24 *actively employed during any pe-*
25 *riod in which the individual is a*

1 *full-time student (as determined*
2 *by the Secretary).*

3 “(II) *APPLICABLE DOLLAR*
4 *AMOUNT.—The applicable dollar*
5 *amount described in this subclause is*
6 *the amount equal to \$5, increased by*
7 *the percentage increase in the con-*
8 *sumer price index for all urban con-*
9 *sumers (U.S. city average) for each*
10 *year occurring after 2009 and before*
11 *such year.*

12 “(iii) *CLASS INDEPENDENCE FUND RE-*
13 *SERVES.—At such time as the CLASS pro-*
14 *gram has been in operation for 10 years,*
15 *the Secretary shall establish all premiums*
16 *to be paid by enrollees for the year based on*
17 *an actuarial analysis that accumulated re-*
18 *serves in the CLASS Independence Fund*
19 *would not decrease in that year. At such*
20 *time as the Secretary determines the*
21 *CLASS program demonstrates a sustained*
22 *ability to finance expected yearly expenses*
23 *with expected yearly premiums and interest*
24 *credited to the CLASS Independence Fund,*
25 *the Secretary may decrease the required*

1 *amount of CLASS Independence Fund re-*
2 *serves.*

3 “(B) *VESTING PERIOD.*—*A 5-year vesting*
4 *period for eligibility for benefits.*

5 “(C) *BENEFIT TRIGGERS.*—*A benefit trigger*
6 *for provision of benefits that requires a deter-*
7 *mination that an individual has a functional*
8 *limitation, as certified by a licensed health care*
9 *practitioner, described in any of the following*
10 *clauses that is expected to last for a continuous*
11 *period of more than 90 days:*

12 “(i) *The individual is determined to be*
13 *unable to perform at least the minimum*
14 *number (which may be 2 or 3) of activities*
15 *of daily living as are required under the*
16 *plan for the provision of benefits without*
17 *substantial assistance (as defined by the*
18 *Secretary) from another individual.*

19 “(ii) *The individual requires substan-*
20 *tial supervision to protect the individual*
21 *from threats to health and safety due to sub-*
22 *stantial cognitive impairment.*

23 “(iii) *The individual has a level of*
24 *functional limitation similar (as deter-*
25 *mined under regulations prescribed by the*

1 *Secretary) to the level of functional limita-*
2 *tion described in clause (i) or (ii).*

3 *“(D) CASH BENEFIT.—Payment of a cash*
4 *benefit that satisfies the following requirements:*

5 *“(i) MINIMUM REQUIRED AMOUNT.—*
6 *The benefit amount provides an eligible ben-*
7 *eficiary with not less than an average of*
8 *\$50 per day (as determined based on the*
9 *reasonably expected distribution of bene-*
10 *ficiaries receiving benefits at various benefit*
11 *levels).*

12 *“(ii) AMOUNT SCALED TO FUNCTIONAL*
13 *ABILITY.—The benefit amount is varied*
14 *based on a scale of functional ability, with*
15 *not less than 2, and not more than 6, ben-*
16 *efit level amounts.*

17 *“(iii) DAILY OR WEEKLY.—The benefit*
18 *is paid on a daily or weekly basis.*

19 *“(iv) NO LIFETIME OR AGGREGATE*
20 *LIMIT.—The benefit is not subject to any*
21 *lifetime or aggregate limit.*

22 *“(E) COORDINATION WITH SUPPLEMENTAL*
23 *COVERAGE OBTAINED THROUGH THE EX-*
24 *CHANGE.—The benefits allow for coordination*
25 *with any supplemental coverage purchased*

1 *through an Exchange established under section*
2 *1311 of the Patient Protection and Affordable*
3 *Care Act.*

4 “(2) *REVIEW AND RECOMMENDATION BY THE*
5 *CLASS INDEPENDENCE ADVISORY COUNCIL.—The*
6 *CLASS Independence Advisory Council shall—*

7 “(A) *evaluate the alternative benefit plans*
8 *developed under paragraph (1); and*

9 “(B) *recommend for designation as the*
10 *CLASS Independence Benefit Plan for offering*
11 *to the public the plan that the Council deter-*
12 *mines best balances price and benefits to meet*
13 *enrollees’ needs in an actuarially sound manner,*
14 *while optimizing the probability of the long-term*
15 *sustainability of the CLASS program.*

16 “(3) *DESIGNATION BY THE SECRETARY.—Not*
17 *later than October 1, 2012, the Secretary, taking into*
18 *consideration the recommendation of the CLASS*
19 *Independence Advisory Council under paragraph*
20 *(2)(B), shall designate a benefit plan as the CLASS*
21 *Independence Benefit Plan. The Secretary shall pub-*
22 *lish such designation, along with details of the plan*
23 *and the reasons for the selection by the Secretary, in*
24 *a final rule that allows for a period of public com-*
25 *ment.*

1 “(b) *ADDITIONAL PREMIUM REQUIREMENTS.*—

2 “(1) *ADJUSTMENT OF PREMIUMS.*—

3 “(A) *IN GENERAL.*—*Except as provided in*
4 *subparagraphs (B), (C), (D), and (E), the*
5 *amount of the monthly premium determined for*
6 *an individual upon such individual’s enrollment*
7 *in the CLASS program shall remain the same*
8 *for as long as the individual is an active enrollee*
9 *in the program.*

10 “(B) *RECALCULATED PREMIUM IF RE-*
11 *QUIRED FOR PROGRAM SOLVENCY.*—

12 “(i) *IN GENERAL.*—*Subject to clause*
13 *(ii), if the Secretary determines, based on*
14 *the most recent report of the Board of*
15 *Trustees of the CLASS Independence Fund,*
16 *the advice of the CLASS Independence Ad-*
17 *visory Council, and the annual report of the*
18 *Inspector General of the Department of*
19 *Health and Human Services, and waste,*
20 *fraud, and abuse, or such other information*
21 *as the Secretary determines appropriate,*
22 *that the monthly premiums and income to*
23 *the CLASS Independence Fund for a year*
24 *are projected to be insufficient with respect*
25 *to the 20-year period that begins with that*

1 *year, the Secretary shall adjust the monthly*
2 *premiums for individuals enrolled in the*
3 *CLASS program as necessary (but main-*
4 *taining a nominal premium for enrollees*
5 *whose income is below the poverty line or*
6 *who are full-time students actively em-*
7 *ployed).*

8 “(i) *EXEMPTION FROM INCREASE.—*
9 *Any increase in a monthly premium im-*
10 *posed as result of a determination described*
11 *in clause (i) shall not apply with respect to*
12 *the monthly premium of any active enrollee*
13 *who—*

14 “(I) *has attained age 65;*

15 “(II) *has paid premiums for en-*
16 *rollment in the program for at least 20*
17 *years; and*

18 “(III) *is not actively employed.*

19 “(C) *RECALCULATED PREMIUM IF RE-*
20 *ENROLLMENT AFTER MORE THAN A 3-MONTH*
21 *LAPSE.—*

22 “(i) *IN GENERAL.—The reenrollment of*
23 *an individual after a 90-day period during*
24 *which the individual failed to pay the*
25 *monthly premium required to maintain the*

1 *individual's enrollment in the CLASS pro-*
2 *gram shall be treated as an initial enroll-*
3 *ment for purposes of age-adjusting the pre-*
4 *mium for enrollment in the program.*

5 “(ii) *CREDIT FOR PRIOR MONTHS IF*
6 *REENROLLED WITHIN 5 YEARS.—An indi-*
7 *vidual who reenrolls in the CLASS program*
8 *after such a 90-day period and before the*
9 *end of the 5-year period that begins with*
10 *the first month for which the individual*
11 *failed to pay the monthly premium required*
12 *to maintain the individual's enrollment in*
13 *the program shall be—*

14 “(I) *credited with any months of*
15 *paid premiums that accrued prior to*
16 *the individual's lapse in enrollment;*
17 *and*

18 “(II) *notwithstanding the total*
19 *amount of any such credited months,*
20 *required to satisfy section*
21 *3202(6)(A)(ii) before being eligible to*
22 *receive benefits.*

23 “(D) *NO LONGER STATUS AS A FULL-TIME*
24 *STUDENT.—An individual subject to a nominal*
25 *premium on the basis of being described in sub-*

1 section (a)(1)(A)(ii)(I)(bb) who ceases to be de-
2 scribed in that subsection, beginning with the
3 first month following the month in which the in-
4 dividual ceases to be so described, shall be subject
5 to the same monthly premium as the monthly
6 premium that applies to an individual of the
7 same age who first enrolls in the program under
8 the most similar circumstances as the individual
9 (such as the first year of eligibility for enroll-
10 ment in the program or in a subsequent year).

11 “(E) PENALTY FOR REENOLLMENT AFTER 5-
12 YEAR LAPSE.—In the case of an individual who
13 reenrolls in the CLASS program after the end of
14 the 5-year period described in subparagraph
15 (C)(ii), the monthly premium required for the
16 individual shall be the age-adjusted premium
17 that would be applicable to an initially enrolling
18 individual who is the same age as the reenrolling
19 individual, increased by the greater of—

20 “(i) an amount that the Secretary de-
21 termines is actuarially sound for each
22 month that occurs during the period that
23 begins with the first month for which the
24 individual failed to pay the monthly pre-
25 mium required to maintain the individual’s

1 enrollment in the CLASS program and
2 ends with the month preceding the month in
3 which the reenrollment is effective; or

4 “(ii) 1 percent of the applicable age-
5 adjusted premium for each such month oc-
6 curring in such period.

7 “(2) ADMINISTRATIVE EXPENSES.—In deter-
8 mining the monthly premiums for the CLASS pro-
9 gram the Secretary may factor in costs for admin-
10 istering the program, not to exceed for any year in
11 which the program is in effect under this title, an
12 amount equal to 3 percent of all premiums paid dur-
13 ing the year.

14 “(3) NO UNDERWRITING REQUIREMENTS.—No
15 underwriting (other than on the basis of age in ac-
16 cordance with subparagraphs (D) and (E) of para-
17 graph (1)) shall be used to—

18 “(A) determine the monthly premium for
19 enrollment in the CLASS program; or

20 “(B) prevent an individual from enrolling
21 in the program.

22 “(c) SELF-ATTESTATION AND VERIFICATION OF IN-
23 COME.—The Secretary shall establish procedures to—

24 “(1) permit an individual who is eligible for the
25 nominal premium required under subsection

1 (a)(1)(A)(ii), as part of their automatic enrollment in
2 the CLASS program, to self-attest that their income
3 does not exceed the poverty line or that their status
4 as a full-time student who is actively employed;

5 “(2) verify, using procedures similar to the pro-
6 cedures used by the Commissioner of Social Security
7 under section 1631(e)(1)(B)(ii) of the Social Security
8 Act and consistent with the requirements applicable
9 to the conveyance of data and information under sec-
10 tion 1942 of such Act, the validity of such self-attesta-
11 tion; and

12 “(3) require an individual to confirm, on at
13 least an annual basis, that their income does not ex-
14 ceed the poverty line or that they continue to main-
15 tain such status.

16 **“SEC. 3204. ENROLLMENT AND DISENROLLMENT REQUIRE-**
17 **MENTS.**

18 “(a) *AUTOMATIC ENROLLMENT.*—

19 “(1) *IN GENERAL.*—Subject to paragraph (2), the
20 Secretary, in coordination with the Secretary of the
21 Treasury, shall establish procedures under which each
22 individual described in subsection (c) may be auto-
23 matically enrolled in the CLASS program by an em-
24 ployer of such individual in the same manner as an
25 employer may elect to automatically enroll employees

1 *in a plan under section 401(k), 403(b), or 457 of the*
2 *Internal Revenue Code of 1986.*

3 “(2) *ALTERNATIVE ENROLLMENT PROCEDURE*—*The procedures established under paragraph*
4 *(1) shall provide for an alternative enrollment process*
5 *for an individual described in subsection (c) in the*
6 *case of such an individual—*

7 “(A) *who is self-employed;*

8 “(B) *who has more than 1 employer; or*

9 “(C) *whose employer does not elect to participate in the automatic enrollment process es-*
10 *tablished by the Secretary.*

11 “(3) *ADMINISTRATION.—*

12 “(A) *IN GENERAL.—The Secretary and the*
13 *Secretary of the Treasury shall, by regulation,*
14 *establish procedures to ensure that an individual*
15 *is not automatically enrolled in the CLASS pro-*
16 *gram by more than 1 employer.*

17 “(B) *FORM.—Enrollment in the CLASS*
18 *program shall be made in such manner as the*
19 *Secretary may prescribe in order to ensure ease*
20 *of administration.*

21 “(b) *ELECTION TO OPT-OUT.—An individual de-*
22 *scribed in subsection (c) may elect to waive enrollment in*
23 *the CLASS program at any time in such form and manner*
24 *as the Secretary may prescribe.*

1 *as the Secretary and the Secretary of the Treasury shall*
2 *prescribe.*

3 “(c) *INDIVIDUAL DESCRIBED.*—*For purposes of enroll-*
4 *ing in the CLASS program, an individual described in this*
5 *paragraph is an individual—*

6 “(1) *who has attained age 18;*

7 “(2) *who—*

8 “(A) *receives wages on which there is im-*
9 *posed a tax under section 3201(a) of the Internal*
10 *Revenue Code of 1986; or*

11 “(B) *derives self-employment income on*
12 *which there is imposed a tax under section*
13 *1401(a) of the Internal Revenue Code of 1986;*

14 “(3) *who is actively employed; and*

15 “(4) *who is not—*

16 “(A) *a patient in a hospital or nursing fa-*
17 *ility, an intermediate care facility for the men-*
18 *tally retarded, or an institution for mental dis-*
19 *eases and receiving medical assistance under*
20 *Medicaid; or*

21 “(B) *confined in a jail, prison, other penal*
22 *institution or correctional facility, or by court*
23 *order pursuant to conviction of a criminal of-*
24 *fense or in connection with a verdict or finding*

1 *described in section 202(x)(1)(A)(ii) of the Social*
2 *Security Act (42 U.S.C. 402(x)(1)(A)(ii)).*

3 “(d) *RULE OF CONSTRUCTION.*—*Nothing in this title*
4 *shall be construed as requiring an active enrollee to con-*
5 *tinue to satisfy subparagraph (B) or (C) of subsection (c)(1)*
6 *in order to maintain enrollment in the CLASS program.*

7 “(e) *PAYMENT.*—

8 “(1) *PAYROLL DEDUCTION.*—*An amount equal to*
9 *the monthly premium for the enrollment in the*
10 *CLASS program of an individual shall be deducted*
11 *from the wages or self-employment income of such in-*
12 *dividual in accordance with such procedures as the*
13 *Secretary, in coordination with the Secretary of the*
14 *Treasury, shall establish for employers who elect to*
15 *deduct and withhold such premiums on behalf of en-*
16 *rolled employees.*

17 “(2) *ALTERNATIVE PAYMENT MECHANISM.*—*The*
18 *Secretary, in coordination with the Secretary of the*
19 *Treasury, shall establish alternative procedures for the*
20 *payment of monthly premiums by an individual en-*
21 *rolled in the CLASS program—*

22 “(A) *who does not have an employer who*
23 *elects to deduct and withhold premiums in ac-*
24 *cordance with subparagraph (A); or*

1 “(B) who does not earn wages or derive self-
2 employment income.

3 “(f) *TRANSFER OF PREMIUMS COLLECTED.*—

4 “(1) *IN GENERAL.*—During each calendar year
5 the Secretary of the Treasury shall deposit into the
6 CLASS Independence Fund a total amount equal, in
7 the aggregate, to 100 percent of the premiums col-
8 lected during that year.

9 “(2) *TRANSFERS BASED ON ESTIMATES.*—The
10 amount deposited pursuant to paragraph (1) shall be
11 transferred in at least monthly payments to the
12 CLASS Independence Fund on the basis of estimates
13 by the Secretary and certified to the Secretary of the
14 Treasury of the amounts collected in accordance with
15 subparagraphs (A) and (B) of paragraph (5). Proper
16 adjustments shall be made in amounts subsequently
17 transferred to the Fund to the extent prior estimates
18 were in excess of, or were less than, actual amounts
19 collected.

20 “(g) *OTHER ENROLLMENT AND DISENROLLMENT OP-*
21 *PORTUNITIES.*—The Secretary, in coordination with the
22 Secretary of the Treasury, shall establish procedures under
23 which—

24 “(1) an individual who, in the year of the indi-
25 vidual’s initial eligibility to enroll in the CLASS

1 *program, has elected to waive enrollment in the pro-*
2 *gram, is eligible to elect to enroll in the program, in*
3 *such form and manner as the Secretaries shall estab-*
4 *lish, only during an open enrollment period estab-*
5 *lished by the Secretaries that is specific to the indi-*
6 *vidual and that may not occur more frequently than*
7 *biennially after the date on which the individual first*
8 *elected to waive enrollment in the program; and*

9 *“(2) an individual shall only be permitted to*
10 *disenroll from the program (other than for non-*
11 *payment of premiums) during an annual*
12 *disenrollment period established by the Secretaries*
13 *and in such form and manner as the Secretaries shall*
14 *establish.*

15 **“SEC. 3205. BENEFITS.**

16 *“(a) DETERMINATION OF ELIGIBILITY.—*

17 *“(1) APPLICATION FOR RECEIPT OF BENEFITS.—*
18 *The Secretary shall establish procedures under which*
19 *an active enrollee shall apply for receipt of benefits*
20 *under the CLASS Independence Benefit Plan.*

21 *“(2) ELIGIBILITY ASSESSMENTS.—*

22 *“(A) IN GENERAL.—Not later than January*
23 *1, 2012, the Secretary shall—*

24 *“(i) establish an Eligibility Assessment*
25 *System (other than a service with which the*

1 *Commissioner of Social Security has en-*
2 *tered into an agreement, with respect to any*
3 *State, to make disability determinations for*
4 *purposes of title II or XVI of the Social Se-*
5 *curity Act) to provide for eligibility assess-*
6 *ments of active enrollees who apply for re-*
7 *ceipt of benefits;*

8 *“(ii) enter into an agreement with the*
9 *Protection and Advocacy System for each*
10 *State to provide advocacy services in ac-*
11 *cordance with subsection (d); and*

12 *“(iii) enter into an agreement with*
13 *public and private entities to provide advice*
14 *and assistance counseling in accordance*
15 *with subsection (e).*

16 *“(B) REGULATIONS.—The Secretary shall*
17 *promulgate regulations to develop an expedited*
18 *nationally equitable eligibility determination*
19 *process, as certified by a licensed health care*
20 *practitioner, an appeals process, and a redeter-*
21 *mination process, as certified by a licensed*
22 *health care practitioner, including whether an*
23 *active enrollee is eligible for a cash benefit under*
24 *the program and if so, the amount of the cash*

1 *benefit (in accordance the sliding scale estab-*
2 *lished under the plan).*

3 “(C) *PRESUMPTIVE ELIGIBILITY FOR CER-*
4 *TAIN INSTITUTIONALIZED ENROLLEES PLANNING*
5 *TO DISCHARGE.—An active enrollee shall be*
6 *deemed presumptively eligible if the enrollee—*

7 “(i) *has applied for, and attests is eli-*
8 *gible for, the maximum cash benefit avail-*
9 *able under the sliding scale established*
10 *under the CLASS Independence Benefit*
11 *Plan;*

12 “(ii) *is a patient in a hospital (but*
13 *only if the hospitalization is for long-term*
14 *care), nursing facility, intermediate care fa-*
15 *ility for the mentally retarded, or an insti-*
16 *tution for mental diseases; and*

17 “(iii) *is in the process of, or about to*
18 *begin the process of, planning to discharge*
19 *from the hospital, facility, or institution, or*
20 *within 60 days from the date of discharge*
21 *from the hospital, facility, or institution.*

22 “(D) *APPEALS.—The Secretary shall estab-*
23 *lish procedures under which an applicant for*
24 *benefits under the CLASS Independence Benefit*

1 *Plan shall be guaranteed the right to appeal an*
2 *adverse determination.*

3 “(b) *BENEFITS.—An eligible beneficiary shall receive*
4 *the following benefits under the CLASS Independence Ben-*
5 *efit Plan:*

6 “(1) *CASH BENEFIT.—A cash benefit established*
7 *by the Secretary in accordance with the requirements*
8 *of section 3203(a)(1)(D) that—*

9 “(A) *the first year in which beneficiaries re-*
10 *ceive the benefits under the plan, is not less than*
11 *the average dollar amount specified in clause (i)*
12 *of such section; and*

13 “(B) *for any subsequent year, is not less*
14 *than the average per day dollar limit applicable*
15 *under this subparagraph for the preceding year,*
16 *increased by the percentage increase in the con-*
17 *sumer price index for all urban consumers (U.S.*
18 *city average) over the previous year.*

19 “(2) *ADVOCACY SERVICES.—Advocacy services in*
20 *accordance with subsection (d).*

21 “(3) *ADVICE AND ASSISTANCE COUNSELING.—*
22 *Advice and assistance counseling in accordance with*
23 *subsection (e).*

24 “(4) *ADMINISTRATIVE EXPENSES.—Advocacy*
25 *services and advise and assistance counseling services*

1 *under paragraphs (2) and (3) of this subsection shall*
2 *be included as administrative expenses under section*
3 *3203(b)(3).*

4 *“(c) PAYMENT OF BENEFITS.—*

5 *“(1) LIFE INDEPENDENCE ACCOUNT.—*

6 *“(A) IN GENERAL.—The Secretary shall es-*
7 *tablish procedures for administering the provi-*
8 *sion of benefits to eligible beneficiaries under the*
9 *CLASS Independence Benefit Plan, including*
10 *the payment of the cash benefit for the bene-*
11 *ficiary into a Life Independence Account estab-*
12 *lished by the Secretary on behalf of each eligible*
13 *beneficiary.*

14 *“(B) USE OF CASH BENEFITS.—Cash bene-*
15 *fits paid into a Life Independence Account of an*
16 *eligible beneficiary shall be used to purchase*
17 *nonmedical services and supports that the bene-*
18 *ficiary needs to maintain his or her independ-*
19 *ence at home or in another residential setting of*
20 *their choice in the community, including (but*
21 *not limited to) home modifications, assistive*
22 *technology, accessible transportation, homemaker*
23 *services, respite care, personal assistance services,*
24 *home care aides, and nursing support. Nothing*
25 *in the preceding sentence shall prevent an eligi-*

1 *ble beneficiary from using cash benefits paid into*
2 *a Life Independence Account for obtaining as-*
3 *sistance with decision making concerning med-*
4 *ical care, including the right to accept or refuse*
5 *medical or surgical treatment and the right to*
6 *formulate advance directives or other written in-*
7 *structions recognized under State law, such as a*
8 *living will or durable power of attorney for*
9 *health care, in the case that an injury or illness*
10 *causes the individual to be unable to make health*
11 *care decisions.*

12 “(C) *ELECTRONIC MANAGEMENT OF*
13 *FUNDS.—The Secretary shall establish procedures*
14 *for—*

15 *“(i) crediting an account established*
16 *on behalf of a beneficiary with the bene-*
17 *ficiary’s cash daily benefit;*

18 *“(ii) allowing the beneficiary to access*
19 *such account through debit cards; and*

20 *“(iii) accounting for withdrawals by*
21 *the beneficiary from such account.*

22 “(D) *PRIMARY PAYOR RULES FOR BENE-*
23 *FICIARIES WHO ARE ENROLLED IN MEDICAID.—*
24 *In the case of an eligible beneficiary who is en-*

1 *rolled in Medicaid, the following payment rules*
2 *shall apply:*

3 “(i) *INSTITUTIONALIZED BENE-*
4 *FICIARY.—If the beneficiary is a patient in*
5 *a hospital, nursing facility, intermediate*
6 *care facility for the mentally retarded, or*
7 *an institution for mental diseases, the bene-*
8 *ficiary shall retain an amount equal to 5*
9 *percent of the beneficiary’s daily or weekly*
10 *cash benefit (as applicable) (which shall be*
11 *in addition to the amount of the bene-*
12 *ficiary’s personal needs allowance provided*
13 *under Medicaid), and the remainder of such*
14 *benefit shall be applied toward the facility’s*
15 *cost of providing the beneficiary’s care, and*
16 *Medicaid shall provide secondary coverage*
17 *for such care.*

18 “(ii) *BENEFICIARIES RECEIVING HOME*
19 *AND COMMUNITY-BASED SERVICES.—*

20 “(I) *50 PERCENT OF BENEFIT RE-*
21 *TAINED BY BENEFICIARY.—Subject to*
22 *subclause (II), if a beneficiary is re-*
23 *ceiving medical assistance under Med-*
24 *icaid for home and community based*
25 *services, the beneficiary shall retain an*

1 *amount equal to 50 percent of the bene-*
2 *ficiary's daily or weekly cash benefit*
3 *(as applicable), and the remainder of*
4 *the daily or weekly cash benefit shall*
5 *be applied toward the cost to the State*
6 *of providing such assistance (and shall*
7 *not be used to claim Federal matching*
8 *funds under Medicaid), and Medicaid*
9 *shall provide secondary coverage for*
10 *the remainder of any costs incurred in*
11 *providing such assistance.*

12 “(II) *REQUIREMENT FOR STATE*
13 *OFFSET.—A State shall be paid the re-*
14 *mainder of a beneficiary's daily or*
15 *weekly cash benefit under subclause (I)*
16 *only if the State home and community-*
17 *based waiver under section 1115 of the*
18 *Social Security Act (42 U.S.C. 1315)*
19 *or subsection (c) or (d) of section 1915*
20 *of such Act (42 U.S.C. 1396n), or the*
21 *State plan amendment under sub-*
22 *section (i) of such section does not in-*
23 *clude a waiver of the requirements of*
24 *section 1902(a)(1) of the Social Secu-*
25 *rity Act (relating to statewideness) or*

1 of section 1902(a)(10)(B) of such Act
2 (relating to comparability) and the
3 State offers at a minimum case man-
4 agement services, personal care serv-
5 ices, habilitation services, and respite
6 care under such a waiver or State plan
7 amendment.

8 “(III) DEFINITION OF HOME AND
9 COMMUNITY-BASED SERVICES.—In this
10 clause, the term ‘home and community-
11 based services’ means any services
12 which may be offered under a home
13 and community-based waiver author-
14 ized for a State under section 1115 of
15 the Social Security Act (42 U.S.C.
16 1315) or subsection (c) or (d) of section
17 1915 of such Act (42 U.S.C. 1396n) or
18 under a State plan amendment under
19 subsection (i) of such section.

20 “(iii) BENEFICIARIES ENROLLED IN
21 PROGRAMS OF ALL-INCLUSIVE CARE FOR
22 THE ELDERLY (PACE).—

23 “(I) IN GENERAL.—Subject to
24 subclause (II), if a beneficiary is re-
25 ceiving medical assistance under Med-

1 *icaid for PACE program services*
2 *under section 1934 of the Social Secu-*
3 *rity Act (42 U.S.C. 1396u-4), the ben-*
4 *eficiary shall retain an amount equal*
5 *to 50 percent of the beneficiary's daily*
6 *or weekly cash benefit (as applicable),*
7 *and the remainder of the daily or*
8 *weekly cash benefit shall be applied to-*
9 *ward the cost to the State of providing*
10 *such assistance (and shall not be used*
11 *to claim Federal matching funds under*
12 *Medicaid), and Medicaid shall provide*
13 *secondary coverage for the remainder*
14 *of any costs incurred in providing such*
15 *assistance.*

16 *“(II) INSTITUTIONALIZED RECIPI-*
17 *ENTS OF PACE PROGRAM SERVICES.—If*
18 *a beneficiary receiving assistance*
19 *under Medicaid for PACE program*
20 *services is a patient in a hospital,*
21 *nursing facility, intermediate care fa-*
22 *ility for the mentally retarded, or an*
23 *institution for mental diseases, the ben-*
24 *eficiary shall be treated as in institu-*
25 *tionalized beneficiary under clause (i).*

1 “(2) *AUTHORIZED REPRESENTATIVES.*—

2 “(A) *IN GENERAL.*—*The Secretary shall es-*
3 *tablish procedures to allow access to a bene-*
4 *ficiary’s cash benefits by an authorized rep-*
5 *resentative of the eligible beneficiary on whose*
6 *behalf such benefits are paid.*

7 “(B) *QUALITY ASSURANCE AND PROTECTION*
8 *AGAINST FRAUD AND ABUSE.*—*The procedures es-*
9 *tablished under subparagraph (A) shall ensure*
10 *that authorized representatives of eligible bene-*
11 *ficiaries comply with standards of conduct estab-*
12 *lished by the Secretary, including standards re-*
13 *quiring that such representatives provide quality*
14 *services on behalf of such beneficiaries, do not*
15 *have conflicts of interest, and do not misuse ben-*
16 *efits paid on behalf of such beneficiaries or other-*
17 *wise engage in fraud or abuse.*

18 “(3) *COMMENCEMENT OF BENEFITS.*—*Benefits*
19 *shall be paid to, or on behalf of, an eligible bene-*
20 *ficiary beginning with the first month in which an*
21 *application for such benefits is approved.*

22 “(4) *ROLLOVER OPTION FOR LUMP-SUM PAY-*
23 *MENT.*—*An eligible beneficiary may elect to—*

24 “(A) *defer payment of their daily or weekly*
25 *benefit and to rollover any such deferred benefits*

1 *from month-to-month, but not from year-to-year;*
2 *and*

3 “(B) *receive a lump-sum payment of such*
4 *deferred benefits in an amount that may not ex-*
5 *ceed the lesser of—*

6 “(i) *the total amount of the accrued de-*
7 *ferred benefits; or*

8 “(ii) *the applicable annual benefit.*

9 “(5) *PERIOD FOR DETERMINATION OF ANNUAL*
10 *BENEFITS.—*

11 “(A) *IN GENERAL.—The applicable period*
12 *for determining with respect to an eligible bene-*
13 *ficiary the applicable annual benefit and the*
14 *amount of any accrued deferred benefits is the*
15 *12-month period that commences with the first*
16 *month in which the beneficiary began to receive*
17 *such benefits, and each 12-month period there-*
18 *after.*

19 “(B) *INCLUSION OF INCREASED BENE-*
20 *FITS.—The Secretary shall establish procedures*
21 *under which cash benefits paid to an eligible*
22 *beneficiary that increase or decrease as a result*
23 *of a change in the functional status of the bene-*
24 *ficiary before the end of a 12-month benefit pe-*
25 *riod shall be included in the determination of the*

1 applicable annual benefit paid to the eligible
2 beneficiary.

3 “(C) *RECOUPMENT OF UNPAID, ACCRUED*
4 *BENEFITS.*—

5 “(i) *IN GENERAL.*—*The Secretary, in*
6 *coordination with the Secretary of the*
7 *Treasury, shall recoup any accrued benefits*
8 *in the event of—*

9 “(I) *the death of a beneficiary; or*

10 “(II) *the failure of a beneficiary*
11 *to elect under paragraph (4)(B) to re-*
12 *ceive such benefits as a lump-sum pay-*
13 *ment before the end of the 12-month*
14 *period in which such benefits accrued.*

15 “(ii) *PAYMENT INTO CLASS INDEPEND-*
16 *ENCE FUND.*—*Any benefits recouped in ac-*
17 *cordance with clause (i) shall be paid into*
18 *the CLASS Independence Fund and used in*
19 *accordance with section 3206.*

20 “(6) *REQUIREMENT TO RECERTIFY ELIGIBILITY*
21 *FOR RECEIPT OF BENEFITS.*—*An eligible beneficiary*
22 *shall periodically, as determined by the Secretary—*

23 “(A) *recertify by submission of medical evi-*
24 *dence the beneficiary’s continued eligibility for*
25 *receipt of benefits; and*

1 “(B) submit records of expenditures attrib-
2 utable to the aggregate cash benefit received by
3 the beneficiary during the preceding year.

4 “(7) SUPPLEMENT, NOT SUPPLANT OTHER
5 HEALTH CARE BENEFITS.—Subject to the Medicaid
6 payment rules under paragraph (1)(D), benefits re-
7 ceived by an eligible beneficiary shall supplement, but
8 not supplant, other health care benefits for which the
9 beneficiary is eligible under Medicaid or any other
10 Federally funded program that provides health care
11 benefits or assistance.

12 “(d) ADVOCACY SERVICES.—An agreement entered
13 into under subsection (a)(2)(A)(ii) shall require the Protec-
14 tion and Advocacy System for the State to—

15 “(1) assign, as needed, an advocacy counselor to
16 each eligible beneficiary that is covered by such agree-
17 ment and who shall provide an eligible beneficiary
18 with—

19 “(A) information regarding how to access
20 the appeals process established for the program;

21 “(B) assistance with respect to the annual
22 recertification and notification required under
23 subsection (c)(6); and

1 “(C) such other assistance with obtaining
2 services as the Secretary, by regulation, shall re-
3 quire; and

4 “(2) ensure that the System and such counselors
5 comply with the requirements of subsection (h).

6 “(e) *ADVICE AND ASSISTANCE COUNSELING.*—An
7 agreement entered into under subsection (a)(2)(A)(iii) shall
8 require the entity to assign, as requested by an eligible bene-
9 ficiary that is covered by such agreement, an advice and
10 assistance counselor who shall provide an eligible bene-
11 ficiary with information regarding—

12 “(1) accessing and coordinating long-term serv-
13 ices and supports in the most integrated setting;

14 “(2) possible eligibility for other benefits and
15 services;

16 “(3) development of a service and support plan;

17 “(4) information about programs established
18 under the Assistive Technology Act of 1998 and the
19 services offered under such programs;

20 “(5) available assistance with decision making
21 concerning medical care, including the right to accept
22 or refuse medical or surgical treatment and the right
23 to formulate advance directives or other written in-
24 structions recognized under State law, such as a liv-
25 ing will or durable power of attorney for health care,

1 *in the case that an injury or illness causes the indi-*
2 *vidual to be unable to make health care decisions; and*

3 *“(6) such other services as the Secretary, by reg-*
4 *ulation, may require.*

5 *“(f) NO EFFECT ON ELIGIBILITY FOR OTHER BENE-*
6 *FITS.—Benefits paid to an eligible beneficiary under the*
7 *CLASS program shall be disregarded for purposes of deter-*
8 *mining or continuing the beneficiary’s eligibility for receipt*
9 *of benefits under any other Federal, State, or locally funded*
10 *assistance program, including benefits paid under titles II,*
11 *XVI, XVIII, XIX, or XXI of the Social Security Act (42*
12 *U.S.C. 401 et seq., 1381 et seq., 1395 et seq., 1396 et seq.,*
13 *1397aa et seq.), under the laws administered by the Sec-*
14 *retary of Veterans Affairs, under low-income housing assist-*
15 *ance programs, or under the supplemental nutrition assist-*
16 *ance program established under the Food and Nutrition Act*
17 *of 2008 (7 U.S.C. 2011 et seq.).*

18 *“(g) RULE OF CONSTRUCTION.—Nothing in this title*
19 *shall be construed as prohibiting benefits paid under the*
20 *CLASS Independence Benefit Plan from being used to com-*
21 *pensate a family caregiver for providing community living*
22 *assistance services and supports to an eligible beneficiary.*

23 *“(h) PROTECTION AGAINST CONFLICT OF INTER-*
24 *ESTS.—The Secretary shall establish procedures to ensure*
25 *that the Eligibility Assessment System, the Protection and*

1 *Advocacy System for a State, advocacy counselors for eligi-*
2 *ble beneficiaries, and any other entities that provide services*
3 *to active enrollees and eligible beneficiaries under the*
4 *CLASS program comply with the following:*

5 “(1) *If the entity provides counseling or plan-*
6 *ning services, such services are provided in a manner*
7 *that fosters the best interests of the active enrollee or*
8 *beneficiary.*

9 “(2) *The entity has established operating proce-*
10 *dures that are designed to avoid or minimize conflicts*
11 *of interest between the entity and an active enrollee*
12 *or beneficiary.*

13 “(3) *The entity provides information about all*
14 *services and options available to the active enrollee or*
15 *beneficiary, to the best of its knowledge, including*
16 *services available through other entities or providers.*

17 “(4) *The entity assists the active enrollee or ben-*
18 *eficiary to access desired services, regardless of the*
19 *provider.*

20 “(5) *The entity reports the number of active en-*
21 *rollees and beneficiaries provided with assistance by*
22 *age, disability, and whether such enrollees and bene-*
23 *ficiaries received services from the entity or another*
24 *entity.*

1 “(6) *If the entity provides counseling or plan-*
2 *ning services, the entity ensures that an active en-*
3 *rollee or beneficiary is informed of any financial in-*
4 *terest that the entity has in a service provider.*

5 “(7) *The entity provides an active enrollee or*
6 *beneficiary with a list of available service providers*
7 *that can meet the needs of the active enrollee or bene-*
8 *ficiary.*

9 **“SEC. 3206. CLASS INDEPENDENCE FUND.**

10 “(a) *ESTABLISHMENT OF CLASS INDEPENDENCE*
11 *FUND.—There is established in the Treasury of the United*
12 *States a trust fund to be known as the ‘CLASS Independ-*
13 *ence Fund’. The Secretary of the Treasury shall serve as*
14 *Managing Trustee of such Fund. The Fund shall consist*
15 *of all amounts derived from payments into the Fund under*
16 *sections 3204(f) and 3205(c)(5)(C)(ii), and remaining after*
17 *investment of such amounts under subsection (b), including*
18 *additional amounts derived as income from such invest-*
19 *ments. The amounts held in the Fund are appropriated and*
20 *shall remain available without fiscal year limitation—*

21 “(1) *to be held for investment on behalf of indi-*
22 *viduals enrolled in the CLASS program;*

23 “(2) *to pay the administrative expenses related*
24 *to the Fund and to investment under subsection (b);*
25 *and*

1 “(3) to pay cash benefits to eligible beneficiaries
2 under the CLASS Independence Benefit Plan.

3 “(b) INVESTMENT OF FUND BALANCE.—The Secretary
4 of the Treasury shall invest and manage the CLASS Inde-
5 pendence Fund in the same manner, and to the same extent,
6 as the Federal Supplementary Medical Insurance Trust
7 Fund may be invested and managed under subsections (c),
8 (d), and (e) of section 1841(d) of the Social Security Act
9 (42 U.S.C. 1395t).

10 “(c) BOARD OF TRUSTEES.—

11 “(1) IN GENERAL.—With respect to the CLASS
12 Independence Fund, there is hereby created a body to
13 be known as the Board of Trustees of the CLASS
14 Independence Fund (hereinafter in this section re-
15 ferred to as the ‘Board of Trustees’) composed of the
16 Secretary of the Treasury, the Secretary of Labor,
17 and the Secretary of Health and Human Services, all
18 ex officio, and of two members of the public (both of
19 whom may not be from the same political party), who
20 shall be nominated by the President for a term of 4
21 years and subject to confirmation by the Senate. A
22 member of the Board of Trustees serving as a member
23 of the public and nominated and confirmed to fill a
24 vacancy occurring during a term shall be nominated
25 and confirmed only for the remainder of such term.

1 *An individual nominated and confirmed as a member*
2 *of the public may serve in such position after the ex-*
3 *piration of such member's term until the earlier of the*
4 *time at which the member's successor takes office or*
5 *the time at which a report of the Board is first issued*
6 *under paragraph (2) after the expiration of the mem-*
7 *ber's term. The Secretary of the Treasury shall be the*
8 *Managing Trustee of the Board of Trustees. The*
9 *Board of Trustees shall meet not less frequently than*
10 *once each calendar year. A person serving on the*
11 *Board of Trustees shall not be considered to be a fidu-*
12 *ciary and shall not be personally liable for actions*
13 *taken in such capacity with respect to the Trust*
14 *Fund.*

15 “(2) DUTIES.—

16 “(A) IN GENERAL.—It shall be the duty of
17 the Board of Trustees to do the following:

18 “(i) Hold the CLASS Independence
19 Fund.

20 “(ii) Report to the Congress not later
21 than the first day of April of each year on
22 the operation and status of the CLASS
23 Independence Fund during the preceding
24 fiscal year and on its expected operation

1 *and status during the current fiscal year*
2 *and the next 2 fiscal years.*

3 “(iii) *Report immediately to the Con-*
4 *gress whenever the Board is of the opinion*
5 *that the amount of the CLASS Independ-*
6 *ence Fund is not actuarially sound in re-*
7 *gards to the projection under section*
8 *3203(b)(1)(B)(i).*

9 “(iv) *Review the general policies fol-*
10 *lowed in managing the CLASS Independ-*
11 *ence Fund, and recommend changes in such*
12 *policies, including necessary changes in the*
13 *provisions of law which govern the way in*
14 *which the CLASS Independence Fund is to*
15 *be managed.*

16 “(B) *REPORT.—The report provided for in*
17 *subparagraph (A)(i) shall—*

18 “(i) *include—*

19 “(I) *a statement of the assets of,*
20 *and the disbursements made from, the*
21 *CLASS Independence Fund during the*
22 *preceding fiscal year;*

23 “(II) *an estimate of the expected*
24 *income to, and disbursements to be*
25 *made from, the CLASS Independence*

1 *Fund during the current fiscal year*
2 *and each of the next 2 fiscal years;*

3 *“(III) a statement of the actuarial*
4 *status of the CLASS Independence*
5 *Fund for the current fiscal year, each*
6 *of the next 2 fiscal years, and as pro-*
7 *jected over the 75-year period begin-*
8 *ning with the current fiscal year; and*

9 *“(IV) an actuarial opinion by the*
10 *Chief Actuary of the Centers for Medi-*
11 *care & Medicaid Services certifying*
12 *that the techniques and methodologies*
13 *used are generally accepted within the*
14 *actuarial profession and that the as-*
15 *sumptions and cost estimates used are*
16 *reasonable; and*

17 *“(i) be printed as a House document*
18 *of the session of the Congress to which the*
19 *report is made.*

20 *“(C) RECOMMENDATIONS.—If the Board of*
21 *Trustees determines that enrollment trends and*
22 *expected future benefit claims on the CLASS*
23 *Independence Fund are not actuarially sound in*
24 *regards to the projection under section*
25 *3203(b)(1)(B)(i) and are unlikely to be resolved*

1 *with reasonable premium increases or through*
2 *other means, the Board of Trustees shall include*
3 *in the report provided for in subparagraph*
4 *(A)(ii) recommendations for such legislative ac-*
5 *tion as the Board of Trustees determine to be ap-*
6 *propriate, including whether to adjust monthly*
7 *premiums or impose a temporary moratorium*
8 *on new enrollments.*

9 **“SEC. 3207. CLASS INDEPENDENCE ADVISORY COUNCIL.**

10 “(a) *ESTABLISHMENT.*—*There is hereby created an*
11 *Advisory Committee to be known as the ‘CLASS Independ-*
12 *ence Advisory Council’.*

13 “(b) *MEMBERSHIP.*—

14 “(1) *IN GENERAL.*—*The CLASS Independence*
15 *Advisory Council shall be composed of not more than*
16 *15 individuals, not otherwise in the employ of the*
17 *United States—*

18 “(A) *who shall be appointed by the Presi-*
19 *dent without regard to the civil service laws and*
20 *regulations; and*

21 “(B) *a majority of whom shall be represent-*
22 *atives of individuals who participate or are like-*
23 *ly to participate in the CLASS program, and*
24 *shall include representatives of older and young-*
25 *er workers, individuals with disabilities, family*

1 *caregivers of individuals who require services*
2 *and supports to maintain their independence at*
3 *home or in another residential setting of their*
4 *choice in the community, individuals with exper-*
5 *tise in long-term care or disability insurance,*
6 *actuarial science, economics, and other relevant*
7 *disciplines, as determined by the Secretary.*

8 “(2) *TERMS.*—

9 “(A) *IN GENERAL.*—*The members of the*
10 *CLASS Independence Advisory Council shall*
11 *serve overlapping terms of 3 years (unless ap-*
12 *pointed to fill a vacancy occurring prior to the*
13 *expiration of a term, in which case the indi-*
14 *vidual shall serve for the remainder of the term).*

15 “(B) *LIMITATION.*—*A member shall not be*
16 *eligible to serve for more than 2 consecutive*
17 *terms.*

18 “(3) *CHAIR.*—*The President shall, from time to*
19 *time, appoint one of the members of the CLASS Inde-*
20 *pendence Advisory Council to serve as the Chair.*

21 “(c) *DUTIES.*—*The CLASS Independence Advisory*
22 *Council shall advise the Secretary on matters of general pol-*
23 *icy in the administration of the CLASS program estab-*
24 *lished under this title and in the formulation of regulations*
25 *under this title including with respect to—*

1 “(1) *the development of the CLASS Independence*
2 *Benefit Plan under section 3203;*

3 “(2) *the determination of monthly premiums*
4 *under such plan; and*

5 “(3) *the financial solvency of the program.*

6 “(d) *APPLICATION OF FACCA.—The Federal Advisory*
7 *Committee Act (5 U.S.C. App.), other than section 14 of*
8 *that Act, shall apply to the CLASS Independence Advisory*
9 *Council.*

10 “(e) *AUTHORIZATION OF APPROPRIATIONS.—*

11 “(1) *IN GENERAL.—There are authorized to be*
12 *appropriated to the CLASS Independence Advisory*
13 *Council to carry out its duties under this section,*
14 *such sums as may be necessary for fiscal year 2011*
15 *and for each fiscal year thereafter.*

16 “(2) *AVAILABILITY.—Any sums appropriated*
17 *under the authorization contained in this section*
18 *shall remain available, without fiscal year limitation,*
19 *until expended.*

20 “**SEC. 3208. SOLVENCY AND FISCAL INDEPENDENCE; REGU-**
21 **LATIONS; ANNUAL REPORT.**

22 “(a) *SOLVENCY.—The Secretary shall regularly con-*
23 *sult with the Board of Trustees of the CLASS Independence*
24 *Fund and the CLASS Independence Advisory Council, for*
25 *purposes of ensuring that enrollees premiums are adequate*

1 *to ensure the financial solvency of the CLASS program,*
2 *both with respect to fiscal years occurring in the near-term*
3 *and fiscal years occurring over 20- and 75-year periods,*
4 *taking into account the projections required for such periods*
5 *under subsections (a)(1)(A)(i) and (b)(1)(B)(i) of section*
6 *3202.*

7 “(b) *NO TAXPAYER FUNDS USED TO PAY BENE-*
8 *FITS.—No taxpayer funds shall be used for payment of ben-*
9 *efits under a CLASS Independent Benefit Plan. For pur-*
10 *poses of this subsection, the term ‘taxpayer funds’ means*
11 *any Federal funds from a source other than premiums de-*
12 *posited by CLASS program participants in the CLASS*
13 *Independence Fund and any associated interest earnings.*

14 “(c) *REGULATIONS.—The Secretary shall promulgate*
15 *such regulations as are necessary to carry out the CLASS*
16 *program in accordance with this title. Such regulations*
17 *shall include provisions to prevent fraud and abuse under*
18 *the program.*

19 “(d) *ANNUAL REPORT.—Beginning January 1, 2014,*
20 *the Secretary shall submit an annual report to Congress*
21 *on the CLASS program. Each report shall include the fol-*
22 *lowing:*

23 “(1) *The total number of enrollees in the pro-*
24 *gram.*

1 “(2) *The total number of eligible beneficiaries*
2 *during the fiscal year.*

3 “(3) *The total amount of cash benefits provided*
4 *during the fiscal year.*

5 “(4) *A description of instances of fraud or abuse*
6 *identified during the fiscal year.*

7 “(5) *Recommendations for such administrative*
8 *or legislative action as the Secretary determines is*
9 *necessary to improve the program, ensure the solvency*
10 *of the program, or to prevent the occurrence of fraud*
11 *or abuse.*

12 **“SEC. 3209. INSPECTOR GENERAL’S REPORT.**

13 *“The Inspector General of the Department of Health*
14 *and Human Services shall submit an annual report to the*
15 *Secretary and Congress relating to the overall progress of*
16 *the CLASS program and of the existence of waste, fraud,*
17 *and abuse in the CLASS program. Each such report shall*
18 *include findings in the following areas:*

19 “(1) *The eligibility determination process.*

20 “(2) *The provision of cash benefits.*

21 “(3) *Quality assurance and protection against*
22 *waste, fraud, and abuse.*

23 “(4) *Recouping of unpaid and accrued benefits.*

1 **“SEC. 3210. TAX TREATMENT OF PROGRAM.**

2 *“The CLASS program shall be treated for purposes of*
3 *the Internal Revenue Code of 1986 in the same manner as*
4 *a qualified long-term care insurance contract for qualified*
5 *long-term care services.”.*

6 (2) *CONFORMING AMENDMENTS TO MEDICAID.—*
7 *Section 1902(a) of the Social Security Act (42 U.S.C.*
8 *1396a(a)), as amended by section 6505, is amended*
9 *by inserting after paragraph (80) the following:*

10 *“(81) provide that the State will comply with*
11 *such regulations regarding the application of primary*
12 *and secondary payor rules with respect to individuals*
13 *who are eligible for medical assistance under this title*
14 *and are eligible beneficiaries under the CLASS pro-*
15 *gram established under title XXXII of the Public*
16 *Health Service Act as the Secretary shall establish;*
17 *and”.*

18 (b) *ASSURANCE OF ADEQUATE INFRASTRUCTURE FOR*
19 *THE PROVISION OF PERSONAL CARE ATTENDANT WORK-*
20 *ERS.—Section 1902(a) of the Social Security Act (42*
21 *U.S.C. 1396a(a)), as amended by subsection (a)(2), is*
22 *amended by inserting after paragraph (81) the following:*

23 *“(82) provide that, not later than 2 years after*
24 *the date of enactment of the Community Living As-*
25 *istance Services and Supports Act, each State*
26 *shall—*

1 “(A) assess the extent to which entities such
2 as providers of home care, home health services,
3 home and community service providers, public
4 authorities created to provide personal care serv-
5 ices to individuals eligible for medical assistance
6 under the State plan, and nonprofit organiza-
7 tions, are serving or have the capacity to serve
8 as fiscal agents for, employers of, and providers
9 of employment-related benefits for, personal care
10 attendant workers who provide personal care
11 services to individuals receiving benefits under
12 the CLASS program established under title
13 XXXII of the Public Health Service Act, includ-
14 ing in rural and underserved areas;

15 “(B) designate or create such entities to
16 serve as fiscal agents for, employers of, and pro-
17 viders of employment-related benefits for, such
18 workers to ensure an adequate supply of the
19 workers for individuals receiving benefits under
20 the CLASS program, including in rural and un-
21 derserved areas; and

22 “(C) ensure that the designation or creation
23 of such entities will not negatively alter or im-
24 pede existing programs, models, methods, or ad-
25 ministration of service delivery that provide for

1 *consumer controlled or self-directed home and*
2 *community services and further ensure that such*
3 *entities will not impede the ability of individuals*
4 *to direct and control their home and community*
5 *services, including the ability to select, manage,*
6 *dismiss, co-employ, or employ such workers or*
7 *inhibit such individuals from relying on family*
8 *members for the provision of personal care serv-*
9 *ices.”.*

10 *(c) PERSONAL CARE ATTENDANTS WORKFORCE ADVI-*
11 *SORY PANEL.—*

12 *(1) ESTABLISHMENT.—Not later than 90 days*
13 *after the date of enactment of this Act, the Secretary*
14 *of Health and Human Services shall establish a Per-*
15 *sonal Care Attendants Workforce Advisory Panel for*
16 *the purpose of examining and advising the Secretary*
17 *and Congress on workforce issues related to personal*
18 *care attendant workers, including with respect to the*
19 *adequacy of the number of such workers, the salaries,*
20 *wages, and benefits of such workers, and access to the*
21 *services provided by such workers.*

22 *(2) MEMBERSHIP.—In appointing members to*
23 *the Personal Care Attendants Workforce Advisory*
24 *Panel, the Secretary shall ensure that such members*
25 *include the following:*

1 (A) *Individuals with disabilities of all ages.*

2 (B) *Senior individuals.*

3 (C) *Representatives of individuals with dis-*
4 *abilities.*

5 (D) *Representatives of senior individuals.*

6 (E) *Representatives of workforce and labor*
7 *organizations.*

8 (F) *Representatives of home and commu-*
9 *nity-based service providers.*

10 (G) *Representatives of assisted living pro-*
11 *viders.*

12 (d) *INCLUSION OF INFORMATION ON SUPPLEMENTAL*
13 *COVERAGE IN THE NATIONAL CLEARINGHOUSE FOR LONG-*
14 *TERM CARE INFORMATION; EXTENSION OF FUNDING.—Sec-*
15 *tion 6021(d) of the Deficit Reduction Act of 2005 (42 U.S.C.*
16 *1396p note) is amended—*

17 (1) *in paragraph (2)(A)—*

18 (A) *in clause (ii), by striking “and” at the*
19 *end;*

20 (B) *in clause (iii), by striking the period at*
21 *the end and inserting “; and”; and*

22 (C) *by adding at the end the following:*

23 “*(iv) include information regarding*
24 *the CLASS program established under title*
25 *XXXII of the Public Health Service Act and*

1 *coverage available for purchase through a*
2 *Exchange established under section 1311 of*
3 *the Patient Protection and Affordable Care*
4 *Act that is supplemental coverage to the*
5 *benefits provided under a CLASS Independ-*
6 *ence Benefit Plan under that program, and*
7 *information regarding how benefits pro-*
8 *vided under a CLASS Independence Benefit*
9 *Plan differ from disability insurance bene-*
10 *fits.”; and*

11 *(2) in paragraph (3), by striking “2010” and in-*
12 *serting “2015”.*

13 *(e) EFFECTIVE DATE.—The amendments made by sub-*
14 *sections (a), (b), and (d) take effect on January 1, 2011.*

15 *(f) RULE OF CONSTRUCTION.—Nothing in this title or*
16 *the amendments made by this title are intended to replace*
17 *or displace public or private disability insurance benefits,*
18 *including such benefits that are for income replacement.*

1 **TITLE IX—REVENUE**
2 **PROVISIONS**
3 **Subtitle A—Revenue Offset**
4 **Provisions**

5 **SEC. 9001. EXCISE TAX ON HIGH COST EMPLOYER-SPON-**
6 **SORED HEALTH COVERAGE.**

7 (a) *IN GENERAL.*—Chapter 43 of the Internal Revenue
8 Code of 1986, as amended by section 1513, is amended by
9 adding at the end the following:

10 **“SEC. 4980I. EXCISE TAX ON HIGH COST EMPLOYER-SPON-**
11 **SORED HEALTH COVERAGE.**

12 “(a) *IMPOSITION OF TAX.*—If—

13 “(1) *an employee is covered under any applica-*
14 *ble employer-sponsored coverage of an employer at*
15 *any time during a taxable period, and*

16 “(2) *there is any excess benefit with respect to*
17 *the coverage,*

18 *there is hereby imposed a tax equal to 40 percent of the*
19 *excess benefit.*

20 “(b) *EXCESS BENEFIT.*—For purposes of this sec-
21 *tion—*

22 “(1) *IN GENERAL.*—The term ‘*excess benefit*’
23 *means, with respect to any applicable employer-spon-*
24 *sored coverage made available by an employer to an*
25 *employee during any taxable period, the sum of the*

1 *excess amounts determined under paragraph (2) for*
2 *months during the taxable period.*

3 “(2) *MONTHLY EXCESS AMOUNT.*—*The excess*
4 *amount determined under this paragraph for any*
5 *month is the excess (if any) of—*

6 “(A) *the aggregate cost of the applicable em-*
7 *ployer-sponsored coverage of the employee for the*
8 *month, over*

9 “(B) *an amount equal to $\frac{1}{12}$ of the annual*
10 *limitation under paragraph (3) for the calendar*
11 *year in which the month occurs.*

12 “(3) *ANNUAL LIMITATION.*—*For purposes of this*
13 *subsection—*

14 “(A) *IN GENERAL.*—*The annual limitation*
15 *under this paragraph for any calendar year is*
16 *the dollar limit determined under subparagraph*
17 *(C) for the calendar year.*

18 “(B) *APPLICABLE ANNUAL LIMITATION.*—
19 *The annual limitation which applies for any*
20 *month shall be determined on the basis of the*
21 *type of coverage (as determined under subsection*
22 *(f)(1)) provided to the employee by the employer*
23 *as of the beginning of the month.*

24 “(C) *APPLICABLE DOLLAR LIMIT.*—*Except*
25 *as provided in subparagraph (D)—*

1 “(i) 2013.—*In the case of 2013, the*
2 *dollar limit under this subparagraph is—*

3 “(I) *in the case of an employee*
4 *with self-only coverage, \$8,500, and*

5 “(II) *in the case of an employee*
6 *with coverage other than self-only cov-*
7 *erage, \$23,000.*

8 “(ii) *EXCEPTION FOR CERTAIN INDI-*
9 *VIDUALS.—In the case of an individual who*
10 *is a qualified retiree or who participates in*
11 *a plan sponsored by an employer the major-*
12 *ity of whose employees are engaged in a*
13 *high-risk profession or employed to repair*
14 *or install electrical or telecommunications*
15 *lines—*

16 “(I) *the dollar amount in clause*
17 *(i)(I) (determined after the application*
18 *of subparagraph (D)) shall be in-*
19 *creased by \$1,350, and*

20 “(II) *the dollar amount in clause*
21 *(i)(II) (determined after the applica-*
22 *tion of subparagraph (D)) shall be in-*
23 *creased by \$3,000.*

24 “(iii) *SUBSEQUENT YEARS.—In the*
25 *case of any calendar year after 2013, each*

1 of the dollar amounts under clauses (i) and
2 (ii) shall be increased to the amount equal
3 to such amount as in effect for the calendar
4 year preceding such year, increased by an
5 amount equal to the product of—

6 “(I) such amount as so in effect,
7 multiplied by

8 “(II) the cost-of-living adjustment
9 determined under section 1(f)(3) for
10 such year (determined by substituting
11 the calendar year that is 2 years before
12 such year for ‘1992’ in subparagraph
13 (B) thereof), increased by 1 percentage
14 point.

15 If any amount determined under this clause
16 is not a multiple of \$50, such amount shall
17 be rounded to the nearest multiple of \$50.

18 “(D) *TRANSITION RULE FOR STATES WITH*
19 *HIGHEST COVERAGE COSTS.—*

20 “(i) *IN GENERAL.—*If an employee is a
21 resident of a high cost State on the first day
22 of any month beginning in 2013, 2014, or
23 2015, the annual limitation under this
24 paragraph for such month with respect to
25 such employee shall be an amount equal to

1 *the applicable percentage of the annual lim-*
2 *itation (determined without regard to this*
3 *subparagraph or subparagraph (C)(ii)).*

4 “(ii) *APPLICABLE PERCENTAGE.*—*The*
5 *applicable percentage is 120 percent for*
6 *2013, 110 percent for 2014, and 105 percent*
7 *for 2015.*

8 “(iii) *HIGH COST STATE.*—*The term*
9 *‘high cost State’ means each of the 17 States*
10 *which the Secretary of Health and Human*
11 *Services, in consultation with the Secretary,*
12 *estimates had the highest average cost dur-*
13 *ing 2012 for employer-sponsored coverage*
14 *under health plans. The Secretary’s estimate*
15 *shall be made on the basis of aggregate pre-*
16 *miums paid in the State for such health*
17 *plans, determined using the most recent*
18 *data available as of August 31, 2012.*

19 “(c) *LIABILITY TO PAY TAX.*—

20 “(1) *IN GENERAL.*—*Each coverage provider shall*
21 *pay the tax imposed by subsection (a) on its applica-*
22 *ble share of the excess benefit with respect to an em-*
23 *ployee for any taxable period.*

1 “(2) *COVERAGE PROVIDER.*—For purposes of this
2 subsection, the term ‘coverage provider’ means each of
3 the following:

4 “(A) *HEALTH INSURANCE COVERAGE.*—If
5 the applicable employer-sponsored coverage con-
6 sists of coverage under a group health plan
7 which provides health insurance coverage, the
8 health insurance issuer.

9 “(B) *HSA AND MSA CONTRIBUTIONS.*—If
10 the applicable employer-sponsored coverage con-
11 sists of coverage under an arrangement under
12 which the employer makes contributions de-
13 scribed in subsection (b) or (d) of section 106, the
14 employer.

15 “(C) *OTHER COVERAGE.*—In the case of any
16 other applicable employer-sponsored coverage, the
17 person that administers the plan benefits.

18 “(3) *APPLICABLE SHARE.*—For purposes of this
19 subsection, a coverage provider’s applicable share of
20 an excess benefit for any taxable period is the amount
21 which bears the same ratio to the amount of such ex-
22 cess benefit as—

23 “(A) the cost of the applicable employer-
24 sponsored coverage provided by the provider to
25 the employee during such period, bears to

1 “(B) *the aggregate cost of all applicable em-*
2 *ployer-sponsored coverage provided to the em-*
3 *ployee by all coverage providers during such pe-*
4 *riod.*

5 “(4) *RESPONSIBILITY TO CALCULATE TAX AND*
6 *APPLICABLE SHARES.—*

7 “(A) *IN GENERAL.—Each employer shall—*

8 “(i) *calculate for each taxable period*
9 *the amount of the excess benefit subject to*
10 *the tax imposed by subsection (a) and the*
11 *applicable share of such excess benefit for*
12 *each coverage provider, and*

13 “(ii) *notify, at such time and in such*
14 *manner as the Secretary may prescribe, the*
15 *Secretary and each coverage provider of the*
16 *amount so determined for the provider.*

17 “(B) *SPECIAL RULE FOR MULTIEMPLOYER*
18 *PLANS.—In the case of applicable employer-spon-*
19 *sored coverage made available to employees*
20 *through a multiemployer plan (as defined in sec-*
21 *tion 414(f)), the plan sponsor shall make the cal-*
22 *culations, and provide the notice, required under*
23 *subparagraph (A).*

24 “(d) *APPLICABLE EMPLOYER-SPONSORED COVERAGE;*
25 *COST.—For purposes of this section—*

1 “(1) *APPLICABLE EMPLOYER-SPONSORED COV-*
2 *ERAGE.—*

3 “(A) *IN GENERAL.—The term ‘applicable*
4 *employer-sponsored coverage’ means, with respect*
5 *to any employee, coverage under any group*
6 *health plan made available to the employee by*
7 *an employer which is excludable from the em-*
8 *ployee’s gross income under section 106, or*
9 *would be so excludable if it were employer-pro-*
10 *vided coverage (within the meaning of such sec-*
11 *tion 106).*

12 “(B) *EXCEPTIONS.—The term ‘applicable*
13 *employer-sponsored coverage’ shall not include—*

14 “(i) *any coverage (whether through in-*
15 *surance or otherwise) described in section*
16 *9832(c)(1)(A) or for long-term care, or*

17 “(ii) *any coverage described in section*
18 *9832(c)(3) the payment for which is not ex-*
19 *cludable from gross income and for which a*
20 *deduction under section 162(l) is not allow-*
21 *able.*

22 “(C) *COVERAGE INCLUDES EMPLOYEE PAID*
23 *PORTION.—Coverage shall be treated as applica-*
24 *ble employer-sponsored coverage without regard*

1 to whether the employer or employee pays for the
2 coverage.

3 “(D) *SELF-EMPLOYED INDIVIDUAL.*—In the
4 case of an individual who is an employee within
5 the meaning of section 401(c)(1), coverage under
6 any group health plan providing health insur-
7 ance coverage shall be treated as applicable em-
8 ployer-sponsored coverage if a deduction is al-
9 lowable under section 162(l) with respect to all
10 or any portion of the cost of the coverage.

11 “(E) *GOVERNMENTAL PLANS INCLUDED.*—
12 Applicable employer-sponsored coverage shall in-
13 clude coverage under any group health plan es-
14 tablished and maintained primarily for its civil-
15 ian employees by the Government of the United
16 States, by the government of any State or polit-
17 ical subdivision thereof, or by any agency or in-
18 strumentality of any such government.

19 “(2) *DETERMINATION OF COST.*—

20 “(A) *IN GENERAL.*—The cost of applicable
21 employer-sponsored coverage shall be determined
22 under rules similar to the rules of section
23 4980B(f)(4), except that in determining such
24 cost, any portion of the cost of such coverage
25 which is attributable to the tax imposed under

1 *this section shall not be taken into account and*
2 *the amount of such cost shall be calculated sepa-*
3 *rately for self-only coverage and other coverage.*
4 *In the case of applicable employer-sponsored cov-*
5 *erage which provides coverage to retired employ-*
6 *ees, the plan may elect to treat a retired em-*
7 *ployee who has not attained the age of 65 and*
8 *a retired employee who has attained the age of*
9 *65 as similarly situated beneficiaries.*

10 “(B) *HEALTH FSAS.*—*In the case of appli-*
11 *cable employer-sponsored coverage consisting of*
12 *coverage under a flexible spending arrangement*
13 *(as defined in section 106(c)(2)), the cost of the*
14 *coverage shall be equal to the sum of—*

15 “(i) *the amount of employer contribu-*
16 *tions under any salary reduction election*
17 *under the arrangement, plus*

18 “(ii) *the amount determined under*
19 *subparagraph (A) with respect to any reim-*
20 *bursement under the arrangement in excess*
21 *of the contributions described in clause (i).*

22 “(C) *ARCHER MSAS AND HSAS.*—*In the case*
23 *of applicable employer-sponsored coverage con-*
24 *sisting of coverage under an arrangement under*
25 *which the employer makes contributions de-*

1 *scribed in subsection (b) or (d) of section 106, the*
2 *cost of the coverage shall be equal to the amount*
3 *of employer contributions under the arrange-*
4 *ment.*

5 “(D) *ALLOCATION ON A MONTHLY BASIS.—*
6 *If cost is determined on other than a monthly*
7 *basis, the cost shall be allocated to months in a*
8 *taxable period on such basis as the Secretary*
9 *may prescribe.*

10 “(e) *PENALTY FOR FAILURE TO PROPERLY CAL-*
11 *CULATE EXCESS BENEFIT.—*

12 “(1) *IN GENERAL.—If, for any taxable period,*
13 *the tax imposed by subsection (a) exceeds the tax de-*
14 *termined under such subsection with respect to the*
15 *total excess benefit calculated by the employer or plan*
16 *sponsor under subsection (c)(4)—*

17 “(A) *each coverage provider shall pay the*
18 *tax on its applicable share (determined in the*
19 *same manner as under subsection (c)(4)) of the*
20 *excess, but no penalty shall be imposed on the*
21 *provider with respect to such amount, and*

22 “(B) *the employer or plan sponsor shall, in*
23 *addition to any tax imposed by subsection (a),*
24 *pay a penalty in an amount equal to such ex-*
25 *cess, plus interest at the underpayment rate de-*

1 *terminated under section 6621 for the period be-*
2 *ginning on the due date for the payment of tax*
3 *imposed by subsection (a) to which the excess re-*
4 *lates and ending on the date of payment of the*
5 *penalty.*

6 “(2) *LIMITATIONS ON PENALTY.—*

7 “(A) *PENALTY NOT TO APPLY WHERE FAIL-*
8 *URE NOT DISCOVERED EXERCISING REASONABLE*
9 *DILIGENCE.—No penalty shall be imposed by*
10 *paragraph (1)(B) on any failure to properly cal-*
11 *culate the excess benefit during any period for*
12 *which it is established to the satisfaction of the*
13 *Secretary that the employer or plan sponsor nei-*
14 *ther knew, nor exercising reasonable diligence*
15 *would have known, that such failure existed.*

16 “(B) *PENALTY NOT TO APPLY TO FAILURES*
17 *CORRECTED WITHIN 30 DAYS.—No penalty shall*
18 *be imposed by paragraph (1)(B) on any such*
19 *failure if—*

20 “(i) *such failure was due to reasonable*
21 *cause and not to willful neglect, and*

22 “(ii) *such failure is corrected during*
23 *the 30-day period beginning on the 1st date*
24 *that the employer knew, or exercising rea-*

1 *sonable diligence would have known, that*
2 *such failure existed.*

3 “(C) *WAIVER BY SECRETARY.*—*In the case*
4 *of any such failure which is due to reasonable*
5 *cause and not to willful neglect, the Secretary*
6 *may waive part or all of the penalty imposed by*
7 *paragraph (1), to the extent that the payment of*
8 *such penalty would be excessive or otherwise in-*
9 *equitable relative to the failure involved.*

10 “(f) *OTHER DEFINITIONS AND SPECIAL RULES.*—*For*
11 *purposes of this section—*

12 “(1) *COVERAGE DETERMINATIONS.*—

13 “(A) *IN GENERAL.*—*Except as provided in*
14 *subparagraph (B), an employee shall be treated*
15 *as having self-only coverage with respect to any*
16 *applicable employer-sponsored coverage of an*
17 *employer.*

18 “(B) *MINIMUM ESSENTIAL COVERAGE.*—*An*
19 *employee shall be treated as having coverage*
20 *other than self-only coverage only if the employee*
21 *is enrolled in coverage other than self-only cov-*
22 *erage in a group health plan which provides*
23 *minimum essential coverage (as defined in sec-*
24 *tion 5000A(f)) to the employee and at least one*
25 *other beneficiary, and the benefits provided*

1 *under such minimum essential coverage do not*
2 *vary based on whether any individual covered*
3 *under such coverage is the employee or another*
4 *beneficiary.*

5 “(2) *QUALIFIED RETIREE.*—*The term ‘qualified*
6 *retiree’ means any individual who—*

7 “(A) *is receiving coverage by reason of*
8 *being a retiree,*

9 “(B) *has attained age 55, and*

10 “(C) *is not entitled to benefits or eligible for*
11 *enrollment under the Medicare program under*
12 *title XVIII of the Social Security Act.*

13 “(3) *EMPLOYEES ENGAGED IN HIGH-RISK PRO-*
14 *FESSION.*—*The term ‘employees engaged in a high-*
15 *risk profession’ means law enforcement officers (as*
16 *such term is defined in section 1204 of the Omnibus*
17 *Crime Control and Safe Streets Act of 1968), employ-*
18 *ees in fire protection activities (as such term is de-*
19 *fined in section 3(y) of the Fair Labor Standards Act*
20 *of 1938), individuals who provide out-of-hospital*
21 *emergency medical care (including emergency medical*
22 *technicians, paramedics, and first-responders), and*
23 *individuals engaged in the construction, mining, ag-*
24 *riculture (not including food processing), forestry,*
25 *and fishing industries. Such term includes an em-*

1 *ployee who is retired from a high-risk profession de-*
2 *scribed in the preceding sentence, if such employee*
3 *satisfied the requirements of such sentence for a pe-*
4 *riod of not less than 20 years during the employee's*
5 *employment.*

6 “(4) *GROUP HEALTH PLAN.*—*The term ‘group*
7 *health plan’ has the meaning given such term by sec-*
8 *tion 5000(b)(1).*

9 “(5) *HEALTH INSURANCE COVERAGE; HEALTH*
10 *INSURANCE ISSUER.*—

11 “(A) *HEALTH INSURANCE COVERAGE.*—*The*
12 *term ‘health insurance coverage’ has the meaning*
13 *given such term by section 9832(b)(1) (applied*
14 *without regard to subparagraph (B) thereof, ex-*
15 *cept as provided by the Secretary in regula-*
16 *tions).*

17 “(B) *HEALTH INSURANCE ISSUER.*—*The*
18 *term ‘health insurance issuer’ has the meaning*
19 *given such term by section 9832(b)(2).*

20 “(6) *PERSON THAT ADMINISTERS THE PLAN*
21 *BENEFITS.*—*The term ‘person that administers the*
22 *plan benefits’ shall include the plan sponsor if the*
23 *plan sponsor administers benefits under the plan.*

24 “(7) *PLAN SPONSOR.*—*The term ‘plan sponsor’*
25 *has the meaning given such term in section 3(16)(B)*

1 *of the Employee Retirement Income Security Act of*
2 *1974.*

3 “(8) *TAXABLE PERIOD.*—*The term ‘taxable pe-*
4 *riod’ means the calendar year or such shorter period*
5 *as the Secretary may prescribe. The Secretary may*
6 *have different taxable periods for employers of vary-*
7 *ing sizes.*

8 “(9) *AGGREGATION RULES.*—*All employers treat-*
9 *ed as a single employer under subsection (b), (c), (m),*
10 *or (o) of section 414 shall be treated as a single em-*
11 *ployer.*

12 “(10) *DENIAL OF DEDUCTION.*—*For denial of a*
13 *deduction for the tax imposed by this section, see sec-*
14 *tion 275(a)(6).*

15 “(g) *REGULATIONS.*—*The Secretary shall prescribe*
16 *such regulations as may be necessary to carry out this sec-*
17 *tion.”.*

18 “(b) *CLERICAL AMENDMENT.*—*The table of sections for*
19 *chapter 43 of such Code, as amended by section 1513, is*
20 *amended by adding at the end the following new item:*

 “*Sec. 4980I. Excise tax on high cost employer-sponsored health coverage.*”.

21 “(c) *EFFECTIVE DATE.*—*The amendments made by this*
22 *section shall apply to taxable years beginning after Decem-*
23 *ber 31, 2012.*

1 **SEC. 9002. INCLUSION OF COST OF EMPLOYER-SPONSORED**
2 **HEALTH COVERAGE ON W-2.**

3 (a) *IN GENERAL.*—Section 6051(a) of the Internal
4 Revenue Code of 1986 (relating to receipts for employees)
5 is amended by striking “and” at the end of paragraph (12),
6 by striking the period at the end of paragraph (13) and
7 inserting “, and”, and by adding after paragraph (13) the
8 following new paragraph:

9 “(14) the aggregate cost (determined under rules
10 similar to the rules of section 4980B(f)(4)) of applica-
11 ble employer-sponsored coverage (as defined in section
12 4980I(d)(1)), except that this paragraph shall not
13 apply to—

14 “(A) coverage to which paragraphs (11) and
15 (12) apply, or

16 “(B) the amount of any salary reduction
17 contributions to a flexible spending arrangement
18 (within the meaning of section 125).”.

19 (b) *EFFECTIVE DATE.*—The amendments made by this
20 section shall apply to taxable years beginning after Decem-
21 ber 31, 2010.

22 **SEC. 9003. DISTRIBUTIONS FOR MEDICINE QUALIFIED ONLY**
23 **IF FOR PRESCRIBED DRUG OR INSULIN.**

24 (a) *HSAs.*—Subparagraph (A) of section 223(d)(2) of
25 the Internal Revenue Code of 1986 is amended by adding
26 at the end the following: “Such term shall include an

1 amount paid for medicine or a drug only if such medicine
2 or drug is a prescribed drug (determined without regard
3 to whether such drug is available without a prescription)
4 or is insulin.”.

5 (b) *ARCHER MSAS*.—Subparagraph (A) of section
6 220(d)(2) of the Internal Revenue Code of 1986 is amended
7 by adding at the end the following: “Such term shall include
8 an amount paid for medicine or a drug only if such medi-
9 cine or drug is a prescribed drug (determined without re-
10 gard to whether such drug is available without a prescrip-
11 tion) or is insulin.”.

12 (c) *HEALTH FLEXIBLE SPENDING ARRANGEMENTS*
13 *AND HEALTH REIMBURSEMENT ARRANGEMENTS*.—Section
14 106 of the Internal Revenue Code of 1986 is amended by
15 adding at the end the following new subsection:

16 “(f) *REIMBURSEMENTS FOR MEDICINE RESTRICTED*
17 *TO PRESCRIBED DRUGS AND INSULIN*.—For purposes of
18 this section and section 105, reimbursement for expenses in-
19 curred for a medicine or a drug shall be treated as a reim-
20 bursement for medical expenses only if such medicine or
21 drug is a prescribed drug (determined without regard to
22 whether such drug is available without a prescription) or
23 is insulin.”.

24 (d) *EFFECTIVE DATES*.—

1 (1) *DISTRIBUTIONS FROM SAVINGS ACCOUNTS.*—
2 *The amendments made by subsections (a) and (b)*
3 *shall apply to amounts paid with respect to taxable*
4 *years beginning after December 31, 2010.*

5 (2) *REIMBURSEMENTS.*—*The amendment made*
6 *by subsection (c) shall apply to expenses incurred*
7 *with respect to taxable years beginning after Decem-*
8 *ber 31, 2010.*

9 **SEC. 9004. INCREASE IN ADDITIONAL TAX ON DISTRIBUTIONS FROM HSAS AND ARCHER MSAS NOT**
10 **USED FOR QUALIFIED MEDICAL EXPENSES.**

12 (a) *HSAS.*—*Section 223(f)(4)(A) of the Internal Rev-*
13 *enue Code of 1986 is amended by striking “10 percent” and*
14 *inserting “20 percent”.*

15 (b) *ARCHER MSAS.*—*Section 220(f)(4)(A) of the Inter-*
16 *nal Revenue Code of 1986 is amended by striking “15 per-*
17 *cent” and inserting “20 percent”.*

18 (c) *EFFECTIVE DATE.*—*The amendments made by this*
19 *section shall apply to distributions made after December 31,*
20 *2010.*

21 **SEC. 9005. LIMITATION ON HEALTH FLEXIBLE SPENDING**
22 **ARRANGEMENTS UNDER CAFETERIA PLANS.**

23 (a) *IN GENERAL.*—*Section 125 of the Internal Revenue*
24 *Code of 1986 is amended—*

1 (1) *by redesignating subsections (i) and (j) as*
2 *subsections (j) and (k), respectively, and*

3 (2) *by inserting after subsection (h) the following*
4 *new subsection:*

5 “(i) *LIMITATION ON HEALTH FLEXIBLE SPENDING*
6 *ARRANGEMENTS.—For purposes of this section, if a benefit*
7 *is provided under a cafeteria plan through employer con-*
8 *tributions to a health flexible spending arrangement, such*
9 *benefit shall not be treated as a qualified benefit unless the*
10 *cafeteria plan provides that an employee may not elect for*
11 *any taxable year to have salary reduction contributions in*
12 *excess of \$2,500 made to such arrangement.”.*

13 (b) *EFFECTIVE DATE.—The amendments made by this*
14 *section shall apply to taxable years beginning after Decem-*
15 *ber 31, 2010.*

16 **SEC. 9006. EXPANSION OF INFORMATION REPORTING RE-**
17 **QUIREMENTS.**

18 (a) *IN GENERAL.—Section 6041 of the Internal Rev-*
19 *enue Code of 1986 is amended by adding at the end the*
20 *following new subsections:*

21 “(h) *APPLICATION TO CORPORATIONS.—Notwith-*
22 *standing any regulation prescribed by the Secretary before*
23 *the date of the enactment of this subsection, for purposes*
24 *of this section the term ‘person’ includes any corporation*

1 *that is not an organization exempt from tax under section*
2 *501(a).*

3 “(i) *REGULATIONS.*—*The Secretary may prescribe*
4 *such regulations and other guidance as may be appropriate*
5 *or necessary to carry out the purposes of this section, in-*
6 *cluding rules to prevent duplicative reporting of trans-*
7 *actions.”.*

8 (b) *PAYMENTS FOR PROPERTY AND OTHER GROSS*
9 *PROCEEDS.*—*Subsection (a) of section 6041 of the Internal*
10 *Revenue Code of 1986 is amended—*

11 (1) *by inserting “amounts in consideration for*
12 *property,” after “wages,”*

13 (2) *by inserting “gross proceeds,” after “emolu-*
14 *ments, or other”, and*

15 (3) *by inserting “gross proceeds,” after “setting*
16 *forth the amount of such”.*

17 (c) *EFFECTIVE DATE.*—*The amendments made by this*
18 *section shall apply to payments made after December 31,*
19 *2011.*

20 ***SEC. 9007. ADDITIONAL REQUIREMENTS FOR CHARITABLE***
21 ***HOSPITALS.***

22 (a) *REQUIREMENTS TO QUALIFY AS SECTION*
23 *501(c)(3) CHARITABLE HOSPITAL ORGANIZATION.*—*Sec-*
24 *tion 501 of the Internal Revenue Code of 1986 (relating to*
25 *exemption from tax on corporations, certain trusts, etc.) is*

1 *amended by redesignating subsection (r) as subsection (s)*
2 *and by inserting after subsection (q) the following new sub-*
3 *section:*

4 “(r) *ADDITIONAL REQUIREMENTS FOR CERTAIN HOS-*
5 *PITALS.—*

6 “(1) *IN GENERAL.—A hospital organization to*
7 *which this subsection applies shall not be treated as*
8 *described in subsection (c)(3) unless the organiza-*
9 *tion—*

10 “(A) *meets the community health needs as-*
11 *essment requirements described in paragraph*
12 *(3),*

13 “(B) *meets the financial assistance policy*
14 *requirements described in paragraph (4),*

15 “(C) *meets the requirements on charges de-*
16 *scribed in paragraph (5), and*

17 “(D) *meets the billing and collection re-*
18 *quirement described in paragraph (6).*

19 “(2) *HOSPITAL ORGANIZATIONS TO WHICH SUB-*
20 *SECTION APPLIES.—*

21 “(A) *IN GENERAL.—This subsection shall*
22 *apply to—*

23 “(i) *an organization which operates a*
24 *facility which is required by a State to be*

1 *licensed, registered, or similarly recognized*
2 *as a hospital, and*

3 “(ii) *any other organization which the*
4 *Secretary determines has the provision of*
5 *hospital care as its principal function or*
6 *purpose constituting the basis for its exemp-*
7 *tion under subsection (c)(3) (determined*
8 *without regard to this subsection).*

9 “(B) *ORGANIZATIONS WITH MORE THAN 1*
10 *HOSPITAL FACILITY.—If a hospital organization*
11 *operates more than 1 hospital facility—*

12 “(i) *the organization shall meet the re-*
13 *quirements of this subsection separately*
14 *with respect to each such facility, and*

15 “(ii) *the organization shall not be*
16 *treated as described in subsection (c)(3)*
17 *with respect to any such facility for which*
18 *such requirements are not separately met.*

19 “(3) *COMMUNITY HEALTH NEEDS ASSESS-*
20 *MENTS.—*

21 “(A) *IN GENERAL.—An organization meets*
22 *the requirements of this paragraph with respect*
23 *to any taxable year only if the organization—*

24 “(i) *has conducted a community health*
25 *needs assessment which meets the require-*

1 *ments of subparagraph (B) in such taxable*
2 *year or in either of the 2 taxable years im-*
3 *mediately preceding such taxable year, and*

4 *“(i) has adopted an implementation*
5 *strategy to meet the community health needs*
6 *identified through such assessment.*

7 *“(B) COMMUNITY HEALTH NEEDS ASSESS-*
8 *MENT.—A community health needs assessment*
9 *meets the requirements of this paragraph if such*
10 *community health needs assessment—*

11 *“(i) takes into account input from per-*
12 *sons who represent the broad interests of the*
13 *community served by the hospital facility,*
14 *including those with special knowledge of or*
15 *expertise in public health, and*

16 *“(ii) is made widely available to the*
17 *public.*

18 *“(4) FINANCIAL ASSISTANCE POLICY.—An orga-*
19 *nization meets the requirements of this paragraph if*
20 *the organization establishes the following policies:*

21 *“(A) FINANCIAL ASSISTANCE POLICY.—A*
22 *written financial assistance policy which in-*
23 *cludes—*

1 “(i) *eligibility criteria for financial as-*
2 *stance, and whether such assistance in-*
3 *cludes free or discounted care,*

4 “(ii) *the basis for calculating amounts*
5 *charged to patients,*

6 “(iii) *the method for applying for fi-*
7 *nancial assistance,*

8 “(iv) *in the case of an organization*
9 *which does not have a separate billing and*
10 *collections policy, the actions the organiza-*
11 *tion may take in the event of non-payment,*
12 *including collections action and reporting*
13 *to credit agencies, and*

14 “(v) *measures to widely publicize the*
15 *policy within the community to be served*
16 *by the organization.*

17 “(B) *POLICY RELATING TO EMERGENCY*
18 *MEDICAL CARE.—A written policy requiring the*
19 *organization to provide, without discrimination,*
20 *care for emergency medical conditions (within*
21 *the meaning of section 1867 of the Social Secu-*
22 *rity Act (42 U.S.C. 1395dd)) to individuals re-*
23 *gardless of their eligibility under the financial*
24 *assistance policy described in subparagraph (A).*

1 “(5) *LIMITATION ON CHARGES.*—An organiza-
2 tion meets the requirements of this paragraph if the
3 organization—

4 “(A) *limits amounts charged for emergency*
5 *or other medically necessary care provided to in-*
6 *dividuals eligible for assistance under the finan-*
7 *cial assistance policy described in paragraph*
8 *(4)(A) to not more than the lowest amounts*
9 *charged to individuals who have insurance cov-*
10 *ering such care, and*

11 “(B) *prohibits the use of gross charges.*

12 “(6) *BILLING AND COLLECTION REQUIRE-*
13 *MENTS.*—An organization meets the requirement of
14 this paragraph only if the organization does not en-
15 gage in extraordinary collection actions before the or-
16 ganization has made reasonable efforts to determine
17 whether the individual is eligible for assistance under
18 the financial assistance policy described in paragraph
19 (4)(A).

20 “(7) *REGULATORY AUTHORITY.*—The Secretary
21 shall issue such regulations and guidance as may be
22 necessary to carry out the provisions of this sub-
23 section, including guidance relating to what con-
24 stitutes reasonable efforts to determine the eligibility

1 of a patient under a financial assistance policy for
2 purposes of paragraph (6).”.

3 (b) *EXCISE TAX FOR FAILURES TO MEET HOSPITAL*
4 *EXEMPTION REQUIREMENTS.*—

5 (1) *IN GENERAL.*—Subchapter D of chapter 42 of
6 the Internal Revenue Code of 1986 (relating to failure
7 by certain charitable organizations to meet certain
8 qualification requirements) is amended by adding at
9 the end the following new section:

10 **“SEC. 4959. TAXES ON FAILURES BY HOSPITAL ORGANIZA-**
11 **TIONS.**

12 *“If a hospital organization to which section 501(r) ap-*
13 *plies fails to meet the requirement of section 501(r)(3) for*
14 *any taxable year, there is imposed on the organization a*
15 *tax equal to \$50,000.”.*

16 (2) *CONFORMING AMENDMENT.*—The table of sec-
17 tions for subchapter D of chapter 42 of such Code is
18 amended by adding at the end the following new item:
“Sec. 4959. Taxes on failures by hospital organizations.”.

19 (c) *MANDATORY REVIEW OF TAX EXEMPTION FOR*
20 *HOSPITALS.*—The Secretary of the Treasury or the Sec-
21 *retary’s delegate shall review at least once every 3 years*
22 *the community benefit activities of each hospital organiza-*
23 *tion to which section 501(r) of the Internal Revenue Code*
24 *of 1986 (as added by this section) applies.*

25 (d) *ADDITIONAL REPORTING REQUIREMENTS.*—

1 (1) *COMMUNITY HEALTH NEEDS ASSESSMENTS*
2 *AND AUDITED FINANCIAL STATEMENTS.*—Section
3 *6033(b) of the Internal Revenue Code of 1986 (relat-*
4 *ing to certain organizations described in section*
5 *501(c)(3)) is amended by striking “and” at the end*
6 *of paragraph (14), by redesignating paragraph (15)*
7 *as paragraph (16), and by inserting after paragraph*
8 *(14) the following new paragraph:*

9 “(15) *in the case of an organization to which the*
10 *requirements of section 501(r) apply for the taxable*
11 *year—*

12 “(A) *a description of how the organization*
13 *is addressing the needs identified in each com-*
14 *munity health needs assessment conducted under*
15 *section 501(r)(3) and a description of any such*
16 *needs that are not being addressed together with*
17 *the reasons why such needs are not being ad-*
18 *dressed, and*

19 “(B) *the audited financial statements of*
20 *such organization (or, in the case of an organi-*
21 *zation the financial statements of which are in-*
22 *cluded in a consolidated financial statement*
23 *with other organizations, such consolidated fi-*
24 *nancial statement).”.*

1 (2) *TAXES.*—*Section 6033(b)(10) of such Code is*
2 *amended by striking “and” at the end of subpara-*
3 *graph (B), by inserting “and” at the end of subpara-*
4 *graph (C), and by adding at the end the following*
5 *new subparagraph:*

6 “(D) *section 4959 (relating to taxes on fail-*
7 *ures by hospital organizations),”.*

8 *(e) REPORTS.*—

9 (1) *REPORT ON LEVELS OF CHARITY CARE.*—*The*
10 *Secretary of the Treasury, in consultation with the*
11 *Secretary of Health and Human Services, shall sub-*
12 *mit to the Committees on Ways and Means, Edu-*
13 *cation and Labor, and Energy and Commerce of the*
14 *House of Representatives and to the Committees on*
15 *Finance and Health, Education, Labor, and Pensions*
16 *of the Senate an annual report on the following:*

17 (A) *Information with respect to private tax-*
18 *exempt, taxable, and government-owned hospitals*
19 *regarding—*

20 (i) *levels of charity care provided,*

21 (ii) *bad debt expenses,*

22 (iii) *unreimbursed costs for services*
23 *provided with respect to means-tested gov-*
24 *ernment programs, and*

1 (iv) *unreimbursed costs for services*
2 *provided with respect to non-means tested*
3 *government programs.*

4 (B) *Information with respect to private tax-*
5 *exempt hospitals regarding costs incurred for*
6 *community benefit activities.*

7 (2) *REPORT ON TRENDS.—*

8 (A) *STUDY.—The Secretary of the Treasury,*
9 *in consultation with the Secretary of Health and*
10 *Human Services, shall conduct a study on trends*
11 *in the information required to be reported under*
12 *paragraph (1).*

13 (B) *REPORT.—Not later than 5 years after*
14 *the date of the enactment of this Act, the Sec-*
15 *retary of the Treasury, in consultation with the*
16 *Secretary of Health and Human Services, shall*
17 *submit a report on the study conducted under*
18 *subparagraph (A) to the Committees on Ways*
19 *and Means, Education and Labor, and Energy*
20 *and Commerce of the House of Representatives*
21 *and to the Committees on Finance and Health,*
22 *Education, Labor, and Pensions of the Senate.*

23 (f) *EFFECTIVE DATES.—*

24 (1) *IN GENERAL.—Except as provided in para-*
25 *graphs (2) and (3), the amendments made by this sec-*

1 *tion shall apply to taxable years beginning after the*
2 *date of the enactment of this Act.*

3 (2) *COMMUNITY HEALTH NEEDS ASSESSMENT.*—

4 *The requirements of section 501(r)(3) of the Internal*
5 *Revenue Code of 1986, as added by subsection (a),*
6 *shall apply to taxable years beginning after the date*
7 *which is 2 years after the date of the enactment of*
8 *this Act.*

9 (3) *EXCISE TAX.*—*The amendments made by*
10 *subsection (b) shall apply to failures occurring after*
11 *the date of the enactment of this Act.*

12 **SEC. 9008. IMPOSITION OF ANNUAL FEE ON BRANDED PRE-**
13 **SCRIPTION PHARMACEUTICAL MANUFACTUR-**
14 **ERS AND IMPORTERS.**

15 (a) *IMPOSITION OF FEE.*—

16 (1) *IN GENERAL.*—*Each covered entity engaged*
17 *in the business of manufacturing or importing brand-*
18 *ed prescription drugs shall pay to the Secretary of the*
19 *Treasury not later than the annual payment date of*
20 *each calendar year beginning after 2009 a fee in an*
21 *amount determined under subsection (b).*

22 (2) *ANNUAL PAYMENT DATE.*—*For purposes of*
23 *this section, the term “annual payment date” means*
24 *with respect to any calendar year the date determined*

1 *by the Secretary, but in no event later than Sep-*
 2 *tember 30 of such calendar year.*

3 *(b) DETERMINATION OF FEE AMOUNT.—*

4 *(1) IN GENERAL.—With respect to each covered*
 5 *entity, the fee under this section for any calendar*
 6 *year shall be equal to an amount that bears the same*
 7 *ratio to \$2,300,000,000 as—*

8 *(A) the covered entity’s branded prescrip-*
 9 *tion drug sales taken into account during the*
 10 *preceding calendar year, bear to*

11 *(B) the aggregate branded prescription drug*
 12 *sales of all covered entities taken into account*
 13 *during such preceding calendar year.*

14 *(2) SALES TAKEN INTO ACCOUNT.—For purposes*
 15 *of paragraph (1), the branded prescription drug sales*
 16 *taken into account during any calendar year with re-*
 17 *spect to any covered entity shall be determined in ac-*
 18 *cordance with the following table:*

<i>With respect to a covered entity’s aggregate branded pre-</i> <i>scription drug sales during the calendar year that are:</i>	<i>The percentage of such</i> <i>sales taken into ac-</i> <i>count is:</i>
<i>Not more than \$5,000,000</i>	<i>0 percent</i>
<i>More than \$5,000,000 but not more than</i> <i>\$125,000,000.</i>	<i>10 percent</i>
<i>More than \$125,000,000 but not more than</i> <i>\$225,000,000.</i>	<i>40 percent</i>
<i>More than \$225,000,000 but not more than</i> <i>\$400,000,000.</i>	<i>75 percent</i>
<i>More than \$400,000,000</i>	<i>100 percent.</i>

1 (3) *SECRETARIAL DETERMINATION.*—*The Sec-*
2 *retary of the Treasury shall calculate the amount of*
3 *each covered entity’s fee for any calendar year under*
4 *paragraph (1). In calculating such amount, the Sec-*
5 *retary of the Treasury shall determine such covered*
6 *entity’s branded prescription drug sales on the basis*
7 *of reports submitted under subsection (g) and through*
8 *the use of any other source of information available*
9 *to the Secretary of the Treasury.*

10 (c) *TRANSFER OF FEES TO MEDICARE PART B TRUST*
11 *FUND.*—*There is hereby appropriated to the Federal Sup-*
12 *plementary Medical Insurance Trust Fund established*
13 *under section 1841 of the Social Security Act an amount*
14 *equal to the fees received by the Secretary of the Treasury*
15 *under subsection (a).*

16 (d) *COVERED ENTITY.*—

17 (1) *IN GENERAL.*—*For purposes of this section,*
18 *the term “covered entity” means any manufacturer or*
19 *importer with gross receipts from branded prescrip-*
20 *tion drug sales.*

21 (2) *CONTROLLED GROUPS.*—

22 (A) *IN GENERAL.*—*For purposes of this sub-*
23 *section, all persons treated as a single employer*
24 *under subsection (a) or (b) of section 52 of the*
25 *Internal Revenue Code of 1986 or subsection (m)*

1 or (o) of section 414 of such Code shall be treated
2 as a single covered entity.

3 (B) *INCLUSION OF FOREIGN CORPORATIONS.*—For purposes of subparagraph (A), in
4 applying subsections (a) and (b) of section 52 of
5 such Code to this section, section 1563 of such
6 Code shall be applied without regard to sub-
7 section (b)(2)(C) thereof.

8
9 (e) *BRANDED PRESCRIPTION DRUG SALES.*—For pur-
10 poses of this section—

11 (1) *IN GENERAL.*—The term “branded prescrip-
12 tion drug sales” means sales of branded prescription
13 drugs to any specified government program or pursu-
14 ant to coverage under any such program.

15 (2) *BRANDED PRESCRIPTION DRUGS.*—

16 (A) *IN GENERAL.*—The term “branded pre-
17 scription drug” means—

18 (i) any prescription drug the applica-
19 tion for which was submitted under section
20 505(b) of the Federal Food, Drug, and Cos-
21 metic Act (21 U.S.C. 355(b)), or

22 (ii) any biological product the license
23 for which was submitted under section
24 351(a) of the Public Health Service Act (42
25 U.S.C. 262(a)).

1 (B) *PRESCRIPTION DRUG.*—For purposes of
2 subparagraph (A)(i), the term “prescription
3 drug” means any drug which is subject to section
4 503(b) of the Federal Food, Drug, and Cosmetic
5 Act (21 U.S.C. 353(b)).

6 (3) *EXCLUSION OF ORPHAN DRUG SALES.*—The
7 term “branded prescription drug sales” shall not in-
8 clude sales of any drug or biological product with re-
9 spect to which a credit was allowed for any taxable
10 year under section 45C of the Internal Revenue Code
11 of 1986. The preceding sentence shall not apply with
12 respect to any such drug or biological product after
13 the date on which such drug or biological product is
14 approved by the Food and Drug Administration for
15 marketing for any indication other than the treat-
16 ment of the rare disease or condition with respect to
17 which such credit was allowed.

18 (4) *SPECIFIED GOVERNMENT PROGRAM.*—The
19 term “specified government program” means—

20 (A) the Medicare Part D program under
21 part D of title XVIII of the Social Security Act,

22 (B) the Medicare Part B program under
23 part B of title XVIII of the Social Security Act,

24 (C) the Medicaid program under title XIX
25 of the Social Security Act,

1 (D) any program under which branded pre-
2 scription drugs are procured by the Department
3 of Veterans Affairs,

4 (E) any program under which branded pre-
5 scription drugs are procured by the Department
6 of Defense, or

7 (F) the TRICARE retail pharmacy pro-
8 gram under section 1074g of title 10, United
9 States Code.

10 (f) *TAX TREATMENT OF FEES.*—The fees imposed by
11 *this section—*

12 (1) for purposes of subtitle F of the Internal Rev-
13 enue Code of 1986, shall be treated as excise taxes
14 with respect to which only civil actions for refund
15 under procedures of such subtitle shall apply, and

16 (2) for purposes of section 275 of such Code, shall
17 be considered to be a tax described in section
18 275(a)(6).

19 (g) *REPORTING REQUIREMENT.*—Not later than the
20 *date determined by the Secretary of the Treasury following*
21 *the end of any calendar year, the Secretary of Health and*
22 *Human Services, the Secretary of Veterans Affairs, and the*
23 *Secretary of Defense shall report to the Secretary of the*
24 *Treasury, in such manner as the Secretary of the Treasury*
25 *prescribes, the total branded prescription drug sales for each*

1 *covered entity with respect to each specified government*
2 *program under such Secretary's jurisdiction using the fol-*
3 *lowing methodology:*

4 (1) *MEDICARE PART D PROGRAM.*—*The Sec-*
5 *retary of Health and Human Services shall report,*
6 *for each covered entity and for each branded prescrip-*
7 *tion drug of the covered entity covered by the Medi-*
8 *care Part D program, the product of—*

9 (A) *the per-unit ingredient cost, as reported*
10 *to the Secretary of Health and Human Services*
11 *by prescription drug plans and Medicare Advan-*
12 *tage prescription drug plans, minus any per-*
13 *unit rebate, discount, or other price concession*
14 *provided by the covered entity, as reported to the*
15 *Secretary of Health and Human Services by the*
16 *prescription drug plans and Medicare Advantage*
17 *prescription drug plans, and*

18 (B) *the number of units of the branded pre-*
19 *scription drug paid for under the Medicare Part*
20 *D program.*

21 (2) *MEDICARE PART B PROGRAM.*—*The Sec-*
22 *retary of Health and Human Services shall report,*
23 *for each covered entity and for each branded prescrip-*
24 *tion drug of the covered entity covered by the Medi-*

1 *care Part B program under section 1862(a) of the So-*
2 *cial Security Act, the product of—*

3 *(A) the per-unit average sales price (as de-*
4 *finied in section 1847A(c) of the Social Security*
5 *Act) or the per-unit Part B payment rate for a*
6 *separately paid branded prescription drug with-*
7 *out a reported average sales price, and*

8 *(B) the number of units of the branded pre-*
9 *scription drug paid for under the Medicare Part*
10 *B program.*

11 *The Centers for Medicare and Medicaid Services shall*
12 *establish a process for determining the units and the*
13 *allocated price for purposes of this section for those*
14 *branded prescription drugs that are not separately*
15 *payable or for which National Drug Codes are not re-*
16 *ported.*

17 *(3) MEDICAID PROGRAM.—The Secretary of*
18 *Health and Human Services shall report, for each*
19 *covered entity and for each branded prescription drug*
20 *of the covered entity covered under the Medicaid pro-*
21 *gram, the product of—*

22 *(A) the per-unit ingredient cost paid to*
23 *pharmacies by States for the branded prescrip-*
24 *tion drug dispensed to Medicaid beneficiaries,*
25 *minus any per-unit rebate paid by the covered*

1 *entity under section 1927 of the Social Security*
2 *Act and any State supplemental rebate, and*

3 *(B) the number of units of the branded pre-*
4 *scription drug paid for under the Medicaid pro-*
5 *gram.*

6 *(4) DEPARTMENT OF VETERANS AFFAIRS PRO-*
7 *GRAMS.—The Secretary of Veterans Affairs shall re-*
8 *port, for each covered entity and for each branded*
9 *prescription drug of the covered entity the total*
10 *amount paid for each such branded prescription drug*
11 *procured by the Department of Veterans Affairs for*
12 *its beneficiaries.*

13 *(5) DEPARTMENT OF DEFENSE PROGRAMS AND*
14 *TRICARE.—The Secretary of Defense shall report, for*
15 *each covered entity and for each branded prescription*
16 *drug of the covered entity, the sum of—*

17 *(A) the total amount paid for each such*
18 *branded prescription drug procured by the De-*
19 *partment of Defense for its beneficiaries, and*

20 *(B) for each such branded prescription drug*
21 *dispensed under the TRICARE retail pharmacy*
22 *program, the product of—*

23 *(i) the per-unit ingredient cost, minus*
24 *any per-unit rebate paid by the covered en-*
25 *tity, and*

1 (ii) *the number of units of the branded*
2 *prescription drug dispensed under such pro-*
3 *gram.*

4 (h) *SECRETARY.*—*For purposes of this section, the*
5 *term “Secretary” includes the Secretary’s delegate.*

6 (i) *GUIDANCE.*—*The Secretary of the Treasury shall*
7 *publish guidance necessary to carry out the purposes of this*
8 *section.*

9 (j) *APPLICATION OF SECTION.*—*This section shall*
10 *apply to any branded prescription drug sales after Decem-*
11 *ber 31, 2008.*

12 (k) *CONFORMING AMENDMENT.*—*Section 1841(a) of*
13 *the Social Security Act is amended by inserting “or section*
14 *9008(c) of the Patient Protection and Affordable Care Act*
15 *of 2009” after “this part”.*

16 **SEC. 9009. IMPOSITION OF ANNUAL FEE ON MEDICAL DE-**
17 **VICE MANUFACTURERS AND IMPORTERS.**

18 (a) *IMPOSITION OF FEE.*—

19 (1) *IN GENERAL.*—*Each covered entity engaged*
20 *in the business of manufacturing or importing med-*
21 *ical devices shall pay to the Secretary not later than*
22 *the annual payment date of each calendar year begin-*
23 *ning after 2009 a fee in an amount determined under*
24 *subsection (b).*

1 (2) *ANNUAL PAYMENT DATE.*—*For purposes of*
 2 *this section, the term “annual payment date” means*
 3 *with respect to any calendar year the date determined*
 4 *by the Secretary, but in no event later than Sep-*
 5 *tember 30 of such calendar year.*

6 (b) *DETERMINATION OF FEE AMOUNT.*—

7 (1) *IN GENERAL.*—*With respect to each covered*
 8 *entity, the fee under this section for any calendar*
 9 *year shall be equal to an amount that bears the same*
 10 *ratio to \$2,000,000,000 as—*

11 (A) *the covered entity’s gross receipts from*
 12 *medical device sales taken into account during*
 13 *the preceding calendar year, bear to*

14 (B) *the aggregate gross receipts of all cov-*
 15 *ered entities from medical device sales taken into*
 16 *account during such preceding calendar year.*

17 (2) *GROSS RECEIPTS FROM SALES TAKEN INTO*
 18 *ACCOUNT.*—*For purposes of paragraph (1), the gross*
 19 *receipts from medical device sales taken into account*
 20 *during any calendar year with respect to any covered*
 21 *entity shall be determined in accordance with the fol-*
 22 *lowing table:*

<i>With respect to a covered entity’s aggregate gross re-</i>	<i>The percentage of gross</i>
<i>ceipts from medical device sales during the calendar</i>	<i>receipts taken into ac-</i>
<i>year that are:</i>	<i>count is:</i>
<i>Not more than \$5,000,000</i>	<i>0 percent</i>
<i>More than \$5,000,000 but not more than</i>	<i>50 percent</i>
<i>\$25,000,000.</i>	

With respect to a covered entity's aggregate gross receipts from medical device sales during the calendar year that are:

The percentage of gross receipts taken into account is:

More than \$25,000,000 100 percent.

1 (3) *SECRETARIAL DETERMINATION.*—*The Sec-*
 2 *retary shall calculate the amount of each covered enti-*
 3 *ty's fee for any calendar year under paragraph (1).*
 4 *In calculating such amount, the Secretary shall deter-*
 5 *mine such covered entity's gross receipts from medical*
 6 *device sales on the basis of reports submitted by the*
 7 *covered entity under subsection (f) and through the*
 8 *use of any other source of information available to the*
 9 *Secretary.*

10 (c) *COVERED ENTITY.*—

11 (1) *IN GENERAL.*—*For purposes of this section,*
 12 *the term “covered entity” means any manufacturer or*
 13 *importer with gross receipts from medical device*
 14 *sales.*

15 (2) *CONTROLLED GROUPS.*—

16 (A) *IN GENERAL.*—*For purposes of this sub-*
 17 *section, all persons treated as a single employer*
 18 *under subsection (a) or (b) of section 52 of the*
 19 *Internal Revenue Code of 1986 or subsection (m)*
 20 *or (o) of section 414 of such Code shall be treated*
 21 *as a single covered entity.*

22 (B) *INCLUSION OF FOREIGN CORPORA-*
 23 *TIONS.*—*For purposes of subparagraph (A), in*

1 *applying subsections (a) and (b) of section 52 of*
2 *such Code to this section, section 1563 of such*
3 *Code shall be applied without regard to sub-*
4 *section (b)(2)(C) thereof.*

5 *(d) MEDICAL DEVICE SALES.—For purposes of this*
6 *section—*

7 *(1) IN GENERAL.—The term “medical device*
8 *sales” means sales for use in the United States of any*
9 *medical device, other than the sales of a medical de-*
10 *vice that—*

11 *(A) has been classified in class II under sec-*
12 *tion 513 of the Federal Food, Drug, and Cos-*
13 *metic Act (21 U.S.C. 360c) and is primarily sold*
14 *to consumers at retail for not more than \$100*
15 *per unit, or*

16 *(B) has been classified in class I under such*
17 *section.*

18 *(2) UNITED STATES.—For purposes of para-*
19 *graph (1), the term “United States” means the several*
20 *States, the District of Columbia, the Commonwealth*
21 *of Puerto Rico, and the possessions of the United*
22 *States.*

23 *(3) MEDICAL DEVICE.—For purposes of para-*
24 *graph (1), the term “medical device” means any de-*
25 *vice (as defined in section 201(h) of the Federal Food,*

1 *Drug, and Cosmetic Act (21 U.S.C. 321(h)) intended*
2 *for humans.*

3 (e) *TAX TREATMENT OF FEES.*—*The fees imposed by*
4 *this section—*

5 (1) *for purposes of subtitle F of the Internal Rev-*
6 *enue Code of 1986, shall be treated as excise taxes*
7 *with respect to which only civil actions for refund*
8 *under procedures of such subtitle shall apply, and*

9 (2) *for purposes of section 275 of such Code, shall*
10 *be considered to be a tax described in section*
11 *275(a)(6).*

12 (f) *REPORTING REQUIREMENT.*—

13 (1) *IN GENERAL.*—*Not later than the date deter-*
14 *mined by the Secretary following the end of any cal-*
15 *endar year, each covered entity shall report to the*
16 *Secretary, in such manner as the Secretary pre-*
17 *scribes, the gross receipts from medical device sales of*
18 *such covered entity during such calendar year.*

19 (2) *PENALTY FOR FAILURE TO REPORT.*—

20 (A) *IN GENERAL.*—*In the case of any fail-*
21 *ure to make a report containing the information*
22 *required by paragraph (1) on the date prescribed*
23 *therefor (determined with regard to any exten-*
24 *sion of time for filing), unless it is shown that*
25 *such failure is due to reasonable cause, there*

1 shall be paid by the covered entity failing to file
2 such report, an amount equal to—

3 (i) \$10,000, plus

4 (ii) the lesser of—

5 (I) an amount equal to \$1,000,
6 multiplied by the number of days dur-
7 ing which such failure continues, or

8 (II) the amount of the fee imposed
9 by this section for which such report
10 was required.

11 (B) TREATMENT OF PENALTY.—The penalty
12 imposed under subparagraph (A)—

13 (i) shall be treated as a penalty for
14 purposes of subtitle F of the Internal Rev-
15 enue Code of 1986,

16 (ii) shall be paid on notice and de-
17 mand by the Secretary and in the same
18 manner as tax under such Code, and

19 (iii) with respect to which only civil
20 actions for refund under procedures of such
21 subtitle F shall apply.

22 (g) SECRETARY.—For purposes of this section, the
23 term “Secretary” means the Secretary of the Treasury or
24 the Secretary’s delegate.

1 (h) *GUIDANCE.*—*The Secretary shall publish guidance*
2 *necessary to carry out the purposes of this section, including*
3 *identification of medical devices described in subsection*
4 *(d)(1)(A) and with respect to the treatment of gross receipts*
5 *from sales of medical devices to another covered entity or*
6 *to another entity by reason of the application of subsection*
7 *(c)(2).*

8 (i) *APPLICATION OF SECTION.*—*This section shall*
9 *apply to any medical device sales after December 31, 2008.*

10 **SEC. 9010. IMPOSITION OF ANNUAL FEE ON HEALTH INSUR-**
11 **ANCE PROVIDERS.**

12 (a) *IMPOSITION OF FEE.*—

13 (1) *IN GENERAL.*—*Each covered entity engaged*
14 *in the business of providing health insurance shall*
15 *pay to the Secretary not later than the annual pay-*
16 *ment date of each calendar year beginning after 2009*
17 *a fee in an amount determined under subsection (b).*

18 (2) *ANNUAL PAYMENT DATE.*—*For purposes of*
19 *this section, the term “annual payment date” means*
20 *with respect to any calendar year the date determined*
21 *by the Secretary, but in no event later than Sep-*
22 *tember 30 of such calendar year.*

23 (b) *DETERMINATION OF FEE AMOUNT.*—

24 (1) *IN GENERAL.*—*With respect to each covered*
25 *entity, the fee under this section for any calendar*

1 year shall be equal to an amount that bears the same
2 ratio to \$6,700,000,000 as—

3 (A) the sum of—

4 (i) the covered entity's net premiums
5 written with respect to health insurance for
6 any United States health risk that are
7 taken into account during the preceding cal-
8 endar year, plus

9 (ii) 200 percent of the covered entity's
10 third party administration agreement fees
11 that are taken into account during the pre-
12 ceding calendar year, bears to

13 (B) the sum of—

14 (i) the aggregate net premiums written
15 with respect to such health insurance of all
16 covered entities that are taken into account
17 during such preceding calendar year, plus

18 (ii) 200 percent of the aggregate third
19 party administration agreement fees of all
20 covered entities that are taken into account
21 during such preceding calendar year.

22 (2) AMOUNTS TAKEN INTO ACCOUNT.—For pur-
23 poses of paragraph (1)—

24 (A) NET PREMIUMS WRITTEN.—The net
25 premiums written with respect to health insur-

1 *ance for any United States health risk that are*
 2 *taken into account during any calendar year*
 3 *with respect to any covered entity shall be deter-*
 4 *mined in accordance with the following table:*

<i>With respect to a covered entity's net premiums written during the calendar year that are:</i>	<i>The percentage of net premiums written that are taken into account is:</i>
<i>Not more than \$25,000,000</i>	<i>0 percent</i>
<i>More than \$25,000,000 but not more than \$50,000,000.</i>	<i>50 percent</i>
<i>More than \$50,000,000</i>	<i>100 percent.</i>

5 *(B) THIRD PARTY ADMINISTRATION AGREE-*
 6 *MENT FEES.—The third party administration*
 7 *agreement fees that are taken into account dur-*
 8 *ing any calendar year with respect to any cov-*
 9 *ered entity shall be determined in accordance*
 10 *with the following table:*

<i>With respect to a covered entity's third party administration agreement fees during the calendar year that are:</i>	<i>The percentage of third party administration agreement fees that are taken into account is:</i>
<i>Not more than \$5,000,000</i>	<i>0 percent</i>
<i>More than \$5,000,000 but not more than \$10,000,000.</i>	<i>50 percent</i>
<i>More than \$10,000,000</i>	<i>100 percent.</i>

11 *(3) SECRETARIAL DETERMINATION.—The Sec-*
 12 *retary shall calculate the amount of each covered enti-*
 13 *ty's fee for any calendar year under paragraph (1).*
 14 *In calculating such amount, the Secretary shall deter-*
 15 *mine such covered entity's net premiums written with*
 16 *respect to any United States health risk and third*

1 *party administration agreement fees on the basis of*
2 *reports submitted by the covered entity under sub-*
3 *section (g) and through the use of any other source of*
4 *information available to the Secretary.*

5 *(c) COVERED ENTITY.—*

6 *(1) IN GENERAL.—For purposes of this section,*
7 *the term “covered entity” means any entity which*
8 *provides health insurance for any United States*
9 *health risk.*

10 *(2) EXCLUSION.—Such term does not include—*

11 *(A) any employer to the extent that such*
12 *employer self-insures its employees’ health risks,*
13 *or*

14 *(B) any governmental entity (except to the*
15 *extent such an entity provides health insurance*
16 *coverage through the community health insur-*
17 *ance option under section 1323).*

18 *(3) CONTROLLED GROUPS.—*

19 *(A) IN GENERAL.—For purposes of this sub-*
20 *section, all persons treated as a single employer*
21 *under subsection (a) or (b) of section 52 of the*
22 *Internal Revenue Code of 1986 or subsection (m)*
23 *or (o) of section 414 of such Code shall be treated*
24 *as a single covered entity (or employer for pur-*
25 *poses of paragraph (2)).*

1 (B) *INCLUSION OF FOREIGN CORPORA-*
2 *TIONS.—For purposes of subparagraph (A), in*
3 *applying subsections (a) and (b) of section 52 of*
4 *such Code to this section, section 1563 of such*
5 *Code shall be applied without regard to sub-*
6 *section (b)(2)(C) thereof.*

7 (d) *UNITED STATES HEALTH RISK.—For purposes of*
8 *this section, the term “United States health risk” means*
9 *the health risk of any individual who is—*

10 (1) *a United States citizen,*

11 (2) *a resident of the United States (within the*
12 *meaning of section 7701(b)(1)(A) of the Internal Rev-*
13 *enue Code of 1986), or*

14 (3) *located in the United States, with respect to*
15 *the period such individual is so located.*

16 (e) *THIRD PARTY ADMINISTRATION AGREEMENT*
17 *FEES.—For purposes of this section, the term “third party*
18 *administration agreement fees” means, with respect to any*
19 *covered entity, amounts received from an employer which*
20 *are in excess of payments made by such covered entity for*
21 *health benefits under an arrangement under which such em-*
22 *ployer self-insures the United States health risk of its em-*
23 *ployees.*

24 (f) *TAX TREATMENT OF FEES.—The fees imposed by*
25 *this section—*

1 (1) *for purposes of subtitle F of the Internal Rev-*
2 *enue Code of 1986, shall be treated as excise taxes*
3 *with respect to which only civil actions for refund*
4 *under procedures of such subtitle shall apply, and*

5 (2) *for purposes of section 275 of such Code shall*
6 *be considered to be a tax described in section*
7 *275(a)(6).*

8 *(g) REPORTING REQUIREMENT.—*

9 (1) *IN GENERAL.—Not later than the date deter-*
10 *mined by the Secretary following the end of any cal-*
11 *endar year, each covered entity shall report to the*
12 *Secretary, in such manner as the Secretary pre-*
13 *scribes, the covered entity's net premiums written*
14 *with respect to health insurance for any United*
15 *States health risk and third party administration*
16 *agreement fees for such calendar year.*

17 (2) *PENALTY FOR FAILURE TO REPORT.—*

18 (A) *IN GENERAL.—In the case of any fail-*
19 *ure to make a report containing the information*
20 *required by paragraph (1) on the date prescribed*
21 *therefor (determined with regard to any exten-*
22 *sion of time for filing), unless it is shown that*
23 *such failure is due to reasonable cause, there*
24 *shall be paid by the covered entity failing to file*
25 *such report, an amount equal to—*

1 (i) \$10,000, plus

2 (ii) the lesser of—

3 (I) an amount equal to \$1,000,
4 multiplied by the number of days dur-
5 ing which such failure continues, or

6 (II) the amount of the fee imposed
7 by this section for which such report
8 was required.

9 (B) TREATMENT OF PENALTY.—The penalty
10 imposed under subparagraph (A)—

11 (i) shall be treated as a penalty for
12 purposes of subtitle F of the Internal Rev-
13 enue Code of 1986,

14 (ii) shall be paid on notice and de-
15 mand by the Secretary and in the same
16 manner as tax under such Code, and

17 (iii) with respect to which only civil
18 actions for refund under procedures of such
19 subtitle F shall apply.

20 (h) ADDITIONAL DEFINITIONS.—For purposes of this
21 section—

22 (1) SECRETARY.—The term “Secretary” means
23 the Secretary of the Treasury or the Secretary’s dele-
24 gate.

1 *Committee on Ways and Means of the House of Representa-*
2 *tives and to the Committee on Finance of the Senate not*
3 *later than December 31, 2012.*

4 **SEC. 9012. ELIMINATION OF DEDUCTION FOR EXPENSES AL-**
5 **LOCABLE TO MEDICARE PART D SUBSIDY.**

6 (a) *IN GENERAL.*—Section 139A of the Internal Rev-
7 *enue Code of 1986 is amended by striking the second sen-*
8 *tence.*

9 (b) *EFFECTIVE DATE.*—The amendment made by this
10 *section shall apply to taxable years beginning after Decem-*
11 *ber 31, 2010.*

12 **SEC. 9013. MODIFICATION OF ITEMIZED DEDUCTION FOR**
13 **MEDICAL EXPENSES.**

14 (a) *IN GENERAL.*—Subsection (a) of section 213 of the
15 *Internal Revenue Code of 1986 is amended by striking “7.5*
16 *percent” and inserting “10 percent”.*

17 (b) *TEMPORARY WAIVER OF INCREASE FOR CERTAIN*
18 *SENIORS.*—Section 213 of the Internal Revenue Code of
19 *1986 is amended by adding at the end the following new*
20 *subsection:*

21 “(f) *SPECIAL RULE FOR 2013, 2014, 2015, AND*
22 *2016.*—In the case of any taxable year beginning after De-
23 *cember 31, 2012, and ending before January 1, 2017, sub-*
24 *section (a) shall be applied with respect to a taxpayer by*
25 *substituting ‘7.5 percent’ for ‘10 percent’ if such taxpayer*

1 *or such taxpayer's spouse has attained age 65 before the*
2 *close of such taxable year.”.*

3 (c) *CONFORMING AMENDMENT.*—Section 56(b)(1)(B)
4 *of the Internal Revenue Code of 1986 is amended by strik-*
5 *ing “by substituting ‘10 percent’ for ‘7.5 percent’” and in-*
6 *serting “without regard to subsection (f) of such section”.*

7 (d) *EFFECTIVE DATE.*—The amendments made by this
8 *section shall apply to taxable years beginning after Decem-*
9 *ber 31, 2012.*

10 **SEC. 9014. LIMITATION ON EXCESSIVE REMUNERATION**

11 **PAID BY CERTAIN HEALTH INSURANCE PRO-**
12 **VIDERS.**

13 (a) *IN GENERAL.*—Section 162(m) of the Internal Rev-
14 *enue Code of 1986 is amended by adding at the end the*
15 *following new subparagraph:*

16 “(6) *SPECIAL RULE FOR APPLICATION TO CER-*
17 *TAIN HEALTH INSURANCE PROVIDERS.*—

18 “(A) *IN GENERAL.*—No deduction shall be
19 *allowed under this chapter—*

20 “(i) *in the case of applicable indi-*
21 *vidual remuneration which is for any dis-*
22 *qualified taxable year beginning after De-*
23 *cember 31, 2012, and which is attributable*
24 *to services performed by an applicable indi-*
25 *vidual during such taxable year, to the ex-*

1 *tent that the amount of such remuneration*
2 *exceeds \$500,000, or*

3 “(ii) *in the case of deferred deduction*
4 *remuneration for any taxable year begin-*
5 *ning after December 31, 2012, which is at-*
6 *tributable to services performed by an ap-*
7 *plicable individual during any disqualified*
8 *taxable year beginning after December 31,*
9 *2009, to the extent that the amount of such*
10 *remuneration exceeds \$500,000 reduced (but*
11 *not below zero) by the sum of—*

12 “(I) *the applicable individual re-*
13 *muneration for such disqualified tax-*
14 *able year, plus*

15 “(II) *the portion of the deferred*
16 *deduction remuneration for such serv-*
17 *ices which was taken into account*
18 *under this clause in a preceding tax-*
19 *able year (or which would have been*
20 *taken into account under this clause in*
21 *a preceding taxable year if this clause*
22 *were applied by substituting ‘December*
23 *31, 2009’ for ‘December 31, 2012’ in*
24 *the matter preceding subclause (I)).*

1 “(B) *DISQUALIFIED TAXABLE YEAR.*—For
2 purposes of this paragraph, the term ‘disquali-
3 fied taxable year’ means, with respect to any em-
4 ployer, any taxable year for which such employer
5 is a covered health insurance provider.

6 “(C) *COVERED HEALTH INSURANCE PRO-*
7 *VIDER.*—For purposes of this paragraph—

8 “(i) *IN GENERAL.*—The term ‘covered
9 health insurance provider’ means—

10 “(I) with respect to taxable years
11 beginning after December 31, 2009,
12 and before January 1, 2013, any em-
13 ployer which is a health insurance
14 issuer (as defined in section
15 9832(b)(2)) and which receives pre-
16 miums from providing health insur-
17 ance coverage (as defined in section
18 9832(b)(1)), and

19 “(II) with respect to taxable years
20 beginning after December 31, 2012,
21 any employer which is a health insur-
22 ance issuer (as defined in section
23 9832(b)(2)) and with respect to which
24 not less than 25 percent of the gross
25 premiums received from providing

1 *health insurance coverage (as defined*
2 *in section 9832(b)(1)) is from min-*
3 *imum essential coverage (as defined in*
4 *section 5000A(f)).*

5 “(ii) *AGGREGATION RULES.—Two or*
6 *more persons who are treated as a single*
7 *employer under subsection (b), (c), (m), or*
8 *(o) of section 414 shall be treated as a single*
9 *employer, except that in applying section*
10 *1563(a) for purposes of any such subsection,*
11 *paragraphs (2) and (3) thereof shall be dis-*
12 *regarded.*

13 “(D) *APPLICABLE INDIVIDUAL REMUNERA-*
14 *TION.—For purposes of this paragraph, the term*
15 *‘applicable individual remuneration’ means,*
16 *with respect to any applicable individual for*
17 *any disqualified taxable year, the aggregate*
18 *amount allowable as a deduction under this*
19 *chapter for such taxable year (determined with-*
20 *out regard to this subsection) for remuneration*
21 *(as defined in paragraph (4) without regard to*
22 *subparagraphs (B), (C), and (D) thereof) for*
23 *services performed by such individual (whether*
24 *or not during the taxable year). Such term shall*
25 *not include any deferred deduction remuneration*

1 with respect to services performed during the dis-
2 qualified taxable year.

3 “(E) *DEFERRED DEDUCTION REMUNERA-*
4 *TION.*—For purposes of this paragraph, the term
5 ‘deferred deduction remuneration’ means remu-
6 neration which would be applicable individual
7 remuneration for services performed in a dis-
8 qualified taxable year but for the fact that the
9 deduction under this chapter (determined with-
10 out regard to this paragraph) for such remunera-
11 tion is allowable in a subsequent taxable year.

12 “(F) *APPLICABLE INDIVIDUAL.*—For pur-
13 poses of this paragraph, the term ‘applicable in-
14 dividual’ means, with respect to any covered
15 health insurance provider for any disqualified
16 taxable year, any individual—

17 “(i) who is an officer, director, or em-
18 ployee in such taxable year, or

19 “(ii) who provides services for or on
20 behalf of such covered health insurance pro-
21 vider during such taxable year.

22 “(G) *COORDINATION.*—Rules similar to the
23 rules of subparagraphs (F) and (G) of paragraph
24 (4) shall apply for purposes of this paragraph.

1 “(H) *REGULATORY AUTHORITY.*—*The Sec-*
2 *retary may prescribe such guidance, rules, or*
3 *regulations as are necessary to carry out the*
4 *purposes of this paragraph.*”

5 (b) *EFFECTIVE DATE.*—*The amendment made by this*
6 *section shall apply to taxable years beginning after Decem-*
7 *ber 31, 2009, with respect to services performed after such*
8 *date.*

9 **SEC. 9015. ADDITIONAL HOSPITAL INSURANCE TAX ON**
10 **HIGH-INCOME TAXPAYERS.**

11 (a) *FICA.*—

12 (1) *IN GENERAL.*—*Section 3101(b) of the Inter-*
13 *nal Revenue Code of 1986 is amended—*

14 (A) *by striking “In addition” and inserting*
15 *the following:*

16 “(1) *IN GENERAL.*—*In addition*”,

17 (B) *by striking “the following percentages of*
18 *the” and inserting “1.45 percent of the”,*

19 (C) *by striking “(as defined in section*
20 *3121(b))—” and all that follows and inserting*
21 *“(as defined in section 3121(b)).”, and*

22 (D) *by adding at the end the following new*
23 *paragraph:*

24 “(2) *ADDITIONAL TAX.*—*In addition to the tax*
25 *imposed by paragraph (1) and the preceding sub-*

1 *section, there is hereby imposed on every taxpayer*
2 *(other than a corporation, estate, or trust) a tax equal*
3 *to 0.5 percent of wages which are received with re-*
4 *spect to employment (as defined in section 3121(b))*
5 *during any taxable year beginning after December 31,*
6 *2012, and which are in excess of—*

7 *“(A) in the case of a joint return, \$250,000,*

8 *and*

9 *“(B) in any other case, \$200,000.”*

10 *(2) COLLECTION OF TAX.—Section 3102 of the*
11 *Internal Revenue Code of 1986 is amended by adding*
12 *at the end the following new subsection:*

13 *“(f) SPECIAL RULES FOR ADDITIONAL TAX.—*

14 *“(1) IN GENERAL.—In the case of any tax im-*
15 *posed by section 3101(b)(2), subsection (a) shall only*
16 *apply to the extent to which the taxpayer receives*
17 *wages from the employer in excess of \$200,000, and*
18 *the employer may disregard the amount of wages re-*
19 *ceived by such taxpayer’s spouse.*

20 *“(2) COLLECTION OF AMOUNTS NOT WITH-*
21 *HELD.—To the extent that the amount of any tax im-*
22 *posed by section 3101(b)(2) is not collected by the em-*
23 *ployer, such tax shall be paid by the employee.*

24 *“(3) TAX PAID BY RECIPIENT.—If an employer,*
25 *in violation of this chapter, fails to deduct and with-*

1 *hold the tax imposed by section 3101(b)(2) and there-*
2 *after the tax is paid by the employee, the tax so re-*
3 *quired to be deducted and withheld shall not be col-*
4 *lected from the employer, but this paragraph shall in*
5 *no case relieve the employer from liability for any*
6 *penalties or additions to tax otherwise applicable in*
7 *respect of such failure to deduct and withhold.”.*

8 *(b) SECA.—*

9 *(1) IN GENERAL.—Section 1401(b) of the Inter-*
10 *nal Revenue Code of 1986 is amended—*

11 *(A) by striking “In addition” and inserting*
12 *the following:*

13 *“(1) IN GENERAL.—In addition”, and*

14 *(B) by adding at the end the following new*
15 *paragraph:*

16 *“(2) ADDITIONAL TAX.—*

17 *“(A) IN GENERAL.—In addition to the tax*
18 *imposed by paragraph (1) and the preceding*
19 *subsection, there is hereby imposed on every tax-*
20 *payer (other than a corporation, estate, or trust)*
21 *for each taxable year beginning after December*
22 *31, 2012, a tax equal to 0.5 percent of the self-*
23 *employment income for such taxable year which*
24 *is in excess of—*

1 “(i) in the case of a joint return,
2 \$250,000, and

3 “(ii) in any other case, \$200,000.

4 “(B) COORDINATION WITH FICA.—The
5 amounts under clauses (i) and (ii) of subpara-
6 graph (A) shall be reduced (but not below zero)
7 by the amount of wages taken into account in
8 determining the tax imposed under section
9 3121(b)(2) with respect to the taxpayer.”.

10 (2) NO DEDUCTION FOR ADDITIONAL TAX.—

11 (A) IN GENERAL.—Section 164(f) of such
12 Code is amended by inserting “(other than the
13 taxes imposed by section 1401(b)(2))” after “sec-
14 tion 1401”.

15 (B) DEDUCTION FOR NET EARNINGS FROM
16 SELF-EMPLOYMENT.—Subparagraph (B) of sec-
17 tion 1402(a)(12) is amended by inserting “(de-
18 termined without regard to the rate imposed
19 under paragraph (2) of section 1401(b))” after
20 “for such year”.

21 (c) EFFECTIVE DATE.—The amendments made by this
22 section shall apply with respect to remuneration received,
23 and taxable years beginning, after December 31, 2012.

1 **SEC. 9016. MODIFICATION OF SECTION 833 TREATMENT OF**
2 **CERTAIN HEALTH ORGANIZATIONS.**

3 (a) *IN GENERAL.*—Subsection (c) of section 833 of the
4 *Internal Revenue Code of 1986* is amended by adding at
5 *the end the following new paragraph:*

6 “(5) *NONAPPLICATION OF SECTION IN CASE OF*
7 *LOW MEDICAL LOSS RATIO.*—Notwithstanding the pre-
8 *ceding paragraphs, this section shall not apply to any*
9 *organization unless such organization’s percentage of*
10 *total premium revenue expended on reimbursement*
11 *for clinical services provided to enrollees under its*
12 *policies during such taxable year (as reported under*
13 *section 2718 of the Public Health Service Act) is not*
14 *less than 85 percent.”.*

15 (b) *EFFECTIVE DATE.*—The amendment made by this
16 *section shall apply to taxable years beginning after Decem-*
17 *ber 31, 2009.*

18 **SEC. 9017. EXCISE TAX ON ELECTIVE COSMETIC MEDICAL**
19 **PROCEDURES.**

20 (a) *IN GENERAL.*—Subtitle D of the *Internal Revenue*
21 *Code of 1986, as amended by this Act, is amended by add-*
22 *ing at the end the following new chapter:*

23 **“CHAPTER 49—ELECTIVE COSMETIC**
24 **MEDICAL PROCEDURES**

“Sec. 5000B. Imposition of tax on elective cosmetic medical procedures.

1 **“SEC. 5000B. IMPOSITION OF TAX ON ELECTIVE COSMETIC**
2 **MEDICAL PROCEDURES.**

3 “(a) *IN GENERAL.*—*There is hereby imposed on any*
4 *cosmetic surgery and medical procedure a tax equal to 5*
5 *percent of the amount paid for such procedure (determined*
6 *without regard to this section), whether paid by insurance*
7 *or otherwise.*

8 “(b) *COSMETIC SURGERY AND MEDICAL PROCE-*
9 *DURE.*—*For purposes of this section, the term ‘cosmetic sur-*
10 *gery and medical procedure’ means any cosmetic surgery*
11 *(as defined in section 213(d)(9)(B)) or other similar proce-*
12 *dure which—*

13 “(1) *is performed by a licensed medical profes-*
14 *sional, and*

15 “(2) *is not necessary to ameliorate a deformity*
16 *arising from, or directly related to, a congenital ab-*
17 *normality, a personal injury resulting from an acci-*
18 *dent or trauma, or disfiguring disease.*

19 “(c) *PAYMENT OF TAX.*—

20 “(1) *IN GENERAL.*—*The tax imposed by this sec-*
21 *tion shall be paid by the individual on whom the pro-*
22 *cedure is performed.*

23 “(2) *COLLECTION.*—*Every person receiving a*
24 *payment for procedures on which a tax is imposed*
25 *under subsection (a) shall collect the amount of the*
26 *tax from the individual on whom the procedure is*

1 performed and remit such tax quarterly to the Sec-
2 retary at such time and in such manner as provided
3 by the Secretary.

4 “(3) *SECONDARY LIABILITY.*—Where any tax im-
5 posed by subsection (a) is not paid at the time pay-
6 ments for cosmetic surgery and medical procedures
7 are made, then to the extent that such tax is not col-
8 lected, such tax shall be paid by the person who per-
9 forms the procedure.”.

10 (b) *CLERICAL AMENDMENT.*—The table of chapters for
11 subtitle D of the Internal Revenue Code of 1986, as amended
12 by this Act, is amended by inserting after the item relating
13 to chapter 48 the following new item:

 “CHAPTER 49—ELECTIVE COSMETIC MEDICAL PROCEDURES”.

14 (c) *EFFECTIVE DATE.*—The amendments made by this
15 section shall apply to procedures performed on or after Jan-
16 uary 1, 2010.

17 **Subtitle B—Other Provisions**

18 **SEC. 9021. EXCLUSION OF HEALTH BENEFITS PROVIDED BY** 19 **INDIAN TRIBAL GOVERNMENTS.**

20 (a) *IN GENERAL.*—Part III of subchapter B of chapter
21 1 of the Internal Revenue Code of 1986 is amended by in-
22 serting after section 139C the following new section:

1 **“SEC. 139D. INDIAN HEALTH CARE BENEFITS.**

2 “(a) *GENERAL RULE.—Except as otherwise provided*
3 *in this section, gross income does not include the value of*
4 *any qualified Indian health care benefit.*

5 “(b) *QUALIFIED INDIAN HEALTH CARE BENEFIT.—*
6 *For purposes of this section, the term ‘qualified Indian*
7 *health care benefit’ means—*

8 “(1) *any health service or benefit provided or*
9 *purchased, directly or indirectly, by the Indian*
10 *Health Service through a grant to or a contract or*
11 *compact with an Indian tribe or tribal organization,*
12 *or through a third-party program funded by the In-*
13 *dian Health Service,*

14 “(2) *medical care provided or purchased by, or*
15 *amounts to reimburse for such medical care provided*
16 *by, an Indian tribe or tribal organization for, or to,*
17 *a member of an Indian tribe, including a spouse or*
18 *dependent of such a member,*

19 “(3) *coverage under accident or health insurance*
20 *(or an arrangement having the effect of accident or*
21 *health insurance), or an accident or health plan, pro-*
22 *vided by an Indian tribe or tribal organization for*
23 *medical care to a member of an Indian tribe, include*
24 *a spouse or dependent of such a member, and*

25 “(4) *any other medical care provided by an In-*
26 *dian tribe or tribal organization that supplements, re-*

1 *places, or substitutes for a program or service relating*
2 *to medical care provided by the Federal government*
3 *to Indian tribes or members of such a tribe.*

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

5 “(1) *INDIAN TRIBE.—The term ‘Indian tribe’ has*
6 *the meaning given such term by section 45A(c)(6).*

7 “(2) *TRIBAL ORGANIZATION.—The term ‘tribal*
8 *organization’ has the meaning given such term by sec-*
9 *tion 4(l) of the Indian Self-Determination and Edu-*
10 *cation Assistance Act.*

11 “(3) *MEDICAL CARE.—The term ‘medical care’*
12 *has the same meaning as when used in section 213.*

13 “(4) *ACCIDENT OR HEALTH INSURANCE; ACCI-*
14 *DENT OR HEALTH PLAN.—The terms ‘accident or*
15 *health insurance’ and ‘accident or health plan’ have*
16 *the same meaning as when used in section 105.*

17 “(5) *DEPENDENT.—The term ‘dependent’ has the*
18 *meaning given such term by section 152, determined*
19 *without regard to subsections (b)(1), (b)(2), and*
20 *(d)(1)(B) thereof.*

21 “(d) *DENIAL OF DOUBLE BENEFIT.—Subsection (a)*
22 *shall not apply to the amount of any qualified Indian*
23 *health care benefit which is not includible in gross income*
24 *of the beneficiary of such benefit under any other provision*
25 *of this chapter, or to the amount of any such benefit for*

1 *which a deduction is allowed to such beneficiary under any*
2 *other provision of this chapter.”.*

3 (b) *CLERICAL AMENDMENT.*—*The table of sections for*
4 *part III of subchapter B of chapter 1 of the Internal Rev-*
5 *enue Code of 1986 is amended by inserting after the item*
6 *relating to section 139C the following new item:*

“Sec. 139D. Indian health care benefits.”.

7 (c) *EFFECTIVE DATE.*—*The amendments made by this*
8 *section shall apply to benefits and coverage provided after*
9 *the date of the enactment of this Act.*

10 (d) *NO INFERENCE.*—*Nothing in the amendments*
11 *made by this section shall be construed to create an infer-*
12 *ence with respect to the exclusion from gross income of—*

13 (1) *benefits provided by an Indian tribe or tribal*
14 *organization that are not within the scope of this sec-*
15 *tion, and*

16 (2) *benefits provided prior to the date of the en-*
17 *actment of this Act.*

18 **SEC. 9022. ESTABLISHMENT OF SIMPLE CAFETERIA PLANS**
19 **FOR SMALL BUSINESSES.**

20 (a) *IN GENERAL.*—*Section 125 of the Internal Revenue*
21 *Code of 1986 (relating to cafeteria plans), as amended by*
22 *this Act, is amended by redesignating subsections (j) and*
23 *(k) as subsections (k) and (l), respectively, and by inserting*
24 *after subsection (i) the following new subsection:*

1 “(j) *SIMPLE CAFETERIA PLANS FOR SMALL BUSI-*
2 *NESSES.*—

3 “(1) *IN GENERAL.*—*An eligible employer main-*
4 *taining a simple cafeteria plan with respect to which*
5 *the requirements of this subsection are met for any*
6 *year shall be treated as meeting any applicable non-*
7 *discrimination requirement during such year.*

8 “(2) *SIMPLE CAFETERIA PLAN.*—*For purposes of*
9 *this subsection, the term ‘simple cafeteria plan’ means*
10 *a cafeteria plan—*

11 “(A) *which is established and maintained*
12 *by an eligible employer, and*

13 “(B) *with respect to which the contribution*
14 *requirements of paragraph (3), and the eligi-*
15 *bility and participation requirements of para-*
16 *graph (4), are met.*

17 “(3) *CONTRIBUTION REQUIREMENTS.*—

18 “(A) *IN GENERAL.*—*The requirements of*
19 *this paragraph are met if, under the plan the*
20 *employer is required, without regard to whether*
21 *a qualified employee makes any salary reduction*
22 *contribution, to make a contribution to provide*
23 *qualified benefits under the plan on behalf of*
24 *each qualified employee in an amount equal to—*

1 “(i) a uniform percentage (not less
2 than 2 percent) of the employee’s compensa-
3 tion for the plan year, or

4 “(ii) an amount which is not less than
5 the lesser of—

6 “(I) 6 percent of the employee’s
7 compensation for the plan year, or

8 “(II) twice the amount of the sal-
9 ary reduction contributions of each
10 qualified employee.

11 “(B) *MATCHING CONTRIBUTIONS ON BE-*
12 *HALF OF HIGHLY COMPENSATED AND KEY EM-*
13 *PLOYEES.—The requirements of subparagraph*
14 *(A)(ii) shall not be treated as met if, under the*
15 *plan, the rate of contributions with respect to*
16 *any salary reduction contribution of a highly*
17 *compensated or key employee at any rate of con-*
18 *tribution is greater than that with respect to an*
19 *employee who is not a highly compensated or key*
20 *employee.*

21 “(C) *ADDITIONAL CONTRIBUTIONS.—Subject*
22 *to subparagraph (B), nothing in this paragraph*
23 *shall be treated as prohibiting an employer from*
24 *making contributions to provide qualified bene-*

1 *fits under the plan in addition to contributions*
2 *required under subparagraph (A).*

3 “(D) *DEFINITIONS.*—*For purposes of this*
4 *paragraph—*

5 “(i) *SALARY REDUCTION CONTRIBU-*
6 *TION.*—*The term ‘salary reduction contribu-*
7 *tion’ means, with respect to a cafeteria*
8 *plan, any amount which is contributed to*
9 *the plan at the election of the employee and*
10 *which is not includible in gross income by*
11 *reason of this section.*

12 “(ii) *QUALIFIED EMPLOYEE.*—*The*
13 *term ‘qualified employee’ means, with re-*
14 *spect to a cafeteria plan, any employee who*
15 *is not a highly compensated or key em-*
16 *ployee and who is eligible to participate in*
17 *the plan.*

18 “(iii) *HIGHLY COMPENSATED EM-*
19 *PLOYEE.*—*The term ‘highly compensated*
20 *employee’ has the meaning given such term*
21 *by section 414(q).*

22 “(iv) *KEY EMPLOYEE.*—*The term ‘key*
23 *employee’ has the meaning given such term*
24 *by section 416(i).*

1 “(4) *MINIMUM ELIGIBILITY AND PARTICIPATION*
2 *REQUIREMENTS.*—

3 “(A) *IN GENERAL.*—*The requirements of*
4 *this paragraph shall be treated as met with re-*
5 *spect to any year if, under the plan—*

6 “(i) *all employees who had at least*
7 *1,000 hours of service for the preceding plan*
8 *year are eligible to participate, and*

9 “(ii) *each employee eligible to partici-*
10 *pate in the plan may, subject to terms and*
11 *conditions applicable to all participants,*
12 *elect any benefit available under the plan.*

13 “(B) *CERTAIN EMPLOYEES MAY BE EX-*
14 *CLUDED.*—*For purposes of subparagraph (A)(i),*
15 *an employer may elect to exclude under the plan*
16 *employees—*

17 “(i) *who have not attained the age of*
18 *21 before the close of a plan year,*

19 “(ii) *who have less than 1 year of serv-*
20 *ice with the employer as of any day during*
21 *the plan year,*

22 “(iii) *who are covered under an agree-*
23 *ment which the Secretary of Labor finds to*
24 *be a collective bargaining agreement if there*
25 *is evidence that the benefits covered under*

1 *the cafeteria plan were the subject of good*
2 *faith bargaining between employee rep-*
3 *resentatives and the employer, or*

4 “(iv) *who are described in section*
5 *410(b)(3)(C) (relating to nonresident aliens*
6 *working outside the United States).*

7 *A plan may provide a shorter period of service*
8 *or younger age for purposes of clause (i) or (ii).*

9 “(5) *ELIGIBLE EMPLOYER.—For purposes of this*
10 *subsection—*

11 “(A) *IN GENERAL.—The term ‘eligible em-*
12 *ployer’ means, with respect to any year, any em-*
13 *ployer if such employer employed an average of*
14 *100 or fewer employees on business days during*
15 *either of the 2 preceding years. For purposes of*
16 *this subparagraph, a year may only be taken*
17 *into account if the employer was in existence*
18 *throughout the year.*

19 “(B) *EMPLOYERS NOT IN EXISTENCE DUR-*
20 *ING PRECEDING YEAR.—If an employer was not*
21 *in existence throughout the preceding year, the*
22 *determination under subparagraph (A) shall be*
23 *based on the average number of employees that*
24 *it is reasonably expected such employer will em-*
25 *ploy on business days in the current year.*

1 “(C) *GROWING EMPLOYERS RETAIN TREAT-*
2 *MENT AS SMALL EMPLOYER.—*

3 “(i) *IN GENERAL.—If—*

4 “(I) *an employer was an eligible*
5 *employer for any year (a ‘qualified*
6 *year’), and*

7 “(II) *such employer establishes a*
8 *simple cafeteria plan for its employees*
9 *for such year,*

10 *then, notwithstanding the fact the employer*
11 *fails to meet the requirements of subpara-*
12 *graph (A) for any subsequent year, such*
13 *employer shall be treated as an eligible em-*
14 *ployer for such subsequent year with respect*
15 *to employees (whether or not employees dur-*
16 *ing a qualified year) of any trade or busi-*
17 *ness which was covered by the plan during*
18 *any qualified year.*

19 “(ii) *EXCEPTION.—This subparagraph*
20 *shall cease to apply if the employer employs*
21 *an average of 200 or more employees on*
22 *business days during any year preceding*
23 *any such subsequent year.*

24 “(D) *SPECIAL RULES.—*

1 “(i) *PREDECESSORS.*—Any reference
2 in this paragraph to an employer shall in-
3 clude a reference to any predecessor of such
4 employer.

5 “(ii) *AGGREGATION RULES.*—All per-
6 sons treated as a single employer under sub-
7 section (a) or (b) of section 52, or subsection
8 (n) or (o) of section 414, shall be treated as
9 one person.

10 “(6) *APPLICABLE NONDISCRIMINATION REQUIRE-*
11 *MENT.*—For purposes of this subsection, the term ‘ap-
12 plicable nondiscrimination requirement’ means any
13 requirement under subsection (b) of this section, sec-
14 tion 79(d), section 105(h), or paragraph (2), (3), (4),
15 or (8) of section 129(d).

16 “(7) *COMPENSATION.*—The term ‘compensation’
17 has the meaning given such term by section 414(s).”.

18 (b) *EFFECTIVE DATE.*—The amendments made by this
19 section shall apply to years beginning after December 31,
20 2010.

21 **SEC. 9023. QUALIFYING THERAPEUTIC DISCOVERY**
22 **PROJECT CREDIT.**

23 (a) *IN GENERAL.*—Subpart E of part IV of subchapter
24 A of chapter 1 of the Internal Revenue Code of 1986 is

1 *amended by inserting after section 48C the following new*
2 *section:*

3 **“SEC. 48D. QUALIFYING THERAPEUTIC DISCOVERY**
4 **PROJECT CREDIT.**

5 *“(a) IN GENERAL.—For purposes of section 46, the*
6 *qualifying therapeutic discovery project credit for any tax-*
7 *able year is an amount equal to 50 percent of the qualified*
8 *investment for such taxable year with respect to any quali-*
9 *fying therapeutic discovery project of an eligible taxpayer.*

10 *“(b) QUALIFIED INVESTMENT.—*

11 *“(1) IN GENERAL.—For purposes of subsection*
12 *(a), the qualified investment for any taxable year is*
13 *the aggregate amount of the costs paid or incurred in*
14 *such taxable year for expenses necessary for and di-*
15 *rectly related to the conduct of a qualifying thera-*
16 *peutic discovery project.*

17 *“(2) LIMITATION.—The amount which is treated*
18 *as qualified investment for all taxable years with re-*
19 *spect to any qualifying therapeutic discovery project*
20 *shall not exceed the amount certified by the Secretary*
21 *as eligible for the credit under this section.*

22 *“(3) EXCLUSIONS.—The qualified investment for*
23 *any taxable year with respect to any qualifying*
24 *therapeutic discovery project shall not take into ac-*
25 *count any cost—*

1 “(A) for remuneration for an employee de-
2 scribed in section 162(m)(3),

3 “(B) for interest expenses,

4 “(C) for facility maintenance expenses,

5 “(D) which is identified as a service cost
6 under section 1.263A-1(e)(4) of title 26, Code of
7 Federal Regulations, or

8 “(E) for any other expense as determined by
9 the Secretary as appropriate to carry out the
10 purposes of this section.

11 “(4) CERTAIN PROGRESS EXPENDITURE RULES
12 MADE APPLICABLE.—In the case of costs described in
13 paragraph (1) that are paid for property of a char-
14 acter subject to an allowance for depreciation, rules
15 similar to the rules of subsections (c)(4) and (d) of
16 section 46 (as in effect on the day before the date of
17 the enactment of the Revenue Reconciliation Act of
18 1990) shall apply for purposes of this section.

19 “(5) APPLICATION OF SUBSECTION.—An invest-
20 ment shall be considered a qualified investment under
21 this subsection only if such investment is made in a
22 taxable year beginning in 2009 or 2010.

23 “(c) DEFINITIONS.—

1 “(1) *QUALIFYING THERAPEUTIC DISCOVERY*
2 *PROJECT.*—*The term ‘qualifying therapeutic discovery*
3 *project’ means a project which is designed—*

4 “(A) *to treat or prevent diseases or condi-*
5 *tions by conducting pre-clinical activities, clin-*
6 *ical trials, and clinical studies, or carrying out*
7 *research protocols, for the purpose of securing*
8 *approval of a product under section 505(b) of the*
9 *Federal Food, Drug, and Cosmetic Act or section*
10 *351(a) of the Public Health Service Act,*

11 “(B) *to diagnose diseases or conditions or to*
12 *determine molecular factors related to diseases or*
13 *conditions by developing molecular diagnostics to*
14 *guide therapeutic decisions, or*

15 “(C) *to develop a product, process, or tech-*
16 *nology to further the delivery or administration*
17 *of therapeutics.*

18 “(2) *ELIGIBLE TAXPAYER.*—

19 “(A) *IN GENERAL.*—*The term ‘eligible tax-*
20 *payer’ means a taxpayer which employs not*
21 *more than 250 employees in all businesses of the*
22 *taxpayer at the time of the submission of the ap-*
23 *plication under subsection (d)(2).*

24 “(B) *AGGREGATION RULES.*—*All persons*
25 *treated as a single employer under subsection (a)*

1 or (b) of section 52, or subsection (m) or (o) of
2 section 414, shall be so treated for purposes of
3 this paragraph.

4 “(3) *FACILITY MAINTENANCE EXPENSES.*—The
5 term ‘facility maintenance expenses’ means costs paid
6 or incurred to maintain a facility, including—

7 “(A) mortgage or rent payments,

8 “(B) insurance payments,

9 “(C) utility and maintenance costs, and

10 “(D) costs of employment of maintenance
11 personnel.

12 “(d) *QUALIFYING THERAPEUTIC DISCOVERY PROJECT*
13 *PROGRAM.*—

14 “(1) *ESTABLISHMENT.*—

15 “(A) *IN GENERAL.*—Not later than 60 days
16 after the date of the enactment of this section, the
17 Secretary, in consultation with the Secretary of
18 Health and Human Services, shall establish a
19 qualifying therapeutic discovery project program
20 to consider and award certifications for qualified
21 investments eligible for credits under this section
22 to qualifying therapeutic discovery project spon-
23 sors.

24 “(B) *LIMITATION.*—The total amount of
25 credits that may be allocated under the program

1 *shall not exceed \$1,000,000,000 for the 2-year pe-*
2 *riod beginning with 2009.*

3 “(2) *CERTIFICATION.*—

4 “(A) *APPLICATION PERIOD.*—*Each appli-*
5 *cant for certification under this paragraph shall*
6 *submit an application containing such informa-*
7 *tion as the Secretary may require during the pe-*
8 *riod beginning on the date the Secretary estab-*
9 *lishes the program under paragraph (1).*

10 “(B) *TIME FOR REVIEW OF APPLICA-*
11 *TIONS.*—*The Secretary shall take action to ap-*
12 *prove or deny any application under subpara-*
13 *graph (A) within 30 days of the submission of*
14 *such application.*

15 “(C) *MULTI-YEAR APPLICATIONS.*—*An ap-*
16 *plication for certification under subparagraph*
17 *(A) may include a request for an allocation of*
18 *credits for more than 1 of the years described in*
19 *paragraph (1)(B).*

20 “(3) *SELECTION CRITERIA.*—*In determining the*
21 *qualifying therapeutic discovery projects with respect*
22 *to which qualified investments may be certified under*
23 *this section, the Secretary—*

24 “(A) *shall take into consideration only those*
25 *projects that show reasonable potential—*

1 “(i) to result in new therapies—

2 “(I) to treat areas of unmet med-
3 ical need, or

4 “(II) to prevent, detect, or treat
5 chronic or acute diseases and condi-
6 tions,

7 “(ii) to reduce long-term health care
8 costs in the United States, or

9 “(iii) to significantly advance the goal
10 of curing cancer within the 30-year period
11 beginning on the date the Secretary estab-
12 lishes the program under paragraph (1),
13 and

14 “(B) shall take into consideration which
15 projects have the greatest potential—

16 “(i) to create and sustain (directly or
17 indirectly) high quality, high-paying jobs in
18 the United States, and

19 “(ii) to advance United States com-
20 petitiveness in the fields of life, biological,
21 and medical sciences.

22 “(4) DISCLOSURE OF ALLOCATIONS.—The Sec-
23 retary shall, upon making a certification under this
24 subsection, publicly disclose the identity of the appli-

1 *cant and the amount of the credit with respect to such*
2 *applicant.*

3 “(e) *SPECIAL RULES.—*

4 “(1) *BASIS ADJUSTMENT.—For purposes of this*
5 *subtitle, if a credit is allowed under this section for*
6 *an expenditure related to property of a character sub-*
7 *ject to an allowance for depreciation, the basis of such*
8 *property shall be reduced by the amount of such cred-*
9 *it.*

10 “(2) *DENIAL OF DOUBLE BENEFIT.—*

11 “(A) *BONUS DEPRECIATION.—A credit shall*
12 *not be allowed under this section for any invest-*
13 *ment for which bonus depreciation is allowed*
14 *under section 168(k), 1400L(b)(1), or*
15 *1400N(d)(1).*

16 “(B) *DEDUCTIONS.—No deduction under*
17 *this subtitle shall be allowed for the portion of*
18 *the expenses otherwise allowable as a deduction*
19 *taken into account in determining the credit*
20 *under this section for the taxable year which is*
21 *equal to the amount of the credit determined for*
22 *such taxable year under subsection (a) attrib-*
23 *utable to such portion. This subparagraph shall*
24 *not apply to expenses related to property of a*
25 *character subject to an allowance for deprecia-*

1 *tion the basis of which is reduced under para-*
2 *graph (1), or which are described in section*
3 *280C(g).*

4 *“(C) CREDIT FOR RESEARCH ACTIVITIES.—*

5 *“(i) IN GENERAL.—Except as provided*
6 *in clause (ii), any expenses taken into ac-*
7 *count under this section for a taxable year*
8 *shall not be taken into account for purposes*
9 *of determining the credit allowable under*
10 *section 41 or 45C for such taxable year.*

11 *“(ii) EXPENSES INCLUDED IN DETER-*
12 *MINING BASE PERIOD RESEARCH EX-*
13 *PENSES.—Any expenses for any taxable*
14 *year which are qualified research expenses*
15 *(within the meaning of section 41(b)) shall*
16 *be taken into account in determining base*
17 *period research expenses for purposes of ap-*
18 *plying section 41 to subsequent taxable*
19 *years.*

20 *“(f) COORDINATION WITH DEPARTMENT OF TREASURY*
21 *GRANTS.—In the case of any investment with respect to*
22 *which the Secretary makes a grant under section 9023(e)*
23 *of the Patient Protection and Affordable Care Act of 2009—*

24 *“(1) DENIAL OF CREDIT.—No credit shall be de-*
25 *termined under this section with respect to such in-*

1 *vestment for the taxable year in which such grant is*
2 *made or any subsequent taxable year.*

3 *“(2) RECAPTURE OF CREDITS FOR PROGRESS*
4 *EXPENDITURES MADE BEFORE GRANT.—If a credit*
5 *was determined under this section with respect to*
6 *such investment for any taxable year ending before*
7 *such grant is made—*

8 *“(A) the tax imposed under subtitle A on*
9 *the taxpayer for the taxable year in which such*
10 *grant is made shall be increased by so much of*
11 *such credit as was allowed under section 38,*

12 *“(B) the general business carryforwards*
13 *under section 39 shall be adjusted so as to recap-*
14 *ture the portion of such credit which was not so*
15 *allowed, and*

16 *“(C) the amount of such grant shall be de-*
17 *termined without regard to any reduction in the*
18 *basis of any property of a character subject to an*
19 *allowance for depreciation by reason of such*
20 *credit.*

21 *“(3) TREATMENT OF GRANTS.—Any such grant*
22 *shall not be includible in the gross income of the tax-*
23 *payer.”.*

1 (b) *INCLUSION AS PART OF INVESTMENT CREDIT.*—
2 *Section 46 of the Internal Revenue Code of 1986 is amend-*
3 *ed—*

4 (1) *by adding a comma at the end of paragraph*
5 *(2),*

6 (2) *by striking the period at the end of para-*
7 *graph (5) and inserting “, and”, and*

8 (3) *by adding at the end the following new para-*
9 *graph:*

10 “*(6) the qualifying therapeutic discovery project*
11 *credit.*”.

12 (c) *CONFORMING AMENDMENTS.*—

13 (1) *Section 49(a)(1)(C) of the Internal Revenue*
14 *Code of 1986 is amended—*

15 (A) *by striking “and” at the end of clause*
16 *(iv),*

17 (B) *by striking the period at the end of*
18 *clause (v) and inserting “, and”, and*

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

21 “*(vi) the basis of any property to*
22 *which paragraph (1) of section 48D(e) ap-*
23 *plies which is part of a qualifying thera-*
24 *peutic discovery project under such section*
25 *48D.*”.

1 (2) *Section 280C of such Code is amended by*
2 *adding at the end the following new subsection:*

3 “(g) *QUALIFYING THERAPEUTIC DISCOVERY PROJECT*
4 *CREDIT.—*

5 “(1) *IN GENERAL.—No deduction shall be al-*
6 *lowed for that portion of the qualified investment (as*
7 *defined in section 48D(b)) otherwise allowable as a*
8 *deduction for the taxable year which—*

9 “(A) *would be qualified research expenses*
10 *(as defined in section 41(b)), basic research ex-*
11 *penditures (as defined in section 41(e)(2)), or quali-*
12 *fied clinical testing expenses (as defined in sec-*
13 *tion 45C(b)) if the credit under section 41 or sec-*
14 *tion 45C were allowed with respect to such ex-*
15 *penditures for such taxable year, and*

16 “(B) *is equal to the amount of the credit de-*
17 *termined for such taxable year under section*
18 *48D(a), reduced by—*

19 “(i) *the amount disallowed as a deduc-*
20 *tion by reason of section 48D(e)(2)(B), and*

21 “(ii) *the amount of any basis reduction*
22 *under section 48D(e)(1).*

23 “(2) *SIMILAR RULE WHERE TAXPAYER CAPITAL-*
24 *IZES RATHER THAN DEDUCTS EXPENSES.—In the*
25 *case of expenses described in paragraph (1)(A) taken*

1 into account in determining the credit under section
2 48D for the taxable year, if—

3 “(A) the amount of the portion of the credit
4 determined under such section with respect to
5 such expenses, exceeds

6 “(B) the amount allowable as a deduction
7 for such taxable year for such expenses (deter-
8 mined without regard to paragraph (1)),
9 the amount chargeable to capital account for the tax-
10 able year for such expenses shall be reduced by the
11 amount of such excess.

12 “(3) CONTROLLED GROUPS.—Paragraph (3) of
13 subsection (b) shall apply for purposes of this sub-
14 section.”.

15 (d) CLERICAL AMENDMENT.—The table of sections for
16 subpart E of part IV of subchapter A of chapter 1 of the
17 Internal Revenue Code of 1986 is amended by inserting
18 after the item relating to section 48C the following new
19 item:

 “Sec. 48D. Qualifying therapeutic discovery project credit.”.

20 (e) GRANTS FOR QUALIFIED INVESTMENTS IN THERA-
21 PEUTIC DISCOVERY PROJECTS IN LIEU OF TAX CREDITS.—

22 (1) IN GENERAL.—Upon application, the Sec-
23 retary of the Treasury shall, subject to the require-
24 ments of this subsection, provide a grant to each per-
25 son who makes a qualified investment in a qualifying

1 *therapeutic discovery project in the amount of 50 per-*
2 *cent of such investment. No grant shall be made under*
3 *this subsection with respect to any investment unless*
4 *such investment is made during a taxable year begin-*
5 *ning in 2009 or 2010.*

6 (2) *APPLICATION.—*

7 (A) *IN GENERAL.—At the stated election of*
8 *the applicant, an application for certification*
9 *under section 48D(d)(2) of the Internal Revenue*
10 *Code of 1986 for a credit under such section for*
11 *the taxable year of the applicant which begins in*
12 *2009 shall be considered to be an application for*
13 *a grant under paragraph (1) for such taxable*
14 *year.*

15 (B) *TAXABLE YEARS BEGINNING IN 2010.—*
16 *An application for a grant under paragraph (1)*
17 *for a taxable year beginning in 2010 shall be*
18 *submitted—*

19 (i) *not earlier than the day after the*
20 *last day of such taxable year, and*

21 (ii) *not later than the due date (in-*
22 *cluding extensions) for filing the return of*
23 *tax for such taxable year.*

24 (C) *INFORMATION TO BE SUBMITTED.—An*
25 *application for a grant under paragraph (1)*

1 *shall include such information and be in such*
2 *form as the Secretary may require to state the*
3 *amount of the credit allowable (but for the re-*
4 *ceipt of a grant under this subsection) under sec-*
5 *tion 48D for the taxable year for the qualified*
6 *investment with respect to which such applica-*
7 *tion is made.*

8 (3) *TIME FOR PAYMENT OF GRANT.*—

9 (A) *IN GENERAL.*—*The Secretary of the*
10 *Treasury shall make payment of the amount of*
11 *any grant under paragraph (1) during the 30-*
12 *day period beginning on the later of—*

13 (i) *the date of the application for such*
14 *grant, or*

15 (ii) *the date the qualified investment*
16 *for which the grant is being made is made.*

17 (B) *REGULATIONS.*—*In the case of invest-*
18 *ments of an ongoing nature, the Secretary shall*
19 *issue regulations to determine the date on which*
20 *a qualified investment shall be deemed to have*
21 *been made for purposes of this paragraph.*

22 (4) *QUALIFIED INVESTMENT.*—*For purposes of*
23 *this subsection, the term “qualified investment”*
24 *means a qualified investment that is certified under*

1 *section 48D(d) of the Internal Revenue Code of 1986*
2 *for purposes of the credit under such section 48D.*

3 (5) *APPLICATION OF CERTAIN RULES.—*

4 (A) *IN GENERAL.—In making grants under*
5 *this subsection, the Secretary of the Treasury*
6 *shall apply rules similar to the rules of section*
7 *50 of the Internal Revenue Code of 1986. In ap-*
8 *plying such rules, any increase in tax under*
9 *chapter 1 of such Code by reason of an invest-*
10 *ment ceasing to be a qualified investment shall*
11 *be imposed on the person to whom the grant was*
12 *made.*

13 (B) *SPECIAL RULES.—*

14 (i) *RECAPTURE OF EXCESSIVE GRANT*
15 *AMOUNTS.—If the amount of a grant made*
16 *under this subsection exceeds the amount al-*
17 *lowable as a grant under this subsection,*
18 *such excess shall be recaptured under sub-*
19 *paragraph (A) as if the investment to which*
20 *such excess portion of the grant relates had*
21 *ceased to be a qualified investment imme-*
22 *diately after such grant was made.*

23 (ii) *GRANT INFORMATION NOT TREAT-*
24 *ED AS RETURN INFORMATION.—In no event*
25 *shall the amount of a grant made under*

1 *paragraph (1), the identity of the person to*
2 *whom such grant was made, or a descrip-*
3 *tion of the investment with respect to which*
4 *such grant was made be treated as return*
5 *information for purposes of section 6103 of*
6 *the Internal Revenue Code of 1986.*

7 (6) *EXCEPTION FOR CERTAIN NON-TAXPAYERS.—*

8 *The Secretary of the Treasury shall not make any*
9 *grant under this subsection to—*

10 (A) *any Federal, State, or local government*
11 *(or any political subdivision, agency, or instru-*
12 *mentality thereof),*

13 (B) *any organization described in section*
14 *501(c) of the Internal Revenue Code of 1986 and*
15 *exempt from tax under section 501(a) of such*
16 *Code,*

17 (C) *any entity referred to in paragraph (4)*
18 *of section 54(j) of such Code, or*

19 (D) *any partnership or other pass-thru en-*
20 *tity any partner (or other holder of an equity or*
21 *profits interest) of which is described in subpara-*
22 *graph (A), (B) or (C).*

23 *In the case of a partnership or other pass-thru entity*
24 *described in subparagraph (D), partners and other*
25 *holders of any equity or profits interest shall provide*

1 *to such partnership or entity such information as the*
2 *Secretary of the Treasury may require to carry out*
3 *the purposes of this paragraph.*

4 (7) *SECRETARY.*—*Any reference in this sub-*
5 *section to the Secretary of the Treasury shall be treat-*
6 *ed as including the Secretary’s delegate.*

7 (8) *OTHER TERMS.*—*Any term used in this sub-*
8 *section which is also used in section 48D of the Inter-*
9 *nal Revenue Code of 1986 shall have the same mean-*
10 *ing for purposes of this subsection as when used in*
11 *such section.*

12 (9) *DENIAL OF DOUBLE BENEFIT.*—*No credit*
13 *shall be allowed under section 46(6) of the Internal*
14 *Revenue Code of 1986 by reason of section 48D of*
15 *such Code for any investment for which a grant is*
16 *awarded under this subsection.*

17 (10) *APPROPRIATIONS.*—*There is hereby appro-*
18 *priated to the Secretary of the Treasury such sums as*
19 *may be necessary to carry out this subsection.*

20 (11) *TERMINATION.*—*The Secretary of the Treas-*
21 *ury shall not make any grant to any person under*
22 *this subsection unless the application of such person*
23 *for such grant is received before January 1, 2013.*

24 (12) *PROTECTING MIDDLE CLASS FAMILIES FROM*
25 *TAX INCREASES.*—*It is the sense of the Senate that the*

1 *Senate should reject any procedural maneuver that*
 2 *would raise taxes on middle class families, such as a*
 3 *motion to commit the pending legislation to the Com-*
 4 *mittee on Finance, which is designed to kill legisla-*
 5 *tion that provides tax cuts for American workers and*
 6 *families, including the affordability tax credit and*
 7 *the small business tax credit.*

8 *(f) EFFECTIVE DATE.—The amendments made by sub-*
 9 *sections (a) through (d) of this section shall apply to*
 10 *amounts paid or incurred after December 31, 2008, in tax-*
 11 *able years beginning after such date.*

12 **TITLE X—STRENGTHENING**
 13 **QUALITY, AFFORDABLE**
 14 **HEALTH CARE FOR ALL AMER-**
 15 **ICANS**

16 **Subtitle A—Provisions Relating to**
 17 **Title I**

18 **SEC. 10101. AMENDMENTS TO SUBTITLE A.**

19 *(a) Section 2711 of the Public Health Service Act, as*
 20 *added by section 1001(5) of this Act, is amended to read*
 21 *as follows:*

22 **“SEC. 2711. NO LIFETIME OR ANNUAL LIMITS.**

23 **“(a) PROHIBITION.—**

1 “(1) *IN GENERAL.*—A group health plan and a
2 health insurance issuer offering group or individual
3 health insurance coverage may not establish—

4 “(A) lifetime limits on the dollar value of
5 benefits for any participant or beneficiary; or

6 “(B) except as provided in paragraph (2),
7 annual limits on the dollar value of benefits for
8 any participant or beneficiary.

9 “(2) *ANNUAL LIMITS PRIOR TO 2014.*—With re-
10 spect to plan years beginning prior to January 1,
11 2014, a group health plan and a health insurance
12 issuer offering group or individual health insurance
13 coverage may only establish a restricted annual limit
14 on the dollar value of benefits for any participant or
15 beneficiary with respect to the scope of benefits that
16 are essential health benefits under section 1302(b) of
17 the Patient Protection and Affordable Care Act, as de-
18 termined by the Secretary. In defining the term ‘re-
19 stricted annual limit’ for purposes of the preceding
20 sentence, the Secretary shall ensure that access to
21 needed services is made available with a minimal im-
22 pact on premiums.

23 “(b) *PER BENEFICIARY LIMITS.*—Subsection (a) shall
24 not be construed to prevent a group health plan or health
25 insurance coverage from placing annual or lifetime per ben-

1 *eficiary limits on specific covered benefits that are not es-*
2 *sential health benefits under section 1302(b) of the Patient*
3 *Protection and Affordable Care Act, to the extent that such*
4 *limits are otherwise permitted under Federal or State*
5 *law.”.*

6 (b) *Section 2715(a) of the Public Health Service Act,*
7 *as added by section 1001(5) of this Act, is amended by strik-*
8 *ing “and providing to enrollees” and inserting “and pro-*
9 *viding to applicants, enrollees, and policyholders or certifi-*
10 *cate holders”.*

11 (c) *Subpart II of part A of title XXVII of the Public*
12 *Health Service Act, as added by section 1001(5), is amend-*
13 *ed by inserting after section 2715, the following:*

14 **“SEC. 2715A. PROVISION OF ADDITIONAL INFORMATION.**

15 “*A group health plan and a health insurance issuer*
16 *offering group or individual health insurance coverage shall*
17 *comply with the provisions of section 1311(e)(3) of the Pa-*
18 *tient Protection and Affordable Care Act, except that a plan*
19 *or coverage that is not offered through an Exchange shall*
20 *only be required to submit the information required to the*
21 *Secretary and the State insurance commissioner, and make*
22 *such information available to the public.”.*

23 (d) *Section 2716 of the Public Health Service Act, as*
24 *added by section 1001(5) of this Act, is amended to read*
25 *as follows:*

1 **“SEC. 2716. PROHIBITION ON DISCRIMINATION IN FAVOR**
2 **OF HIGHLY COMPENSATED INDIVIDUALS.**

3 “(a) *IN GENERAL.*—A group health plan (other than
4 a self-insured plan) shall satisfy the requirements of section
5 105(h)(2) of the Internal Revenue Code of 1986 (relating
6 to prohibition on discrimination in favor of highly com-
7 pensated individuals).

8 “(b) *RULES AND DEFINITIONS.*—For purposes of this
9 section—

10 “(1) *CERTAIN RULES TO APPLY.*—Rules similar
11 to the rules contained in paragraphs (3), (4), and (8)
12 of section 105(h) of such Code shall apply.

13 “(2) *HIGHLY COMPENSATED INDIVIDUAL.*—The
14 term ‘highly compensated individual’ has the mean-
15 ing given such term by section 105(h)(5) of such
16 Code.”.

17 (e) Section 2717 of the Public Health Service Act, as
18 added by section 1001(5) of this Act, is amended—

19 (1) by redesignating subsections (c) and (d) as
20 subsections (d) and (e), respectively; and

21 (2) by inserting after subsection (b), the fol-
22 lowing:

23 “(c) *PROTECTION OF SECOND AMENDMENT GUN*
24 *RIGHTS.*—

25 “(1) *WELLNESS AND PREVENTION PROGRAMS.*—
26 A wellness and health promotion activity imple-

1 *mented under subsection (a)(1)(D) may not require*
2 *the disclosure or collection of any information relat-*
3 *ing to—*

4 *“(A) the presence or storage of a lawfully-*
5 *possessed firearm or ammunition in the resi-*
6 *dence or on the property of an individual; or*

7 *“(B) the lawful use, possession, or storage of*
8 *a firearm or ammunition by an individual.*

9 *“(2) LIMITATION ON DATA COLLECTION.—None*
10 *of the authorities provided to the Secretary under the*
11 *Patient Protection and Affordable Care Act or an*
12 *amendment made by that Act shall be construed to*
13 *authorize or may be used for the collection of any in-*
14 *formation relating to—*

15 *“(A) the lawful ownership or possession of*
16 *a firearm or ammunition;*

17 *“(B) the lawful use of a firearm or ammu-*
18 *nition; or*

19 *“(C) the lawful storage of a firearm or am-*
20 *munition.*

21 *“(3) LIMITATION ON DATABASES OR DATA*
22 *BANKS.—None of the authorities provided to the Sec-*
23 *retary under the Patient Protection and Affordable*
24 *Care Act or an amendment made by that Act shall*
25 *be construed to authorize or may be used to maintain*

1 *records of individual ownership or possession of a*
2 *firearm or ammunition.*

3 “(4) *LIMITATION ON DETERMINATION OF PRE-*
4 *MIUM RATES OR ELIGIBILITY FOR HEALTH INSUR-*
5 *ANCE.—A premium rate may not be increased, health*
6 *insurance coverage may not be denied, and a dis-*
7 *count, rebate, or reward offered for participation in*
8 *a wellness program may not be reduced or withheld*
9 *under any health benefit plan issued pursuant to or*
10 *in accordance with the Patient Protection and Afford-*
11 *able Care Act or an amendment made by that Act on*
12 *the basis of, or on reliance upon—*

13 “(A) *the lawful ownership or possession of*
14 *a firearm or ammunition; or*

15 “(B) *the lawful use or storage of a firearm*
16 *or ammunition.*

17 “(5) *LIMITATION ON DATA COLLECTION RE-*
18 *QUIREMENTS FOR INDIVIDUALS.—No individual shall*
19 *be required to disclose any information under any*
20 *data collection activity authorized under the Patient*
21 *Protection and Affordable Care Act or an amendment*
22 *made by that Act relating to—*

23 “(A) *the lawful ownership or possession of*
24 *a firearm or ammunition; or*

1 “(B) the lawful use, possession, or storage of
2 a firearm or ammunition.”.

3 (f) Section 2718 of the Public Health Service Act, as
4 added by section 1001(5), is amended to read as follows:

5 **“SEC. 2718. BRINGING DOWN THE COST OF HEALTH CARE**
6 **COVERAGE.**

7 “(a) *CLEAR ACCOUNTING FOR COSTS.*—A health in-
8 surance issuer offering group or individual health insur-
9 ance coverage (including a grandfathered health plan) shall,
10 with respect to each plan year, submit to the Secretary a
11 report concerning the ratio of the incurred loss (or incurred
12 claims) plus the loss adjustment expense (or change in con-
13 tract reserves) to earned premiums. Such report shall in-
14 clude the percentage of total premium revenue, after ac-
15 counting for collections or receipts for risk adjustment and
16 risk corridors and payments of reinsurance, that such cov-
17 erage expends—

18 “(1) on reimbursement for clinical services pro-
19 vided to enrollees under such coverage;

20 “(2) for activities that improve health care qual-
21 ity; and

22 “(3) on all other non-claims costs, including an
23 explanation of the nature of such costs, and excluding
24 Federal and State taxes and licensing or regulatory
25 fees.

1 *The Secretary shall make reports received under this section*
2 *available to the public on the Internet website of the Depart-*
3 *ment of Health and Human Services.*

4 “(b) *ENSURING THAT CONSUMERS RECEIVE VALUE*
5 *FOR THEIR PREMIUM PAYMENTS.*—

6 “(1) *REQUIREMENT TO PROVIDE VALUE FOR*
7 *PREMIUM PAYMENTS.*—

8 “(A) *REQUIREMENT.*—*Beginning not later*
9 *than January 1, 2011, a health insurance issuer*
10 *offering group or individual health insurance*
11 *coverage (including a grandfathered health plan)*
12 *shall, with respect to each plan year, provide an*
13 *annual rebate to each enrollee under such cov-*
14 *erage, on a pro rata basis, if the ratio of the*
15 *amount of premium revenue expended by the*
16 *issuer on costs described in paragraphs (1) and*
17 *(2) of subsection (a) to the total amount of pre-*
18 *mium revenue (excluding Federal and State*
19 *taxes and licensing or regulatory fees and after*
20 *accounting for payments or receipts for risk ad-*
21 *justment, risk corridors, and reinsurance under*
22 *sections 1341, 1342, and 1343 of the Patient*
23 *Protection and Affordable Care Act) for the plan*
24 *year (except as provided in subparagraph*
25 *(B)(ii)), is less than—*

1 “(i) *with respect to a health insurance*
2 *issuer offering coverage in the large group*
3 *market, 85 percent, or such higher percent-*
4 *age as a State may by regulation deter-*
5 *mine; or*

6 “(ii) *with respect to a health insurance*
7 *issuer offering coverage in the small group*
8 *market or in the individual market, 80 per-*
9 *cent, or such higher percentage as a State*
10 *may by regulation determine, except that*
11 *the Secretary may adjust such percentage*
12 *with respect to a State if the Secretary de-*
13 *termines that the application of such 80*
14 *percent may destabilize the individual mar-*
15 *ket in such State.*

16 “(B) *REBATE AMOUNT.—*

17 “(i) *CALCULATION OF AMOUNT.—The*
18 *total amount of an annual rebate required*
19 *under this paragraph shall be in an amount*
20 *equal to the product of—*

21 “(I) *the amount by which the per-*
22 *centage described in clause (i) or (ii) of*
23 *subparagraph (A) exceeds the ratio de-*
24 *scribed in such subparagraph; and*

1 “(II) the total amount of pre-
2 mium revenue (excluding Federal and
3 State taxes and licensing or regulatory
4 fees and after accounting for payments
5 or receipts for risk adjustment, risk
6 corridors, and reinsurance under sec-
7 tions 1341, 1342, and 1343 of the Pa-
8 tient Protection and Affordable Care
9 Act) for such plan year.

10 “(ii) *CALCULATION BASED ON AVER-*
11 *AGE RATIO.—Beginning on January 1,*
12 *2014, the determination made under sub-*
13 *paragraph (A) for the year involved shall be*
14 *based on the averages of the premiums ex-*
15 *pended on the costs described in such sub-*
16 *paragraph and total premium revenue for*
17 *each of the previous 3 years for the plan.*

18 “(2) *CONSIDERATION IN SETTING PERCENT-*
19 *AGES.—In determining the percentages under para-*
20 *graph (1), a State shall seek to ensure adequate par-*
21 *ticipation by health insurance issuers, competition in*
22 *the health insurance market in the State, and value*
23 *for consumers so that premiums are used for clinical*
24 *services and quality improvements.*

1 “(3) *ENFORCEMENT.*—*The Secretary shall pro-*
2 *mulgate regulations for enforcing the provisions of*
3 *this section and may provide for appropriate pen-*
4 *alties.*

5 “(c) *DEFINITIONS.*—*Not later than December 31, 2010,*
6 *and subject to the certification of the Secretary, the Na-*
7 *tional Association of Insurance Commissioners shall estab-*
8 *lish uniform definitions of the activities reported under sub-*
9 *section (a) and standardized methodologies for calculating*
10 *measures of such activities, including definitions of which*
11 *activities, and in what regard such activities, constitute ac-*
12 *tivities described in subsection (a)(2). Such methodologies*
13 *shall be designed to take into account the special cir-*
14 *cumstances of smaller plans, different types of plans, and*
15 *newer plans.*

16 “(d) *ADJUSTMENTS.*—*The Secretary may adjust the*
17 *rates described in subsection (b) if the Secretary determines*
18 *appropriate on account of the volatility of the individual*
19 *market due to the establishment of State Exchanges.*

20 “(e) *STANDARD HOSPITAL CHARGES.*—*Each hospital*
21 *operating within the United States shall for each year es-*
22 *tablish (and update) and make public (in accordance with*
23 *guidelines developed by the Secretary) a list of the hospital’s*
24 *standard charges for items and services provided by the hos-*

1 *pital, including for diagnosis-related groups established*
2 *under section 1886(d)(4) of the Social Security Act.”.*

3 *(g) Section 2719 of the Public Health Service Act, as*
4 *added by section 1001(4) of this Act, is amended to read*
5 *as follows:*

6 **“SEC. 2719. APPEALS PROCESS.**

7 *“(a) INTERNAL CLAIMS APPEALS.—*

8 *“(1) IN GENERAL.—A group health plan and a*
9 *health insurance issuer offering group or individual*
10 *health insurance coverage shall implement an effective*
11 *appeals process for appeals of coverage determinations*
12 *and claims, under which the plan or issuer shall, at*
13 *a minimum—*

14 *“(A) have in effect an internal claims ap-*
15 *peal process;*

16 *“(B) provide notice to enrollees, in a cul-*
17 *turally and linguistically appropriate manner,*
18 *of available internal and external appeals proc-*
19 *esses, and the availability of any applicable of-*
20 *fice of health insurance consumer assistance or*
21 *ombudsman established under section 2793 to as-*
22 *sist such enrollees with the appeals processes;*
23 *and*

24 *“(C) allow an enrollee to review their file,*
25 *to present evidence and testimony as part of the*

1 *appeals process, and to receive continued cov-*
2 *erage pending the outcome of the appeals process.*

3 “(2) *ESTABLISHED PROCESSES.—To comply*
4 *with paragraph (1)—*

5 “(A) *a group health plan and a health in-*
6 *surance issuer offering group health coverage*
7 *shall provide an internal claims and appeals*
8 *process that initially incorporates the claims and*
9 *appeals procedures (including urgent claims) set*
10 *forth at section 2560.503–1 of title 29, Code of*
11 *Federal Regulations, as published on November*
12 *21, 2000 (65 Fed. Reg. 70256), and shall update*
13 *such process in accordance with any standards*
14 *established by the Secretary of Labor for such*
15 *plans and issuers; and*

16 “(B) *a health insurance issuer offering indi-*
17 *vidual health coverage, and any other issuer not*
18 *subject to subparagraph (A), shall provide an in-*
19 *ternal claims and appeals process that initially*
20 *incorporates the claims and appeals procedures*
21 *set forth under applicable law (as in existence on*
22 *the date of enactment of this section), and shall*
23 *update such process in accordance with any*
24 *standards established by the Secretary of Health*
25 *and Human Services for such issuers.*

1 “(b) *EXTERNAL REVIEW.*—A group health plan and
2 a health insurance issuer offering group or individual
3 health insurance coverage—

4 “(1) shall comply with the applicable State ex-
5 ternal review process for such plans and issuers that,
6 at a minimum, includes the consumer protections set
7 forth in the Uniform External Review Model Act pro-
8 mulgated by the National Association of Insurance
9 Commissioners and is binding on such plans; or

10 “(2) shall implement an effective external review
11 process that meets minimum standards established by
12 the Secretary through guidance and that is similar to
13 the process described under paragraph (1)—

14 “(A) if the applicable State has not estab-
15 lished an external review process that meets the
16 requirements of paragraph (1); or

17 “(B) if the plan is a self-insured plan that
18 is not subject to State insurance regulation (in-
19 cluding a State law that establishes an external
20 review process described in paragraph (1)).

21 “(c) *SECRETARY AUTHORITY.*—The Secretary may
22 deem the external review process of a group health plan or
23 health insurance issuer, in operation as of the date of enact-
24 ment of this section, to be in compliance with the applicable

1 *process established under subsection (b), as determined ap-*
2 *propriate by the Secretary.”.*

3 *(h) Subpart II of part A of title XVIII of the Public*
4 *Health Service Act, as added by section 1001(5) of this Act,*
5 *is amended by inserting after section 2719 the following:*

6 **“SEC. 2719A. PATIENT PROTECTIONS.**

7 *“(a) CHOICE OF HEALTH CARE PROFESSIONAL.—If a*
8 *group health plan, or a health insurance issuer offering*
9 *group or individual health insurance coverage, requires or*
10 *provides for designation by a participant, beneficiary, or*
11 *enrollee of a participating primary care provider, then the*
12 *plan or issuer shall permit each participant, beneficiary,*
13 *and enrollee to designate any participating primary care*
14 *provider who is available to accept such individual.*

15 *“(b) COVERAGE OF EMERGENCY SERVICES.—*

16 *“(1) IN GENERAL.—If a group health plan, or a*
17 *health insurance issuer offering group or individual*
18 *health insurance issuer, provides or covers any bene-*
19 *fits with respect to services in an emergency depart-*
20 *ment of a hospital, the plan or issuer shall cover*
21 *emergency services (as defined in paragraph*
22 *(2)(B))—*

23 *“(A) without the need for any prior author-*
24 *ization determination;*

1 “(B) whether the health care provider fur-
2 nishing such services is a participating provider
3 with respect to such services;

4 “(C) in a manner so that, if such services
5 are provided to a participant, beneficiary, or en-
6 rollee—

7 “(i) by a nonparticipating health care
8 provider with or without prior authoriza-
9 tion; or

10 “(ii)(I) such services will be provided
11 without imposing any requirement under
12 the plan for prior authorization of services
13 or any limitation on coverage where the
14 provider of services does not have a contrac-
15 tual relationship with the plan for the pro-
16 viding of services that is more restrictive
17 than the requirements or limitations that
18 apply to emergency department services re-
19 ceived from providers who do have such a
20 contractual relationship with the plan; and

21 “(II) if such services are provided out-
22 of-network, the cost-sharing requirement
23 (expressed as a copayment amount or coin-
24 surance rate) is the same requirement that

1 *would apply if such services were provided*
2 *in-network;*

3 “(D) *without regard to any other term or*
4 *condition of such coverage (other than exclusion*
5 *or coordination of benefits, or an affiliation or*
6 *waiting period, permitted under section 2701 of*
7 *this Act, section 701 of the Employee Retirement*
8 *Income Security Act of 1974, or section 9801 of*
9 *the Internal Revenue Code of 1986, and other*
10 *than applicable cost-sharing).*

11 “(2) *DEFINITIONS.—In this subsection:*

12 “(A) *EMERGENCY MEDICAL CONDITION.—*
13 *The term ‘emergency medical condition’ means a*
14 *medical condition manifesting itself by acute*
15 *symptoms of sufficient severity (including severe*
16 *pain) such that a prudent layperson, who pos-*
17 *sesses an average knowledge of health and medi-*
18 *cine, could reasonably expect the absence of im-*
19 *mediate medical attention to result in a condi-*
20 *tion described in clause (i), (ii), or (iii) of sec-*
21 *tion 1867(e)(1)(A) of the Social Security Act.*

22 “(B) *EMERGENCY SERVICES.—The term*
23 *‘emergency services’ means, with respect to an*
24 *emergency medical condition—*

1 “(i) a medical screening examination
2 (as required under section 1867 of the So-
3 cial Security Act) that is within the capa-
4 bility of the emergency department of a hos-
5 pital, including ancillary services routinely
6 available to the emergency department to
7 evaluate such emergency medical condition,
8 and

9 “(ii) within the capabilities of the staff
10 and facilities available at the hospital, such
11 further medical examination and treatment
12 as are required under section 1867 of such
13 Act to stabilize the patient.

14 “(C) *STABILIZE*.—The term ‘to stabilize’,
15 with respect to an emergency medical condition
16 (as defined in subparagraph (A)), has the mean-
17 ing give in section 1867(e)(3) of the Social Secu-
18 rity Act (42 U.S.C. 1395dd(e)(3)).

19 “(c) *ACCESS TO PEDIATRIC CARE*.—

20 “(1) *PEDIATRIC CARE*.—In the case of a person
21 who has a child who is a participant, beneficiary, or
22 enrollee under a group health plan, or health insur-
23 ance coverage offered by a health insurance issuer in
24 the group or individual market, if the plan or issuer
25 requires or provides for the designation of a partici-

1 *pating primary care provider for the child, the plan*
2 *or issuer shall permit such person to designate a phy-*
3 *sician (allopathic or osteopathic) who specializes in*
4 *pediatrics as the child’s primary care provider if such*
5 *provider participates in the network of the plan or*
6 *issuer.*

7 *“(2) CONSTRUCTION.—Nothing in paragraph (1)*
8 *shall be construed to waive any exclusions of coverage*
9 *under the terms and conditions of the plan or health*
10 *insurance coverage with respect to coverage of pedi-*
11 *atric care.*

12 *“(d) PATIENT ACCESS TO OBSTETRICAL AND GYNECO-*
13 *LOGICAL CARE.—*

14 *“(1) GENERAL RIGHTS.—*

15 *“(A) DIRECT ACCESS.—A group health*
16 *plan, or health insurance issuer offering group*
17 *or individual health insurance coverage, de-*
18 *scribed in paragraph (2) may not require au-*
19 *thorization or referral by the plan, issuer, or any*
20 *person (including a primary care provider de-*
21 *scribed in paragraph (2)(B)) in the case of a fe-*
22 *male participant, beneficiary, or enrollee who*
23 *seeks coverage for obstetrical or gynecological*
24 *care provided by a participating health care pro-*
25 *fessional who specializes in obstetrics or gyne-*

1 *cology. Such professional shall agree to otherwise*
2 *adhere to such plan's or issuer's policies and*
3 *procedures, including procedures regarding refer-*
4 *als and obtaining prior authorization and pro-*
5 *viding services pursuant to a treatment plan (if*
6 *any) approved by the plan or issuer.*

7 “(B) *OBSTETRICAL AND GYNECOLOGICAL*
8 *CARE.—A group health plan or health insurance*
9 *issuer described in paragraph (2) shall treat the*
10 *provision of obstetrical and gynecological care,*
11 *and the ordering of related obstetrical and gyne-*
12 *cological items and services, pursuant to the di-*
13 *rect access described under subparagraph (A), by*
14 *a participating health care professional who spe-*
15 *cializes in obstetrics or gynecology as the author-*
16 *ization of the primary care provider.*

17 “(2) *APPLICATION OF PARAGRAPH.—A group*
18 *health plan, or health insurance issuer offering group*
19 *or individual health insurance coverage, described in*
20 *this paragraph is a group health plan or coverage*
21 *that—*

22 “(A) *provides coverage for obstetric or*
23 *gynecologic care; and*

1 “(B) requires the designation by a partici-
2 pant, beneficiary, or enrollee of a participating
3 primary care provider.

4 “(3) CONSTRUCTION.—Nothing in paragraph (1)
5 shall be construed to—

6 “(A) waive any exclusions of coverage under
7 the terms and conditions of the plan or health
8 insurance coverage with respect to coverage of ob-
9 stetrical or gynecological care; or

10 “(B) preclude the group health plan or
11 health insurance issuer involved from requiring
12 that the obstetrical or gynecological provider no-
13 tify the primary care health care professional or
14 the plan or issuer of treatment decisions.”.

15 (i) Section 2794 of the Public Health Service Act, as
16 added by section 1003 of this Act, is amended—

17 (1) in subsection (c)(1)—

18 (A) in subparagraph (A), by striking “and”
19 at the end;

20 (B) in subparagraph (B), by striking the
21 period and inserting “; and”; and

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

23 “(C) in establishing centers (consistent with
24 subsection (d)) at academic or other nonprofit
25 institutions to collect medical reimbursement in-

1 *formation from health insurance issuers, to ana-*
2 *lyze and organize such information, and to make*
3 *such information available to such issuers, health*
4 *care providers, health researchers, health care*
5 *policy makers, and the general public.”; and*
6 *(2) by adding at the end the following:*

7 “(d) *MEDICAL REIMBURSEMENT DATA CENTERS.—*

8 “(1) *FUNCTIONS.—A center established under*
9 *subsection (c)(1)(C) shall—*

10 “(A) *develop fee schedules and other data-*
11 *base tools that fairly and accurately reflect mar-*
12 *ket rates for medical services and the geographic*
13 *differences in those rates;*

14 “(B) *use the best available statistical meth-*
15 *ods and data processing technology to develop*
16 *such fee schedules and other database tools;*

17 “(C) *regularly update such fee schedules*
18 *and other database tools to reflect changes in*
19 *charges for medical services;*

20 “(D) *make health care cost information*
21 *readily available to the public through an Inter-*
22 *net website that allows consumers to understand*
23 *the amounts that health care providers in their*
24 *area charge for particular medical services; and*

1 “(E) regularly publish information con-
2 cerning the statistical methodologies used by the
3 center to analyze health charge data and make
4 such data available to researchers and policy
5 makers.

6 “(2) *CONFLICTS OF INTEREST.*—A center estab-
7 lished under subsection (c)(1)(C) shall adopt by-laws
8 that ensures that the center (and all members of the
9 governing board of the center) is independent and free
10 from all conflicts of interest. Such by-laws shall en-
11 sure that the center is not controlled or influenced by,
12 and does not have any corporate relation to, any in-
13 dividual or entity that may make or receive payments
14 for health care services based on the center’s analysis
15 of health care costs.

16 “(3) *RULE OF CONSTRUCTION.*—Nothing in this
17 subsection shall be construed to permit a center estab-
18 lished under subsection (c)(1)(C) to compel health in-
19 surance issuers to provide data to the center.”.

20 **SEC. 10102. AMENDMENTS TO SUBTITLE B.**

21 (a) Section 1102(a)(2)(B) of this Act is amended—

22 (1) in the matter preceding clause (i), by strik-
23 ing “group health benefits plan” and inserting
24 “group benefits plan providing health benefits”; and

1 (2) *in clause (i)(I), by inserting “or any agency*
2 *or instrumentality of any of the foregoing” before the*
3 *closed parenthetical.*

4 ***(b) Section 1103(a) of this Act is amended—***

5 (1) *in paragraph (1), by inserting “, or small*
6 *business in,” after “residents of any”; and*

7 (2) *by striking paragraph (2) and inserting the*
8 *following:*

9 ***“(2) CONNECTING TO AFFORDABLE COVERAGE.—***
10 *An Internet website established under paragraph (1)*
11 *shall, to the extent practicable, provide ways for resi-*
12 *dents of, and small businesses in, any State to receive*
13 *information on at least the following coverage options:*

14 ***“(A) Health insurance coverage offered by***
15 *health insurance issuers, other than coverage that*
16 *provides reimbursement only for the treatment or*
17 *mitigation of—*

18 ***“(i) a single disease or condition; or***

19 ***“(ii) an unreasonably limited set of***
20 *diseases or conditions (as determined by the*
21 *Secretary).*

22 ***“(B) Medicaid coverage under title XIX of***
23 *the Social Security Act.*

24 ***“(C) Coverage under title XXI of the Social***
25 *Security Act.*

1 “(D) A State health benefits high risk pool,
2 to the extent that such high risk pool is offered
3 in such State; and

4 “(E) Coverage under a high risk pool under
5 section 1101.

6 “(F) Coverage within the small group mar-
7 ket for small businesses and their employees, in-
8 cluding reinsurance for early retirees under sec-
9 tion 1102, tax credits available under section
10 45R of the Internal Revenue Code of 1986 (as
11 added by section 1421), and other information
12 specifically for small businesses regarding afford-
13 able health care options.”.

14 **SEC. 10103. AMENDMENTS TO SUBTITLE C.**

15 (a) Section 2701(a)(5) of the Public Health Service
16 Act, as added by section 1201(4) of this Act, is amended
17 by inserting “(other than self-insured group health plans
18 offered in such market)” after “such market”.

19 (b) Section 2708 of the Public Health Service Act, as
20 added by section 1201(4) of this Act, is amended by striking
21 “or individual”.

22 (c) Subpart I of part A of title XXVII of the Public
23 Health Service Act, as added by section 1201(4) of this Act,
24 is amended by inserting after section 2708, the following:

1 **“SEC. 2709. COVERAGE FOR INDIVIDUALS PARTICIPATING**
2 **IN APPROVED CLINICAL TRIALS.**

3 “(a) *COVERAGE.*—

4 “(1) *IN GENERAL.*—*If a group health plan or a*
5 *health insurance issuer offering group or individual*
6 *health insurance coverage provides coverage to a*
7 *qualified individual, then such plan or issuer—*

8 “(A) *may not deny the individual partici-*
9 *pation in the clinical trial referred to in sub-*
10 *section (b)(2);*

11 “(B) *subject to subsection (c), may not deny*
12 *(or limit or impose additional conditions on) the*
13 *coverage of routine patient costs for items and*
14 *services furnished in connection with participa-*
15 *tion in the trial; and*

16 “(C) *may not discriminate against the in-*
17 *dividual on the basis of the individual’s partici-*
18 *pation in such trial.*

19 “(2) *ROUTINE PATIENT COSTS.*—

20 “(A) *INCLUSION.*—*For purposes of para-*
21 *graph (1)(B), subject to subparagraph (B), rou-*
22 *tine patient costs include all items and services*
23 *consistent with the coverage provided in the plan*
24 *(or coverage) that is typically covered for a*
25 *qualified individual who is not enrolled in a*
26 *clinical trial.*

1 “(B) *EXCLUSION.*—*For purposes of para-*
2 *graph (1)(B), routine patient costs does not in-*
3 *clude—*

4 “(i) *the investigational item, device, or*
5 *service, itself;*

6 “(ii) *items and services that are pro-*
7 *vided solely to satisfy data collection and*
8 *analysis needs and that are not used in the*
9 *direct clinical management of the patient;*
10 *or*

11 “(iii) *a service that is clearly incon-*
12 *sistent with widely accepted and established*
13 *standards of care for a particular diagnosis.*

14 “(3) *USE OF IN-NETWORK PROVIDERS.*—*If one or*
15 *more participating providers is participating in a*
16 *clinical trial, nothing in paragraph (1) shall be con-*
17 *strued as preventing a plan or issuer from requiring*
18 *that a qualified individual participate in the trial*
19 *through such a participating provider if the provider*
20 *will accept the individual as a participant in the*
21 *trial.*

22 “(4) *USE OF OUT-OF-NETWORK.*—*Notwith-*
23 *standing paragraph (3), paragraph (1) shall apply to*
24 *a qualified individual participating in an approved*

1 *clinical trial that is conducted outside the State in*
2 *which the qualified individual resides.*

3 “(b) *QUALIFIED INDIVIDUAL DEFINED.*—*For purposes*
4 *of subsection (a), the term ‘qualified individual’ means an*
5 *individual who is a participant or beneficiary in a health*
6 *plan or with coverage described in subsection (a)(1) and*
7 *who meets the following conditions:*

8 “(1) *The individual is eligible to participate in*
9 *an approved clinical trial according to the trial pro-*
10 *tocol with respect to treatment of cancer or other life-*
11 *threatening disease or condition.*

12 “(2) *Either—*

13 “(A) *the referring health care professional is*
14 *a participating health care provider and has*
15 *concluded that the individual’s participation in*
16 *such trial would be appropriate based upon the*
17 *individual meeting the conditions described in*
18 *paragraph (1); or*

19 “(B) *the participant or beneficiary provides*
20 *medical and scientific information establishing*
21 *that the individual’s participation in such trial*
22 *would be appropriate based upon the individual*
23 *meeting the conditions described in paragraph*
24 *(1).*

1 “(c) *LIMITATIONS ON COVERAGE.*—*This section shall*
2 *not be construed to require a group health plan, or a health*
3 *insurance issuer offering group or individual health insur-*
4 *ance coverage, to provide benefits for routine patient care*
5 *services provided outside of the plan’s (or coverage’s) health*
6 *care provider network unless out-of-network benefits are*
7 *otherwise provided under the plan (or coverage).*

8 “(d) *APPROVED CLINICAL TRIAL DEFINED.*—

9 “(1) *IN GENERAL.*—*In this section, the term ‘ap-*
10 *proved clinical trial’ means a phase I, phase II, phase*
11 *III, or phase IV clinical trial that is conducted in re-*
12 *lation to the prevention, detection, or treatment of*
13 *cancer or other life-threatening disease or condition*
14 *and is described in any of the following subpara-*
15 *graphs:*

16 “(A) *FEDERALLY FUNDED TRIALS.*—*The*
17 *study or investigation is approved or funded*
18 *(which may include funding through in-kind*
19 *contributions) by one or more of the following:*

20 “(i) *The National Institutes of Health.*

21 “(ii) *The Centers for Disease Control*
22 *and Prevention.*

23 “(iii) *The Agency for Health Care Re-*
24 *search and Quality.*

1 “(iv) *The Centers for Medicare & Med-*
2 *icaid Services.*

3 “(v) *cooperative group or center of any*
4 *of the entities described in clauses (i)*
5 *through (iv) or the Department of Defense*
6 *or the Department of Veterans Affairs.*

7 “(vi) *A qualified non-governmental re-*
8 *search entity identified in the guidelines*
9 *issued by the National Institutes of Health*
10 *for center support grants.*

11 “(vii) *Any of the following if the condi-*
12 *tions described in paragraph (2) are met:*

13 “(I) *The Department of Veterans*
14 *Affairs.*

15 “(II) *The Department of Defense.*

16 “(III) *The Department of Energy.*

17 “(B) *The study or investigation is con-*
18 *ducted under an investigational new drug appli-*
19 *cation reviewed by the Food and Drug Adminis-*
20 *tration.*

21 “(C) *The study or investigation is a drug*
22 *trial that is exempt from having such an inves-*
23 *tigational new drug application.*

24 “(2) *CONDITIONS FOR DEPARTMENTS.—The con-*
25 *ditions described in this paragraph, for a study or in-*

1 *vestigation conducted by a Department, are that the*
2 *study or investigation has been reviewed and ap-*
3 *proved through a system of peer review that the Sec-*
4 *retary determines—*

5 *“(A) to be comparable to the system of peer*
6 *review of studies and investigations used by the*
7 *National Institutes of Health, and*

8 *“(B) assures unbiased review of the highest*
9 *scientific standards by qualified individuals who*
10 *have no interest in the outcome of the review.*

11 *“(e) LIFE-THREATENING CONDITION DEFINED.—In*
12 *this section, the term ‘life-threatening condition’ means any*
13 *disease or condition from which the likelihood of death is*
14 *probable unless the course of the disease or condition is in-*
15 *terrupted.*

16 *“(f) CONSTRUCTION.—Nothing in this section shall be*
17 *construed to limit a plan’s or issuer’s coverage with respect*
18 *to clinical trials.*

19 *“(g) APPLICATION TO FEHBP.—Notwithstanding any*
20 *provision of chapter 89 of title 5, United States Code, this*
21 *section shall apply to health plans offered under the pro-*
22 *gram under such chapter.*

23 *“(h) PREEMPTION.—Notwithstanding any other provi-*
24 *sion of this Act, nothing in this section shall preempt State*
25 *laws that require a clinical trials policy for State regulated*

1 *health insurance plans that is in addition to the policy re-*
2 *quired under this section.”.*

3 *(d) Section 1251(a) of this Act is amended—*

4 *(1) in paragraph (2), by striking “With” and*
5 *inserting “Except as provided in paragraph (3),*
6 *with”; and*

7 *(2) by adding at the end the following:*

8 *“(3) APPLICATION OF CERTAIN PROVISIONS.—*

9 *The provisions of sections 2715 and 2718 of the Pub-*
10 *lic Health Service Act (as added by subtitle A) shall*
11 *apply to grandfathered health plans for plan years*
12 *beginning on or after the date of enactment of this*
13 *Act.”.*

14 *(e) Section 1253 of this Act is amended insert before*
15 *the period the following: “, except that—*

16 *“(1) section 1251 shall take effect on the date of*
17 *enactment of this Act; and*

18 *“(2) the provisions of section 2704 of the Public*
19 *Health Service Act (as amended by section 1201), as*
20 *they apply to enrollees who are under 19 years of age,*
21 *shall become effective for plan years beginning on or*
22 *after the date that is 6 months after the date of enact-*
23 *ment of this Act.”.*

24 *(f) Subtitle C of title I of this Act is amended—*

1 (1) by redesignating section 1253 as section
2 1255; and

3 (2) by inserting after section 1252, the following:

4 **“SEC. 1253. ANNUAL REPORT ON SELF-INSURED PLANS.**

5 “Not later than 1 year after the date of enactment of
6 this Act, and annually thereafter, the Secretary of Labor
7 shall prepare an aggregate annual report, using data col-
8 lected from the Annual Return/Report of Employee Benefit
9 Plan (Department of Labor Form 5500), that shall include
10 general information on self-insured group health plans (in-
11 cluding plan type, number of participants, benefits offered,
12 funding arrangements, and benefit arrangements) as well
13 as data from the financial filings of self-insured employers
14 (including information on assets, liabilities, contributions,
15 investments, and expenses). The Secretary shall submit such
16 reports to the appropriate committees of Congress.

17 **“SEC. 1254. STUDY OF LARGE GROUP MARKET.**

18 “(a) *IN GENERAL.*—The Secretary of Health and
19 Human Services shall conduct a study of the fully-insured
20 and self-insured group health plan markets to—

21 “(1) compare the characteristics of employers
22 (including industry, size, and other characteristics as
23 determined appropriate by the Secretary), health plan
24 benefits, financial solvency, capital reserve levels, and
25 the risks of becoming insolvent; and

1 “(2) *determine the extent to which new insur-*
2 *ance market reforms are likely to cause adverse selec-*
3 *tion in the large group market or to encourage small*
4 *and midsize employers to self-insure.*

5 “(b) *COLLECTION OF INFORMATION.*—*In conducting*
6 *the study under subsection (a), the Secretary, in coordina-*
7 *tion with the Secretary of Labor, shall collect information*
8 *and analyze—*

9 “(1) *the extent to which self-insured group health*
10 *plans can offer less costly coverage and, if so, whether*
11 *lower costs are due to more efficient plan administra-*
12 *tion and lower overhead or to the denial of claims*
13 *and the offering very limited benefit packages;*

14 “(2) *claim denial rates, plan benefit fluctuations*
15 *(to evaluate the extent that plans scale back health*
16 *benefits during economic downturns), and the impact*
17 *of the limited recourse options on consumers; and*

18 “(3) *any potential conflict of interest as it re-*
19 *lates to the health care needs of self-insured enrollees*
20 *and self-insured employer’s financial contribution or*
21 *profit margin, and the impact of such conflict on ad-*
22 *ministration of the health plan.*

23 “(c) *REPORT.*—*Not later than 1 year after the date*
24 *of enactment of this Act, the Secretary shall submit to the*

1 *appropriate committees of Congress a report concerning the*
2 *results of the study conducted under subsection (a).”.*

3 **SEC. 10104. AMENDMENTS TO SUBTITLE D.**

4 *(a) Section 1301(a) of this Act is amended by striking*
5 *paragraph (2) and inserting the following:*

6 *“(2) INCLUSION OF CO-OP PLANS AND MULTI-*
7 *STATE QUALIFIED HEALTH PLANS.—Any reference in*
8 *this title to a qualified health plan shall be deemed*
9 *to include a qualified health plan offered through the*
10 *CO-OP program under section 1322, and a multi-*
11 *State plan under section 1334, unless specifically pro-*
12 *vided for otherwise.*

13 *“(3) TREATMENT OF QUALIFIED DIRECT PRI-*
14 *MARY CARE MEDICAL HOME PLANS.—The Secretary of*
15 *Health and Human Services shall permit a qualified*
16 *health plan to provide coverage through a qualified*
17 *direct primary care medical home plan that meets*
18 *criteria established by the Secretary, so long as the*
19 *qualified health plan meets all requirements that are*
20 *otherwise applicable and the services covered by the*
21 *medical home plan are coordinated with the entity of-*
22 *fering the qualified health plan.*

23 *“(4) VARIATION BASED ON RATING AREA.—A*
24 *qualified health plan, including a multi-State quali-*
25 *fied health plan, may as appropriate vary premiums*

1 *by rating area (as defined in section 2701(a)(2) of the*
2 *Public Health Service Act).”.*

3 *(b) Section 1302 of this Act is amended—*

4 *(1) in subsection (d)(2)(B), by striking “may*
5 *issue” and inserting “shall issue”; and*

6 *(2) by adding at the end the following:*

7 *“(g) PAYMENTS TO FEDERALLY-QUALIFIED HEALTH*
8 *CENTERS.—If any item or service covered by a qualified*
9 *health plan is provided by a Federally-qualified health cen-*
10 *ter (as defined in section 1905(l)(2)(B) of the Social Secu-*
11 *rity Act (42 U.S.C. 1396d(l)(2)(B)) to an enrollee of the*
12 *plan, the offeror of the plan shall pay to the center for the*
13 *item or service an amount that is not less than the amount*
14 *of payment that would have been paid to the center under*
15 *section 1902(bb) of such Act (42 U.S.C. 1396a(bb)) for such*
16 *item or service.”.*

17 *(c) Section 1303 of this Act is amended to read as fol-*
18 *lows:*

19 **“SEC. 1303. SPECIAL RULES.**

20 *“(a) STATE OPT-OUT OF ABORTION COVERAGE.—*

21 *“(1) IN GENERAL.—A State may elect to pro-*
22 *hibit abortion coverage in qualified health plans of-*
23 *fered through an Exchange in such State if such State*
24 *enacts a law to provide for such prohibition.*

1 “(2) *TERMINATION OF OPT OUT.*—A State may
2 *repeal a law described in paragraph (1) and provide*
3 *for the offering of such services through the Exchange.*

4 “(b) *SPECIAL RULES RELATING TO COVERAGE OF*
5 *ABORTION SERVICES.*—

6 “(1) *VOLUNTARY CHOICE OF COVERAGE OF*
7 *ABORTION SERVICES.*—

8 “(A) *IN GENERAL.*—Notwithstanding any
9 *other provision of this title (or any amendment*
10 *made by this title)*—

11 “(i) *nothing in this title (or any*
12 *amendment made by this title), shall be*
13 *construed to require a qualified health plan*
14 *to provide coverage of services described in*
15 *subparagraph (B)(i) or (B)(ii) as part of*
16 *its essential health benefits for any plan*
17 *year; and*

18 “(ii) *subject to subsection (a), the*
19 *issuer of a qualified health plan shall deter-*
20 *mine whether or not the plan provides cov-*
21 *erage of services described in subparagraph*
22 *(B)(i) or (B)(ii) as part of such benefits for*
23 *the plan year.*

24 “(B) *ABORTION SERVICES.*—

1 “(i) *ABORTIONS FOR WHICH PUBLIC*
2 *FUNDING IS PROHIBITED.*—*The services de-*
3 *scribed in this clause are abortions for*
4 *which the expenditure of Federal funds ap-*
5 *propriated for the Department of Health*
6 *and Human Services is not permitted,*
7 *based on the law as in effect as of the date*
8 *that is 6 months before the beginning of the*
9 *plan year involved.*

10 “(ii) *ABORTIONS FOR WHICH PUBLIC*
11 *FUNDING IS ALLOWED.*—*The services de-*
12 *scribed in this clause are abortions for*
13 *which the expenditure of Federal funds ap-*
14 *propriated for the Department of Health*
15 *and Human Services is permitted, based on*
16 *the law as in effect as of the date that is 6*
17 *months before the beginning of the plan*
18 *year involved.*

19 “(2) *PROHIBITION ON THE USE OF FEDERAL*
20 *FUNDS.*—

21 “(A) *IN GENERAL.*—*If a qualified health*
22 *plan provides coverage of services described in*
23 *paragraph (1)(B)(i), the issuer of the plan shall*
24 *not use any amount attributable to any of the*

1 following for purposes of paying for such serv-
2 ices:

3 “(i) *The credit under section 36B of*
4 *the Internal Revenue Code of 1986 (and the*
5 *amount (if any) of the advance payment of*
6 *the credit under section 1412 of the Patient*
7 *Protection and Affordable Care Act).*

8 “(ii) *Any cost-sharing reduction under*
9 *section 1402 of the Patient Protection and*
10 *Affordable Care Act (and the amount (if*
11 *any) of the advance payment of the reduc-*
12 *tion under section 1412 of the Patient Pro-*
13 *tection and Affordable Care Act).*

14 “(B) *ESTABLISHMENT OF ALLOCATION AC-*
15 *COUNTS.—In the case of a plan to which sub-*
16 *paragraph (A) applies, the issuer of the plan*
17 *shall—*

18 “(i) *collect from each enrollee in the*
19 *plan (without regard to the enrollee’s age,*
20 *sex, or family status) a separate payment*
21 *for each of the following:*

22 “(I) *an amount equal to the por-*
23 *tion of the premium to be paid directly*
24 *by the enrollee for coverage under the*
25 *plan of services other than services de-*

1 scribed in paragraph (1)(B)(i) (after
2 reduction for credits and cost-sharing
3 reductions described in subparagraph
4 (A)); and

5 “(II) an amount equal to the ac-
6 tuarial value of the coverage of services
7 described in paragraph (1)(B)(i), and

8 “(ii) shall deposit all such separate
9 payments into separate allocation accounts
10 as provided in subparagraph (C).

11 *In the case of an enrollee whose premium for*
12 *coverage under the plan is paid through em-*
13 *ployee payroll deposit, the separate payments re-*
14 *quired under this subparagraph shall each be*
15 *paid by a separate deposit.*

16 “(C) *SEGREGATION OF FUNDS.—*

17 “(i) *IN GENERAL.—The issuer of a*
18 *plan to which subparagraph (A) applies*
19 *shall establish allocation accounts described*
20 *in clause (ii) for enrollees receiving*
21 *amounts described in subparagraph (A).*

22 “(ii) *ALLOCATION ACCOUNTS.—The*
23 *issuer of a plan to which subparagraph (A)*
24 *applies shall deposit—*

1 “(I) all payments described in
2 subparagraph (B)(i)(I) into a separate
3 account that consists solely of such
4 payments and that is used exclusively
5 to pay for services other than services
6 described in paragraph (1)(B)(i); and

7 “(II) all payments described in
8 subparagraph (B)(i)(II) into a sepa-
9 rate account that consists solely of such
10 payments and that is used exclusively
11 to pay for services described in para-
12 graph (1)(B)(i).

13 “(D) ACTUARIAL VALUE.—

14 “(i) IN GENERAL.—The issuer of a
15 qualified health plan shall estimate the
16 basic per enrollee, per month cost, deter-
17 mined on an average actuarial basis, for in-
18 cluding coverage under the qualified health
19 plan of the services described in paragraph
20 (1)(B)(i).

21 “(ii) CONSIDERATIONS.—In making
22 such estimate, the issuer—

23 “(I) may take into account the
24 impact on overall costs of the inclusion
25 of such coverage, but may not take into

1 *account any cost reduction estimated*
2 *to result from such services, including*
3 *prenatal care, delivery, or postnatal*
4 *care;*

5 “(II) shall estimate such costs as
6 if such coverage were included for the
7 entire population covered; and

8 “(III) may not estimate such a
9 cost at less than \$1 per enrollee, per
10 month.

11 “(E) *ENSURING COMPLIANCE WITH SEG-*
12 *REGATION REQUIREMENTS.—*

13 “(i) *IN GENERAL.—Subject to clause*
14 *(ii), State health insurance commissioners*
15 *shall ensure that health plans comply with*
16 *the segregation requirements in this sub-*
17 *section through the segregation of plan*
18 *funds in accordance with applicable provi-*
19 *sions of generally accepted accounting re-*
20 *quirements, circulars on funds management*
21 *of the Office of Management and Budget,*
22 *and guidance on accounting of the Govern-*
23 *ment Accountability Office.*

24 “(ii) *CLARIFICATION.—Nothing in*
25 *clause (i) shall prohibit the right of an indi-*

1 *vidual or health plan to appeal such action*
2 *in courts of competent jurisdiction.*

3 “(3) *RULES RELATING TO NOTICE.—*

4 “(A) *NOTICE.—A qualified health plan that*
5 *provides for coverage of the services described in*
6 *paragraph (1)(B)(i) shall provide a notice to en-*
7 *rollees, only as part of the summary of benefits*
8 *and coverage explanation, at the time of enroll-*
9 *ment, of such coverage.*

10 “(B) *RULES RELATING TO PAYMENTS.—The*
11 *notice described in subparagraph (A), any adver-*
12 *tising used by the issuer with respect to the plan,*
13 *any information provided by the Exchange, and*
14 *any other information specified by the Secretary*
15 *shall provide information only with respect to*
16 *the total amount of the combined payments for*
17 *services described in paragraph (1)(B)(i) and*
18 *other services covered by the plan.*

19 “(4) *NO DISCRIMINATION ON BASIS OF PROVI-*
20 *SION OF ABORTION.—No qualified health plan offered*
21 *through an Exchange may discriminate against any*
22 *individual health care provider or health care facility*
23 *because of its unwillingness to provide, pay for, pro-*
24 *vide coverage of, or refer for abortions*

1 “(c) *APPLICATION OF STATE AND FEDERAL LAWS RE-*
2 *GARDING ABORTION.—*

3 “(1) *NO PREEMPTION OF STATE LAWS REGARD-*
4 *ING ABORTION.—Nothing in this Act shall be con-*
5 *strued to preempt or otherwise have any effect on*
6 *State laws regarding the prohibition of (or require-*
7 *ment of) coverage, funding, or procedural require-*
8 *ments on abortions, including parental notification or*
9 *consent for the performance of an abortion on a*
10 *minor.*

11 “(2) *NO EFFECT ON FEDERAL LAWS REGARDING*
12 *ABORTION.—*

13 “(A) *IN GENERAL.—Nothing in this Act*
14 *shall be construed to have any effect on Federal*
15 *laws regarding—*

16 “(i) *conscience protection;*

17 “(ii) *willingness or refusal to provide*
18 *abortion; and*

19 “(iii) *discrimination on the basis of*
20 *the willingness or refusal to provide, pay*
21 *for, cover, or refer for abortion or to provide*
22 *or participate in training to provide abor-*
23 *tion.*

24 “(3) *NO EFFECT ON FEDERAL CIVIL RIGHTS*
25 *LAW.—Nothing in this subsection shall alter the rights*

1 *and obligations of employees and employers under*
2 *title VII of the Civil Rights Act of 1964.*

3 “(d) *APPLICATION OF EMERGENCY SERVICES LAWS.—*
4 *Nothing in this Act shall be construed to relieve any health*
5 *care provider from providing emergency services as required*
6 *by State or Federal law, including section 1867 of the So-*
7 *cial Security Act (popularly known as ‘EMTALA’).”.*

8 (d) *Section 1304 of this Act is amended by adding at*
9 *the end the following:*

10 “(e) *EDUCATED HEALTH CARE CONSUMERS.—The*
11 *term ‘educated health care consumer’ means an individual*
12 *who is knowledgeable about the health care system, and has*
13 *background or experience in making informed decisions re-*
14 *garding health, medical, and scientific matters.”.*

15 (e) *Section 1311(d) of this Act is amended—*

16 (1) *in paragraph (3)(B), by striking clause (ii)*
17 *and inserting the following:*

18 “(ii) *STATE MUST ASSUME COST.—A*

19 *State shall make payments—*

20 “(I) *to an individual enrolled in*
21 *a qualified health plan offered in such*
22 *State; or*

23 “(II) *on behalf of an individual*
24 *described in subclause (I) directly to*

1 *the qualified health plan in which such*
2 *individual is enrolled;*
3 *to defray the cost of any additional benefits*
4 *described in clause (i).”; and*
5 *(2) in paragraph (6)(A), by inserting “educated”*
6 *before “health care”.*

7 *(f) Section 1311(e) of this Act is amended—*

8 *(1) in paragraph (2), by striking “may” in the*
9 *second sentence and inserting “shall”; and*

10 *(2) by adding at the end the following:*

11 *“(3) TRANSPARENCY IN COVERAGE.—*

12 *“(A) IN GENERAL.—The Exchange shall re-*
13 *quire health plans seeking certification as quali-*
14 *fied health plans to submit to the Exchange, the*
15 *Secretary, the State insurance commissioner,*
16 *and make available to the public, accurate and*
17 *timely disclosure of the following information:*

18 *“(i) Claims payment policies and*
19 *practices.*

20 *“(ii) Periodic financial disclosures.*

21 *“(iii) Data on enrollment.*

22 *“(iv) Data on disenrollment.*

23 *“(v) Data on the number of claims*
24 *that are denied.*

25 *“(vi) Data on rating practices.*

1 “(vii) *Information on cost-sharing and*
2 *payments with respect to any out-of-net-*
3 *work coverage.*

4 “(viii) *Information on enrollee and*
5 *participant rights under this title.*

6 “(ix) *Other information as determined*
7 *appropriate by the Secretary.*

8 “(B) *USE OF PLAIN LANGUAGE.—The infor-*
9 *mation required to be submitted under subpara-*
10 *graph (A) shall be provided in plain language.*
11 *The term ‘plain language’ means language that*
12 *the intended audience, including individuals*
13 *with limited English proficiency, can readily*
14 *understand and use because that language is*
15 *concise, well-organized, and follows other best*
16 *practices of plain language writing. The Sec-*
17 *retary and the Secretary of Labor shall jointly*
18 *develop and issue guidance on best practices of*
19 *plain language writing.*

20 “(C) *COST SHARING TRANSPARENCY.—The*
21 *Exchange shall require health plans seeking cer-*
22 *tification as qualified health plans to permit in-*
23 *dividuals to learn the amount of cost-sharing*
24 *(including deductibles, copayments, and coinsur-*
25 *ance) under the individual’s plan or coverage*

1 *that the individual would be responsible for pay-*
2 *ing with respect to the furnishing of a specific*
3 *item or service by a participating provider in a*
4 *timely manner upon the request of the indi-*
5 *vidual. At a minimum, such information shall*
6 *be made available to such individual through an*
7 *Internet website and such other means for indi-*
8 *viduals without access to the Internet.*

9 “(D) *GROUP HEALTH PLANS.*—*The Sec-*
10 *retary of Labor shall update and harmonize the*
11 *Secretary’s rules concerning the accurate and*
12 *timely disclosure to participants by group health*
13 *plans of plan disclosure, plan terms and condi-*
14 *tions, and periodic financial disclosure with the*
15 *standards established by the Secretary under*
16 *subparagraph (A).”.*

17 *(g) Section 1311(g)(1) of this Act is amended—*

18 *(1) in subparagraph (C), by striking “; and”*
19 *and inserting a semicolon;*

20 *(2) in subparagraph (D), by striking the period*
21 *and inserting “; and”; and*

22 *(3) by adding at the end the following:*

23 *“(E) the implementation of activities to re-*
24 *duce health and health care disparities, includ-*
25 *ing through the use of language services, commu-*

1 nity outreach, and cultural competency
2 trainings.”.

3 (h) Section 1311(i)(2)(B) of this Act is amended by
4 striking “small business development centers” and inserting
5 “resource partners of the Small Business Administration”.

6 (i) Section 1312 of this Act is amended—

7 (1) in subsection (a)(1), by inserting “and for
8 which such individual is eligible” before the period;

9 (2) in subsection (e)—

10 (A) in paragraph (1), by inserting “and
11 employers” after “enroll individuals”; and

12 (B) by striking the flush sentence at the end;

13 and

14 (3) in subsection (f)(1)(A)(ii), by striking the
15 parenthetical.

16 (j)(1) Subparagraph (B) of section 1313(a)(6) of this
17 Act is hereby deemed null, void, and of no effect.

18 (2) Section 3730(e) of title 31, United States Code, is
19 amended by striking paragraph (4) and inserting the fol-
20 lowing:

21 “(4)(A) The court shall dismiss an action or
22 claim under this section, unless opposed by the Gov-
23 ernment, if substantially the same allegations or
24 transactions as alleged in the action or claim were
25 publicly disclosed—

1 “(i) in a Federal criminal, civil, or admin-
2 istrative hearing in which the Government or its
3 agent is a party;

4 “(ii) in a congressional, Government Ac-
5 countability Office, or other Federal report, hear-
6 ing, audit, or investigation; or

7 “(iii) from the news media,
8 unless the action is brought by the Attorney General
9 or the person bringing the action is an original
10 source of the information.

11 “(B) For purposes of this paragraph, “original
12 source” means an individual who either (i) prior to
13 a public disclosure under subsection (e)(4)(a), has vol-
14 untarily disclosed to the Government the information
15 on which allegations or transactions in a claim are
16 based, or (2) who has knowledge that is independent
17 of and materially adds to the publicly disclosed alle-
18 gations or transactions, and who has voluntarily pro-
19 vided the information to the Government before filing
20 an action under this section.”.

21 (k) Section 1313(b) of this Act is amended—

22 (1) in paragraph (3), by striking “and” at the
23 end;

24 (2) by redesignating paragraph (4) as para-
25 graph (5); and

1 (3) by inserting after paragraph (3) the fol-
2 lowing:

3 “(4) a survey of the cost and affordability of
4 health care insurance provided under the Exchanges
5 for owners and employees of small business concerns
6 (as defined under section 3 of the Small Business Act
7 (15 U.S.C. 632)), including data on enrollees in Ex-
8 changes and individuals purchasing health insurance
9 coverage outside of Exchanges; and”.

10 (l) Section 1322(b) of this Act is amended—

11 (1) by redesignating paragraph (3) as para-
12 graph (4); and

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

15 “(3) *REPAYMENT OF LOANS AND GRANTS.*—Not
16 later than July 1, 2013, and prior to awarding loans
17 and grants under the CO-OP program, the Secretary
18 shall promulgate regulations with respect to the re-
19 payment of such loans and grants in a manner that
20 is consistent with State solvency regulations and
21 other similar State laws that may apply. In promul-
22 gating such regulations, the Secretary shall provide
23 that such loans shall be repaid within 5 years and
24 such grants shall be repaid within 15 years, taking
25 into consideration any appropriate State reserve re-

1 *quirements, solvency regulations, and requisite sur-*
2 *plus note arrangements that must be constructed in a*
3 *State to provide for such repayment prior to award-*
4 *ing such loans and grants.”.*

5 *(m) Part III of subtitle D of title I of this Act is*
6 *amended by striking section 1323.*

7 *(n) Section 1324(a) of this Act is amended by striking*
8 *“, a community health” and all that follows through*
9 *“1333(b)” and inserting “, or a multi-State qualified health*
10 *plan under section 1334”.*

11 *(o) Section 1331 of this Act is amended—*

12 *(1) in subsection (d)(3)(A)(i), by striking “85”*
13 *and inserting “95”; and*

14 *(2) in subsection (e)(1)(B), by inserting before*
15 *the semicolon the following: “, or, in the case of an*
16 *alien lawfully present in the United States, whose in-*
17 *come is not greater than 133 percent of the poverty*
18 *line for the size of the family involved but who is not*
19 *eligible for the Medicaid program under title XIX of*
20 *the Social Security Act by reason of such alien sta-*
21 *tus”.*

22 *(p) Section 1333 of this Act is amended by striking*
23 *subsection (b).*

24 *(q) Part IV of subtitle D of title I of this Act is amend-*
25 *ed by adding at the end the following:*

1 **“SEC. 1334. MULTI-STATE PLANS.**

2 “(a) *OVERSIGHT BY THE OFFICE OF PERSONNEL MAN-*
3 *AGEMENT.*—

4 “(1) *IN GENERAL.*—*The Director of the Office of*
5 *Personnel Management (referred to in this section as*
6 *the ‘Director’) shall enter into contracts with health*
7 *insurance issuers (which may include a group of*
8 *health insurance issuers affiliated either by common*
9 *ownership and control or by the common use of a na-*
10 *tionally licensed service mark), without regard to sec-*
11 *tion 5 of title 41, United States Code, or other stat-*
12 *utes requiring competitive bidding, to offer at least 2*
13 *multi-State qualified health plans through each Ex-*
14 *change in each State. Such plans shall provide indi-*
15 *vidual, or in the case of small employers, group cov-*
16 *erage.*

17 “(2) *TERMS.*—*Each contract entered into under*
18 *paragraph (1) shall be for a uniform term of at least*
19 *1 year, but may be made automatically renewable*
20 *from term to term in the absence of notice of termi-*
21 *nation by either party. In entering into such con-*
22 *tracts, the Director shall ensure that health benefits*
23 *coverage is provided in accordance with the types of*
24 *coverage provided for under section 2701(a)(1)(A)(i)*
25 *of the Public Health Service Act.*

1 “(3) *NON-PROFIT ENTITIES.*—*In entering into*
2 *contracts under paragraph (1), the Director shall en-*
3 *sure that at least one contract is entered into with a*
4 *non-profit entity.*

5 “(4) *ADMINISTRATION.*—*The Director shall im-*
6 *plement this subsection in a manner similar to the*
7 *manner in which the Director implements the con-*
8 *tracting provisions with respect to carriers under the*
9 *Federal employees health benefit program under chap-*
10 *ter 89 of title 5, United States Code, including*
11 *(through negotiating with each multi-state plan)—*

12 “(A) *a medical loss ratio;*

13 “(B) *a profit margin;*

14 “(C) *the premiums to be charged; and*

15 “(D) *such other terms and conditions of*
16 *coverage as are in the interests of enrollees in*
17 *such plans.*

18 “(5) *AUTHORITY TO PROTECT CONSUMERS.*—*The*
19 *Director may prohibit the offering of any multi-State*
20 *health plan that does not meet the terms and condi-*
21 *tions defined by the Director with respect to the ele-*
22 *ments described in subparagraphs (A) through (D) of*
23 *paragraph (4).*

24 “(6) *ASSURED AVAILABILITY OF VARIED COV-*
25 *ERAGE.*—*In entering into contracts under this sub-*

1 *section, the Director shall ensure that with respect to*
2 *multi-State qualified health plans offered in an Ex-*
3 *change, there is at least one such plan that does not*
4 *provide coverage of services described in section*
5 *1303(b)(1)(B)(i).*

6 *“(7) WITHDRAWAL.—Approval of a contract*
7 *under this subsection may be withdrawn by the Direc-*
8 *tor only after notice and opportunity for hearing to*
9 *the issuer concerned without regard to subchapter II*
10 *of chapter 5 and chapter 7 of title 5, United States*
11 *Code.*

12 *“(b) ELIGIBILITY.—A health insurance issuer shall be*
13 *eligible to enter into a contract under subsection (a)(1) if*
14 *such issuer—*

15 *“(1) agrees to offer a multi-State qualified health*
16 *plan that meets the requirements of subsection (c) in*
17 *each Exchange in each State;*

18 *“(2) is licensed in each State and is subject to*
19 *all requirements of State law not inconsistent with*
20 *this section, including the standards and require-*
21 *ments that a State imposes that do not prevent the*
22 *application of a requirement of part A of title XXVII*
23 *of the Public Health Service Act or a requirement of*
24 *this title;*

1 “(3) *otherwise complies with the minimum*
2 *standards prescribed for carriers offering health bene-*
3 *fits plans under section 8902(e) of title 5, United*
4 *States Code, to the extent that such standards do not*
5 *conflict with a provision of this title; and*

6 “(4) *meets such other requirements as determined*
7 *appropriate by the Director, in consultation with the*
8 *Secretary.*

9 “(c) *REQUIREMENTS FOR MULTI-STATE QUALIFIED*
10 *HEALTH PLAN.—*

11 “(1) *IN GENERAL.—A multi-State qualified*
12 *health plan meets the requirements of this subsection*
13 *if, in the determination of the Director—*

14 “(A) *the plan offers a benefits package that*
15 *is uniform in each State and consists of the es-*
16 *sential benefits described in section 1302;*

17 “(B) *the plan meets all requirements of this*
18 *title with respect to a qualified health plan, in-*
19 *cluding requirements relating to the offering of*
20 *the bronze, silver, and gold levels of coverage and*
21 *catastrophic coverage in each State Exchange;*

22 “(C) *except as provided in paragraph (5),*
23 *the issuer provides for determinations of pre-*
24 *miums for coverage under the plan on the basis*

1 *of the rating requirements of part A of title*
2 *XXVII of the Public Health Service Act; and*

3 *“(D) the issuer offers the plan in all geo-*
4 *graphic regions, and in all States that have*
5 *adopted adjusted community rating before the*
6 *date of enactment of this Act.*

7 *“(2) STATES MAY OFFER ADDITIONAL BENE-*
8 *FITS.—Nothing in paragraph (1)(A) shall preclude a*
9 *State from requiring that benefits in addition to the*
10 *essential health benefits required under such para-*
11 *graph be provided to enrollees of a multi-State quali-*
12 *fied health plan offered in such State.*

13 *“(3) CREDITS.—*

14 *“(A) IN GENERAL.—An individual enrolled*
15 *in a multi-State qualified health plan under this*
16 *section shall be eligible for credits under section*
17 *36B of the Internal Revenue Code of 1986 and*
18 *cost sharing assistance under section 1402 in the*
19 *same manner as an individual who is enrolled*
20 *in a qualified health plan.*

21 *“(B) NO ADDITIONAL FEDERAL COST.—A*
22 *requirement by a State under paragraph (2)*
23 *that benefits in addition to the essential health*
24 *benefits required under paragraph (1)(A) be pro-*
25 *vided to enrollees of a multi-State qualified*

1 *health plan shall not affect the amount of a pre-*
2 *mium tax credit provided under section 36B of*
3 *the Internal Revenue Code of 1986 with respect*
4 *to such plan.*

5 “(4) *STATE MUST ASSUME COST.*—*A State shall*
6 *make payments—*

7 “(A) *to an individual enrolled in a multi-*
8 *State qualified health plan offered in such State;*
9 *or*

10 “(B) *on behalf of an individual described in*
11 *subparagraph (A) directly to the multi-State*
12 *qualified health plan in which such individual is*
13 *enrolled;*

14 *to defray the cost of any additional benefits described*
15 *in paragraph (2).*

16 “(5) *APPLICATION OF CERTAIN STATE RATING*
17 *REQUIREMENTS.*—*With respect to a multi-State*
18 *qualified health plan that is offered in a State with*
19 *age rating requirements that are lower than 3:1, the*
20 *State may require that Exchanges operating in such*
21 *State only permit the offering of such multi-State*
22 *qualified health plans if such plans comply with the*
23 *State’s more protective age rating requirements.*

24 “(d) *PLANS DEEMED TO BE CERTIFIED.*—*A multi-*
25 *State qualified health plan that is offered under a contract*

1 *under subsection (a) shall be deemed to be certified by an*
2 *Exchange for purposes of section 1311(d)(4)(A).*

3 “(e) *PHASE-IN.*—*Notwithstanding paragraphs (1) and*
4 *(2) of subsection (b), the Director shall enter into a contract*
5 *with a health insurance issuer for the offering of a multi-*
6 *State qualified health plan under subsection (a) if—*

7 “(1) *with respect to the first year for which the*
8 *issuer offers such plan, such issuer offers the plan in*
9 *at least 60 percent of the States;*

10 “(2) *with respect to the second such year, such*
11 *issuer offers the plan in at least 70 percent of the*
12 *States;*

13 “(3) *with respect to the third such year, such*
14 *issuer offers the plan in at least 85 percent of the*
15 *States; and*

16 “(4) *with respect to each subsequent year, such*
17 *issuer offers the plan in all States.*

18 “(f) *APPLICABILITY.*—*The requirements under chapter*
19 *89 of title 5, United States Code, applicable to health bene-*
20 *fits plans under such chapter shall apply to multi-State*
21 *qualified health plans provided for under this section to the*
22 *extent that such requirements do not conflict with a provi-*
23 *sion of this title.*

24 “(g) *CONTINUED SUPPORT FOR FEHBP.*—

1 “(1) *MAINTENANCE OF EFFORT.*—Nothing in
2 this section shall be construed to permit the Director
3 to allocate fewer financial or personnel resources to
4 the functions of the Office of Personnel Management
5 related to the administration of the Federal Employ-
6 ees Health Benefit Program under chapter 89 of title
7 5, United States Code.

8 “(2) *SEPARATE RISK POOL.*—Enrollees in multi-
9 State qualified health plans under this section shall
10 be treated as a separate risk pool apart from enrollees
11 in the Federal Employees Health Benefit Program
12 under chapter 89 of title 5, United States Code.

13 “(3) *AUTHORITY TO ESTABLISH SEPARATE ENTI-*
14 *TIES.*—The Director may establish such separate
15 units or offices within the Office of Personnel Man-
16 agement as the Director determines to be appropriate
17 to ensure that the administration of multi-State
18 qualified health plans under this section does not
19 interfere with the effective administration of the Fed-
20 eral Employees Health Benefit Program under chap-
21 ter 89 of title 5, United States Code.

22 “(4) *EFFECTIVE OVERSIGHT.*—The Director may
23 appoint such additional personnel as may be nec-
24 essary to enable the Director to carry out activities
25 under this section.

1 “(5) *ASSURANCE OF SEPARATE PROGRAM.*—*In*
2 *carrying out this section, the Director shall ensure*
3 *that the program under this section is separate from*
4 *the Federal Employees Health Benefit Program under*
5 *chapter 89 of title 5, United States Code. Premiums*
6 *paid for coverage under a multi-State qualified health*
7 *plan under this section shall not be considered to be*
8 *Federal funds for any purposes.*

9 “(6) *FEHBP PLANS NOT REQUIRED TO PARTICI-*
10 *PATE.*—*Nothing in this section shall require that a*
11 *carrier offering coverage under the Federal Employees*
12 *Health Benefit Program under chapter 89 of title 5,*
13 *United States Code, also offer a multi-State qualified*
14 *health plan under this section.*

15 “(h) *ADVISORY BOARD.*—*The Director shall establish*
16 *an advisory board to provide recommendations on the ac-*
17 *tivities described in this section. A significant percentage*
18 *of the members of such board shall be comprised of enrollees*
19 *in a multi-State qualified health plan, or representatives*
20 *of such enrollees.*

21 “(i) *AUTHORIZATION OF APPROPRIATIONS.*—*There is*
22 *authorized to be appropriated, such sums as may be nec-*
23 *essary to carry out this section.”.*

24 “(r) *Section 1341 of this Act is amended—*

1 (1) *in the section heading, by striking “AND*
2 *SMALL GROUP MARKETS” and inserting “MAR-*
3 *KET”;*

4 (2) *in subsection (b)(2)(B), by striking “para-*
5 *graph (1)(A)” and inserting “paragraph (1)(B)”;* and

6 (3) *in subsection (c)(1)(A), by striking “and*
7 *small group markets” and inserting “market”.*

8 **SEC. 10105. AMENDMENTS TO SUBTITLE E.**

9 (a) *Section 36B(b)(3)(A)(ii) of the Internal Revenue*
10 *Code of 1986, as added by section 1401(a) of this Act, is*
11 *amended by striking “is in excess of” and inserting “equals*
12 *or exceeds”.*

13 (b) *Section 36B(c)(1)(A) of the Internal Revenue Code*
14 *of 1986, as added by section 1401(a) of this Act, is amended*
15 *by inserting “equals or” before “exceeds”.*

16 (c) *Section 36B(c)(2)(C)(iv) of the Internal Revenue*
17 *Code of 1986, as added by section 1401(a) of this Act, is*
18 *amended by striking “subsection (b)(3)(A)(ii)” and insert-*
19 *ing “subsection (b)(3)(A)(iii)”.*

20 (d) *Section 1401(d) of this Act is amended by adding*
21 *at the end the following:*

22 *“(3) Section 6211(b)(4)(A) of the Internal Rev-*
23 *enue Code of 1986 is amended by inserting ‘36B,’*
24 *after ‘36A,.’”.*

1 (e)(1) Subparagraph (B) of section 45R(d)(3) of the
2 Internal Revenue Code of 1986, as added by section 1421(a)
3 of this Act, is amended to read as follows:

4 “(B) DOLLAR AMOUNT.—For purposes of
5 paragraph (1)(B) and subsection (c)(2)—

6 “(i) 2010, 2011, 2012, AND 2013.—The
7 dollar amount in effect under this para-
8 graph for taxable years beginning in 2010,
9 2011, 2012, or 2013 is \$25,000.

10 “(ii) SUBSEQUENT YEARS.—In the
11 case of a taxable year beginning in a cal-
12 endar year after 2013, the dollar amount in
13 effect under this paragraph shall be equal to
14 \$25,000, multiplied by the cost-of-living ad-
15 justment under section 1(f)(3) for the cal-
16 endar year, determined by substituting ‘cal-
17 endar year 2012’ for ‘calendar year 1992’
18 in subparagraph (B) thereof.”.

19 (2) Subsection (g) of section 45R of the Internal Rev-
20 enue Code of 1986, as added by section 1421(a) of this Act,
21 is amended by striking “2011” both places it appears and
22 inserting “2010, 2011”.

23 (3) Section 280C(h) of the Internal Revenue Code of
24 1986, as added by section 1421(d)(1) of this Act, is amended
25 by striking “2011” and inserting “2010, 2011”.

1 *is paid to the disparity that exists among poverty lev-*
2 *els and the cost of living in such territories and to the*
3 *impact of such disparity on efforts to expand health*
4 *coverage and ensure health care.*

5 *“(2) TERRITORIES DEFINED.—In this subsection,*
6 *the term ‘territories of the United States’ includes the*
7 *Commonwealth of Puerto Rico, the United States Vir-*
8 *gin Islands, Guam, the Northern Mariana Islands,*
9 *and any other territory or possession of the United*
10 *States.”.*

11 **SEC. 10106. AMENDMENTS TO SUBTITLE F.**

12 *(a) Section 1501(a)(2) of this Act is amended to read*
13 *as follows:*

14 *“(2) EFFECTS ON THE NATIONAL ECONOMY AND*
15 *INTERSTATE COMMERCE.—The effects described in*
16 *this paragraph are the following:*

17 *“(A) The requirement regulates activity that*
18 *is commercial and economic in nature: economic*
19 *and financial decisions about how and when*
20 *health care is paid for, and when health insur-*
21 *ance is purchased. In the absence of the require-*
22 *ment, some individuals would make an economic*
23 *and financial decision to forego health insurance*
24 *coverage and attempt to self-insure, which in-*

1 *creases financial risks to households and medical*
2 *providers.*

3 “(B) *Health insurance and health care serv-*
4 *ices are a significant part of the national econ-*
5 *omy. National health spending is projected to in-*
6 *crease from \$2,500,000,000,000, or 17.6 percent*
7 *of the economy, in 2009 to \$4,700,000,000,000 in*
8 *2019. Private health insurance spending is pro-*
9 *jected to be \$854,000,000,000 in 2009, and pays*
10 *for medical supplies, drugs, and equipment that*
11 *are shipped in interstate commerce. Since most*
12 *health insurance is sold by national or regional*
13 *health insurance companies, health insurance is*
14 *sold in interstate commerce and claims pay-*
15 *ments flow through interstate commerce.*

16 “(C) *The requirement, together with the*
17 *other provisions of this Act, will add millions of*
18 *new consumers to the health insurance market,*
19 *increasing the supply of, and demand for, health*
20 *care services, and will increase the number and*
21 *share of Americans who are insured.*

22 “(D) *The requirement achieves near-uni-*
23 *versal coverage by building upon and strength-*
24 *ening the private employer-based health insur-*
25 *ance system, which covers 176,000,000 Ameri-*

1 *cans nationwide. In Massachusetts, a similar re-*
2 *quirement has strengthened private employer-*
3 *based coverage: despite the economic downturn,*
4 *the number of workers offered employer-based*
5 *coverage has actually increased.*

6 “(E) *The economy loses up to*
7 *\$207,000,000,000 a year because of the poorer*
8 *health and shorter lifespan of the uninsured. By*
9 *significantly reducing the number of the unin-*
10 *sured, the requirement, together with the other*
11 *provisions of this Act, will significantly reduce*
12 *this economic cost.*

13 “(F) *The cost of providing uncompensated*
14 *care to the uninsured was \$43,000,000,000 in*
15 *2008. To pay for this cost, health care providers*
16 *pass on the cost to private insurers, which pass*
17 *on the cost to families. This cost-shifting in-*
18 *creases family premiums by on average over*
19 *\$1,000 a year. By significantly reducing the*
20 *number of the uninsured, the requirement, to-*
21 *gether with the other provisions of this Act, will*
22 *lower health insurance premiums.*

23 “(G) *62 percent of all personal bankruptcies*
24 *are caused in part by medical expenses. By sig-*
25 *nificantly increasing health insurance coverage,*

1 *the requirement, together with the other provi-*
2 *sions of this Act, will improve financial security*
3 *for families.*

4 “(H) *Under the Employee Retirement In-*
5 *come Security Act of 1974 (29 U.S.C. 1001 et*
6 *seq.), the Public Health Service Act (42 U.S.C.*
7 *201 et seq.), and this Act, the Federal Govern-*
8 *ment has a significant role in regulating health*
9 *insurance. The requirement is an essential part*
10 *of this larger regulation of economic activity,*
11 *and the absence of the requirement would under-*
12 *cut Federal regulation of the health insurance*
13 *market.*

14 “(I) *Under sections 2704 and 2705 of the*
15 *Public Health Service Act (as added by section*
16 *1201 of this Act), if there were no requirement,*
17 *many individuals would wait to purchase health*
18 *insurance until they needed care. By signifi-*
19 *cantly increasing health insurance coverage, the*
20 *requirement, together with the other provisions of*
21 *this Act, will minimize this adverse selection and*
22 *broaden the health insurance risk pool to include*
23 *healthy individuals, which will lower health in-*
24 *surance premiums. The requirement is essential*
25 *to creating effective health insurance markets in*

1 *which improved health insurance products that*
2 *are guaranteed issue and do not exclude coverage*
3 *of pre-existing conditions can be sold.*

4 “(J) *Administrative costs for private health*
5 *insurance, which were \$90,000,000,000 in 2006,*
6 *are 26 to 30 percent of premiums in the current*
7 *individual and small group markets. By signifi-*
8 *cantly increasing health insurance coverage and*
9 *the size of purchasing pools, which will increase*
10 *economies of scale, the requirement, together with*
11 *the other provisions of this Act, will significantly*
12 *reduce administrative costs and lower health in-*
13 *surance premiums. The requirement is essential*
14 *to creating effective health insurance markets*
15 *that do not require underwriting and eliminate*
16 *its associated administrative costs.”.*

17 **(b)(1)** *Section 5000A(b)(1) of the Internal Revenue*
18 *Code of 1986, as added by section 1501(b) of this Act, is*
19 *amended to read as follows:*

20 “(1) *IN GENERAL.—If a taxpayer who is an ap-*
21 *plicable individual, or an applicable individual for*
22 *whom the taxpayer is liable under paragraph (3),*
23 *fails to meet the requirement of subsection (a) for 1*
24 *or more months, then, except as provided in sub-*
25 *section (e), there is hereby imposed on the taxpayer*

1 *a penalty with respect to such failures in the amount*
2 *determined under subsection (c).”.*

3 *(2) Paragraphs (1) and (2) of section 5000A(c)*
4 *of the Internal Revenue Code of 1986, as so added,*
5 *are amended to read as follows:*

6 *“(1) IN GENERAL.—The amount of the penalty*
7 *imposed by this section on any taxpayer for any tax-*
8 *able year with respect to failures described in sub-*
9 *section (b)(1) shall be equal to the lesser of—*

10 *“(A) the sum of the monthly penalty*
11 *amounts determined under paragraph (2) for*
12 *months in the taxable year during which 1 or*
13 *more such failures occurred, or*

14 *“(B) an amount equal to the national aver-*
15 *age premium for qualified health plans which*
16 *have a bronze level of coverage, provide coverage*
17 *for the applicable family size involved, and are*
18 *offered through Exchanges for plan years begin-*
19 *ning in the calendar year with or within which*
20 *the taxable year ends.*

21 *“(2) MONTHLY PENALTY AMOUNTS.—For pur-*
22 *poses of paragraph (1)(A), the monthly penalty*
23 *amount with respect to any taxpayer for any month*
24 *during which any failure described in subsection*

1 **(b)(1)** *occurred is an amount equal to $\frac{1}{12}$ of the*
2 *greater of the following amounts:*

3 “(A) *FLAT DOLLAR AMOUNT.*—*An amount*
4 *equal to the lesser of—*

5 “(i) *the sum of the applicable dollar*
6 *amounts for all individuals with respect to*
7 *whom such failure occurred during such*
8 *month, or*

9 “(ii) *300 percent of the applicable dol-*
10 *lar amount (determined without regard to*
11 *paragraph (3)(C)) for the calendar year*
12 *with or within which the taxable year ends.*

13 “(B) *PERCENTAGE OF INCOME.*—*An*
14 *amount equal to the following percentage of the*
15 *taxpayer’s household income for the taxable year:*

16 “(i) *0.5 percent for taxable years be-*
17 *ginning in 2014.*

18 “(ii) *1.0 percent for taxable years be-*
19 *ginning in 2015.*

20 “(iii) *2.0 percent for taxable years be-*
21 *ginning after 2015.”.*

22 **(3)** *Section 5000A(c)(3) of the Internal Revenue Code*
23 *of 1986, as added by section 1501(b) of this Act, is amended*
24 *by striking “\$350” and inserting “\$495”.*

1 (c) Section 5000A(d)(2)(A) of the Internal Revenue
2 Code of 1986, as added by section 1501(b) of this Act, is
3 amended to read as follows:

4 “(A) *RELIGIOUS CONSCIENCE EXEMP-*
5 *TION.*—Such term shall not include any indi-
6 vidual for any month if such individual has in
7 effect an exemption under section 1311(d)(4)(H)
8 of the Patient Protection and Affordable Care
9 Act which certifies that such individual is—

10 “(i) a member of a recognized religious
11 sect or division thereof which is described in
12 section 1402(g)(1), and

13 “(ii) an adherent of established tenets
14 or teachings of such sect or division as de-
15 scribed in such section.”.

16 (d) Section 5000A(e)(1)(C) of the Internal Revenue
17 Code of 1986, as added by section 1501(b) of this Act, is
18 amended to read as follows:

19 “(C) *SPECIAL RULES FOR INDIVIDUALS RE-*
20 *LATED TO EMPLOYEES.*—For purposes of sub-
21 paragraph (B)(i), if an applicable individual is
22 eligible for minimum essential coverage through
23 an employer by reason of a relationship to an
24 employee, the determination under subparagraph

1 (A) shall be made by reference to required con-
2 tribution of the employee.”.

3 (e) Section 4980H(b) of the Internal Revenue Code of
4 1986, as added by section 1513(a) of this Act, is amended
5 to read as follows:

6 “(b) *LARGE EMPLOYERS WITH WAITING PERIODS EX-*
7 *CEEDING 60 DAYS.*—

8 “(1) *IN GENERAL.*—*In the case of any applicable*
9 *large employer which requires an extended waiting*
10 *period to enroll in any minimum essential coverage*
11 *under an employer-sponsored plan (as defined in sec-*
12 *tion 5000A(f)(2)), there is hereby imposed on the em-*
13 *ployer an assessable payment of \$600 for each full-*
14 *time employee of the employer to whom the extended*
15 *waiting period applies.*

16 “(2) *EXTENDED WAITING PERIOD.*—*The term*
17 *‘extended waiting period’ means any waiting period*
18 *(as defined in section 2701(b)(4) of the Public Health*
19 *Service Act) which exceeds 60 days.”.*

20 (f)(1) Subparagraph (A) of section 4980H(d)(4) of the
21 Internal Revenue Code of 1986, as added by section 1513(a)
22 of this Act, is amended by inserting “, with respect to any
23 month,” after “means”.

1 (2) *Section 4980H(d)(2) of the Internal Revenue Code*
2 *of 1986, as added by section 1513(a) of this Act, is amended*
3 *by adding at the end the following:*

4 “(D) *APPLICATION TO CONSTRUCTION IN-*
5 *DUSTRY EMPLOYERS.—In the case of any em-*
6 *ployer the substantial annual gross receipts of*
7 *which are attributable to the construction indus-*
8 *try—*

9 “(i) *subparagraph (A) shall be applied*
10 *by substituting ‘who employed an average of*
11 *at least 5 full-time employees on business*
12 *days during the preceding calendar year*
13 *and whose annual payroll expenses exceed*
14 *\$250,000 for such preceding calendar year’*
15 *for ‘who employed an average of at least 50*
16 *full-time employees on business days during*
17 *the preceding calendar year’, and*

18 “(ii) *subparagraph (B) shall be ap-*
19 *plied by substituting ‘5’ for ‘50’.*”.

20 (3) *The amendment made by paragraph (2) shall*
21 *apply to months beginning after December 31, 2013.*

22 (g) *Section 6056(b) of the Internal Revenue Code of*
23 *1986, as added by section 1514(a) of the Act, is amended*
24 *by adding at the end the following new flush sentence:*

1 *“The Secretary shall have the authority to review the accu-*
2 *racy of the information provided under this subsection, in-*
3 *cluding the applicable large employer’s share under para-*
4 *graph (2)(C)(iv).”.*

5 **SEC. 10107. AMENDMENTS TO SUBTITLE G.**

6 *(a) Section 1562 of this Act is amended, in the amend-*
7 *ment made by subsection (a)(2)(B)(iii), by striking “sub-*
8 *part 1” and inserting “subparts I and II”; and*

9 *(b) Subtitle G of title I of this Act is amended—*

10 *(1) by redesignating section 1562 (as amended)*
11 *as section 1563; and*

12 *(2) by inserting after section 1561 the following:*

13 **“SEC. 1562. GAO STUDY REGARDING THE RATE OF DENIAL**
14 **OF COVERAGE AND ENROLLMENT BY HEALTH**
15 **INSURANCE ISSUERS AND GROUP HEALTH**
16 **PLANS.**

17 *“(a) IN GENERAL.—The Comptroller General of the*
18 *United States (referred to in this section as the ‘Comptroller*
19 *General’) shall conduct a study of the incidence of denials*
20 *of coverage for medical services and denials of applications*
21 *to enroll in health insurance plans, as described in sub-*
22 *section (b), by group health plans and health insurance*
23 *issuers.*

24 *“(b) DATA.—*

1 “(1) *IN GENERAL.*—*In conducting the study de-*
2 *scribed in subsection (a), the Comptroller General*
3 *shall consider samples of data concerning the fol-*
4 *lowing:*

5 “(A)(i) *denials of coverage for medical serv-*
6 *ices to a plan enrollees, by the types of services*
7 *for which such coverage was denied; and*

8 “(i) *the reasons such coverage was denied;*
9 *and*

10 “(B)(i) *incidents in which group health*
11 *plans and health insurance issuers deny the ap-*
12 *plication of an individual to enroll in a health*
13 *insurance plan offered by such group health plan*
14 *or issuer; and*

15 “(i) *the reasons such applications are de-*
16 *nied.*

17 “(2) *SCOPE OF DATA.*—

18 “(A) *FAVORABLY RESOLVED DISPUTES.*—
19 *The data that the Comptroller General considers*
20 *under paragraph (1) shall include data con-*
21 *cerning denials of coverage for medical services*
22 *and denials of applications for enrollment in a*
23 *plan by a group health plan or health insurance*
24 *issuer, where such group health plan or health*

1 *insurance issuer later approves such coverage or*
2 *application.*

3 “(B) *ALL HEALTH PLANS.—The study*
4 *under this section shall consider data from var-*
5 *ied group health plans and health insurance*
6 *plans offered by health insurance issuers, includ-*
7 *ing qualified health plans and health plans that*
8 *are not qualified health plans.*

9 “(c) *REPORT.—Not later than one year after the date*
10 *of enactment of this Act, the Comptroller General shall sub-*
11 *mit to the Secretaries of Health and Human Services and*
12 *Labor a report describing the results of the study conducted*
13 *under this section.*

14 “(d) *PUBLICATION OF REPORT.—The Secretaries of*
15 *Health and Human Services and Labor shall make the re-*
16 *port described in subsection (c) available to the public on*
17 *an Internet website.*

18 **“SEC. 1563. SMALL BUSINESS PROCUREMENT.**

19 *“Part 19 of the Federal Acquisition Regulation, section*
20 *15 of the Small Business Act (15 U.S.C. 644), and any*
21 *other applicable laws or regulations establishing procure-*
22 *ment requirements relating to small business concerns (as*
23 *defined in section 3 of the Small Business Act (15 U.S.C.*
24 *632)) may not be waived with respect to any contract*

1 *awarded under any program or other authority under this*
2 *Act or an amendment made by this Act.”.*

3 **SEC. 10108. FREE CHOICE VOUCHERS.**

4 *(a) IN GENERAL.—An offering employer shall provide*
5 *free choice vouchers to each qualified employee of such em-*
6 *ployer.*

7 *(b) OFFERING EMPLOYER.—For purposes of this sec-*
8 *tion, the term “offering employer” means any employer*
9 *who—*

10 *(1) offers minimum essential coverage to its em-*
11 *ployees consisting of coverage through an eligible em-*
12 *ployer-sponsored plan; and*

13 *(2) pays any portion of the costs of such plan.*

14 *(c) QUALIFIED EMPLOYEE.—For purposes of this sec-*
15 *tion—*

16 *(1) IN GENERAL.—The term “qualified em-*
17 *ployee” means, with respect to any plan year of an*
18 *offering employer, any employee—*

19 *(A) whose required contribution (as deter-*
20 *mined under section 5000A(e)(1)(B)) for min-*
21 *imum essential coverage through an eligible em-*
22 *ployer-sponsored plan—*

23 *(i) exceeds 8 percent of such employee’s*
24 *household income for the taxable year de-*

1 scribed in section 1412(b)(1)(B) which ends
2 with or within in the plan year; and

3 (ii) does not exceed 9.8 percent of such
4 employee's household income for such tax-
5 able year;

6 (B) whose household income for such taxable
7 year is not greater than 400 percent of the pov-
8 erty line for a family of the size involved; and

9 (C) who does not participate in a health
10 plan offered by the offering employer.

11 (2) INDEXING.—In the case of any calendar year
12 beginning after 2014, the Secretary shall adjust the 8
13 percent under paragraph (1)(A)(i) and 9.8 percent
14 under paragraph (1)(A)(ii) for the calendar year to
15 reflect the rate of premium growth between the pre-
16 ceding calendar year and 2013 over the rate of in-
17 come growth for such period.

18 (d) FREE CHOICE VOUCHER.—

19 (1) AMOUNT.—

20 (A) IN GENERAL.—The amount of any free
21 choice voucher provided under subsection (a)
22 shall be equal to the monthly portion of the cost
23 of the eligible employer-sponsored plan which
24 would have been paid by the employer if the em-
25 ployee were covered under the plan with respect

1 to which the employer pays the largest portion of
2 the cost of the plan. Such amount shall be equal
3 to the amount the employer would pay for an
4 employee with self-only coverage unless such em-
5 ployee elects family coverage (in which case such
6 amount shall be the amount the employer would
7 pay for family coverage).

8 (B) DETERMINATION OF COST.—The cost of
9 any health plan shall be determined under the
10 rules similar to the rules of section 2204 of the
11 Public Health Service Act, except that such
12 amount shall be adjusted for age and category of
13 enrollment in accordance with regulations estab-
14 lished by the Secretary.

15 (2) USE OF VOUCHERS.—An Exchange shall
16 credit the amount of any free choice voucher provided
17 under subsection (a) to the monthly premium of any
18 qualified health plan in the Exchange in which the
19 qualified employee is enrolled and the offering em-
20 ployer shall pay any amounts so credited to the Ex-
21 change.

22 (3) PAYMENT OF EXCESS AMOUNTS.—If the
23 amount of the free choice voucher exceeds the amount
24 of the premium of the qualified health plan in which

1 *the qualified employee is enrolled for such month,*
2 *such excess shall be paid to the employee.*

3 *(e) OTHER DEFINITIONS.—Any term used in this sec-*
4 *tion which is also used in section 5000A of the Internal*
5 *Revenue Code of 1986 shall have the meaning given such*
6 *term under such section 5000A.*

7 *(f) EXCLUSION FROM INCOME FOR EMPLOYEE.—*

8 *(1) IN GENERAL.—Part III of subchapter B of*
9 *chapter 1 of the Internal Revenue Code of 1986 is*
10 *amended by inserting after section 139C the following*
11 *new section:*

12 **“SEC. 139D. FREE CHOICE VOUCHERS.**

13 *“Gross income shall not include the amount of any free*
14 *choice voucher provided by an employer under section*
15 *10108 of the Patient Protection and Affordable Care Act*
16 *to the extent that the amount of such voucher does not exceed*
17 *the amount paid for a qualified health plan (as defined in*
18 *section 1301 of such Act) by the taxpayer.”.*

19 *(2) CLERICAL AMENDMENT.—The table of sec-*
20 *tions for part III of subchapter B of chapter 1 of such*
21 *Code is amended by inserting after the item relating*
22 *to section 139C the following new item:*

“Sec. 139D. Free choice vouchers.”.

23 *(3) EFFECTIVE DATE.—The amendments made*
24 *by this subsection shall apply to vouchers provided*
25 *after December 31, 2013.*

1 (g) *DEDUCTION ALLOWED TO EMPLOYER.*—

2 (1) *IN GENERAL.*—Section 162(a) of the Internal
3 Revenue Code of 1986 is amended by adding at the
4 end the following new sentence: “For purposes of
5 paragraph (1), the amount of a free choice voucher
6 provided under section 10108 of the Patient Protec-
7 tion and Affordable Care Act shall be treated as an
8 amount for compensation for personal services actu-
9 ally rendered.”.

10 (2) *EFFECTIVE DATE.*—The amendments made
11 by this subsection shall apply to vouchers provided
12 after December 31, 2013.

13 (h) *VOUCHER TAKEN INTO ACCOUNT IN DETERMINING*
14 *PREMIUM CREDIT.*—

15 (1) *IN GENERAL.*—Subsection (c)(2) of section
16 36B of the Internal Revenue Code of 1986, as added
17 by section 1401, is amended by adding at the end the
18 following new subparagraph:

19 “(D) *EXCEPTION FOR INDIVIDUAL RECEIV-*
20 *ING FREE CHOICE VOUCHERS.*—The term ‘cov-
21 erage month’ shall not include any month in
22 which such individual has a free choice voucher
23 provided under section 10108 of the Patient Pro-
24 tection and Affordable Care Act.”.

1 (2) *EFFECTIVE DATE.*—*The amendment made by*
2 *this subsection shall apply to taxable years beginning*
3 *after December 31, 2013.*

4 (i) *COORDINATION WITH EMPLOYER RESPONSIBIL-*
5 *ITIES.*—

6 (1) *SHARED RESPONSIBILITY PENALTY.*—

7 (A) *IN GENERAL.*—*Subsection (c) of section*
8 *4980H of the Internal Revenue Code of 1986, as*
9 *added by section 1513, is amended by adding at*
10 *the end the following new paragraph:*

11 “(3) *SPECIAL RULES FOR EMPLOYERS PRO-*
12 *VIDING FREE CHOICE VOUCHERS.*—*No assessable pay-*
13 *ment shall be imposed under paragraph (1) for any*
14 *month with respect to any employee to whom the em-*
15 *ployer provides a free choice voucher under section*
16 *10108 of the Patient Protection and Affordable Care*
17 *Act for such month.”.*

18 (B) *EFFECTIVE DATE.*—*The amendment*
19 *made by this paragraph shall apply to months*
20 *beginning after December 31, 2013.*

21 (2) *NOTIFICATION REQUIREMENT.*—*Section*
22 *18B(a)(3) of the Fair Labor Standards Act of 1938,*
23 *as added by section 1512, is amended—*

1 (A) by inserting “and the employer does not
2 offer a free choice voucher” after “Exchange”;
3 and

4 (B) by striking “will lose” and inserting
5 “may lose”.

6 (j) *EMPLOYER REPORTING.*—

7 (1) *IN GENERAL.*—Subsection (a) of section 6056
8 of the Internal Revenue Code of 1986, as added by
9 section 1514, is amended by inserting “and every of-
10 fering employer” before “shall”.

11 (2) *OFFERING EMPLOYERS.*—Subsection (f) of
12 section 6056 of such Code, as added by section 1514,
13 is amended to read as follows:

14 “(f) *DEFINITIONS.*—For purposes of this section—

15 “(1) *OFFERING EMPLOYER.*—

16 “(A) *IN GENERAL.*—The term ‘offering em-
17 ployer’ means any offering employer (as defined
18 in section 10108(b) of the Patient Protection and
19 Affordable Care Act) if the required contribution
20 (within the meaning of section
21 5000A(e)(1)(B)(i)) of any employee exceeds 8
22 percent of the wages (as defined in section
23 3121(a)) paid to such employee by such em-
24 ployer.

1 “(B) *INDEXING.*—*In the case of any cal-*
2 *endar year beginning after 2014, the 8 percent*
3 *under subparagraph (A) shall be adjusted for the*
4 *calendar year to reflect the rate of premium*
5 *growth between the preceding calendar year and*
6 *2013 over the rate of income growth for such pe-*
7 *riod.*”

8 “(2) *OTHER DEFINITIONS.*—*Any term used in*
9 *this section which is also used in section 4980H shall*
10 *have the meaning given such term by section*
11 *4980H.*”

12 (3) *CONFORMING AMENDMENTS.*—

13 (A) *The heading of section 6056 of such*
14 *Code, as added by section 1514, is amended by*
15 *striking “LARGE” and inserting “CERTAIN”.*

16 (B) *Section 6056(b)(2)(C) of such Code is*
17 *amended—*

18 (i) *by inserting “in the case of an ap-*
19 *plicable large employer,” before “the length”*
20 *in clause (i);*

21 (ii) *by striking “and” at the end of*
22 *clause (iii);*

23 (iii) *by striking “applicable large em-*
24 *ployer” in clause (iv) and inserting “em-*
25 *ployer”;*

1 (iv) by inserting “and” at the end of
2 clause (iv); and

3 (v) by inserting at the end the fol-
4 lowing new clause:

5 “(v) in the case of an offering em-
6 ployer, the option for which the employer
7 pays the largest portion of the cost of the
8 plan and the portion of the cost paid by the
9 employer in each of the enrollment cat-
10 egories under such option,”.

11 (C) Section 6056(d)(2) of such Code is
12 amended by inserting “or offering employer”
13 after “applicable large employer”.

14 (D) Section 6056(e) of such Code is amend-
15 ed by inserting “or offering employer” after “ap-
16 plicable large employer”.

17 (E) Section 6724(d)(1)(B)(xxv) of such
18 Code, as added by section 1514, is amended by
19 striking “large” and inserting “certain”.

20 (F) Section 6724(d)(2)(HH) of such Code,
21 as added by section 1514, is amended by striking
22 “large” and inserting “certain”.

23 (G) The table of sections for subpart D of
24 part III of subchapter A of chapter 1 of such
25 Code, as amended by section 1514, is amended

1 by striking “Large employers” in the item relat-
2 ing to section 6056 and inserting “Certain em-
3 ployers”.

4 (4) *EFFECTIVE DATE.*—The amendments made
5 by this subsection shall apply to periods beginning
6 after December 31, 2013.

7 **SEC. 10109. DEVELOPMENT OF STANDARDS FOR FINANCIAL**
8 **AND ADMINISTRATIVE TRANSACTIONS.**

9 (a) *ADDITIONAL TRANSACTION STANDARDS AND OP-*
10 *ERATING RULES.*—

11 (1) *DEVELOPMENT OF ADDITIONAL TRANSACTION*
12 *STANDARDS AND OPERATING RULES.*—Section
13 1173(a) of the Social Security Act (42 U.S.C. 1320d–
14 2(a)), as amended by section 1104(b)(2), is amend-
15 ed—

16 (A) in paragraph (1)(B), by inserting before
17 the period the following: “, and subject to the re-
18 quirements under paragraph (5)”; and

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

21 “(5) *CONSIDERATION OF STANDARDIZATION OF*
22 *ACTIVITIES AND ITEMS.*—

23 “(A) *IN GENERAL.*—For purposes of car-
24 rying out paragraph (1)(B), the Secretary shall
25 solicit, not later than January 1, 2012, and not

1 *less than every 3 years thereafter, input from en-*
2 *tities described in subparagraph (B) on—*

3 “(i) *whether there could be greater uni-*
4 *formity in financial and administrative ac-*
5 *tivities and items, as determined appro-*
6 *priate by the Secretary; and*

7 “(ii) *whether such activities should be*
8 *considered financial and administrative*
9 *transactions (as described in paragraph*
10 *(1)(B)) for which the adoption of standards*
11 *and operating rules would improve the op-*
12 *eration of the health care system and reduce*
13 *administrative costs.*

14 “(B) *SOLICITATION OF INPUT.—For pur-*
15 *poses of subparagraph (A), the Secretary shall*
16 *seek input from—*

17 “(i) *the National Committee on Vital*
18 *and Health Statistics, the Health Informa-*
19 *tion Technology Policy Committee, and the*
20 *Health Information Technology Standards*
21 *Committee; and*

22 “(ii) *standard setting organizations*
23 *and stakeholders, as determined appropriate*
24 *by the Secretary.”.*

1 (b) *ACTIVITIES AND ITEMS FOR INITIAL CONSIDER-*
2 *ATION.—For purposes of section 1173(a)(5) of the Social*
3 *Security Act, as added by subsection (a), the Secretary of*
4 *Health and Human Services (in this section referred to as*
5 *the “Secretary”) shall, not later than January 1, 2012, seek*
6 *input on activities and items relating to the following*
7 *areas:*

8 (1) *Whether the application process, including*
9 *the use of a uniform application form, for enrollment*
10 *of health care providers by health plans could be*
11 *made electronic and standardized.*

12 (2) *Whether standards and operating rules de-*
13 *scribed in section 1173 of the Social Security Act*
14 *should apply to the health care transactions of auto-*
15 *mobile insurance, worker’s compensation, and other*
16 *programs or persons not described in section 1172(a)*
17 *of such Act (42 U.S.C. 1320d–1(a)).*

18 (3) *Whether standardized forms could apply to*
19 *financial audits required by health plans, Federal*
20 *and State agencies (including State auditors, the Of-*
21 *fice of the Inspector General of the Department of*
22 *Health and Human Services, and the Centers for*
23 *Medicare & Medicaid Services), and other relevant*
24 *entities as determined appropriate by the Secretary.*

1 (4) *Whether there could be greater transparency*
2 *and consistency of methodologies and processes used to*
3 *establish claim edits used by health plans (as de-*
4 *scribed in section 1171(5) of the Social Security Act*
5 *(42 U.S.C. 1320d(5))*).

6 (5) *Whether health plans should be required to*
7 *publish their timeliness of payment rules.*

8 (c) *ICD CODING CROSSWALKS.*—

9 (1) *ICD–9 TO ICD–10 CROSSWALK.*—*The Sec-*
10 *retary shall task the ICD–9–CM Coordination and*
11 *Maintenance Committee to convene a meeting, not*
12 *later than January 1, 2011, to receive input from ap-*
13 *propriate stakeholders (including health plans, health*
14 *care providers, and clinicians) regarding the cross-*
15 *walk between the Ninth and Tenth Revisions of the*
16 *International Classification of Diseases (ICD–9 and*
17 *ICD–10, respectively) that is posted on the website of*
18 *the Centers for Medicare & Medicaid Services, and*
19 *make recommendations about appropriate revisions to*
20 *such crosswalk.*

21 (2) *REVISION OF CROSSWALK.*—*For purposes of*
22 *the crosswalk described in paragraph (1), the Sec-*
23 *retary shall make appropriate revisions and post any*
24 *such revised crosswalk on the website of the Centers*
25 *for Medicare & Medicaid Services.*

1 “(IX) who—

2 “(aa) are under 26 years of
3 age;

4 “(bb) are not described in or
5 enrolled under any of subclauses
6 (I) through (VII) of this clause or
7 are described in any of such sub-
8 clauses but have income that ex-
9 ceeds the level of income applica-
10 ble under the State plan for eligi-
11 bility to enroll for medical assist-
12 ance under such subclause;

13 “(cc) were in foster care
14 under the responsibility of the
15 State on the date of attaining 18
16 years of age or such higher age as
17 the State has elected under section
18 475(8)(B)(iii); and

19 “(dd) were enrolled in the
20 State plan under this title or
21 under a waiver of the plan while
22 in such foster care;”.

23 (2) Section 1902(a)(10) of the Social Security Act (42
24 U.S.C. 1396a(a)(10), as amended by section 2001(a)(5)(A),
25 is amended in the matter following subparagraph (G), by

1 *striking “and (XV)” and inserting “(XV)”, and by insert-*
2 *ing “and (XVI) if an individual is described in subclause*
3 *(IX) of subparagraph (A)(i) and is also described in sub-*
4 *clause (VIII) of that subparagraph, the medical assistance*
5 *shall be made available to the individual through subclause*
6 *(IX) instead of through subclause (VIII)” before the semi-*
7 *colon.*

8 (3) *Section 2004(d) of this Act is amended by striking*
9 *“2019” and inserting “2014”.*

10 (b) *Section 1902(k)(2) of the Social Security Act (42*
11 *U.S.C. 1396a(k)(2)), as added by section 2001(a)(4)(A), is*
12 *amended by striking “January 1, 2011” and inserting*
13 *“April 1, 2010”.*

14 (c) *Section 1905 of the Social Security Act (42 U.S.C.*
15 *1396d), as amended by sections 2001(a)(3), 2001(a)(5)(C),*
16 *2006, and 4107(a)(2), is amended—*

17 (1) *in subsection (a), in the matter preceding*
18 *paragraph (1), by inserting in clause (xiv), “or*
19 *1902(a)(10)(A)(i)(IX)” before the comma;*

20 (2) *in subsection (b), in the first sentence, by in-*
21 *serting “, (z),” before “and (aa)”;*

22 (3) *in subsection (y)—*

23 (A) *in paragraph (1)(B)(ii)(II), in the first*
24 *sentence, by inserting “includes inpatient hos-*

1 *pital services,” after “100 percent of the poverty*
2 *line, that”;* and

3 *(B) in paragraph (2)(A), by striking “on*
4 *the date of enactment of the Patient Protection*
5 *and Affordable Care Act” and inserting “as of*
6 *December 1, 2009”;*

7 *(4) by inserting after subsection (y) the fol-*
8 *lowing:*

9 *“(z) EQUITABLE SUPPORT FOR CERTAIN STATES.—*

10 *“(1)(A) During the period that begins on Janu-*
11 *ary 1, 2014, and ends on September 30, 2019, not-*
12 *withstanding subsection (b), the Federal medical as-*
13 *sistance percentage otherwise determined under sub-*
14 *section (b) with respect to a fiscal year occurring dur-*
15 *ing that period shall be increased by 2.2 percentage*
16 *points for any State described in subparagraph (B)*
17 *for amounts expended for medical assistance for indi-*
18 *viduals who are not newly eligible (as defined in sub-*
19 *section (y)(2)) individuals described in subclause*
20 *(VIII) of section 1902(a)(10)(A)(i).*

21 *“(B) For purposes of subparagraph (A), a State*
22 *described in this subparagraph is a State that—*

23 *“(i) is an expansion State described in sub-*
24 *section (y)(1)(B)(i)(II);*

1 “(ii) the Secretary determines will not re-
2 ceive any payments under this title on the basis
3 of an increased Federal medical assistance per-
4 centage under subsection (y) for expenditures for
5 medical assistance for newly eligible individuals
6 (as so defined); and

7 “(iii) has not been approved by the Sec-
8 retary to divert a portion of the DSH allotment
9 for a State to the costs of providing medical as-
10 sistance or other health benefits coverage under a
11 waiver that is in effect on July 2009.

12 “(2)(A) During the period that begins on January 1,
13 2014, and ends on December 31, 2016, notwithstanding sub-
14 section (b), the Federal medical assistance percentage other-
15 wise determined under subsection (b) with respect to all or
16 any portion of a fiscal year occurring during that period
17 shall be increased by .5 percentage point for a State de-
18 scribed in subparagraph (B) for amounts expended for med-
19 ical assistance under the State plan under this title or
20 under a waiver of that plan during that period.

21 “(B) For purposes of subparagraph (A), a State de-
22 scribed in this subparagraph is a State that—

23 “(i) is described in clauses (i) and (ii) of para-
24 graph (1)(B); and

1 “(ii) is the State with the highest percentage of
2 its population insured during 2008, based on the Cur-
3 rent Population Survey.

4 “(3) Notwithstanding subsection (b) and paragraphs
5 (1) and (2) of this subsection, the Federal medical assist-
6 ance percentage otherwise determined under subsection (b)
7 with respect to all or any portion of a fiscal year that begins
8 on or after January 1, 2017, for the State of Nebraska, with
9 respect to amounts expended for newly eligible individuals
10 described in subclause (VIII) of section 1902(a)(10)(A)(i),
11 shall be determined as provided for under subsection
12 (y)(1)(A) (notwithstanding the period provided for in such
13 paragraph).

14 “(4) The increase in the Federal medical assistance
15 percentage for a State under paragraphs (1), (2), or (3)
16 shall apply only for purposes of this title and shall not
17 apply with respect to—

18 “(A) disproportionate share hospital payments
19 described in section 1923;

20 “(B) payments under title IV;

21 “(C) payments under title XXI; and

22 “(D) payments under this title that are based on
23 the enhanced FMAP described in section 2105(b).”;

24 (5) in subsection (aa), is amended by striking
25 “without regard to this subsection and subsection (y)”

1 and inserting “without regard to this subsection, sub-
2 section (y), subsection (z), and section 10202 of the
3 *Patient Protection and Affordable Care Act*” each
4 place it appears;

5 (6) by adding after subsection (bb), the following:

6 “(cc) *REQUIREMENT FOR CERTAIN STATES.*—Notwith-
7 standing subsections (y), (z), and (aa), in the case of a State
8 that requires political subdivisions within the State to con-
9 tribute toward the non-Federal share of expenditures re-
10 quired under the State plan under section 1902(a)(2), the
11 State shall not be eligible for an increase in its Federal
12 medical assistance percentage under such subsections if it
13 requires that political subdivisions pay a greater percentage
14 of the non-Federal share of such expenditures, or a greater
15 percentage of the non-Federal share of payments under sec-
16 tion 1923, than the respective percentages that would have
17 been required by the State under the State plan under this
18 title, State law, or both, as in effect on December 31, 2009,
19 and without regard to any such increase. Voluntary con-
20 tributions by a political subdivision to the non-Federal
21 share of expenditures under the State plan under this title
22 or to the non-Federal share of payments under section 1923,
23 shall not be considered to be required contributions for pur-
24 poses of this subsection. The treatment of voluntary con-
25 tributions, and the treatment of contributions required by

1 *a State under the State plan under this title, or State law,*
2 *as provided by this subsection, shall also apply to the in-*
3 *creases in the Federal medical assistance percentage under*
4 *section 5001 of the American Recovery and Reinvestment*
5 *Act of 2009.”.*

6 *(d) Section 1108(g)(4)(B) of the Social Security Act*
7 *(42 U.S.C. 1308(g)(4)(B)), as added by section 2005(b), is*
8 *amended by striking “income eligibility level in effect for*
9 *that population under title XIX or under a waiver” and*
10 *inserting “the highest income eligibility level in effect for*
11 *parents under the commonwealth’s or territory’s State plan*
12 *under title XIX or under a waiver of the plan”.*

13 *(e)(1) Section 1923(f) of the Social Security Act (42*
14 *U.S.C. 1396r-4(f)), as amended by section 2551, is amend-*
15 *ed—*

16 *(A) in paragraph (6)—*

17 *(i) by striking the paragraph heading and*
18 *inserting the following: “ALLOTMENT ADJUST-*
19 *MENTS”;* *and*

20 *(ii) in subparagraph (B), by adding at the*
21 *end the following:*

22 *“(iii) ALLOTMENT FOR 2D, 3RD, AND*
23 *4TH QUARTER OF FISCAL YEAR 2012, FISCAL*
24 *YEAR 2013, AND SUCCEEDING FISCAL*

1 YEARS.—Notwithstanding the table set forth
2 in paragraph (2) or paragraph (7):

3 “(I) 2D, 3RD, AND 4TH QUARTER
4 OF FISCAL YEAR 2012.—The DSH allot-
5 ment for Hawaii for the 2d, 3rd, and
6 4th quarters of fiscal year 2012 shall
7 be \$7,500,000.

8 “(II) TREATMENT AS A LOW-DSH
9 STATE FOR FISCAL YEAR 2013 AND SUC-
10 CEEDING FISCAL YEARS.—With respect
11 to fiscal year 2013, and each fiscal
12 year thereafter, the DSH allotment for
13 Hawaii shall be increased in the same
14 manner as allotments for low DSH
15 States are increased for such fiscal
16 year under clause (iii) of paragraph
17 (5)(B).

18 “(III) CERTAIN HOSPITAL PAY-
19 MENTS.—The Secretary may not im-
20 pose a limitation on the total amount
21 of payments made to hospitals under
22 the QUEST section 1115 Demonstra-
23 tion Project except to the extent that
24 such limitation is necessary to ensure
25 that a hospital does not receive pay-

1 *ments in excess of the amounts de-*
 2 *scribed in subsection (g), or as nec-*
 3 *essary to ensure that such payments*
 4 *under the waiver and such payments*
 5 *pursuant to the allotment provided in*
 6 *this clause do not, in the aggregate in*
 7 *any year, exceed the amount that the*
 8 *Secretary determines is equal to the*
 9 *Federal medical assistance percentage*
 10 *component attributable to dispropor-*
 11 *tionate share hospital payment adjust-*
 12 *ments for such year that is reflected in*
 13 *the budget neutrality provision of the*
 14 *QUEST Demonstration Project.”; and*

15 *(B) in paragraph (7)—*

16 *(i) in subparagraph (A), in the matter pre-*
 17 *ceding clause (i), by striking “subparagraph*
 18 *(E)” and inserting “subparagraphs (E) and*
 19 *(G)”;*

20 *(ii) in subparagraph (B)—*

21 *(I) in clause (i), by striking subclauses*
 22 *(I) and (II), and inserting the following:*

23 *“(I) if the State is a low DSH*
 24 *State described in paragraph (5)(B)*
 25 *and has spent not more than 99.90*

1 *percent of the DSH allotments for the*
2 *State on average for the period of fiscal*
3 *years 2004 through 2008, as of Sep-*
4 *tember 30, 2009, the applicable per-*
5 *centage is equal to 25 percent;*

6 *“(II) if the State is a low DSH*
7 *State described in paragraph (5)(B)*
8 *and has spent more than 99.90 percent*
9 *of the DSH allotments for the State on*
10 *average for the period of fiscal years*
11 *2004 through 2008, as of September*
12 *30, 2009, the applicable percentage is*
13 *equal to 17.5 percent;*

14 *“(III) if the State is not a low*
15 *DSH State described in paragraph*
16 *(5)(B) and has spent not more than*
17 *99.90 percent of the DSH allotments*
18 *for the State on average for the period*
19 *of fiscal years 2004 through 2008, as of*
20 *September 30, 2009, the applicable*
21 *percentage is equal to 50 percent; and*

22 *“(IV) if the State is not a low*
23 *DSH State described in paragraph*
24 *(5)(B) and has spent more than 99.90*
25 *percent of the DSH allotments for the*

1 *State on average for the period of fiscal*
2 *years 2004 through 2008, as of Sep-*
3 *tember 30, 2009, the applicable per-*
4 *centage is equal to 35 percent.”;*

5 *(II) in clause (ii), by striking sub-*
6 *clauses (I) and (II), and inserting the fol-*
7 *lowing:*

8 *“(I) if the State is a low DSH*
9 *State described in paragraph (5)(B)*
10 *and has spent not more than 99.90*
11 *percent of the DSH allotments for the*
12 *State on average for the period of fiscal*
13 *years 2004 through 2008, as of Sep-*
14 *tember 30, 2009, the applicable per-*
15 *centage is equal to the product of the*
16 *percentage reduction in uncovered in-*
17 *dividuals for the fiscal year from the*
18 *preceding fiscal year and 27.5 percent;*

19 *“(II) if the State is a low DSH*
20 *State described in paragraph (5)(B)*
21 *and has spent more than 99.90 percent*
22 *of the DSH allotments for the State on*
23 *average for the period of fiscal years*
24 *2004 through 2008, as of September*
25 *30, 2009, the applicable percentage is*

1 equal to the product of the percentage
2 reduction in uncovered individuals for
3 the fiscal year from the preceding fiscal
4 year and 20 percent;

5 “(III) if the State is not a low
6 DSH State described in paragraph
7 (5)(B) and has spent not more than
8 99.90 percent of the DSH allotments
9 for the State on average for the period
10 of fiscal years 2004 through 2008, as of
11 September 30, 2009, the applicable
12 percentage is equal to the product of
13 the percentage reduction in uncovered
14 individuals for the fiscal year from the
15 preceding fiscal year and 55 percent;
16 and

17 “(IV) if the State is not a low
18 DSH State described in paragraph
19 (5)(B) and has spent more than 99.90
20 percent of the DSH allotments for the
21 State on average for the period of fiscal
22 years 2004 through 2008, as of Sep-
23 tember 30, 2009, the applicable per-
24 centage is equal to the product of the
25 percentage reduction in uncovered in-

1 *dividuals for the fiscal year from the*
2 *preceding fiscal year and 40 percent.”;*
3 *(III) in subparagraph (E), by striking*
4 *“35 percent” and inserting “50 percent”;*
5 *and*
6 *(IV) by adding at the end the fol-*
7 *lowing:*

8 *“(G) NONAPPLICATION.—The preceding pro-*
9 *visions of this paragraph shall not apply to the*
10 *DSH allotment determined for the State of Ha-*
11 *waii for a fiscal year under paragraph (6).”.*

12 *(f) Section 2551 of this Act is amended by striking*
13 *subsection (b).*

14 *(g) Section 2105(d)(3)(B) of the Social Security Act*
15 *(42 U.S.C. 1397ee(d)(3)(B)), as added by section*
16 *2101(b)(1), is amended by adding at the end the following:*
17 *“For purposes of eligibility for premium assistance for the*
18 *purchase of a qualified health plan under section 36B of*
19 *the Internal Revenue Code of 1986 and reduced cost-sharing*
20 *under section 1402 of the Patient Protection and Affordable*
21 *Care Act, children described in the preceding sentence shall*
22 *be deemed to be ineligible for coverage under the State child*
23 *health plan.”.*

1 *(h) Clause (i) of subparagraph (C) of section 513(b)(2)*
2 *of the Social Security Act, as added by section 2953 of this*
3 *Act, is amended to read as follows:*

4 *“(i) Healthy relationships, including*
5 *marriage and family interactions.”.*

6 *(i) Section 1115 of the Social Security Act (42 U.S.C.*
7 *1315) is amended by inserting after subsection (c) the fol-*
8 *lowing:*

9 *“(d)(1) An application or renewal of any experi-*
10 *mental, pilot, or demonstration project undertaken under*
11 *subsection (a) to promote the objectives of title XIX or XXI*
12 *in a State that would result in an impact on eligibility,*
13 *enrollment, benefits, cost-sharing, or financing with respect*
14 *to a State program under title XIX or XXI (in this sub-*
15 *section referred to as a ‘demonstration project’) shall be con-*
16 *sidered by the Secretary in accordance with the regulations*
17 *required to be promulgated under paragraph (2).*

18 *“(2) Not later than 180 days after the date of enact-*
19 *ment of this subsection, the Secretary shall promulgate reg-*
20 *ulations relating to applications for, and renewals of, a*
21 *demonstration project that provide for—*

22 *“(A) a process for public notice and comment at*
23 *the State level, including public hearings, sufficient to*
24 *ensure a meaningful level of public input;*

25 *“(B) requirements relating to—*

1 “(i) the goals of the program to be imple-
2 mented or renewed under the demonstration
3 project;

4 “(ii) the expected State and Federal costs
5 and coverage projections of the demonstration
6 project; and

7 “(iii) the specific plans of the State to en-
8 sure that the demonstration project will be in
9 compliance with title XIX or XXI;

10 “(C) a process for providing public notice and
11 comment after the application is received by the Sec-
12 retary, that is sufficient to ensure a meaningful level
13 of public input;

14 “(D) a process for the submission to the Sec-
15 retary of periodic reports by the State concerning the
16 implementation of the demonstration project; and

17 “(E) a process for the periodic evaluation by the
18 Secretary of the demonstration project.

19 “(3) The Secretary shall annually report to Congress
20 concerning actions taken by the Secretary with respect to
21 applications for demonstration projects under this section.”.

22 (j) Subtitle F of title III of this Act is amended by
23 adding at the end the following:

1 **“SEC. 3512. GAO STUDY AND REPORT ON CAUSES OF AC-**
2 **TION.**

3 “(a) *STUDY.*—

4 “(1) *IN GENERAL.*—*The Comptroller General of*
5 *the United States shall conduct a study of whether the*
6 *development, recognition, or implementation of any*
7 *guideline or other standards under a provision de-*
8 *scribed in paragraph (2) would result in the estab-*
9 *lishment of a new cause of action or claim.*

10 “(2) *PROVISIONS DESCRIBED.*—*The provisions*
11 *described in this paragraph include the following:*

12 “(A) *Section 2701 (adult health quality*
13 *measures).*

14 “(B) *Section 2702 (payment adjustments*
15 *for health care acquired conditions).*

16 “(C) *Section 3001 (Hospital Value-Based*
17 *Purchase Program).*

18 “(D) *Section 3002 (improvements to the*
19 *Physician Quality Reporting Initiative).*

20 “(E) *Section 3003 (improvements to the*
21 *Physician Feedback Program).*

22 “(F) *Section 3007 (value based payment*
23 *modifier under physician fee schedule).*

24 “(G) *Section 3008 (payment adjustment for*
25 *conditions acquired in hospitals).*

1 *incentive payment State, as defined in subsection (b), that*
2 *meets the conditions described in subsection (c), during the*
3 *balancing incentive period, the Federal medical assistance*
4 *percentage determined for the State under section 1905(b)*
5 *of such Act and, if applicable, increased under subsection*
6 *(z) or (aa) shall be increased by the applicable percentage*
7 *points determined under subsection (d) with respect to eligi-*
8 *ble medical assistance expenditures described in subsection*
9 *(e).*

10 *(b) BALANCING INCENTIVE PAYMENT STATE.—A bal-*
11 *ancing incentive payment State is a State—*

12 *(1) in which less than 50 percent of the total ex-*
13 *penditures for medical assistance under the State*
14 *Medicaid program for a fiscal year for long-term*
15 *services and supports (as defined by the Secretary*
16 *under subsection (f)(1)) are for non-institutionally-*
17 *based long-term services and supports described in*
18 *subsection (f)(1)(B);*

19 *(2) that submits an application and meets the*
20 *conditions described in subsection (c); and*

21 *(3) that is selected by the Secretary to partici-*
22 *rate in the State balancing incentive payment pro-*
23 *gram established under this section.*

24 *(c) CONDITIONS.—The conditions described in this*
25 *subsection are the following:*

1 (1) *APPLICATION.*—*The State submits an appli-*
2 *cation to the Secretary that includes, in addition to*
3 *such other information as the Secretary shall re-*
4 *quire—*

5 (A) *a proposed budget that details the*
6 *State’s plan to expand and diversify medical as-*
7 *sistance for non-institutionally-based long-term*
8 *services and supports described in subsection*
9 *(f)(1)(B) under the State Medicaid program dur-*
10 *ing the balancing incentive period and achieve*
11 *the target spending percentage applicable to the*
12 *State under paragraph (2), including through*
13 *structural changes to how the State furnishes*
14 *such assistance, such as through the establish-*
15 *ment of a “no wrong door—single entry point*
16 *system”, optional presumptive eligibility, case*
17 *management services, and the use of core stand-*
18 *ardized assessment instruments, and that in-*
19 *cludes a description of the new or expanded of-*
20 *ferings of such services that the State will pro-*
21 *vide and the projected costs of such services; and*

22 (B) *in the case of a State that proposes to*
23 *expand the provision of home and community-*
24 *based services under its State Medicaid program*
25 *through a State plan amendment under section*

1 1915(i) of the Social Security Act, at the option
2 of the State, an election to increase the income
3 eligibility for such services from 150 percent of
4 the poverty line to such higher percentage as the
5 State may establish for such purpose, not to ex-
6 ceed 300 percent of the supplemental security in-
7 come benefit rate established by section
8 1611(b)(1) of the Social Security Act (42 U.S.C.
9 1382(b)(1)).

10 (2) *TARGET SPENDING PERCENTAGES.*—

11 (A) *In the case of a balancing incentive*
12 *payment State in which less than 25 percent of*
13 *the total expenditures for long-term services and*
14 *supports under the State Medicaid program for*
15 *fiscal year 2009 are for home and community-*
16 *based services, the target spending percentage for*
17 *the State to achieve by not later than October 1,*
18 *2015, is that 25 percent of the total expenditures*
19 *for long-term services and supports under the*
20 *State Medicaid program are for home and com-*
21 *munity-based services.*

22 (B) *In the case of any other balancing in-*
23 *centive payment State, the target spending per-*
24 *centage for the State to achieve by not later than*
25 *October 1, 2015, is that 50 percent of the total*

1 *expenditures for long-term services and supports*
2 *under the State Medicaid program are for home*
3 *and community-based services.*

4 (3) *MAINTENANCE OF ELIGIBILITY REQUIRE-*
5 *MENTS.—The State does not apply eligibility stand-*
6 *ards, methodologies, or procedures for determining eli-*
7 *gibility for medical assistance for non-institutionally-*
8 *based long-term services and supports described in*
9 *subsection (f)(1)(B) under the State Medicaid pro-*
10 *gram that are more restrictive than the eligibility*
11 *standards, methodologies, or procedures in effect for*
12 *such purposes on December 31, 2010.*

13 (4) *USE OF ADDITIONAL FUNDS.—The State*
14 *agrees to use the additional Federal funds paid to the*
15 *State as a result of this section only for purposes of*
16 *providing new or expanded offerings of non-institu-*
17 *tionally-based long-term services and supports de-*
18 *scribed in subsection (f)(1)(B) under the State Med-*
19 *icaid program.*

20 (5) *STRUCTURAL CHANGES.—The State agrees to*
21 *make, not later than the end of the 6-month period*
22 *that begins on the date the State submits an applica-*
23 *tion under this section, the following changes:*

24 (A) *“NO WRONG DOOR—SINGLE ENTRY*
25 *POINT SYSTEM”.—Development of a statewide*

1 *system to enable consumers to access all long-*
2 *term services and supports through an agency,*
3 *organization, coordinated network, or portal, in*
4 *accordance with such standards as the State*
5 *shall establish and that shall provide informa-*
6 *tion regarding the availability of such services,*
7 *how to apply for such services, referral services*
8 *for services and supports otherwise available in*
9 *the community, and determinations of financial*
10 *and functional eligibility for such services and*
11 *supports, or assistance with assessment processes*
12 *for financial and functional eligibility.*

13 *(B) CONFLICT-FREE CASE MANAGEMENT*
14 *SERVICES.—Conflict-free case management serv-*
15 *ices to develop a service plan, arrange for serv-*
16 *ices and supports, support the beneficiary (and,*
17 *if appropriate, the beneficiary’s caregivers) in*
18 *directing the provision of services and supports*
19 *for the beneficiary, and conduct ongoing moni-*
20 *toring to assure that services and supports are*
21 *delivered to meet the beneficiary’s needs and*
22 *achieve intended outcomes.*

23 *(C) CORE STANDARDIZED ASSESSMENT IN-*
24 *STRUMENTS.—Development of core standardized*
25 *assessment instruments for determining eligi-*

1 *bility for non-institutionally-based long-term*
2 *services and supports described in subsection*
3 *(f)(1)(B), which shall be used in a uniform man-*
4 *ner throughout the State, to determine a bene-*
5 *ficiary's needs for training, support services,*
6 *medical care, transportation, and other services,*
7 *and develop an individual service plan to ad-*
8 *dress such needs.*

9 (6) *DATA COLLECTION.*—*The State agrees to col-*
10 *lect from providers of services and through such other*
11 *means as the State determines appropriate the fol-*
12 *lowing data:*

13 (A) *SERVICES DATA.*—*Services data from*
14 *providers of non-institutionally-based long-term*
15 *services and supports described in subsection*
16 *(f)(1)(B) on a per-beneficiary basis and in ac-*
17 *cordance with such standardized coding proce-*
18 *dures as the State shall establish in consultation*
19 *with the Secretary.*

20 (B) *QUALITY DATA.*—*Quality data on a se-*
21 *lected set of core quality measures agreed upon*
22 *by the Secretary and the State that are linked to*
23 *population-specific outcomes measures and acces-*
24 *sible to providers.*

1 (C) *OUTCOMES MEASURES.*—*Outcomes*
 2 *measures data on a selected set of core popu-*
 3 *lation-specific outcomes measures agreed upon by*
 4 *the Secretary and the State that are accessible to*
 5 *providers and include—*

6 (i) *measures of beneficiary and family*
 7 *caregiver experience with providers;*

8 (ii) *measures of beneficiary and family*
 9 *caregiver satisfaction with services; and*

10 (iii) *measures for achieving desired*
 11 *outcomes appropriate to a specific bene-*
 12 *ficiary, including employment, participa-*
 13 *tion in community life, health stability, and*
 14 *prevention of loss in function.*

15 (d) *APPLICABLE PERCENTAGE POINTS INCREASE IN*
 16 *FMAP.*—*The applicable percentage points increase is—*

17 (1) *in the case of a balancing incentive payment*
 18 *State subject to the target spending percentage de-*
 19 *scribed in subsection (c)(2)(A), 5 percentage points;*
 20 *and*

21 (2) *in the case of any other balancing incentive*
 22 *payment State, 2 percentage points.*

23 (e) *ELIGIBLE MEDICAL ASSISTANCE EXPENDI-*
 24 *TURES.*—

1 (1) *IN GENERAL.*—Subject to paragraph (2),
2 *medical assistance described in this subsection is med-*
3 *ical assistance for non-institutionally-based long-term*
4 *services and supports described in subsection (f)(1)(B)*
5 *that is provided by a balancing incentive payment*
6 *State under its State Medicaid program during the*
7 *balancing incentive payment period.*

8 (2) *LIMITATION ON PAYMENTS.*—In no case may
9 *the aggregate amount of payments made by the Sec-*
10 *retary to balancing incentive payment States under*
11 *this section during the balancing incentive period ex-*
12 *ceed \$3,000,000,000.*

13 (f) *DEFINITIONS.*—In this section:

14 (1) *LONG-TERM SERVICES AND SUPPORTS DE-*
15 *FINED.*—The term “long-term services and supports”
16 *has the meaning given that term by Secretary and*
17 *may include any of the following (as defined for pur-*
18 *poses of State Medicaid programs):*

19 (A) *INSTITUTIONALLY-BASED LONG-TERM*
20 *SERVICES AND SUPPORTS.*—Services provided in
21 *an institution, including the following:*

22 (i) *Nursing facility services.*

23 (ii) *Services in an intermediate care*
24 *facility for the mentally retarded described*

1 in subsection (a)(15) of section 1905 of such
2 Act.

3 (B) *NON-INSTITUTIONALLY-BASED LONG-*
4 *TERM SERVICES AND SUPPORTS.*—Services not
5 provided in an institution, including the fol-
6 lowing:

7 (i) *Home and community-based serv-*
8 *ices provided under subsection (c), (d), or*
9 *(i) of section 1915 of such Act or under a*
10 *waiver under section 1115 of such Act.*

11 (ii) *Home health care services.*

12 (iii) *Personal care services.*

13 (iv) *Services described in subsection*
14 *(a)(26) of section 1905 of such Act (relating*
15 *to PACE program services).*

16 (v) *Self-directed personal assistance*
17 *services described in section 1915(j) of such*
18 *Act.*

19 (2) *BALANCING INCENTIVE PERIOD.*—The term
20 “balancing incentive period” means the period that
21 begins on October 1, 2011, and ends on September 30,
22 2015.

23 (3) *POVERTY LINE.*—The term “poverty line”
24 has the meaning given that term in section 2110(c)(5)
25 of the Social Security Act (42 U.S.C. 1397jj(c)(5)).

1 (4) *STATE MEDICAID PROGRAM.*—*The term*
2 *“State Medicaid program” means the State program*
3 *for medical assistance provided under a State plan*
4 *under title XIX of the Social Security Act and under*
5 *any waiver approved with respect to such State plan.*

6 **SEC. 10203. EXTENSION OF FUNDING FOR CHIP THROUGH**
7 **FISCAL YEAR 2015 AND OTHER CHIP-RELATED**
8 **PROVISIONS.**

9 (a) *Section 1311(c)(1) of this Act is amended by strik-*
10 *ing “and” at the end of subparagraph (G), by striking the*
11 *period at the end of subparagraph (H) and inserting “;*
12 *and”, and by adding at the end the following:*

13 *“(I) report to the Secretary at least annu-*
14 *ally and in such manner as the Secretary shall*
15 *require, pediatric quality reporting measures*
16 *consistent with the pediatric quality reporting*
17 *measures established under section 1139A of the*
18 *Social Security Act.”.*

19 (b) *Effective as if included in the enactment of the*
20 *Children’s Health Insurance Program Reauthorization Act*
21 *of 2009 (Public Law 111–3):*

22 (1) *Section 1906(e)(2) of the Social Security Act*
23 (42 U.S.C. 1396e(e)(2)) *is amended by striking*
24 *“means” and all that follows through the period and*

1 *inserting “has the meaning given that term in section*
2 *2105(c)(3)(A).”.*

3 *(2)(A) Section 1906A(a) of the Social Security*
4 *Act (42 U.S.C. 1396e–1(a)), is amended by inserting*
5 *before the period the following: “and the offering of*
6 *such a subsidy is cost-effective, as defined for purposes*
7 *of section 2105(c)(3)(A).”.*

8 *(B) This Act shall be applied without regard to*
9 *subparagraph (A) of section 2003(a)(1) of this Act*
10 *and that subparagraph and the amendment made by*
11 *that subparagraph are hereby deemed null, void, and*
12 *of no effect.*

13 *(3) Section 2105(c)(10) of the Social Security*
14 *Act (42 U.S.C. 1397ee(c)(10)) is amended—*

15 *(A) in subparagraph (A), in the first sen-*
16 *tence, by inserting before the period the fol-*
17 *lowing: “if the offering of such a subsidy is cost-*
18 *effective, as defined for purposes of paragraph*
19 *(3)(A).”;*

20 *(B) by striking subparagraph (M); and*

21 *(C) by redesignating subparagraph (N) as*
22 *subparagraph (M).*

23 *(4) Section 2105(c)(3)(A) of the Social Security*
24 *Act (42 U.S.C. 1397ee(c)(3)(A)) is amended—*

1 (A) in the matter preceding clause (i), by
2 striking “to” and inserting “to—”; and

3 (B) in clause (ii), by striking the period
4 and inserting a semicolon.

5 (c) Section 2105 of the Social Security Act (42 U.S.C.
6 1397ee), as amended by section 2101, is amended—

7 (1) in subsection (b), in the second sentence, by
8 striking “2013” and inserting “2015”; and

9 (2) in subsection (d)(3)—

10 (A) in subparagraph (A)—

11 (i) in the first sentence, by inserting
12 “as a condition of receiving payments
13 under section 1903(a),” after “2019,”;

14 (ii) in clause (i), by striking “or” at
15 the end;

16 (iii) by redesignating clause (ii) as
17 clause (iii); and

18 (iv) by inserting after clause (i), the
19 following:

20 “(ii) after September 30, 2015, enroll-
21 ing children eligible to be targeted low-in-
22 come children under the State child health
23 plan in a qualified health plan that has
24 been certified by the Secretary under sub-
25 paragraph (C); or”;

1 (B) in subparagraph (B), by striking “pro-
2 vided coverage” and inserting “screened for eligi-
3 bility for medical assistance under the State
4 plan under title XIX or a waiver of that plan
5 and, if found eligible, enrolled in such plan or a
6 waiver. In the case of such children who, as a re-
7 sult of such screening, are determined to not be
8 eligible for medical assistance under the State
9 plan or a waiver under title XIX, the State shall
10 establish procedures to ensure that the children
11 are enrolled in a qualified health plan that has
12 been certified by the Secretary under subpara-
13 graph (C) and is offered”; and

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

15 “(C) CERTIFICATION OF COMPARABILITY OF
16 PEDIATRIC COVERAGE OFFERED BY QUALIFIED
17 HEALTH PLANS.—With respect to each State, the
18 Secretary, not later than April 1, 2015, shall re-
19 view the benefits offered for children and the
20 cost-sharing imposed with respect to such bene-
21 fits by qualified health plans offered through an
22 Exchange established by the State under section
23 1311 of the Patient Protection and Affordable
24 Care Act and shall certify those plans that offer
25 benefits for children and impose cost-sharing

1 *with respect to such benefits that the Secretary*
2 *determines are at least comparable to the benefits*
3 *offered and cost-sharing protections provided*
4 *under the State child health plan.”.*

5 *(d)(1) Section 2104(a) of such Act (42 U.S.C.*
6 *1397dd(a)) is amended—*

7 *(A) in paragraph (15), by striking “and” at the*
8 *end; and*

9 *(B) by striking paragraph (16) and inserting the*
10 *following:*

11 *“(16) for fiscal year 2013, \$17,406,000,000;*

12 *“(17) for fiscal year 2014, \$19,147,000,000; and*

13 *“(18) for fiscal year 2015, for purposes of mak-*
14 *ing 2 semi-annual allotments—*

15 *“(A) \$2,850,000,000 for the period begin-*
16 *ning on October 1, 2014, and ending on March*
17 *31, 2015, and*

18 *“(B) \$2,850,000,000 for the period begin-*
19 *ning on April 1, 2015, and ending on September*
20 *30, 2015.”.*

21 *(2)(A) Section 2104(m) of such Act (42 U.S.C.*
22 *1397dd(m)), as amended by section 2102(a)(1), is amend-*
23 *ed—*

24 *(i) in the subsection heading, by striking “2013”*
25 *and inserting “2015”;*

1 (ii) in paragraph (2)—

2 (I) in the paragraph heading, by striking
3 “2012” and inserting “2014”; and

4 (II) by adding at the end the following:

5 “(B) FISCAL YEARS 2013 AND 2014.—Subject
6 to paragraphs (4) and (6), from the amount
7 made available under paragraphs (16) and (17)
8 of subsection (a) for fiscal years 2013 and 2014,
9 respectively, the Secretary shall compute a State
10 allotment for each State (including the District
11 of Columbia and each commonwealth and terri-
12 tory) for each such fiscal year as follows:

13 “(i) REBASING IN FISCAL YEAR 2013.—
14 For fiscal year 2013, the allotment of the
15 State is equal to the Federal payments to
16 the State that are attributable to (and
17 countable towards) the total amount of al-
18 lotments available under this section to the
19 State in fiscal year 2012 (including pay-
20 ments made to the State under subsection
21 (n) for fiscal year 2012 as well as amounts
22 redistributed to the State in fiscal year
23 2012), multiplied by the allotment increase
24 factor under paragraph (5) for fiscal year
25 2013.

1 “(i) *GROWTH FACTOR UPDATE FOR*
2 *FISCAL YEAR 2014.*—For fiscal year 2014,
3 the allotment of the State is equal to the
4 sum of—

5 “(I) the amount of the State allot-
6 ment under clause (i) for fiscal year
7 2013; and

8 “(II) the amount of any payments
9 made to the State under subsection (n)
10 for fiscal year 2013,

11 multiplied by the allotment increase factor
12 under paragraph (5) for fiscal year 2014.”;
13 (iii) in paragraph (3)—

14 (I) in the paragraph heading, by strik-
15 ing “2013” and inserting “2015”;

16 (II) in subparagraphs (A) and (B), by
17 striking “paragraph (16)” each place it ap-
18 pears and inserting “paragraph (18)”;

19 (III) in subparagraph (C)—

20 (aa) by striking “2012” each
21 place it appears and inserting “2014”;
22 and

23 (bb) by striking “2013” and in-
24 serting “2015”; and

25 (IV) in subparagraph (D)—

1 (aa) in clause (i)(I), by striking
2 “subsection (a)(16)(A)” and inserting
3 “subsection (a)(18)(A)”; and

4 (bb) in clause (ii)(II), by striking
5 “subsection (a)(16)(B)” and inserting
6 “subsection (a)(18)(B)”;

7 (iv) in paragraph (4), by striking “2013”
8 and inserting “2015”;

9 (v) in paragraph (6)—

10 (I) in subparagraph (A), by striking
11 “2013” and inserting “2015”; and

12 (II) in the flush language after and
13 below subparagraph (B)(ii), by striking “or
14 fiscal year 2012” and inserting “, fiscal
15 year 2012, or fiscal year 2014”; and

16 (vi) in paragraph (8)—

17 (I) in the paragraph heading, by strik-
18 ing “2013” and inserting “2015”; and

19 (II) by striking “2013” and inserting
20 “2015”.

21 (B) Section 2104(n) of such Act (42 U.S.C. 1397dd(n))

22 is amended—

23 (i) in paragraph (2)—

24 (I) in subparagraph (A)(ii)—

1 (aa) by striking “2012” and inserting
2 “2014”; and

3 (bb) by striking “2013” and inserting
4 “2015”;

5 (II) in subparagraph (B)—

6 (aa) by striking “2012” and inserting
7 “2014”; and

8 (bb) by striking “2013” and inserting
9 “2015”; and

10 (ii) in paragraph (3)(A), by striking “or a semi-
11 annual allotment period for fiscal year 2013” and in-
12 serting “fiscal year 2013, fiscal year 2014, or a semi-
13 annual allotment period for fiscal year 2015”.

14 (C) Section 2105(g)(4) of such Act (42 U.S.C.
15 1397ee(g)(4)) is amended—

16 (i) in the paragraph heading, by striking “2013”
17 and inserting “2015”; and

18 (ii) in subparagraph (A), by striking “2013”
19 and inserting “2015”.

20 (D) Section 2110(b) of such Act (42 U.S.C. 1397jj(b))
21 is amended—

22 (i) in paragraph (2)(B), by inserting “except as
23 provided in paragraph (6),” before “a child”; and

24 (ii) by adding at the end the following new
25 paragraph:

1 “(6) *EXCEPTIONS TO EXCLUSION OF CHILDREN*
2 *OF EMPLOYEES OF A PUBLIC AGENCY IN THE*
3 *STATE.—*

4 “(A) *IN GENERAL.—A child shall not be*
5 *considered to be described in paragraph (2)(B)*
6 *if—*

7 “(i) *the public agency that employs a*
8 *member of the child’s family to which such*
9 *paragraph applies satisfies subparagraph*
10 *(B); or*

11 “(ii) *subparagraph (C) applies to such*
12 *child.*

13 “(B) *MAINTENANCE OF EFFORT WITH RE-*
14 *SPECT TO PER PERSON AGENCY CONTRIBUTION*
15 *FOR FAMILY COVERAGE.—For purposes of sub-*
16 *paragraph (A)(i), a public agency satisfies this*
17 *subparagraph if the amount of annual agency*
18 *expenditures made on behalf of each employee en-*
19 *rolled in health coverage paid for by the agency*
20 *that includes dependent coverage for the most re-*
21 *cent State fiscal year is not less than the amount*
22 *of such expenditures made by the agency for the*
23 *1997 State fiscal year, increased by the percent-*
24 *age increase in the medical care expenditure cat-*
25 *egory of the Consumer Price Index for All-Urban*

1 *Consumers (all items: U.S. City Average) for*
2 *such preceding fiscal year.*

3 “(C) *HARDSHIP EXCEPTION.—For purposes*
4 *of subparagraph (A)(ii), this subparagraph ap-*
5 *plies to a child if the State determines, on a*
6 *case-by-case basis, that the annual aggregate*
7 *amount of premiums and cost-sharing imposed*
8 *for coverage of the family of the child would ex-*
9 *ceed 5 percent of such family’s income for the*
10 *year involved.”.*

11 (E) *Section 2113 of such Act (42 U.S.C. 1397mm) is*
12 *amended—*

13 (i) *in subsection (a)(1), by striking “2013” and*
14 *inserting “2015”; and*

15 (ii) *in subsection (g), by striking “\$100,000,000*
16 *for the period of fiscal years 2009 through 2013” and*
17 *inserting “\$140,000,000 for the period of fiscal years*
18 *2009 through 2015”.*

19 (F) *Section 108 of Public Law 111–3 is amended by*
20 *striking “\$11,706,000,000” and all that follows through the*
21 *second sentence and inserting “\$15,361,000,000 to accom-*
22 *pany the allotment made for the period beginning on Octo-*
23 *ber 1, 2014, and ending on March 31, 2015, under section*
24 *2104(a)(18)(A) of the Social Security Act (42 U.S.C.*
25 *1397dd(a)(18)(A)), to remain available until expended.*

1 *Such amount shall be used to provide allotments to States*
2 *under paragraph (3) of section 2104(m) of the Social Secu-*
3 *rity Act (42 U.S.C. 1397dd(m)) for the first 6 months of*
4 *fiscal year 2015 in the same manner as allotments are pro-*
5 *vided under subsection (a)(18)(A) of such section 2104 and*
6 *subject to the same terms and conditions as apply to the*
7 *allotments provided from such subsection (a)(18)(A).”.*

8 **PART II—SUPPORT FOR PREGNANT AND**

9 **PARENTING TEENS AND WOMEN**

10 **SEC. 10211. DEFINITIONS.**

11 *In this part:*

12 (1) *ACCOMPANIMENT.*—*The term “accompani-*
13 *ment” means assisting, representing, and accom-*
14 *panying a woman in seeking judicial relief for child*
15 *support, child custody, restraining orders, and res-*
16 *titution for harm to persons and property, and in fil-*
17 *ing criminal charges, and may include the payment*
18 *of court costs and reasonable attorney and witness*
19 *fees associated therewith.*

20 (2) *ELIGIBLE INSTITUTION OF HIGHER EDU-*
21 *CATION.*—*The term “eligible institution of higher edu-*
22 *cation” means an institution of higher education (as*
23 *such term is defined in section 101 of the Higher*
24 *Education Act of 1965 (20 U.S.C. 1001)) that has es-*
25 *tablished and operates, or agrees to establish and op-*

1 *erate upon the receipt of a grant under this part, a*
2 *pregnant and parenting student services office.*

3 (3) *COMMUNITY SERVICE CENTER.*—*The term*
4 *“community service center” means a non-profit orga-*
5 *nization that provides social services to residents of a*
6 *specific geographical area via direct service or by con-*
7 *tract with a local governmental agency.*

8 (4) *HIGH SCHOOL.*—*The term “high school”*
9 *means any public or private school that operates*
10 *grades 10 through 12, inclusive, grades 9 through 12,*
11 *inclusive or grades 7 through 12, inclusive.*

12 (5) *INTERVENTION SERVICES.*—*The term “inter-*
13 *vention services” means, with respect to domestic vio-*
14 *lence, sexual violence, sexual assault, or stalking, 24-*
15 *hour telephone hotline services for police protection*
16 *and referral to shelters.*

17 (6) *SECRETARY.*—*The term “Secretary” means*
18 *the Secretary of Health and Human Services.*

19 (7) *STATE.*—*The term “State” includes the Dis-*
20 *trict of Columbia, any commonwealth, possession, or*
21 *other territory of the United States, and any Indian*
22 *tribe or reservation.*

23 (8) *SUPPORTIVE SOCIAL SERVICES.*—*The term*
24 *“supportive social services” means transitional and*
25 *permanent housing, vocational counseling, and indi-*

1 **SEC. 10213. PERMISSIBLE USES OF FUND.**

2 (a) *IN GENERAL.*—A State shall use amounts received
3 under a grant under section 10212 for the purposes de-
4 scribed in this section to assist pregnant and parenting
5 teens and women.

6 (b) *INSTITUTIONS OF HIGHER EDUCATION.*—

7 (1) *IN GENERAL.*—A State may use amounts re-
8 ceived under a grant under section 10212 to make
9 funding available to eligible institutions of higher
10 education to enable the eligible institutions to estab-
11 lish, maintain, or operate pregnant and parenting
12 student services. Such funding shall be used to supple-
13 ment, not supplant, existing funding for such services.

14 (2) *APPLICATION.*—An eligible institution of
15 higher education that desires to receive funding under
16 this subsection shall submit an application to the des-
17 ignated State agency at such time, in such manner,
18 and containing such information as the State agency
19 may require.

20 (3) *MATCHING REQUIREMENT.*—An eligible insti-
21 tution of higher education that receives funding under
22 this subsection shall contribute to the conduct of the
23 pregnant and parenting student services office sup-
24 ported by the funding an amount from non-Federal
25 funds equal to 25 percent of the amount of the fund-
26 ing provided. The non-Federal share may be in cash

1 *or in-kind, fairly evaluated, including services, facili-*
2 *ties, supplies, or equipment.*

3 (4) *USE OF FUNDS FOR ASSISTING PREGNANT*
4 *AND PARENTING COLLEGE STUDENTS.—An eligible in-*
5 *stitution of higher education that receives funding*
6 *under this subsection shall use such funds to establish,*
7 *maintain or operate pregnant and parenting student*
8 *services and may use such funding for the following*
9 *programs and activities:*

10 (A) *Conduct a needs assessment on campus*
11 *and within the local community—*

12 (i) *to assess pregnancy and parenting*
13 *resources, located on the campus or within*
14 *the local community, that are available to*
15 *meet the needs described in subparagraph*
16 *(B); and*

17 (ii) *to set goals for—*

18 (I) *improving such resources for*
19 *pregnant, parenting, and prospective*
20 *parenting students; and*

21 (II) *improving access to such re-*
22 *sources.*

23 (B) *Annually assess the performance of the*
24 *eligible institution in meeting the following needs*

1 *of students enrolled in the eligible institution*
2 *who are pregnant or are parents:*

3 *(i) The inclusion of maternity coverage*
4 *and the availability of riders for additional*
5 *family members in student health care.*

6 *(ii) Family housing.*

7 *(iii) Child care.*

8 *(iv) Flexible or alternative academic*
9 *scheduling, such as telecommuting pro-*
10 *grams, to enable pregnant or parenting stu-*
11 *dents to continue their education or stay in*
12 *school.*

13 *(v) Education to improve parenting*
14 *skills for mothers and fathers and to*
15 *strengthen marriages.*

16 *(vi) Maternity and baby clothing, baby*
17 *food (including formula), baby furniture,*
18 *and similar items to assist parents and pro-*
19 *spective parents in meeting the material*
20 *needs of their children.*

21 *(vii) Post-partum counseling.*

22 *(C) Identify public and private service pro-*
23 *viders, located on the campus of the eligible in-*
24 *stitution or within the local community, that are*
25 *qualified to meet the needs described in subpara-*

1 *graph (B), and establishes programs with quali-*
2 *fied providers to meet such needs.*

3 *(D) Assist pregnant and parenting students,*
4 *fathers or spouses in locating and obtaining serv-*
5 *ices that meet the needs described in subpara-*
6 *graph (B).*

7 *(E) If appropriate, provide referrals for*
8 *prenatal care and delivery, infant or foster care,*
9 *or adoption, to a student who requests such in-*
10 *formation. An office shall make such referrals*
11 *only to service providers that serve the following*
12 *types of individuals:*

13 *(i) Parents.*

14 *(ii) Prospective parents awaiting*
15 *adoption.*

16 *(iii) Women who are pregnant and*
17 *plan on parenting or placing the child for*
18 *adoption.*

19 *(iv) Parenting or prospective par-*
20 *enting couples.*

21 (5) *REPORTING.—*

22 *(A) ANNUAL REPORT BY INSTITUTIONS.—*

23 *(i) IN GENERAL.—For each fiscal year*
24 *that an eligible institution of higher edu-*
25 *cation receives funds under this subsection,*

1 the eligible institution shall prepare and
2 submit to the State, by the date determined
3 by the State, a report that—

4 (I) itemizes the pregnant and par-
5 enting student services office's expendi-
6 tures for the fiscal year;

7 (II) contains a review and evalua-
8 tion of the performance of the office in
9 fulfilling the requirements of this sec-
10 tion, using the specific performance
11 criteria or standards established under
12 subparagraph (B)(i); and

13 (III) describes the achievement of
14 the office in meeting the needs listed in
15 paragraph (4)(B) of the students served
16 by the eligible institution, and the fre-
17 quency of use of the office by such stu-
18 dents.

19 (ii) *PERFORMANCE CRITERIA.*—Not
20 later than 180 days before the date the an-
21 nual report described in clause (i) is sub-
22 mitted, the State—

23 (I) shall identify the specific per-
24 formance criteria or standards that
25 shall be used to prepare the report; and

1 (ii) may establish the form or for-
2 mat of the report.

3 (B) *REPORT BY STATE.*—The State shall
4 annually prepare and submit a report on the
5 findings under this subsection, including the
6 number of eligible institutions of higher edu-
7 cation that were awarded funds and the number
8 of students served by each pregnant and par-
9 enting student services office receiving funds
10 under this section, to the Secretary.

11 (c) *SUPPORT FOR PREGNANT AND PARENTING*
12 *TEENS.*—A State may use amounts received under a grant
13 under section 10212 to make funding available to eligible
14 high schools and community service centers to establish,
15 maintain or operate pregnant and parenting services in the
16 same general manner and in accordance with all conditions
17 and requirements described in subsection (b), except that
18 paragraph (3) of such subsection shall not apply for pur-
19 poses of this subsection.

20 (d) *IMPROVING SERVICES FOR PREGNANT WOMEN*
21 *WHO ARE VICTIMS OF DOMESTIC VIOLENCE, SEXUAL VIO-*
22 *LENCE, SEXUAL ASSAULT, AND STALKING.*—

23 (1) *IN GENERAL.*—A State may use amounts re-
24 ceived under a grant under section 10212 to make

1 *funding available to its State Attorney General to as-*
2 *ist Statewide offices in providing—*

3 *(A) intervention services, accompaniment,*
4 *and supportive social services for eligible preg-*
5 *nant women who are victims of domestic vio-*
6 *lence, sexual violence, sexual assault, or stalking.*

7 *(B) technical assistance and training (as*
8 *described in subsection (c)) relating to violence*
9 *against eligible pregnant women to be made*
10 *available to the following:*

11 *(i) Federal, State, tribal, territorial,*
12 *and local governments, law enforcement*
13 *agencies, and courts.*

14 *(ii) Professionals working in legal, so-*
15 *cial service, and health care settings.*

16 *(iii) Nonprofit organizations.*

17 *(iv) Faith-based organizations.*

18 *(2) ELIGIBILITY.—To be eligible for a grant*
19 *under paragraph (1), a State Attorney General shall*
20 *submit an application to the designated State agency*
21 *at such time, in such manner, and containing such*
22 *information, as specified by the State.*

23 *(3) TECHNICAL ASSISTANCE AND TRAINING DE-*
24 *SCRIBED.—For purposes of paragraph (1)(B), tech-*
25 *nical assistance and training is—*

1 (A) *the identification of eligible pregnant*
2 *women experiencing domestic violence, sexual vi-*
3 *olence, sexual assault, or stalking;*

4 (B) *the assessment of the immediate and*
5 *short-term safety of such a pregnant woman, the*
6 *evaluation of the impact of the violence or stalk-*
7 *ing on the pregnant woman’s health, and the as-*
8 *sistance of the pregnant woman in developing a*
9 *plan aimed at preventing further domestic vio-*
10 *lence, sexual violence, sexual assault, or stalking,*
11 *as appropriate;*

12 (C) *the maintenance of complete medical or*
13 *forensic records that include the documentation*
14 *of any examination, treatment given, and refer-*
15 *als made, recording the location and nature of*
16 *the pregnant woman’s injuries, and the establish-*
17 *ment of mechanisms to ensure the privacy and*
18 *confidentiality of those medical records; and*

19 (D) *the identification and referral of the*
20 *pregnant woman to appropriate public and pri-*
21 *vate nonprofit entities that provide intervention*
22 *services, accompaniment, and supportive social*
23 *services.*

24 (4) *ELIGIBLE PREGNANT WOMAN.—In this sub-*
25 *section, the term “eligible pregnant woman” means*

1 *any woman who is pregnant on the date on which*
2 *such woman becomes a victim of domestic violence,*
3 *sexual violence, sexual assault, or stalking or who was*
4 *pregnant during the one-year period before such date.*

5 *(e) PUBLIC AWARENESS AND EDUCATION.—A State*
6 *may use amounts received under a grant under section*
7 *10212 to make funding available to increase public aware-*
8 *ness and education concerning any services available to*
9 *pregnant and parenting teens and women under this part,*
10 *or any other resources available to pregnant and parenting*
11 *women in keeping with the intent and purposes of this part.*
12 *The State shall be responsible for setting guidelines or limits*
13 *as to how much of funding may be utilized for public*
14 *awareness and education in any funding award.*

15 **SEC. 10214. APPROPRIATIONS.**

16 *There is authorized to be appropriated, and there are*
17 *appropriated, \$25,000,000 for each of fiscal years 2010*
18 *through 2019, to carry out this part.*

19 **PART III—INDIAN HEALTH CARE IMPROVEMENT**

20 **SEC. 10221. INDIAN HEALTH CARE IMPROVEMENT.**

21 *(a) IN GENERAL.—Except as provided in subsection*
22 *(b), S. 1790 entitled “A bill to amend the Indian Health*
23 *Care Improvement Act to revise and extend that Act, and*
24 *for other purposes.”, as reported by the Committee on In-*

1 *dian Affairs of the Senate in December 2009, is enacted*
2 *into law.*

3 *(b) AMENDMENTS.—*

4 *(1) Section 119 of the Indian Health Care Im-*
5 *provement Act (as amended by section 111 of the bill*
6 *referred to in subsection (a)) is amended—*

7 *(A) in subsection (d)—*

8 *(i) in paragraph (2), by striking “In*
9 *establishing” and inserting “Subject to*
10 *paragraphs (3) and (4), in establishing”;*
11 *and*

12 *(ii) by adding at the end the following:*

13 *“(3) ELECTION OF INDIAN TRIBE OR TRIBAL OR-*
14 *GANIZATION.—*

15 *“(A) IN GENERAL.—Subparagraph (B) of*
16 *paragraph (2) shall not apply in the case of an*
17 *election made by an Indian tribe or tribal orga-*
18 *nization located in a State (other than Alaska)*
19 *in which the use of dental health aide therapist*
20 *services or midlevel dental health provider serv-*
21 *ices is authorized under State law to supply such*
22 *services in accordance with State law.*

23 *“(B) ACTION BY SECRETARY.—On an elec-*
24 *tion by an Indian tribe or tribal organization*
25 *under subparagraph (A), the Secretary, acting*

1 *through the Service, shall facilitate implementa-*
2 *tion of the services elected.*

3 “(4) *VACANCIES.—The Secretary shall not fill*
4 *any vacancy for a certified dentist in a program op-*
5 *erated by the Service with a dental health aide thera-*
6 *pist.”; and*

7 *(B) by adding at the end the following:*

8 “(e) *EFFECT OF SECTION.—Nothing in this section*
9 *shall restrict the ability of the Service, an Indian tribe, or*
10 *a tribal organization to participate in any program or to*
11 *provide any service authorized by any other Federal law.”.*

12 (2) *The Indian Health Care Improvement Act*
13 *(as amended by section 134(b) of the bill referred to*
14 *in subsection (a)) is amended by striking section 125*
15 *(relating to treatment of scholarships for certain pur-*
16 *poses).*

17 (3) *Section 806 of the Indian Health Care Im-*
18 *provement Act (25 U.S.C. 1676) is amended—*

19 *(A) by striking “Any limitation” and in-*
20 *serting the following:*

21 “(a) *HHS APPROPRIATIONS.—Any limitation”; and*

22 *(B) by adding at the end the following:*

23 “(b) *LIMITATIONS PURSUANT TO OTHER FEDERAL*
24 *LAW.—Any limitation pursuant to other Federal laws on*
25 *the use of Federal funds appropriated to the Service shall*

1 *apply with respect to the performance or coverage of abor-*
2 *tions.”.*

3 (4) *The bill referred to in subsection (a) is*
4 *amended by striking section 201.*

5 ***Subtitle C—Provisions Relating to***
6 ***Title III***

7 ***SEC. 10301. PLANS FOR A VALUE-BASED PURCHASING PRO-***
8 ***GRAM FOR AMBULATORY SURGICAL CEN-***
9 ***TERS.***

10 (a) *IN GENERAL.—Section 3006 is amended by adding*
11 *at the end the following new subsection:*

12 “(f) *AMBULATORY SURGICAL CENTERS.—*

13 “(1) *IN GENERAL.—The Secretary shall develop*
14 *a plan to implement a value-based purchasing pro-*
15 *gram for payments under the Medicare program*
16 *under title XVIII of the Social Security Act for am-*
17 *bulatory surgical centers (as described in section*
18 *1833(i) of the Social Security Act (42 U.S.C.*
19 *1395l(i)).*

20 “(2) *DETAILS.—In developing the plan under*
21 *paragraph (1), the Secretary shall consider the fol-*
22 *lowing issues:*

23 “(A) *The ongoing development, selection,*
24 *and modification process for measures (including*
25 *under section 1890 of the Social Security Act (42*

1 *U.S.C. 1395aaa) and section 1890A of such Act,*
2 *as added by section 3014), to the extent feasible*
3 *and practicable, of all dimensions of quality and*
4 *efficiency in ambulatory surgical centers.*

5 “(B) *The reporting, collection, and valida-*
6 *tion of quality data.*

7 “(C) *The structure of value-based payment*
8 *adjustments, including the determination of*
9 *thresholds or improvements in quality that*
10 *would substantiate a payment adjustment, the*
11 *size of such payments, and the sources of funding*
12 *for the value-based bonus payments.*

13 “(D) *Methods for the public disclosure of in-*
14 *formation on the performance of ambulatory sur-*
15 *gical centers.*

16 “(E) *Any other issues determined appro-*
17 *priate by the Secretary.*

18 “(3) *CONSULTATION.—In developing the plan*
19 *under paragraph (1), the Secretary shall—*

20 “(A) *consult with relevant affected parties;*
21 *and*

22 “(B) *consider experience with such dem-*
23 *onstrations that the Secretary determines are rel-*
24 *evant to the value-based purchasing program de-*
25 *scribed in paragraph (1).*

1 “(4) *REPORT TO CONGRESS.*—Not later than
2 *January 1, 2011, the Secretary shall submit to Con-*
3 *gress a report containing the plan developed under*
4 *paragraph (1).”.*

5 (b) *TECHNICAL.*—Section 3006(a)(2)(A) is amended
6 by striking clauses (i) and (ii).

7 **SEC. 10302. REVISION TO NATIONAL STRATEGY FOR QUAL-**
8 **ITY IMPROVEMENT IN HEALTH CARE.**

9 Section 399HH(a)(2)(B)(iii) of the Public Health
10 Service Act, as added by section 3011, is amended by insert-
11 ing “(taking into consideration the limitations set forth in
12 subsections (c) and (d) of section 1182 of the Social Security
13 Act)” after “information”.

14 **SEC. 10303. DEVELOPMENT OF OUTCOME MEASURES.**

15 (a) *DEVELOPMENT.*—Section 931 of the Public Health
16 Service Act, as added by section 3013(a), is amended by
17 adding at the end the following new subsection:

18 “(f) *DEVELOPMENT OF OUTCOME MEASURES.*—

19 “(1) *IN GENERAL.*—The Secretary shall develop,
20 and periodically update (not less than every 3 years),
21 provider-level outcome measures for hospitals and
22 physicians, as well as other providers as determined
23 appropriate by the Secretary.

1 “(2) *CATEGORIES OF MEASURES.*—*The measures*
2 *developed under this subsection shall include, to the*
3 *extent determined appropriate by the Secretary—*

4 “(A) *outcome measurement for acute and*
5 *chronic diseases, including, to the extent feasible,*
6 *the 5 most prevalent and resource-intensive acute*
7 *and chronic medical conditions; and*

8 “(B) *outcome measurement for primary and*
9 *preventative care, including, to the extent fea-*
10 *sible, measurements that cover provision of such*
11 *care for distinct patient populations (such as*
12 *healthy children, chronically ill adults, or infirm*
13 *elderly individuals).*

14 “(3) *GOALS.*—*In developing such measures, the*
15 *Secretary shall seek to—*

16 “(A) *address issues regarding risk adjust-*
17 *ment, accountability, and sample size;*

18 “(B) *include the full scope of services that*
19 *comprise a cycle of care; and*

20 “(C) *include multiple dimensions.*

21 “(4) *TIMEFRAME.*—

22 “(A) *ACUTE AND CHRONIC DISEASES.*—*Not*
23 *later than 24 months after the date of enactment*
24 *of this Act, the Secretary shall develop not less*
25 *than 10 measures described in paragraph (2)(A).*

1 “(B) *PRIMARY AND PREVENTIVE CARE.*—
2 *Not later than 36 months after the date of enact-*
3 *ment of this Act, the Secretary shall develop not*
4 *less than 10 measures described in paragraph*
5 *(2)(B).”.*

6 (b) *HOSPITAL-ACQUIRED CONDITIONS.*—*Section*
7 *1890A of the Social Security Act, as amended by section*
8 *3013(b), is amended by adding at the end the following new*
9 *subsection:*

10 “(f) *HOSPITAL ACQUIRED CONDITIONS.*—*The Sec-*
11 *retary shall, to the extent practicable, publicly report on*
12 *measures for hospital-acquired conditions that are currently*
13 *utilized by the Centers for Medicare & Medicaid Services*
14 *for the adjustment of the amount of payment to hospitals*
15 *based on rates of hospital-acquired infections.”.*

16 (c) *CLINICAL PRACTICE GUIDELINES.*—*Section 304(b)*
17 *of the Medicare Improvements for Patients and Providers*
18 *Act of 2008 (Public Law 110–275) is amended by adding*
19 *at the end the following new paragraph:*

20 “(4) *IDENTIFICATION.*—

21 “(A) *IN GENERAL.*—*Following receipt of the*
22 *report submitted under paragraph (2), and not*
23 *less than every 3 years thereafter, the Secretary*
24 *shall contract with the Institute to employ the*
25 *results of the study performed under paragraph*

1 (1) and the best methods identified by the Insti-
2 tute for the purpose of identifying existing and
3 new clinical practice guidelines that were devel-
4 oped using such best methods, including guide-
5 lines listed in the National Guideline Clearing-
6 house.

7 “(B) CONSULTATION.—In carrying out the
8 identification process under subparagraph (A),
9 the Secretary shall allow for consultation with
10 professional societies, voluntary health care orga-
11 nizations, and expert panels.”.

12 **SEC. 10304. SELECTION OF EFFICIENCY MEASURES.**

13 Sections 1890(b)(7) and 1890A of the Social Security
14 Act, as added by section 3014, are amended by striking
15 “quality” each place it appears and inserting “quality and
16 efficiency”.

17 **SEC. 10305. DATA COLLECTION; PUBLIC REPORTING.**

18 Section 399II(a) of the Public Health Service Act, as
19 added by section 3015, is amended to read as follows:

20 “(a) IN GENERAL.—

21 “(1) ESTABLISHMENT OF STRATEGIC FRAME-
22 WORK.—The Secretary shall establish and implement
23 an overall strategic framework to carry out the public
24 reporting of performance information, as described in
25 section 399JJ. Such strategic framework may include

1 *methods and related timelines for implementing na-*
2 *tionally consistent data collection, data aggregation,*
3 *and analysis methods.*

4 “(2) *COLLECTION AND AGGREGATION OF DATA.—*
5 *The Secretary shall collect and aggregate consistent*
6 *data on quality and resource use measures from in-*
7 *formation systems used to support health care deliv-*
8 *ery, and may award grants or contracts for this pur-*
9 *pose. The Secretary shall align such collection and ag-*
10 *gregation efforts with the requirements and assistance*
11 *regarding the expansion of health information tech-*
12 *nology systems, the interoperability of such technology*
13 *systems, and related standards that are in effect on*
14 *the date of enactment of the Patient Protection and*
15 *Affordable Care Act.*

16 “(3) *SCOPE.—The Secretary shall ensure that*
17 *the data collection, data aggregation, and analysis*
18 *systems described in paragraph (1) involve an in-*
19 *creasingly broad range of patient populations, pro-*
20 *viders, and geographic areas over time.”.*

21 **SEC. 10306. IMPROVEMENTS UNDER THE CENTER FOR**
22 **MEDICARE AND MEDICAID INNOVATION.**

23 *Section 1115A of the Social Security Act, as added by*
24 *section 3021, is amended—*

1 (1) *in subsection (a), by inserting at the end the*
2 *following new paragraph:*

3 “(5) *TESTING WITHIN CERTAIN GEOGRAPHIC*
4 *AREAS.—For purposes of testing payment and service*
5 *delivery models under this section, the Secretary may*
6 *elect to limit testing of a model to certain geographic*
7 *areas.”;*

8 (2) *in subsection (b)(2)—*

9 (A) *in subparagraph (A)—*

10 (i) *in the second sentence, by striking*
11 *“the preceding sentence may include” and*
12 *inserting “this subparagraph may include,*
13 *but are not limited to,”; and*

14 (ii) *by inserting after the first sentence*
15 *the following new sentence: “The Secretary*
16 *shall focus on models expected to reduce pro-*
17 *gram costs under the applicable title while*
18 *preserving or enhancing the quality of care*
19 *received by individuals receiving benefits*
20 *under such title.”;*

21 (B) *in subparagraph (B), by adding at the*
22 *end the following new clauses:*

23 “(xix) *Utilizing, in particular in enti-*
24 *ties located in medically underserved areas*
25 *and facilities of the Indian Health Service*

1 *(whether operated by such Service or by an*
2 *Indian tribe or tribal organization (as those*
3 *terms are defined in section 4 of the Indian*
4 *Health Care Improvement Act)), telehealth*
5 *services—*

6 *“(I) in treating behavioral health*
7 *issues (such as post-traumatic stress*
8 *disorder) and stroke; and*

9 *“(II) to improve the capacity of*
10 *non-medical providers and non-special-*
11 *ized medical providers to provide*
12 *health services for patients with chron-*
13 *ic complex conditions.*

14 *“(xx) Utilizing a diverse network of*
15 *providers of services and suppliers to im-*
16 *prove care coordination for applicable indi-*
17 *viduals described in subsection (a)(4)(A)(i)*
18 *with 2 or more chronic conditions and a*
19 *history of prior-year hospitalization*
20 *through interventions developed under the*
21 *Medicare Coordinated Care Demonstration*
22 *Project under section 4016 of the Balanced*
23 *Budget Act of 1997 (42 U.S.C. 1395b–1*
24 *note).”;* and

1 (C) in subparagraph (C), by adding at the
2 end the following new clause:

3 “(viii) Whether the model demonstrates
4 effective linkage with other public sector or
5 private sector payers.”;

6 (3) in subsection (b)(4), by adding at the end the
7 following new subparagraph:

8 “(C) MEASURE SELECTION.—To the extent
9 feasible, the Secretary shall select measures under
10 this paragraph that reflect national priorities for
11 quality improvement and patient-centered care
12 consistent with the measures described in
13 1890(b)(7)(B).”; and

14 (4) in subsection (c)—

15 (A) in paragraph (1)(B), by striking “care
16 and reduce spending; and” and inserting “pa-
17 tient care without increasing spending;”;

18 (B) in paragraph (2), by striking “reduce
19 program spending under applicable titles.” and
20 inserting “reduce (or would not result in any in-
21 crease in) net program spending under applica-
22 ble titles; and”;

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

24 “(3) the Secretary determines that such expan-
25 sion would not deny or limit the coverage or provi-

1 *Secretary may limit a partial capitation model*
2 *to ACOs that are highly integrated systems of*
3 *care and to ACOs capable of bearing risk, as de-*
4 *termined to be appropriate by the Secretary.*

5 *“(B) NO ADDITIONAL PROGRAM EXPENDI-*
6 *TURES.—Payments to an ACO for items and*
7 *services under this title for beneficiaries for a*
8 *year under the partial capitation model shall be*
9 *established in a manner that does not result in*
10 *spending more for such ACO for such bene-*
11 *ficiaries than would otherwise be expended for*
12 *such ACO for such beneficiaries for such year if*
13 *the model were not implemented, as estimated by*
14 *the Secretary.*

15 *“(3) OTHER PAYMENT MODELS.—*

16 *“(A) IN GENERAL.—Subject to subpara-*
17 *graph (B), a model described in this paragraph*
18 *is any payment model that the Secretary deter-*
19 *mines will improve the quality and efficiency of*
20 *items and services furnished under this title.*

21 *“(B) NO ADDITIONAL PROGRAM EXPENDI-*
22 *TURES.—Subparagraph (B) of paragraph (2)*
23 *shall apply to a payment model under subpara-*
24 *graph (A) in a similar manner as such subpara-*

1 *graph (B) applies to the payment model under*
2 *paragraph (2).*

3 “(j) *INVOLVEMENT IN PRIVATE PAYER AND OTHER*
4 *THIRD PARTY ARRANGEMENTS.—The Secretary may give*
5 *preference to ACOs who are participating in similar ar-*
6 *rangements with other payers.*

7 “(k) *TREATMENT OF PHYSICIAN GROUP PRACTICE*
8 *DEMONSTRATION.—During the period beginning on the*
9 *date of the enactment of this section and ending on the date*
10 *the program is established, the Secretary may enter into*
11 *an agreement with an ACO under the demonstration under*
12 *section 1866A, subject to rebasing and other modifications*
13 *deemed appropriate by the Secretary.”.*

14 **SEC. 10308. REVISIONS TO NATIONAL PILOT PROGRAM ON**
15 **PAYMENT BUNDLING.**

16 (a) *IN GENERAL.—Section 1866D of the Social Secu-*
17 *rity Act, as added by section 3023, is amended—*

18 (1) *in paragraph (a)(2)(B), in the matter pre-*
19 *ceding clause (i), by striking “8 conditions” and in-*
20 *serting “10 conditions”;*

21 (2) *by striking subsection (c)(1)(B) and inserting*
22 *the following:*

23 “(B) *EXPANSION.—The Secretary may, at*
24 *any point after January 1, 2016, expand the du-*
25 *ration and scope of the pilot program, to the ex-*

1 *tent determined appropriate by the Secretary,*
2 *if—*

3 “(i) *the Secretary determines that such*
4 *expansion is expected to—*

5 “(I) *reduce spending under title*
6 *XVIII of the Social Security Act with-*
7 *out reducing the quality of care; or*

8 “(II) *improve the quality of care*
9 *and reduce spending;*

10 “(ii) *the Chief Actuary of the Centers*
11 *for Medicare & Medicaid Services certifies*
12 *that such expansion would reduce program*
13 *spending under such title XVIII; and*

14 “(iii) *the Secretary determines that*
15 *such expansion would not deny or limit the*
16 *coverage or provision of benefits under this*
17 *title for individuals.”; and*

18 (3) *by striking subsection (g) and inserting the*
19 *following new subsection:*

20 “(g) *APPLICATION OF PILOT PROGRAM TO CON-*
21 *TINUING CARE HOSPITALS.—*

22 “(1) *IN GENERAL.—In conducting the pilot pro-*
23 *gram, the Secretary shall apply the provisions of the*
24 *program so as to separately pilot test the continuing*
25 *care hospital model.*

1 “(2) *SPECIAL RULES.*—*In pilot testing the con-*
2 *tinuing care hospital model under paragraph (1), the*
3 *following rules shall apply:*

4 “(A) *Such model shall be tested without the*
5 *limitation to the conditions selected under sub-*
6 *section (a)(2)(B).*

7 “(B) *Notwithstanding subsection (a)(2)(D),*
8 *an episode of care shall be defined as the full pe-*
9 *riod that a patient stays in the continuing care*
10 *hospital plus the first 30 days following dis-*
11 *charge from such hospital.*

12 “(3) *CONTINUING CARE HOSPITAL DEFINED.*—*In*
13 *this subsection, the term ‘continuing care hospital’*
14 *means an entity that has demonstrated the ability to*
15 *meet patient care and patient safety standards and*
16 *that provides under common management the medical*
17 *and rehabilitation services provided in inpatient re-*
18 *habilitation hospitals and units (as defined in section*
19 *1886(d)(1)(B)(ii)), long term care hospitals (as de-*
20 *fined in section 1886(d)(1)(B)(iv)(I)), and skilled*
21 *nursing facilities (as defined in section 1819(a)) that*
22 *are located in a hospital described in section*
23 *1886(d).”.*

24 (b) *TECHNICAL AMENDMENTS.*—

1 (1) *Section 3023 is amended by striking*
2 *“1886C” and inserting “1866C”.*

3 (2) *Title XVIII of the Social Security Act is*
4 *amended by redesignating section 1866D, as added by*
5 *section 3024, as section 1866E.*

6 **SEC. 10309. REVISIONS TO HOSPITAL READMISSIONS RE-**
7 **DUCTION PROGRAM.**

8 *Section 1886(q)(1) of the Social Security Act, as added*
9 *by section 3025, in the matter preceding subparagraph (A),*
10 *is amended by striking “the Secretary shall reduce the pay-*
11 *ments” and all that follows through “the product of” and*
12 *inserting “the Secretary shall make payments (in addition*
13 *to the payments described in paragraph (2)(A)(ii)) for such*
14 *a discharge to such hospital under subsection (d) (or section*
15 *1814(b)(3), as the case may be) in an amount equal to the*
16 *product of”.*

17 **SEC. 10310. REPEAL OF PHYSICIAN PAYMENT UPDATE.**

18 *The provisions of, and the amendment made by, sec-*
19 *tion 3101 are repealed.*

20 **SEC. 10311. REVISIONS TO EXTENSION OF AMBULANCE**
21 **ADD-ONS.**

22 (a) *GROUND AMBULANCE.*—*Section 1834(l)(13)(A) of*
23 *the Social Security Act (42 U.S.C. 1395m(l)(13)(A)), as*
24 *amended by section 3105(a), is further amended—*

25 (1) *in the matter preceding clause (i)—*

1 (A) by striking “2007, for” and inserting
2 “2007, and for”; and

3 (B) by striking “2010, and for such services
4 furnished on or after April 1, 2010, and before
5 January 1, 2011” and inserting “2011”; and
6 (2) in each of clauses (i) and (ii)—

7 (A) by striking “, and on or after April 1,
8 2010, and before January 1, 2011” each place it
9 appears; and

10 (B) by striking “January 1, 2010” and in-
11 serting “January 1, 2011” each place it appears.

12 (b) *AIR AMBULANCE*.—Section 146(b)(1) of the Medi-
13 care Improvements for Patients and Providers Act of 2008
14 (Public Law 110–275), as amended by section 3105(b), is
15 further amended by striking “December 31, 2009, and dur-
16 ing the period beginning on April 1, 2010, and ending on
17 January 1, 2011” and inserting “December 31, 2010”.

18 (c) *SUPER RURAL AMBULANCE*.—Section
19 1834(l)(12)(A) of the Social Security Act (42 U.S.C.
20 1395m(l)(12)(A)), as amended by section 3105(c), is further
21 amended by striking “2010, and on or after April 1, 2010,
22 and before January 1, 2011” and inserting “2011”.

1 **SEC. 10312. CERTAIN PAYMENT RULES FOR LONG-TERM**
2 **CARE HOSPITAL SERVICES AND MORATORIUM**
3 **ON THE ESTABLISHMENT OF CERTAIN HOS-**
4 **PITALS AND FACILITIES.**

5 (a) *CERTAIN PAYMENT RULES.*—Section 114(c) of the
6 *Medicare, Medicaid, and SCHIP Extension Act of 2007* (42
7 *U.S.C. 1395ww note*), as amended by section 4302(a) of the
8 *American Recovery and Reinvestment Act (Public Law*
9 *111–5)* and section 3106(a) of this Act, is further amended
10 *by striking “4-year period” each place it appears and in-*
11 *serting “5-year period”.*

12 (b) *MORATORIUM.*—Section 114(d) of such Act (42
13 *U.S.C. 1395ww note*), as amended by section 3106(b) of this
14 *Act, in the matter preceding subparagraph (A), is amended*
15 *by striking “4-year period” and inserting “5-year period”.*

16 **SEC. 10313. REVISIONS TO THE EXTENSION FOR THE RURAL**
17 **COMMUNITY HOSPITAL DEMONSTRATION**
18 **PROGRAM.**

19 (a) *IN GENERAL.*—Subsection (g) of section 410A of
20 *the Medicare Prescription Drug, Improvement, and Mod-*
21 *ernization Act of 2003 (Public Law 108–173; 117 Stat.*
22 *2272)*, as added by section 3123(a) of this Act, is amended
23 *to read as follows:*

24 “(g) *FIVE-YEAR EXTENSION OF DEMONSTRATION PRO-*
25 *GRAM.*—

1 “(1) *IN GENERAL.*—Subject to the succeeding
2 provisions of this subsection, the Secretary shall con-
3 duct the demonstration program under this section for
4 an additional 5-year period (in this section referred
5 to as the ‘5-year extension period’) that begins on the
6 date immediately following the last day of the initial
7 5-year period under subsection (a)(5).

8 “(2) *EXPANSION OF DEMONSTRATION STATES.*—
9 Notwithstanding subsection (a)(2), during the 5-year
10 extension period, the Secretary shall expand the num-
11 ber of States with low population densities deter-
12 mined by the Secretary under such subsection to 20.
13 In determining which States to include in such ex-
14 pansion, the Secretary shall use the same criteria and
15 data that the Secretary used to determine the States
16 under such subsection for purposes of the initial 5-
17 year period.

18 “(3) *INCREASE IN MAXIMUM NUMBER OF HOS-*
19 *PITALS PARTICIPATING IN THE DEMONSTRATION PRO-*
20 *GRAM.*—Notwithstanding subsection (a)(4), during the
21 5-year extension period, not more than 30 rural com-
22 munity hospitals may participate in the demonstra-
23 tion program under this section.

24 “(4) *HOSPITALS IN DEMONSTRATION PROGRAM*
25 *ON DATE OF ENACTMENT.*—In the case of a rural

1 *community hospital that is participating in the dem-*
2 *onstration program under this section as of the last*
3 *day of the initial 5-year period, the Secretary—*

4 *“(A) shall provide for the continued partici-*
5 *pation of such rural community hospital in the*
6 *demonstration program during the 5-year exten-*
7 *sion period unless the rural community hospital*
8 *makes an election, in such form and manner as*
9 *the Secretary may specify, to discontinue such*
10 *participation; and*

11 *“(B) in calculating the amount of payment*
12 *under subsection (b) to the rural community hos-*
13 *pital for covered inpatient hospital services fur-*
14 *nished by the hospital during such 5-year exten-*
15 *sion period, shall substitute, under paragraph*
16 *(1)(A) of such subsection—*

17 *“(i) the reasonable costs of providing*
18 *such services for discharges occurring in the*
19 *first cost reporting period beginning on or*
20 *after the first day of the 5-year extension*
21 *period, for*

22 *“(ii) the reasonable costs of providing*
23 *such services for discharges occurring in the*
24 *first cost reporting period beginning on or*

1 *after the implementation of the demonstra-*
2 *tion program.”.*

3 **(b) CONFORMING AMENDMENTS.**—*Subsection (a)(5) of*
4 *section 410A of the Medicare Prescription Drug, Improve-*
5 *ment, and Modernization Act of 2003 (Public Law 108–*
6 *173; 117 Stat. 2272), as amended by section 3123(b) of this*
7 *Act, is amended by striking “1-year extension” and insert-*
8 *ing “5-year extension”.*

9 **SEC. 10314. ADJUSTMENT TO LOW-VOLUME HOSPITAL PRO-**
10 **VISION.**

11 *Section 1886(d)(12) of the Social Security Act (42*
12 *U.S.C. 1395ww(d)(12), as amended by section 3125, is*
13 *amended—*

14 (1) *in subparagraph (C)(i), by striking “1,500*
15 *discharges” and inserting “1,600 discharges”; and*

16 (2) *in subparagraph (D), by striking “1,500 dis-*
17 *charges” and inserting “1,600 discharges”.*

18 **SEC. 10315. REVISIONS TO HOME HEALTH CARE PROVI-**
19 **SIONS.**

20 **(a) REBASING.**—*Section 1895(b)(3)(A)(iii) of the So-*
21 *cial Security Act, as added by section 3131, is amended—*

22 (1) *in the clause heading, by striking “2013” and*
23 *inserting “2014”;*

24 (2) *in subclause (I), by striking “2013” and in-*
25 *serting “2014”; and*

1 (3) *in subclause (II), by striking “2016” and in-*
2 *serting “2017”.*

3 (b) *REVISION OF HOME HEALTH STUDY AND RE-*
4 *PORT.—Section 3131(d) is amended to read as follows:*

5 “(d) *STUDY AND REPORT ON THE DEVELOPMENT OF*
6 *HOME HEALTH PAYMENT REVISIONS IN ORDER TO EN-*
7 *SURE ACCESS TO CARE AND PAYMENT FOR SEVERITY OF*
8 *ILLNESS.—*

9 “(1) *IN GENERAL.—The Secretary of Health and*
10 *Human Services (in this section referred to as the*
11 *‘Secretary’) shall conduct a study on home health*
12 *agency costs involved with providing ongoing access*
13 *to care to low-income Medicare beneficiaries or bene-*
14 *ficiaries in medically underserved areas, and in treat-*
15 *ing beneficiaries with varying levels of severity of ill-*
16 *ness. In conducting the study, the Secretary may ana-*
17 *lyze items such as the following:*

18 “(A) *Methods to potentially revise the home*
19 *health prospective payment system under section*
20 *1895 of the Social Security Act (42 U.S.C.*
21 *1395fff) to account for costs related to patient se-*
22 *verity of illness or to improving beneficiary ac-*
23 *cess to care, such as—*

1 “(i) payment adjustments for services
2 that may involve additional or fewer re-
3 sources;

4 “(ii) changes to reflect resources in-
5 volved with providing home health services
6 to low-income Medicare beneficiaries or
7 Medicare beneficiaries residing in medically
8 underserved areas;

9 “(iii) ways outlier payments might be
10 revised to reflect costs of treating Medicare
11 beneficiaries with high levels of severity of
12 illness; and

13 “(iv) other issues determined appro-
14 priate by the Secretary.

15 “(B) Operational issues involved with po-
16 tential implementation of potential revisions to
17 the home health payment system, including im-
18 pacts for both home health agencies and adminis-
19 trative and systems issues for the Centers for
20 Medicare & Medicaid Services, and any possible
21 payment vulnerabilities associated with imple-
22 menting potential revisions.

23 “(C) Whether additional research might be
24 needed.

1 “(D) *Other items determined appropriate*
2 *by the Secretary.*

3 “(2) *CONSIDERATIONS.—In conducting the study*
4 *under paragraph (1), the Secretary may consider*
5 *whether patient severity of illness and access to care*
6 *could be measured by factors, such as—*

7 “(A) *population density and relative pa-*
8 *tient access to care;*

9 “(B) *variations in service costs for pro-*
10 *viding care to individuals who are dually eligi-*
11 *ble under the Medicare and Medicaid programs;*

12 “(C) *the presence of severe or chronic dis-*
13 *eases, which might be measured by multiple, dis-*
14 *continuous home health episodes;*

15 “(D) *poverty status, such as evidenced by*
16 *the receipt of Supplemental Security Income*
17 *under title XVI of the Social Security Act; and*

18 “(E) *other factors determined appropriate*
19 *by the Secretary.*

20 “(3) *REPORT.—Not later than March 1, 2014,*
21 *the Secretary shall submit to Congress a report on the*
22 *study conducted under paragraph (1), together with*
23 *recommendations for such legislation and administra-*
24 *tive action as the Secretary determines appropriate.*

1 “(4) *CONSULTATIONS.*—*In conducting the study*
2 *under paragraph (1), the Secretary shall consult with*
3 *appropriate stakeholders, such as groups representing*
4 *home health agencies and groups representing Medi-*
5 *care beneficiaries.*

6 “(5) *MEDICARE DEMONSTRATION PROJECT*
7 *BASED ON THE RESULTS OF THE STUDY.*—

8 “(A) *IN GENERAL.*—*Subject to subpara-*
9 *graph (D), taking into account the results of the*
10 *study conducted under paragraph (1), the Sec-*
11 *retary may, as determined appropriate, provide*
12 *for a demonstration project to test whether mak-*
13 *ing payment adjustments for home health serv-*
14 *ices under the Medicare program would substan-*
15 *tially improve access to care for patients with*
16 *high severity levels of illness or for low-income or*
17 *underserved Medicare beneficiaries.*

18 “(B) *WAIVING BUDGET NEUTRALITY.*—*The*
19 *Secretary shall not reduce the standard prospec-*
20 *tive payment amount (or amounts) under section*
21 *1895 of the Social Security Act (42 U.S.C.*
22 *1395fff) applicable to home health services fur-*
23 *nished during a period to offset any increase in*
24 *payments during such period resulting from the*

1 *application of the payment adjustments under*
2 *subparagraph (A).*

3 “(C) *NO EFFECT ON SUBSEQUENT PERI-*
4 *ODS.—A payment adjustment resulting from the*
5 *application of subparagraph (A) for a period—*

6 *“(i) shall not apply to payments for*
7 *home health services under title XVIII after*
8 *such period; and*

9 *“(ii) shall not be taken into account in*
10 *calculating the payment amounts applicable*
11 *for such services after such period.*

12 “(D) *DURATION.—If the Secretary deter-*
13 *mines it appropriate to conduct the demonstra-*
14 *tion project under this subsection, the Secretary*
15 *shall conduct the project for a four year period*
16 *beginning not later than January 1, 2015.*

17 “(E) *FUNDING.—The Secretary shall pro-*
18 *vide for the transfer from the Federal Hospital*
19 *Insurance Trust Fund under section 1817 of the*
20 *Social Security Act (42 U.S.C. 1395i) and the*
21 *Federal Supplementary Medical Insurance Trust*
22 *Fund established under section 1841 of such Act*
23 *(42 U.S.C. 1395t), in such proportion as the Sec-*
24 *retary determines appropriate, of \$500,000,000*
25 *for the period of fiscal years 2015 through 2018.*

1 *Such funds shall be made available for the study*
2 *described in paragraph (1) and the design, im-*
3 *plementation and evaluation of the demonstra-*
4 *tion described in this paragraph. Amounts avail-*
5 *able under this subparagraph shall be available*
6 *until expended.*

7 “(F) *EVALUATION AND REPORT.*—*If the*
8 *Secretary determines it appropriate to conduct*
9 *the demonstration project under this subsection,*
10 *the Secretary shall—*

11 “(i) *provide for an evaluation of the*
12 *project; and*

13 “(ii) *submit to Congress, by a date*
14 *specified by the Secretary, a report on the*
15 *project.*

16 “(G) *ADMINISTRATION.*—*Chapter 35 of title*
17 *44, United States Code, shall not apply with re-*
18 *spect to this subsection.”.*

19 **SEC. 10316. MEDICARE DSH.**

20 *Section 1886(r)(2)(B) of the Social Security Act, as*
21 *added by section 3133, is amended—*

22 (1) *in clause (i)—*

23 (A) *in the matter preceding subclause (I),*
24 *by striking “(divided by 100)”;*

1 (B) in subclause (I), by striking “2012”
2 and inserting “2013”;

3 (C) in subclause (II), by striking the period
4 at the end and inserting a comma; and

5 (D) by adding at the end the following flush
6 matter:

7 “minus 1.5 percentage points.”.

8 (2) in clause (ii)—

9 (A) in the matter preceding subclause (I),
10 by striking “(divided by 100)”;

11 (B) in subclause (I), by striking “2012”
12 and inserting “2013”;

13 (C) in subclause (II), by striking the period
14 at the end and inserting a comma; and

15 (D) by adding at the end the following flush
16 matter:

17 “and, for each of 2018 and 2019, minus 1.5
18 percentage points.”.

19 **SEC. 10317. REVISIONS TO EXTENSION OF SECTION 508**
20 **HOSPITAL PROVISIONS.**

21 *Section 3137(a) is amended to read as follows:*

22 “(a) *EXTENSION.*—

23 “(1) *IN GENERAL.*—Subsection (a) of section 106
24 of division B of the Tax Relief and Health Care Act
25 of 2006 (42 U.S.C. 1395 note), as amended by section

1 *117 of the Medicare, Medicaid, and SCHIP Extension*
2 *Act of 2007 (Public Law 110–173) and section 124*
3 *of the Medicare Improvements for Patients and Pro-*
4 *viders Act of 2008 (Public Law 110–275), is amended*
5 *by striking ‘September 30, 2009’ and inserting ‘Sep-*
6 *tember 30, 2010’.*

7 *“(2) SPECIAL RULE FOR FISCAL YEAR 2010.—*

8 *“(A) IN GENERAL.—Subject to subpara-*
9 *graph (B), for purposes of implementation of the*
10 *amendment made by paragraph (1), including*
11 *(notwithstanding paragraph (3) of section*
12 *117(a) of the Medicare, Medicaid and SCHIP*
13 *Extension Act of 2007 (Public Law 110–173), as*
14 *amended by section 124(b) of the Medicare Im-*
15 *provements for Patients and Providers Act of*
16 *2008 (Public Law 110–275)) for purposes of the*
17 *implementation of paragraph (2) of such section*
18 *117(a), during fiscal year 2010, the Secretary of*
19 *Health and Human Services (in this subsection*
20 *referred to as the ‘Secretary’) shall use the hos-*
21 *pital wage index that was promulgated by the*
22 *Secretary in the Federal Register on August 27,*
23 *2009 (74 Fed. Reg. 43754), and any subsequent*
24 *corrections.*

1 “(B) *EXCEPTION.*—Beginning on April 1,
2 2010, in determining the wage index applicable
3 to hospitals that qualify for wage index reclassi-
4 fication, the Secretary shall include the average
5 hourly wage data of hospitals whose reclassifica-
6 tion was extended pursuant to the amendment
7 made by paragraph (1) only if including such
8 data results in a higher applicable reclassified
9 wage index.

10 “(3) *ADJUSTMENT FOR CERTAIN HOSPITALS IN*
11 *FISCAL YEAR 2010.*—

12 “(A) *IN GENERAL.*—In the case of a sub-
13 section (d) hospital (as defined in subsection
14 (d)(1)(B) of section 1886 of the Social Security
15 Act (42 U.S.C. 1395ww)) with respect to
16 which—

17 “(i) a reclassification of its wage index
18 for purposes of such section was extended
19 pursuant to the amendment made by para-
20 graph (1); and

21 “(ii) the wage index applicable for
22 such hospital for the period beginning on
23 October 1, 2009, and ending on March 31,
24 2010, was lower than for the period begin-
25 ning on April 1, 2010, and ending on Sep-

1 *tember 30, 2010, by reason of the applica-*
2 *tion of paragraph (2)(B);*
3 *the Secretary shall pay such hospital an addi-*
4 *tional payment that reflects the difference be-*
5 *tween the wage index for such periods.*

6 *“(B) TIMEFRAME FOR PAYMENTS.—The*
7 *Secretary shall make payments required under*
8 *subparagraph by not later than December 31,*
9 *2010.”.*

10 **SEC. 10318. REVISIONS TO TRANSITIONAL EXTRA BENEFITS**
11 **UNDER MEDICARE ADVANTAGE.**

12 *Section 1853(p)(3)(A) of the Social Security Act, as*
13 *added by section 3201(h), is amended by inserting “in*
14 *2009” before the period at the end.*

15 **SEC. 10319. REVISIONS TO MARKET BASKET ADJUSTMENTS.**

16 *(a) INPATIENT ACUTE HOSPITALS.—Section*
17 *1886(b)(3)(B)(xii) of the Social Security Act, as added by*
18 *section 3401(a), is amended—*

19 *(1) in subclause (I), by striking “and” at the*
20 *end;*

21 *(2) by redesignating subclause (II) as subclause*
22 *(III);*

23 *(3) by inserting after subclause (II) the following*
24 *new subclause:*

1 “(II) for each of fiscal years 2012 and 2013, by
2 0.1 percentage point; and”;

3 (4) in subclause (III), as redesignated by para-
4 graph (2), by striking “2012” and inserting “2014”.

5 (b) *LONG-TERM CARE HOSPITALS*.—Section
6 1886(m)(4) of the Social Security Act, as added by section
7 3401(c), is amended—

8 (1) in subparagraph (A)—

9 (A) in clause (i)—

10 (i) by striking “each of rate years 2010
11 and 2011” and inserting “rate year 2010”;

12 and

13 (ii) by striking “and” at the end;

14 (B) by redesignating clause (ii) as clause
15 (iv);

16 (C) by inserting after clause (i) the fol-
17 lowing new clauses:

18 “(ii) for rate year 2011, 0.50 percent-
19 age point;

20 “(iii) for each of the rate years begin-
21 ning in 2012 and 2013, 0.1 percentage
22 point; and”;

23 (D) in clause (iv), as redesignated by sub-
24 paragraph (B), by striking “2012” and inserting
25 “2014”; and

1 (3) by inserting after clause (ii) the following
2 new clause:

3 “(ii) for each of the rate years begin-
4 ning in 2012 and 2013, 0.1 percentage
5 point; and”; and

6 (4) in clause (iii), as redesignated by paragraph
7 (2), by striking “2012” and inserting “2014”.

8 (f) *HOSPICE CARE*.—Section 1814(i)(1)(C) of the So-
9 cial Security Act (42 U.S.C. 1395f(i)(1)(C)), as amended
10 by section 3401(g), is amended—

11 (1) in clause (iv)(II), by striking “0.5” and in-
12 serting “0.3”; and

13 (2) in clause (v), in the matter preceding sub-
14 clause (I), by striking “0.5” and inserting “0.3”.

15 (g) *OUTPATIENT HOSPITALS*.—Section
16 1833(t)(3)(G)(i) of the Social Security Act, as added by sec-
17 tion 3401(i), is amended—

18 (1) in subclause (I), by striking “and” at the
19 end;

20 (2) by redesignating subclause (II) as subclause
21 (III);

22 (3) by inserting after subclause (II) the following
23 new subclause:

24 “(II) for each of 2012 and 2013,
25 0.1 percentage point; and”; and

1 (4) in subclause (III), as redesignated by para-
2 graph (2), by striking “2012” and inserting “2014”.

3 **SEC. 10320. EXPANSION OF THE SCOPE OF, AND ADDI-**
4 **TIONAL IMPROVEMENTS TO, THE INDE-**
5 **PENDENT MEDICARE ADVISORY BOARD.**

6 (a) *IN GENERAL.*—Section 1899A of the Social Secu-
7 rity Act, as added by section 3403, is amended—

8 (1) in subsection (c)—

9 (A) in paragraph (1)(B), by adding at the
10 end the following new sentence: “In any year
11 (beginning with 2014) that the Board is not re-
12 quired to submit a proposal under this section,
13 the Board shall submit to Congress an advisory
14 report on matters related to the Medicare pro-
15 gram.”;

16 (B) in paragraph (2)(A)—

17 (i) in clause (iv), by inserting “or the
18 full premium subsidy under section 1860D-
19 14(a)” before the period at the end of the
20 last sentence; and

21 (ii) by adding at the end the following
22 new clause:

23 “(vii) If the Chief Actuary of the Cen-
24 ters for Medicare & Medicaid Services has
25 made a determination described in sub-

1 *section (e)(3)(B)(i)(II) in the determination*
2 *year, the proposal shall be designed to help*
3 *reduce the growth rate described in para-*
4 *graph (8) while maintaining or enhancing*
5 *beneficiary access to quality care under this*
6 *title.”;*

7 *(C) in paragraph (2)(B)—*

8 *(i) in clause (v), by striking “and” at*
9 *the end;*

10 *(ii) in clause (vi), by striking the pe-*
11 *riod at the end and inserting “; and”;* and

12 *(iii) by adding at the end the following*
13 *new clause:*

14 *“(vii) take into account the data and*
15 *findings contained in the annual reports*
16 *under subsection (n) in order to develop*
17 *proposals that can most effectively promote*
18 *the delivery of efficient, high quality care to*
19 *Medicare beneficiaries.”;*

20 *(D) in paragraph (3)—*

21 *(i) in the heading, by striking “TRANS-*
22 *MISSION OF BOARD PROPOSAL TO PRESI-*
23 *DENT” and inserting “SUBMISSION OF*
24 *BOARD PROPOSAL TO CONGRESS AND THE*
25 *PRESIDENT”;*

1 (ii) in subparagraph (A)(i), by strik-
2 ing “transmit a proposal under this section
3 to the President” and insert “submit a pro-
4 posal under this section to Congress and the
5 President”; and

6 (iii) in subparagraph (A)(ii)—

7 (I) in subclause (I), by inserting
8 “or” at the end;

9 (II) in subclause (II), by striking
10 “; or” and inserting a period; and

11 (III) by striking subclause (III);

12 (E) in paragraph (4)—

13 (i) by striking “the Board under para-
14 graph (3)(A)(i) or”; and

15 (ii) by striking “immediately” and in-
16 serting “within 2 days”;

17 (F) in paragraph (5)—

18 (i) by striking “to but” and inserting
19 “but”; and

20 (ii) by inserting “Congress and” after
21 “submit a proposal to”; and

22 (G) in paragraph (6)(B)(i), by striking
23 “per unduplicated enrollee” and inserting “(cal-
24 culated as the sum of per capita spending under
25 each of parts A, B, and D)”;

1 (2) *in subsection (d)—*

2 (A) *in paragraph (1)(A)—*

3 (i) *by inserting “the Board or” after*
4 *“a proposal is submitted by”; and*

5 (ii) *by inserting “subsection*
6 *(c)(3)(A)(i) or” after “the Senate under”;*
7 *and*

8 (B) *in paragraph (2)(A), by inserting “the*
9 *Board or” after “a proposal is submitted by”;*

10 (3) *in subsection (e)—*

11 (A) *in paragraph (1), by inserting “the*
12 *Board or” after “a proposal submitted by”; and*

13 (B) *in paragraph (3)—*

14 (i) *by striking “EXCEPTION.—The Sec-*
15 *retary shall not be required to implement*
16 *the recommendations contained in a pro-*
17 *posal submitted in a proposal year by” and*
18 *inserting “EXCEPTIONS.—*

19 *“(A) IN GENERAL.—The Secretary shall not*
20 *implement the recommendations contained in a*
21 *proposal submitted in a proposal year by the*
22 *Board or”;*

23 (ii) *by redesignating subparagraphs*
24 *(A) and (B) as clauses (i) and (ii), respec-*
25 *tively, and indenting appropriately; and*

1 *(iii) by adding at the end the following*
2 *new subparagraph:*

3 “(B) *LIMITED ADDITIONAL EXCEPTION.*—

4 “*(i) IN GENERAL.*—Subject to clause
5 *(ii), the Secretary shall not implement the*
6 *recommendations contained in a proposal*
7 *submitted by the Board or the President to*
8 *Congress pursuant to this section in a pro-*
9 *posal year (beginning with proposal year*
10 *2019) if—*

11 “*(I) the Board was required to*
12 *submit a proposal to Congress under*
13 *this section in the year preceding the*
14 *proposal year; and*

15 “*(II) the Chief Actuary of the*
16 *Centers for Medicare & Medicaid Serv-*
17 *ices makes a determination in the de-*
18 *termination year that the growth rate*
19 *described in subsection (c)(8) exceeds*
20 *the growth rate described in subsection*
21 *(c)(6)(A)(i).*

22 “*(ii) LIMITED ADDITIONAL EXCEPTION*
23 *MAY NOT BE APPLIED IN TWO CONSECUTIVE*
24 *YEARS.*—*This subparagraph shall not apply*
25 *if the recommendations contained in a pro-*

1 *posal submitted by the Board or the Presi-*
2 *dent to Congress pursuant to this section in*
3 *the year preceding the proposal year were*
4 *not required to be implemented by reason of*
5 *this subparagraph.*

6 “(iii) *NO AFFECT ON REQUIREMENT TO*
7 *SUBMIT PROPOSALS OR FOR CONGRES-*
8 *SIONAL CONSIDERATION OF PROPOSALS.—*
9 *Clause (i) and (ii) shall not affect—*

10 *“(I) the requirement of the Board*
11 *or the President to submit a proposal*
12 *to Congress in a proposal year in ac-*
13 *cordance with the provisions of this*
14 *section; or*

15 *“(II) Congressional consideration*
16 *of a legislative proposal (described in*
17 *subsection (c)(3)(B)(iv)) contained*
18 *such a proposal in accordance with*
19 *subsection (d).”;*

20 *(4) in subsection (f)(3)(B)—*

21 *(A) by striking “or advisory reports to Con-*
22 *gress” and inserting “, advisory reports, or advi-*
23 *sory recommendations”;* and

1 (B) by inserting “or produce the public re-
2 port under subsection (n)” after “this section”;
3 and

4 (5) by adding at the end the following new sub-
5 sections:

6 “(n) ANNUAL PUBLIC REPORT.—

7 “(1) IN GENERAL.—Not later than July 1, 2014,
8 and annually thereafter, the Board shall produce a
9 public report containing standardized information on
10 system-wide health care costs, patient access to care,
11 utilization, and quality-of-care that allows for com-
12 parison by region, types of services, types of pro-
13 viders, and both private payers and the program
14 under this title.

15 “(2) REQUIREMENTS.—Each report produced
16 pursuant to paragraph (1) shall include information
17 with respect to the following areas:

18 “(A) The quality and costs of care for the
19 population at the most local level determined
20 practical by the Board (with quality and costs
21 compared to national benchmarks and reflecting
22 rates of change, taking into account quality
23 measures described in section 1890(b)(7)(B)).

24 “(B) Beneficiary and consumer access to
25 care, patient and caregiver experience of care,

1 *and the cost-sharing or out-of-pocket burden on*
2 *patients.*

3 “(C) *Epidemiological shifts and demo-*
4 *graphic changes.*

5 “(D) *The proliferation, effectiveness, and*
6 *utilization of health care technologies, including*
7 *variation in provider practice patterns and*
8 *costs.*

9 “(E) *Any other areas that the Board deter-*
10 *mines affect overall spending and quality of care*
11 *in the private sector.*

12 “(o) *ADVISORY RECOMMENDATIONS FOR NON-FED-*
13 *ERAL HEALTH CARE PROGRAMS.—*

14 “(1) *IN GENERAL.—Not later than January 15,*
15 *2015, and at least once every two years thereafter, the*
16 *Board shall submit to Congress and the President rec-*
17 *ommendations to slow the growth in national health*
18 *expenditures (excluding expenditures under this title*
19 *and in other Federal health care programs) while pre-*
20 *servicing or enhancing quality of care, such as rec-*
21 *ommendations—*

22 “(A) *that the Secretary or other Federal*
23 *agencies can implement administratively;*

24 “(B) *that may require legislation to be en-*
25 *acted by Congress in order to be implemented;*

1 “(C) that may require legislation to be en-
2 acted by State or local governments in order to
3 be implemented;

4 “(D) that private sector entities can volun-
5 tarily implement; and

6 “(E) with respect to other areas determined
7 appropriate by the Board.

8 “(2) COORDINATION.—In making recommenda-
9 tions under paragraph (1), the Board shall coordinate
10 such recommendations with recommendations con-
11 tained in proposals and advisory reports produced by
12 the Board under subsection (c).

13 “(3) AVAILABLE TO PUBLIC.—The Board shall
14 make recommendations submitted to Congress and the
15 President under this subsection available to the pub-
16 lic.”.

17 (b) NAME CHANGE.—Any reference in the provisions
18 of, or amendments made by, section 3403 to the “Inde-
19 pendent Medicare Advisory Board” shall be deemed to be
20 a reference to the “Independent Payment Advisory Board”.

21 (c) RULE OF CONSTRUCTION.—Nothing in the amend-
22 ments made by this section shall preclude the Independent
23 Medicare Advisory Board, as established under section
24 1899A of the Social Security Act (as added by section

1 3403), from solely using data from public or private sources
 2 to carry out the amendments made by subsection (a)(4).

3 **SEC. 10321. REVISION TO COMMUNITY HEALTH TEAMS.**

4 Section 3502(c)(2)(A) is amended by inserting “or
 5 other primary care providers” after “physicians”.

6 **SEC. 10322. QUALITY REPORTING FOR PSYCHIATRIC HOS-**
 7 **PITALS.**

8 (a) *IN GENERAL.*—Section 1886(s) of the Social Secu-
 9 rity Act, as added by section 3401(f), is amended by adding
 10 at the end the following new paragraph:

11 “(4) *QUALITY REPORTING.*—

12 “(A) *REDUCTION IN UPDATE FOR FAILURE*
 13 *TO REPORT.*—

14 “(i) *IN GENERAL.*—Under the system
 15 described in paragraph (1), for rate year
 16 2014 and each subsequent rate year, in the
 17 case of a psychiatric hospital or psychiatric
 18 unit that does not submit data to the Sec-
 19 retary in accordance with subparagraph (C)
 20 with respect to such a rate year, any an-
 21 nual update to a standard Federal rate for
 22 discharges for the hospital during the rate
 23 year, and after application of paragraph
 24 (2), shall be reduced by 2 percentage points.

1 “(i) *SPECIAL RULE.*—*The application*
2 *of this subparagraph may result in such an-*
3 *annual update being less than 0.0 for a rate*
4 *year, and may result in payment rates*
5 *under the system described in paragraph*
6 *(1) for a rate year being less than such pay-*
7 *ment rates for the preceding rate year.*

8 “(B) *NONCUMULATIVE APPLICATION.*—*Any*
9 *reduction under subparagraph (A) shall apply*
10 *only with respect to the rate year involved and*
11 *the Secretary shall not take into account such re-*
12 *duction in computing the payment amount*
13 *under the system described in paragraph (1) for*
14 *a subsequent rate year.*

15 “(C) *SUBMISSION OF QUALITY DATA.*—*For*
16 *rate year 2014 and each subsequent rate year,*
17 *each psychiatric hospital and psychiatric unit*
18 *shall submit to the Secretary data on quality*
19 *measures specified under subparagraph (D).*
20 *Such data shall be submitted in a form and*
21 *manner, and at a time, specified by the Sec-*
22 *retary for purposes of this subparagraph.*

23 “(D) *QUALITY MEASURES.*—

24 “(i) *IN GENERAL.*—*Subject to clause*
25 *(ii), any measure specified by the Secretary*

1 *under this subparagraph must have been*
2 *endorsed by the entity with a contract*
3 *under section 1890(a).*

4 “(ii) *EXCEPTION.—In the case of a*
5 *specified area or medical topic determined*
6 *appropriate by the Secretary for which a*
7 *feasible and practical measure has not been*
8 *endorsed by the entity with a contract*
9 *under section 1890(a), the Secretary may*
10 *specify a measure that is not so endorsed as*
11 *long as due consideration is given to meas-*
12 *ures that have been endorsed or adopted by*
13 *a consensus organization identified by the*
14 *Secretary.*

15 “(iii) *TIME FRAME.—Not later than*
16 *October 1, 2012, the Secretary shall publish*
17 *the measures selected under this subpara-*
18 *graph that will be applicable with respect to*
19 *rate year 2014.*

20 “(E) *PUBLIC AVAILABILITY OF DATA SUB-*
21 *MITTED.—The Secretary shall establish proce-*
22 *dures for making data submitted under subpara-*
23 *graph (C) available to the public. Such proce-*
24 *dures shall ensure that a psychiatric hospital*
25 *and a psychiatric unit has the opportunity to re-*

1 view the data that is to be made public with re-
2 spect to the hospital or unit prior to such data
3 being made public. The Secretary shall report
4 quality measures that relate to services furnished
5 in inpatient settings in psychiatric hospitals and
6 psychiatric units on the Internet website of the
7 Centers for Medicare & Medicaid Services.”.

8 (b) CONFORMING AMENDMENT.—Section
9 1890(b)(7)(B)(i)(I) of the Social Security Act, as added by
10 section 3014, is amended by inserting “1886(s)(4)(D),”
11 after “1886(o)(2),”.

12 **SEC. 10323. MEDICARE COVERAGE FOR INDIVIDUALS EX-**
13 **POSED TO ENVIRONMENTAL HEALTH HAZ-**
14 **ARDS.**

15 (a) IN GENERAL.—Title XVIII of the Social Security
16 Act (42 U.S.C. 1395 et seq.) is amended by inserting after
17 section 1881 the following new section:

18 **“SEC. 1881A. MEDICARE COVERAGE FOR INDIVIDUALS EX-**
19 **POSED TO ENVIRONMENTAL HEALTH HAZ-**
20 **ARDS.**

21 **“(a) DEEMING OF INDIVIDUALS AS ELIGIBLE FOR**
22 **MEDICARE BENEFITS.—**

23 **“(1) IN GENERAL.—**For purposes of eligibility
24 for benefits under this title, an individual determined
25 under subsection (c) to be an environmental exposure

1 *affected individual described in subsection (e)(2) shall*
2 *be deemed to meet the conditions specified in section*
3 *226(a).*

4 “(2) *DISCRETIONARY DEEMING.*—*For purposes of*
5 *eligibility for benefits under this title, the Secretary*
6 *may deem an individual determined under subsection*
7 *(c) to be an environmental exposure affected indi-*
8 *vidual described in subsection (e)(3) to meet the con-*
9 *ditions specified in section 226(a).*

10 “(3) *EFFECTIVE DATE OF COVERAGE.*—*An Indi-*
11 *vidual who is deemed eligible for benefits under this*
12 *title under paragraph (1) or (2) shall be—*

13 “(A) *entitled to benefits under the program*
14 *under Part A as of the date of such deeming; and*

15 “(B) *eligible to enroll in the program under*
16 *Part B beginning with the month in which such*
17 *deeming occurs.*

18 “(b) *PILOT PROGRAM FOR CARE OF CERTAIN INDIVID-*
19 *UALS RESIDING IN EMERGENCY DECLARATION AREAS.*—

20 “(1) *PROGRAM; PURPOSE.*—

21 “(A) *PRIMARY PILOT PROGRAM.*—*The Sec-*
22 *retary shall establish a pilot program in accord-*
23 *ance with this subsection to provide innovative*
24 *approaches to furnishing comprehensive, coordi-*

1 nated, and cost-effective care under this title to
2 individuals described in paragraph (2)(A).

3 “(B) *OPTIONAL PILOT PROGRAMS.*—The
4 Secretary may establish a separate pilot pro-
5 gram, in accordance with this subsection, with
6 respect to each geographic area subject to an
7 emergency declaration (other than the declara-
8 tion of June 17, 2009), in order to furnish such
9 comprehensive, coordinated and cost-effective
10 care to individuals described in subparagraph
11 (2)(B) who reside in each such area.

12 “(2) *INDIVIDUAL DESCRIBED.*—For purposes of
13 paragraph (1), an individual described in this para-
14 graph is an individual who enrolls in part B, sub-
15 mits to the Secretary an application to participate in
16 the applicable pilot program under this subsection,
17 and—

18 “(A) is an environmental exposure affected
19 individual described in subsection (e)(2) who re-
20 sides in or around the geographic area subject to
21 an emergency declaration made as of June 17,
22 2009; or

23 “(B) is an environmental exposure affected
24 individual described in subsection (e)(3) who—

1 “(i) is deemed under subsection (a)(2);

2 and

3 “(ii) meets such other criteria or con-
4 ditions for participation in a pilot program
5 under paragraph (1)(B) as the Secretary
6 specifies.

7 “(3) *FLEXIBLE BENEFITS AND SERVICES*.—A
8 pilot program under this subsection may provide for
9 the furnishing of benefits, items, or services not other-
10 wise covered or authorized under this title, if the Sec-
11 retary determines that furnishing such benefits, items,
12 or services will further the purposes of such pilot pro-
13 gram (as described in paragraph (1)).

14 “(4) *INNOVATIVE REIMBURSEMENT METHODOLO-*
15 *GIES*.—For purposes of the pilot program under this
16 subsection, the Secretary—

17 “(A) shall develop and implement appro-
18 priate methodologies to reimburse providers for
19 furnishing benefits, items, or services for which
20 payment is not otherwise covered or authorized
21 under this title, if such benefits, items, or serv-
22 ices are furnished pursuant to paragraph (3);
23 and

24 “(B) may develop and implement innova-
25 tive approaches to reimbursing providers for any

1 *benefits, items, or services furnished under this*
2 *subsection.*

3 “(5) *LIMITATION.*—*Consistent with section*
4 *1862(b), no payment shall be made under the pilot*
5 *program under this subsection with respect to bene-*
6 *fits, items, or services furnished to an environmental*
7 *exposure affected individual (as defined in subsection*
8 *(e)) to the extent that such individual is eligible to re-*
9 *ceive such benefits, items, or services through any*
10 *other public or private benefits plan or legal agree-*
11 *ment.*

12 “(6) *WAIVER AUTHORITY.*—*The Secretary may*
13 *waive such provisions of this title and title XI as are*
14 *necessary to carry out pilot programs under this sub-*
15 *section.*

16 “(7) *FUNDING.*—*For purposes of carrying out*
17 *pilot programs under this subsection, the Secretary*
18 *shall provide for the transfer, from the Federal Hos-*
19 *pital Insurance Trust Fund under section 1817 and*
20 *the Federal Supplementary Medical Insurance Trust*
21 *Fund under section 1841, in such proportion as the*
22 *Secretary determines appropriate, of such sums as the*
23 *Secretary determines necessary, to the Centers for*
24 *Medicare & Medicaid Services Program Management*
25 *Account.*

1 “(8) *WAIVER OF BUDGET NEUTRALITY.*—*The*
2 *Secretary shall not require that pilot programs under*
3 *this subsection be budget neutral with respect to ex-*
4 *penditures under this title.*

5 “(c) *DETERMINATIONS.*—

6 “(1) *BY THE COMMISSIONER OF SOCIAL SECUR-*
7 *ITY.*—*For purposes of this section, the Commissioner*
8 *of Social Security, in consultation with the Secretary,*
9 *and using the cost allocation method prescribed in*
10 *section 201(g), shall determine whether individuals*
11 *are environmental exposure affected individuals.*

12 “(2) *BY THE SECRETARY.*—*The Secretary shall*
13 *determine eligibility for pilot programs under sub-*
14 *section (b).*

15 “(d) *EMERGENCY DECLARATION DEFINED.*—*For pur-*
16 *poses of this section, the term ‘emergency declaration’ means*
17 *a declaration of a public health emergency under section*
18 *104(a) of the Comprehensive Environmental Response,*
19 *Compensation, and Liability Act of 1980.*

20 “(e) *ENVIRONMENTAL EXPOSURE AFFECTED INDI-*
21 *VIDUAL DEFINED.*—

22 “(1) *IN GENERAL.*—*For purposes of this section,*
23 *the term ‘environmental exposure affected individual’*
24 *means—*

1 “(A) an individual described in paragraph
2 (2); and

3 “(B) an individual described in paragraph
4 (3).

5 “(2) INDIVIDUAL DESCRIBED.—

6 “(A) IN GENERAL.—An individual de-
7 scribed in this paragraph is any individual
8 who—

9 “(i) is diagnosed with 1 or more condi-
10 tions described in subparagraph (B);

11 “(ii) as demonstrated in such manner
12 as the Secretary determines appropriate,
13 has been present for an aggregate total of 6
14 months in the geographic area subject to an
15 emergency declaration specified in sub-
16 section (b)(2)(A), during a period ending—

17 “(I) not less than 10 years prior
18 to such diagnosis; and

19 “(II) prior to the implementation
20 of all the remedial and removal actions
21 specified in the Record of Decision for
22 Operating Unit 4 and the Record of
23 Decision for Operating Unit 7;

24 “(iii) files an application for benefits
25 under this title (or has an application filed

1 *on behalf of the individual), including pur-*
2 *suant to this section; and*

3 *“(iv) is determined under this section*
4 *to meet the criteria in this subparagraph.*

5 *“(B) CONDITIONS DESCRIBED.—For pur-*
6 *poses of subparagraph (A), the following condi-*
7 *tions are described in this subparagraph:*

8 *“(i) Asbestosis, pleural thickening, or*
9 *pleural plaques as established by—*

10 *“(I) interpretation by a ‘B Read-*
11 *er’ qualified physician of a plain chest*
12 *x-ray or interpretation of a computed*
13 *tomographic radiograph of the chest by*
14 *a qualified physician, as determined*
15 *by the Secretary; or*

16 *“(II) such other diagnostic stand-*
17 *ards as the Secretary specifies,*
18 *except that this clause shall not apply to*
19 *pleural thickening or pleural plaques unless*
20 *there are symptoms or conditions requiring*
21 *medical treatment as a result of these diag-*
22 *noses.*

23 *“(ii) Mesothelioma, or malignancies of*
24 *the lung, colon, rectum, larynx, stomach,*

1 *esophagus, pharynx, or ovary, as established*
2 *by—*

3 *“(I) pathologic examination of bi-*
4 *opsy tissue;*

5 *“(II) cytology from*
6 *bronchioalveolar lavage; or*

7 *“(III) such other diagnostic*
8 *standards as the Secretary specifies.*

9 *“(iii) Any other diagnosis which the*
10 *Secretary, in consultation with the Commis-*
11 *sioner of Social Security, determines is an*
12 *asbestos-related medical condition, as estab-*
13 *lished by such diagnostic standards as the*
14 *Secretary specifies.*

15 *“(3) OTHER INDIVIDUAL DESCRIBED.—An indi-*
16 *vidual described in this paragraph is any individual*
17 *who—*

18 *“(A) is not an individual described in*
19 *paragraph (2);*

20 *“(B) is diagnosed with a medical condition*
21 *caused by the exposure of the individual to a*
22 *public health hazard to which an emergency dec-*
23 *laration applies, based on such medical condi-*
24 *tions, diagnostic standards, and other criteria as*
25 *the Secretary specifies;*

1 “(C) as demonstrated in such manner as the
2 Secretary determines appropriate, has been
3 present for an aggregate total of 6 months in the
4 geographic area subject to the emergency declara-
5 tion involved, during a period determined appro-
6 priate by the Secretary;

7 “(D) files an application for benefits under
8 this title (or has an application filed on behalf
9 of the individual), including pursuant to this
10 section; and

11 “(E) is determined under this section to
12 meet the criteria in this paragraph.”.

13 (b) *PROGRAM FOR EARLY DETECTION OF CERTAIN*
14 *MEDICAL CONDITIONS RELATED TO ENVIRONMENTAL*
15 *HEALTH HAZARDS.*—Title XX of the Social Security Act
16 (42 U.S.C. 1397 et seq.), as amended by section 5507, is
17 amended by adding at the end the following:

18 **“SEC. 2009. PROGRAM FOR EARLY DETECTION OF CERTAIN**
19 **MEDICAL CONDITIONS RELATED TO ENVI-**
20 **RONMENTAL HEALTH HAZARDS.**

21 “(a) *PROGRAM ESTABLISHMENT.*—The Secretary shall
22 establish a program in accordance with this section to make
23 competitive grants to eligible entities specified in subsection
24 (b) for the purpose of—

1 “(1) screening at-risk individuals (as defined in
2 subsection (c)(1)) for environmental health conditions
3 (as defined in subsection (c)(3)); and

4 “(2) developing and disseminating public infor-
5 mation and education concerning—

6 “(A) the availability of screening under the
7 program under this section;

8 “(B) the detection, prevention, and treat-
9 ment of environmental health conditions; and

10 “(C) the availability of Medicare benefits
11 for certain individuals diagnosed with environ-
12 mental health conditions under section 1881A.

13 “(b) *ELIGIBLE ENTITIES.*—

14 “(1) *IN GENERAL.*—For purposes of this section,
15 an eligible entity is an entity described in paragraph
16 (2) which submits an application to the Secretary in
17 such form and manner, and containing such informa-
18 tion and assurances, as the Secretary determines ap-
19 propriate.

20 “(2) *TYPES OF ELIGIBLE ENTITIES.*—The enti-
21 ties described in this paragraph are the following:

22 “(A) A hospital or community health center.

23 “(B) A Federally qualified health center.

24 “(C) A facility of the Indian Health Serv-
25 ice.

1 “(D) A National Cancer Institute-des-
2 ignated cancer center.

3 “(E) An agency of any State or local gov-
4 ernment.

5 “(F) A nonprofit organization.

6 “(G) Any other entity the Secretary deter-
7 mines appropriate.

8 “(c) DEFINITIONS.—In this section:

9 “(1) AT-RISK INDIVIDUAL.—The term ‘at-risk in-
10 dividual’ means an individual who—

11 “(A)(i) as demonstrated in such manner as
12 the Secretary determines appropriate, has been
13 present for an aggregate total of 6 months in the
14 geographic area subject to an emergency declara-
15 tion specified under paragraph (2), during a pe-
16 riod ending—

17 “(I) not less than 10 years prior to the
18 date of such individual’s application under
19 subparagraph (B); and

20 “(II) prior to the implementation of
21 all the remedial and removal actions speci-
22 fied in the Record of Decision for Operating
23 Unit 4 and the Record of Decision for Oper-
24 ating Unit 7; or

1 “(i) meets such other criteria as the Sec-
2 retary determines appropriate considering the
3 type of environmental health condition at issue;
4 and

5 “(B) has submitted an application (or has
6 an application submitted on the individual’s be-
7 half), to an eligible entity receiving a grant
8 under this section, for screening under the pro-
9 gram under this section.

10 “(2) *EMERGENCY DECLARATION*.—The term
11 ‘emergency declaration’ means a declaration of a pub-
12 lic health emergency under section 104(a) of the *Com-
13 prehensive Environmental Response, Compensation,
14 and Liability Act of 1980*.

15 “(3) *ENVIRONMENTAL HEALTH CONDITION*.—The
16 term ‘environmental health condition’ means—

17 “(A) asbestosis, pleural thickening, or pleu-
18 ral plaques, as established by—

19 “(i) interpretation by a ‘B Reader’
20 qualified physician of a plain chest x-ray or
21 interpretation of a computed tomographic
22 radiograph of the chest by a qualified physi-
23 cian, as determined by the Secretary; or

24 “(ii) such other diagnostic standards
25 as the Secretary specifies;

1 “(B) mesothelioma, or malignancies of the
2 lung, colon, rectum, larynx, stomach, esophagus,
3 pharynx, or ovary, as established by—

4 “(i) pathologic examination of biopsy
5 tissue;

6 “(ii) cytology from bronchioalveolar la-
7 vage; or

8 “(iii) such other diagnostic standards
9 as the Secretary specifies; and

10 “(C) any other medical condition which the
11 Secretary determines is caused by exposure to a
12 hazardous substance or pollutant or contaminant
13 at a Superfund site to which an emergency dec-
14 laration applies, based on such criteria and as
15 established by such diagnostic standards as the
16 Secretary specifies.

17 “(4) HAZARDOUS SUBSTANCE; POLLUTANT; CON-
18 TAMINANT.—The terms ‘hazardous substance’, ‘pollut-
19 ant’, and ‘contaminant’ have the meanings given
20 those terms in section 101 of the Comprehensive Envi-
21 ronmental Response, Compensation, and Liability
22 Act of 1980 (42 U.S.C. 9601).

23 “(5) SUPERFUND SITE.—The term ‘Superfund
24 site’ means a site included on the National Priorities
25 List developed by the President in accordance with

1 *section 105(a)(8)(B) of the Comprehensive Environ-*
2 *mental Response, Compensation, and Liability Act of*
3 *1980 (42 U.S.C. 9605(a)(8)(B)).*

4 “(d) *HEALTH COVERAGE UNAFFECTED.*—*Nothing in*
5 *this section shall be construed to affect any coverage obliga-*
6 *tion of a governmental or private health plan or program*
7 *relating to an at-risk individual.*

8 “(e) *FUNDING.*—

9 “(1) *IN GENERAL.*—*Out of any funds in the*
10 *Treasury not otherwise appropriated, there are ap-*
11 *propriated to the Secretary, to carry out the program*
12 *under this section—*

13 “(A) *\$23,000,000 for the period of fiscal*
14 *years 2010 through 2014; and*

15 “(B) *\$20,000,000 for each 5-fiscal year pe-*
16 *riod thereafter.*

17 “(2) *AVAILABILITY.*—*Funds appropriated under*
18 *paragraph (1) shall remain available until expended.*

19 “(f) *NONAPPLICATION.*—

20 “(1) *IN GENERAL.*—*Except as provided in para-*
21 *graph (2), the preceding sections of this title shall not*
22 *apply to grants awarded under this section.*

23 “(2) *LIMITATIONS ON USE OF GRANTS.*—*Section*
24 *2005(a) shall apply to a grant awarded under this*
25 *section to the same extent and in the same manner*

1 *as such section applies to payments to States under*
2 *this title, except that paragraph (4) of such section*
3 *shall not be construed to prohibit grantees from con-*
4 *ducting screening for environmental health conditions*
5 *as authorized under this section.”.*

6 **SEC. 10324. PROTECTIONS FOR FRONTIER STATES.**

7 *(a) FLOOR ON AREA WAGE INDEX FOR HOSPITALS IN*
8 *FRONTIER STATES.—*

9 *(1) IN GENERAL.—Section 1886(d)(3)(E) of the*
10 *Social Security Act (42 U.S.C. 1395ww(d)(3)(E)) is*
11 *amended—*

12 *(A) in clause (i), by striking “clause (ii)”*
13 *and inserting “clause (ii) or (iii)”;* and

14 *(B) by adding at the end the following new*
15 *clause:*

16 *“(iii) FLOOR ON AREA WAGE INDEX*
17 *FOR HOSPITALS IN FRONTIER STATES.—*

18 *“(I) IN GENERAL.—Subject to*
19 *subclause (IV), for discharges occurring*
20 *on or after October 1, 2010, the area*
21 *wage index applicable under this sub-*
22 *paragraph to any hospital which is lo-*
23 *cated in a frontier State (as defined in*
24 *subclause (II)) may not be less than*
25 *1.00.*

1 “(II) *FRONTIER STATE DE-*
2 *FINED.*—*In this clause, the term ‘fron-*
3 *tier State’ means a State in which at*
4 *least 50 percent of the counties in the*
5 *State are frontier counties.*

6 “(III) *FRONTIER COUNTY DE-*
7 *FINED.*—*In this clause, the term ‘fron-*
8 *tier county’ means a county in which*
9 *the population per square mile is less*
10 *than 6.*

11 “(IV) *LIMITATION.*—*This clause*
12 *shall not apply to any hospital located*
13 *in a State that receives a non-labor re-*
14 *lated share adjustment under para-*
15 *graph (5)(H).”.*

16 (2) *WAIVING BUDGET NEUTRALITY.*—*Section*
17 *1886(d)(3)(E) of the Social Security Act (42 U.S.C.*
18 *1395ww(d)(3)(E)), as amended by subsection (a), is*
19 *amended in the third sentence by inserting “and the*
20 *amendments made by section 10324(a)(1) of the Pa-*
21 *tient Protection and Affordable Care Act” after*
22 *“2003”.*

23 (b) *FLOOR ON AREA WAGE ADJUSTMENT FACTOR FOR*
24 *HOSPITAL OUTPATIENT DEPARTMENT SERVICES IN FRON-*
25 *TIER STATES.*—*Section 1833(t) of the Social Security Act*

1 *(42 U.S.C. 1395l(t)), as amended by section 3138, is*
2 *amended—*

3 *(1) in paragraph (2)(D), by striking “the Sec-*
4 *retary” and inserting “subject to paragraph (19), the*
5 *Secretary”; and*

6 *(2) by adding at the end the following new para-*
7 *graph:*

8 *“(19) FLOOR ON AREA WAGE ADJUSTMENT FAC-*
9 *TOR FOR HOSPITAL OUTPATIENT DEPARTMENT SERV-*
10 *ICES IN FRONTIER STATES.—*

11 *“(A) IN GENERAL.—Subject to subpara-*
12 *graph (B), with respect to covered OPD services*
13 *furnished on or after January 1, 2011, the area*
14 *wage adjustment factor applicable under the*
15 *payment system established under this subsection*
16 *to any hospital outpatient department which is*
17 *located in a frontier State (as defined in section*
18 *1886(d)(3)(E)(iii)(II)) may not be less than*
19 *1.00. The preceding sentence shall not be applied*
20 *in a budget neutral manner.*

21 *“(B) LIMITATION.—This paragraph shall*
22 *not apply to any hospital outpatient department*
23 *located in a State that receives a non-labor re-*
24 *lated share adjustment under section*
25 *1886(d)(5)(H).”.*

1 (c) *FLOOR FOR PRACTICE EXPENSE INDEX FOR PHY-*
2 *SICIANS' SERVICES FURNISHED IN FRONTIER STATES.—*

3 *Section 1848(e)(1) of the Social Security Act (42 U.S.C.*
4 *1395w-4(e)(1)), as amended by section 3102, is amended—*

5 (1) *in subparagraph (A), by striking “and (H)”*
6 *and inserting “(H), and (I)”;* and

7 (2) *by adding at the end the following new sub-*
8 *paragraph:*

9 “(I) *FLOOR FOR PRACTICE EXPENSE INDEX*
10 *FOR SERVICES FURNISHED IN FRONTIER*
11 *STATES.—*

12 “(i) *IN GENERAL.—Subject to clause*
13 *(ii), for purposes of payment for services*
14 *furnished in a frontier State (as defined in*
15 *section 1886(d)(3)(E)(iii)(II)) on or after*
16 *January 1, 2011, after calculating the prac-*
17 *tice expense index in subparagraph (A)(i),*
18 *the Secretary shall increase any such index*
19 *to 1.00 if such index would otherwise be less*
20 *than 1.00. The preceding sentence shall not*
21 *be applied in a budget neutral manner.*

22 “(ii) *LIMITATION.—This subparagraph*
23 *shall not apply to services furnished in a*
24 *State that receives a non-labor related share*
25 *adjustment under section 1886(d)(5)(H).”.*

1 **SEC. 10325. REVISION TO SKILLED NURSING FACILITY PRO-**
2 **SPECTIVE PAYMENT SYSTEM.**

3 (a) *TEMPORARY DELAY OF RUG–IV.*—Notwith-
4 standing any other provision of law, the Secretary of
5 Health and Human Services shall not, prior to October 1,
6 2011, implement Version 4 of the Resource Utilization
7 Groups (in this subsection referred to as “RUG–IV”) pub-
8 lished in the Federal Register on August 11, 2009, entitled
9 “Prospective Payment System and Consolidated Billing for
10 Skilled Nursing Facilities for FY 2010; Minimum Data
11 Set, Version 3.0 for Skilled Nursing Facilities and Medicaid
12 Nursing Facilities” (74 Fed. Reg. 40288). Beginning on Oc-
13 tober 1, 2010, the Secretary of Health and Human Services
14 shall implement the change specific to therapy furnished on
15 a concurrent basis that is a component of RUG–IV and
16 changes to the lookback period to ensure that only those
17 services furnished after admission to a skilled nursing facil-
18 ity are used as factors in determining a case mix classifica-
19 tion under the skilled nursing facility prospective payment
20 system under section 1888(e) of the Social Security Act (42
21 U.S.C. 1395yy(e)).

22 (b) *CONSTRUCTION.*—Nothing in this section shall be
23 interpreted as delaying the implementation of Version 3.0
24 of the Minimum Data Sets (MDS 3.0) beyond the planned
25 implementation date of October 1, 2010.

1 **SEC. 10326. PILOT TESTING PAY-FOR-PERFORMANCE PRO-**
2 **GRAMS FOR CERTAIN MEDICARE PROVIDERS.**

3 (a) *IN GENERAL.*—Not later than January 1, 2016,
4 the Secretary of Health and Human Services (in this sec-
5 tion referred to as the “Secretary”) shall, for each provider
6 described in subsection (b), conduct a separate pilot pro-
7 gram under title XVIII of the Social Security Act to test
8 the implementation of a value-based purchasing program
9 for payments under such title for the provider.

10 (b) *PROVIDERS DESCRIBED.*—The providers described
11 in this paragraph are the following:

12 (1) *Psychiatric hospitals (as described in clause*
13 *(i) of section 1886(d)(1)(B) of such Act (42 U.S.C.*
14 *1395ww(d)(1)(B))) and psychiatric units (as de-*
15 *scribed in the matter following clause (v) of such sec-*
16 *tion).*

17 (2) *Long-term care hospitals (as described in*
18 *clause (iv) of such section).*

19 (3) *Rehabilitation hospitals (as described in*
20 *clause (ii) of such section).*

21 (4) *PPS-exempt cancer hospitals (as described in*
22 *clause (v) of such section).*

23 (5) *Hospice programs (as defined in section*
24 *1861(dd)(2) of such Act (42 U.S.C. 1395x(dd)(2))).*

25 (c) *WAIVER AUTHORITY.*—The Secretary may waive
26 such requirements of titles XI and XVIII of the Social Secu-

1 rity Act as may be necessary solely for purposes of carrying
2 out the pilot programs under this section.

3 (d) *NO ADDITIONAL PROGRAM EXPENDITURES.*—Pay-
4 ments under this section under the separate pilot program
5 for value based purchasing (as described in subsection (a))
6 for each provider type described in paragraphs (1) through
7 (5) of subsection (b) for applicable items and services under
8 title XVIII of the Social Security Act for a year shall be
9 established in a manner that does not result in spending
10 more under each such value based purchasing program for
11 such year than would otherwise be expended for such pro-
12 vider type for such year if the pilot program were not im-
13 plemented, as estimated by the Secretary.

14 (e) *EXPANSION OF PILOT PROGRAM.*—The Secretary
15 may, at any point after January 1, 2018, expand the dura-
16 tion and scope of a pilot program conducted under this sub-
17 section, to the extent determined appropriate by the Sec-
18 retary, if—

19 (1) the Secretary determines that such expansion
20 is expected to—

21 (A) reduce spending under title XVIII of the
22 Social Security Act without reducing the quality
23 of care; or

24 (B) improve the quality of care and reduce
25 spending;

1 (2) *the Chief Actuary of the Centers for Medicare*
2 *& Medicaid Services certifies that such expansion*
3 *would reduce program spending under such title*
4 *XVIII; and*

5 (3) *the Secretary determines that such expansion*
6 *would not deny or limit the coverage or provision of*
7 *benefits under such title XIII for Medicare bene-*
8 *ficiaries.*

9 **SEC. 10327. IMPROVEMENTS TO THE PHYSICIAN QUALITY**
10 **REPORTING SYSTEM.**

11 (a) *IN GENERAL.*—*Section 1848(m) of the Social Secu-*
12 *rity Act (42 U.S.C. 1395w-4(m)) is amended by adding*
13 *at the end the following new paragraph:*

14 “(7) *ADDITIONAL INCENTIVE PAYMENT.*—

15 “(A) *IN GENERAL.*—*For 2011 through 2014,*
16 *if an eligible professional meets the requirements*
17 *described in subparagraph (B), the applicable*
18 *quality percent for such year, as described in*
19 *clauses (iii) and (iv) of paragraph (1)(B), shall*
20 *be increased by 0.5 percentage points.*

21 “(B) *REQUIREMENTS DESCRIBED.*—*In*
22 *order to qualify for the additional incentive pay-*
23 *ment described in subparagraph (A), an eligible*
24 *professional shall meet the following require-*
25 *ments:*

1 “(i) *The eligible professional shall—*

2 “(I) *satisfactorily submit data on*
3 *quality measures for purposes of para-*
4 *graph (1) for a year; and*

5 “(II) *have such data submitted on*
6 *their behalf through a Maintenance of*
7 *Certification Program (as defined in*
8 *subparagraph (C)(i)) that meets—*

9 “(aa) *the criteria for a reg-*
10 *istry (as described in subsection*
11 *(k)(4)); or*

12 “(bb) *an alternative form*
13 *and manner determined appro-*
14 *priate by the Secretary.*

15 “(ii) *The eligible professional, more*
16 *frequently than is required to qualify for or*
17 *maintain board certification status—*

18 “(I) *participates in such a Main-*
19 *tenance of Certification program for a*
20 *year; and*

21 “(II) *successfully completes a*
22 *qualified Maintenance of Certification*
23 *Program practice assessment (as de-*
24 *finied in subparagraph (C)(ii)) for such*
25 *year.*

1 “(iii) A Maintenance of Certification
2 program submits to the Secretary, on behalf
3 of the eligible professional, information—

4 “(I) in a form and manner speci-
5 fied by the Secretary, that the eligible
6 professional has successfully met the re-
7 quirements of clause (ii) (which may
8 be in the form of a structural meas-
9 ure);

10 “(II) if requested by the Sec-
11 retary, on the survey of patient experi-
12 ence with care (as described in sub-
13 paragraph (C)(ii)(II)); and

14 “(III) as the Secretary may re-
15 quire, on the methods, measures, and
16 data used under the Maintenance of
17 Certification Program and the quali-
18 fied Maintenance of Certification Pro-
19 gram practice assessment.

20 “(C) DEFINITIONS.—For purposes of this
21 paragraph:

22 “(i) The term ‘Maintenance of Certifi-
23 cation Program’ means a continuous assess-
24 ment program, such as qualified American
25 Board of Medical Specialties Maintenance

1 of Certification program or an equivalent
2 program (as determined by the Secretary),
3 that advances quality and the lifelong
4 learning and self-assessment of board cer-
5 tified specialty physicians by focusing on
6 the competencies of patient care, medical
7 knowledge, practice-based learning, inter-
8 personal and communication skills and pro-
9 fessionalism. Such a program shall include
10 the following:

11 “(I) The program requires the
12 physician to maintain a valid, unre-
13 stricted medical license in the United
14 States.

15 “(II) The program requires a
16 physician to participate in educational
17 and self-assessment programs that re-
18 quire an assessment of what was
19 learned.

20 “(III) The program requires a
21 physician to demonstrate, through a
22 formalized, secure examination, that
23 the physician has the fundamental di-
24 agnostic skills, medical knowledge, and

1 *clinical judgment to provide quality*
2 *care in their respective specialty.*

3 “(IV) *The program requires suc-*
4 *cessful completion of a qualified Main-*
5 *tenance of Certification Program prac-*
6 *tice assessment as described in clause*
7 *(ii).*

8 “(ii) *The term ‘qualified Maintenance*
9 *of Certification Program practice assess-*
10 *ment’ means an assessment of a physician’s*
11 *practice that—*

12 “(I) *includes an initial assess-*
13 *ment of an eligible professional’s prac-*
14 *tice that is designed to demonstrate the*
15 *physician’s use of evidence-based medi-*
16 *cine;*

17 “(II) *includes a survey of patient*
18 *experience with care; and*

19 “(III) *requires a physician to im-*
20 *plement a quality improvement inter-*
21 *vention to address a practice weakness*
22 *identified in the initial assessment*
23 *under subclause (I) and then to re-*
24 *measure to assess performance im-*
25 *provement after such intervention.”.*

1 (b) *AUTHORITY.*—Section 3002(c) of this Act is
2 amended by adding at the end the following new paragraph:

3 “(3) *AUTHORITY.*—For years after 2014, if the
4 Secretary of Health and Human Services determines
5 it to be appropriate, the Secretary may incorporate
6 participation in a Maintenance of Certification Pro-
7 gram and successful completion of a qualified Mainte-
8 nance of Certification Program practice assessment
9 into the composite of measures of quality of care fur-
10 nished pursuant to the physician fee schedule pay-
11 ment modifier, as described in section 1848(p)(2) of
12 the Social Security Act (42 U.S.C. 1395w-4(p)(2)).”.

13 (c) *ELIMINATION OF MA REGIONAL PLAN STABILIZA-*
14 *TION FUND.*—

15 (1) *IN GENERAL.*—Section 1858 of the Social Se-
16 curity Act (42 U.S.C. 1395w-27a) is amended by
17 striking subsection (e).

18 (2) *TRANSITION.*—Any amount contained in the
19 MA Regional Plan Stabilization Fund as of the date
20 of the enactment of this Act shall be transferred to the
21 Federal Supplementary Medical Insurance Trust
22 Fund.

1 **SEC. 10328. IMPROVEMENT IN PART D MEDICATION THER-**
2 **APY MANAGEMENT (MTM) PROGRAMS.**

3 (a) *IN GENERAL.*—Section 1860D–4(c)(2) of the So-
4 cial Security Act (42 U.S.C. 1395w–104(c)(2)) is amend-
5 ed—

6 (1) *by redesignating subparagraphs (C), (D),*
7 *and (E) as subparagraphs (E), (F), and (G), respec-*
8 *tively; and*

9 (2) *by inserting after subparagraph (B) the fol-*
10 *lowing new subparagraphs:*

11 “(C) *REQUIRED INTERVENTIONS.*—*For plan*
12 *years beginning on or after the date that is 2*
13 *years after the date of the enactment of the Pa-*
14 *tient Protection and Affordable Care Act, pre-*
15 *scription drug plan sponsors shall offer medica-*
16 *tion therapy management services to targeted*
17 *beneficiaries described in subparagraph (A)(ii)*
18 *that include, at a minimum, the following to in-*
19 *crease adherence to prescription medications or*
20 *other goals deemed necessary by the Secretary:*

21 “(i) *An annual comprehensive medica-*
22 *tion review furnished person-to-person or*
23 *using telehealth technologies (as defined by*
24 *the Secretary) by a licensed pharmacist or*
25 *other qualified provider. The comprehensive*
26 *medication review—*

1 “(I) shall include a review of the
2 individual’s medications and may re-
3 sult in the creation of a recommended
4 medication action plan or other ac-
5 tions in consultation with the indi-
6 vidual and with input from the pre-
7 scriber to the extent necessary and
8 practicable; and

9 “(II) shall include providing the
10 individual with a written or printed
11 summary of the results of the review.

12 *The Secretary, in consultation with relevant*
13 *stakeholders, shall develop a standardized*
14 *format for the action plan under subclause*
15 *(I) and the summary under subclause (II).*

16 “(ii) *Follow-up interventions as war-*
17 *ranted based on the findings of the annual*
18 *medication review or the targeted medica-*
19 *tion enrollment and which may be provided*
20 *person-to-person or using telehealth tech-*
21 *nologies (as defined by the Secretary).*

22 “(D) *ASSESSMENT.*—*The prescription drug*
23 *plan sponsor shall have in place a process to as-*
24 *sess, at least on a quarterly basis, the medication*
25 *use of individuals who are at risk but not en-*

1 rolled in the medication therapy management
2 program, including individuals who have experi-
3 enced a transition in care, if the prescription
4 drug plan sponsor has access to that informa-
5 tion.

6 “(E) *AUTOMATIC ENROLLMENT WITH ABIL-*
7 *ITY TO OPT-OUT.*—The prescription drug plan
8 sponsor shall have in place a process to—

9 “(i) subject to clause (ii), automati-
10 cally enroll targeted beneficiaries described
11 in subparagraph (A)(ii), including bene-
12 ficiaries identified under subparagraph (D),
13 in the medication therapy management pro-
14 gram required under this subsection; and

15 “(ii) permit such beneficiaries to opt-
16 out of enrollment in such program.”.

17 (b) *RULE OF CONSTRUCTION.*—Nothing in this section
18 shall limit the authority of the Secretary of Health and
19 Human Services to modify or broaden requirements for a
20 medication therapy management program under part D of
21 title XVIII of the Social Security Act or to study new mod-
22 els for medication therapy management through the Center
23 for Medicare and Medicaid Innovation under section 1115A
24 of such Act, as added by section 3021.

1 **SEC. 10329. DEVELOPING METHODOLOGY TO ASSESS**
2 **HEALTH PLAN VALUE.**

3 (a) *DEVELOPMENT.*—The Secretary of Health and
4 Human Services (referred to in this section as the “Sec-
5 retary”), in consultation with relevant stakeholders includ-
6 ing health insurance issuers, health care consumers, em-
7 ployers, health care providers, and other entities determined
8 appropriate by the Secretary, shall develop a methodology
9 to measure health plan value. Such methodology shall take
10 into consideration, where applicable—

11 (1) the overall cost to enrollees under the plan;

12 (2) the quality of the care provided for under the
13 plan;

14 (3) the efficiency of the plan in providing care;

15 (4) the relative risk of the plan’s enrollees as
16 compared to other plans;

17 (5) the actuarial value or other comparative
18 measure of the benefits covered under the plan; and

19 (6) other factors determined relevant by the Sec-
20 retary.

21 (b) *REPORT.*—Not later than 18 months after the date
22 of enactment of this Act, the Secretary shall submit to Con-
23 gress a report concerning the methodology developed under
24 subsection (a).

1 **SEC. 10330. MODERNIZING COMPUTER AND DATA SYSTEMS**
2 **OF THE CENTERS FOR MEDICARE & MED-**
3 **ICAID SERVICES TO SUPPORT IMPROVE-**
4 **MENTS IN CARE DELIVERY.**

5 (a) *IN GENERAL.*—*The Secretary of Health and*
6 *Human Services (in this section referred to as the “Sec-*
7 *retary”)* shall develop a plan (and detailed budget for the
8 resources needed to implement such plan) to modernize the
9 computer and data systems of the Centers for Medicare &
10 Medicaid Services (in this section referred to as “CMS”).

11 (b) *CONSIDERATIONS.*—*In developing the plan, the*
12 *Secretary shall consider how such modernized computer sys-*
13 *tem could—*

14 (1) *in accordance with the regulations promul-*
15 *gated under section 264(c) of the Health Insurance*
16 *Portability and Accountability Act of 1996, make*
17 *available data in a reliable and timely manner to*
18 *providers of services and suppliers to support their ef-*
19 *forts to better manage and coordinate care furnished*
20 *to beneficiaries of CMS programs; and*

21 (2) *support consistent evaluations of payment*
22 *and delivery system reforms under CMS programs.*

23 (c) *POSTING OF PLAN.*—*By not later than 9 months*
24 *after the date of the enactment of this Act, the Secretary*
25 *shall post on the website of the Centers for Medicare & Med-*
26 *icaid Services the plan described in subsection (a).*

1 **SEC. 10331. PUBLIC REPORTING OF PERFORMANCE INFOR-**
2 **MATION.**

3 (a) *IN GENERAL.*—

4 (1) *DEVELOPMENT.*—*Not later than January 1,*
5 *2011, the Secretary shall develop a Physician Com-*
6 *pare Internet website with information on physicians*
7 *enrolled in the Medicare program under section*
8 *1866(j) of the Social Security Act (42 U.S.C.*
9 *1395cc(j)) and other eligible professionals who par-*
10 *ticipate in the Physician Quality Reporting Initia-*
11 *tive under section 1848 of such Act (42 U.S.C.*
12 *1395w-4).*

13 (2) *PLAN.*—*Not later than January 1, 2013, and*
14 *with respect to reporting periods that begin no earlier*
15 *than January 1, 2012, the Secretary shall also imple-*
16 *ment a plan for making publicly available through*
17 *Physician Compare, consistent with subsection (c),*
18 *information on physician performance that provides*
19 *comparable information for the public on quality and*
20 *patient experience measures with respect to physi-*
21 *cians enrolled in the Medicare program under such*
22 *section 1866(j). To the extent scientifically sound*
23 *measures that are developed consistent with the re-*
24 *quirements of this section are available, such informa-*
25 *tion, to the extent practicable, shall include—*

1 (A) measures collected under the Physician
2 Quality Reporting Initiative;

3 (B) an assessment of patient health out-
4 comes and the functional status of patients;

5 (C) an assessment of the continuity and co-
6 ordination of care and care transitions, includ-
7 ing episodes of care and risk-adjusted resource
8 use;

9 (D) an assessment of efficiency;

10 (E) an assessment of patient experience and
11 patient, caregiver, and family engagement;

12 (F) an assessment of the safety, effectiveness,
13 and timeliness of care; and

14 (G) other information as determined appro-
15 priate by the Secretary.

16 (b) *OTHER REQUIRED CONSIDERATIONS.*—In devel-
17 oping and implementing the plan described in subsection
18 (a)(2), the Secretary shall, to the extent practicable, in-
19 clude—

20 (1) processes to assure that data made public, ei-
21 ther by the Centers for Medicare & Medicaid Services
22 or by other entities, is statistically valid and reliable,
23 including risk adjustment mechanisms used by the
24 Secretary;

1 (2) processes by which a physician or other eligi-
2 ble professional whose performance on measures is
3 being publicly reported has a reasonable opportunity,
4 as determined by the Secretary, to review his or her
5 individual results before they are made public;

6 (3) processes by the Secretary to assure that the
7 implementation of the plan and the data made avail-
8 able on Physician Compare provide a robust and ac-
9 curate portrayal of a physician's performance;

10 (4) data that reflects the care provided to all pa-
11 tients seen by physicians, under both the Medicare
12 program and, to the extent practicable, other payers,
13 to the extent such information would provide a more
14 accurate portrayal of physician performance;

15 (5) processes to ensure appropriate attribution of
16 care when multiple physicians and other providers
17 are involved in the care of a patient;

18 (6) processes to ensure timely statistical perform-
19 ance feedback is provided to physicians concerning
20 the data reported under any program subject to pub-
21 lic reporting under this section; and

22 (7) implementation of computer and data sys-
23 tems of the Centers for Medicare & Medicaid Services
24 that support valid, reliable, and accurate public re-
25 porting activities authorized under this section.

1 (c) *ENSURING PATIENT PRIVACY.*—*The Secretary shall*
2 *ensure that information on physician performance and pa-*
3 *tient experience is not disclosed under this section in a*
4 *manner that violates sections 552 or 552a of title 5, United*
5 *States Code, with regard to the privacy of individually*
6 *identifiable health information.*

7 (d) *FEEDBACK FROM MULTI-STAKEHOLDER*
8 *GROUPS.*—*The Secretary shall take into consideration*
9 *input provided by multi-stakeholder groups, consistent with*
10 *sections 1890(b)(7) and 1890A of the Social Security Act,*
11 *as added by section 3014 of this Act, in selecting quality*
12 *measures for use under this section.*

13 (e) *CONSIDERATION OF TRANSITION TO VALUE-BASED*
14 *PURCHASING.*—*In developing the plan under this sub-*
15 *section (a)(2), the Secretary shall, as the Secretary deter-*
16 *mines appropriate, consider the plan to transition to a*
17 *value-based purchasing program for physicians and other*
18 *practitioners developed under section 131 of the Medicare*
19 *Improvements for Patients and Providers Act of 2008 (Pub-*
20 *lic Law 110–275).*

21 (f) *REPORT TO CONGRESS.*—*Not later than January*
22 *1, 2015, the Secretary shall submit to Congress a report*
23 *on the Physician Compare Internet website developed under*
24 *subsection (a)(1). Such report shall include information on*
25 *the efforts of and plans made by the Secretary to collect*

1 *and publish data on physician quality and efficiency and*
2 *on patient experience of care in support of value-based pur-*
3 *chasing and consumer choice, together with recommenda-*
4 *tions for such legislation and administrative action as the*
5 *Secretary determines appropriate.*

6 *(g) EXPANSION.—At any time before the date on which*
7 *the report is submitted under subsection (f), the Secretary*
8 *may expand (including expansion to other providers of*
9 *services and suppliers under title XVIII of the Social Secu-*
10 *rity Act) the information made available on such website.*

11 *(h) FINANCIAL INCENTIVES TO ENCOURAGE CON-*
12 *SUMERS TO CHOOSE HIGH QUALITY PROVIDERS.—The*
13 *Secretary may establish a demonstration program, not later*
14 *than January 1, 2019, to provide financial incentives to*
15 *Medicare beneficiaries who are furnished services by high*
16 *quality physicians, as determined by the Secretary based*
17 *on factors in subparagraphs (A) through (G) of subsection*
18 *(a)(2). In no case may Medicare beneficiaries be required*
19 *to pay increased premiums or cost sharing or be subject*
20 *to a reduction in benefits under title XVIII of the Social*
21 *Security Act as a result of such demonstration program.*
22 *The Secretary shall ensure that any such demonstration*
23 *program does not disadvantage those beneficiaries without*
24 *reasonable access to high performing physicians or create*
25 *financial inequities under such title.*

1 (i) *DEFINITIONS.*—*In this section:*

2 (1) *ELIGIBLE PROFESSIONAL.*—*The term “eligible*
3 *professional” has the meaning given that term for*
4 *purposes of the Physician Quality Reporting Initia-*
5 *tive under section 1848 of the Social Security Act (42*
6 *U.S.C. 1395w–4).*

7 (2) *PHYSICIAN.*—*The term “physician” has the*
8 *meaning given that term in section 1861(r) of such*
9 *Act (42 U.S.C. 1395x(r)).*

10 (3) *PHYSICIAN COMPARE.*—*The term “Physician*
11 *Compare” means the Internet website developed under*
12 *subsection (a)(1).*

13 (4) *SECRETARY.*—*The term “Secretary” means*
14 *the Secretary of Health and Human Services.*

15 **SEC. 10332. AVAILABILITY OF MEDICARE DATA FOR PER-**
16 **FORMANCE MEASUREMENT.**

17 (a) *IN GENERAL.*—*Section 1874 of the Social Security*
18 *Act (42 U.S.C. 1395kk) is amended by adding at the end*
19 *the following new subsection:*

20 “(e) *AVAILABILITY OF MEDICARE DATA.*—

21 “(1) *IN GENERAL.*—*Subject to paragraph (4), the*
22 *Secretary shall make available to qualified entities*
23 *(as defined in paragraph (2)) data described in para-*
24 *graph (3) for the evaluation of the performance of*
25 *providers of services and suppliers.*

1 “(2) *QUALIFIED ENTITIES.*—For purposes of this
2 subsection, the term ‘qualified entity’ means a public
3 or private entity that—

4 “(A) is qualified (as determined by the Sec-
5 retary) to use claims data to evaluate the per-
6 formance of providers of services and suppliers
7 on measures of quality, efficiency, effectiveness,
8 and resource use; and

9 “(B) agrees to meet the requirements de-
10 scribed in paragraph (4) and meets such other
11 requirements as the Secretary may specify, such
12 as ensuring security of data.

13 “(3) *DATA DESCRIBED.*—The data described in
14 this paragraph are standardized extracts (as deter-
15 mined by the Secretary) of claims data under parts
16 A, B, and D for items and services furnished under
17 such parts for one or more specified geographic areas
18 and time periods requested by a qualified entity. The
19 Secretary shall take such actions as the Secretary
20 deems necessary to protect the identity of individuals
21 entitled to or enrolled for benefits under such parts.

22 “(4) *REQUIREMENTS.*—

23 “(A) *FEE.*—Data described in paragraph
24 (3) shall be made available to a qualified entity
25 under this subsection at a fee equal to the cost

1 *of making such data available. Any fee collected*
2 *pursuant to the preceding sentence shall be de-*
3 *posited into the Federal Supplementary Medical*
4 *Insurance Trust Fund under section 1841.*

5 “(B) *SPECIFICATION OF USES AND METH-*
6 *ODOLOGIES.—A qualified entity requesting data*
7 *under this subsection shall—*

8 “(i) *submit to the Secretary a descrip-*
9 *tion of the methodologies that such qualified*
10 *entity will use to evaluate the performance*
11 *of providers of services and suppliers using*
12 *such data;*

13 “(ii)(I) *except as provided in subclause*
14 *(II), if available, use standard measures,*
15 *such as measures endorsed by the entity*
16 *with a contract under section 1890(a) and*
17 *measures developed pursuant to section 931*
18 *of the Public Health Service Act; or*

19 “(II) *use alternative measures if the*
20 *Secretary, in consultation with appropriate*
21 *stakeholders, determines that use of such al-*
22 *ternative measures would be more valid, re-*
23 *liable, responsive to consumer preferences,*
24 *cost-effective, or relevant to dimensions of*

1 *quality and resource use not addressed by*
2 *such standard measures;*

3 “(iii) include data made available
4 under this subsection with claims data from
5 sources other than claims data under this
6 title in the evaluation of performance of
7 providers of services and suppliers;

8 “(iv) only include information on the
9 evaluation of performance of providers and
10 suppliers in reports described in subpara-
11 graph (C);

12 “(v) make available to providers of
13 services and suppliers, upon their request,
14 data made available under this subsection;
15 and

16 “(vi) prior to their release, submit to
17 the Secretary the format of reports under
18 subparagraph (C).

19 “(C) *REPORTS.*—Any report by a qualified
20 entity evaluating the performance of providers of
21 services and suppliers using data made available
22 under this subsection shall—

23 “(i) include an understandable descrip-
24 tion of the measures, which shall include
25 quality measures and the rationale for use

1 *of other measures described in subparagraph*
2 *(B)(ii)(II), risk adjustment methods, physi-*
3 *cian attribution methods, other applicable*
4 *methods, data specifications and limita-*
5 *tions, and the sponsors, so that consumers,*
6 *providers of services and suppliers, health*
7 *plans, researchers, and other stakeholders*
8 *can assess such reports;*

9 *“(ii) be made available confidentially,*
10 *to any provider of services or supplier to be*
11 *identified in such report, prior to the public*
12 *release of such report, and provide an op-*
13 *portunity to appeal and correct errors;*

14 *“(iii) only include information on a*
15 *provider of services or supplier in an aggre-*
16 *gate form as determined appropriate by the*
17 *Secretary; and*

18 *“(iv) except as described in clause (ii),*
19 *be made available to the public.*

20 *“(D) APPROVAL AND LIMITATION OF*
21 *USES.—The Secretary shall not make data de-*
22 *scribed in paragraph (3) available to a qualified*
23 *entity unless the qualified entity agrees to release*
24 *the information on the evaluation of performance*
25 *of providers of services and suppliers. Such enti-*

1 *ty shall only use such data, and information de-*
 2 *derived from such evaluation, for the reports under*
 3 *subparagraph (C). Data released to a qualified*
 4 *entity under this subsection shall not be subject*
 5 *to discovery or admission as evidence in judicial*
 6 *or administrative proceedings without consent of*
 7 *the applicable provider of services or supplier.”.*

8 *(b) EFFECTIVE DATE.—The amendment made by sub-*
 9 *section (a) shall take effect on January 1, 2012.*

10 **SEC. 10333. COMMUNITY-BASED COLLABORATIVE CARE**
 11 **NETWORKS.**

12 *Part D of title III of the Public Health Service Act*
 13 *(42 U.S.C. 254b et seq.) is amended by adding at the end*
 14 *the following new subpart:*

15 **“Subpart XI—Community-Based Collaborative Care**
 16 **Network Program**

17 **“SEC. 340H. COMMUNITY-BASED COLLABORATIVE CARE**
 18 **NETWORK PROGRAM.**

19 *“(a) IN GENERAL.—The Secretary may award grants*
 20 *to eligible entities to support community-based collaborative*
 21 *care networks that meet the requirements of subsection (b).*

22 *“(b) COMMUNITY-BASED COLLABORATIVE CARE NET-*
 23 *WORKS.—*

24 *“(1) DESCRIPTION.—A community-based collabo-*
 25 *rative care network (referred to in this section as a*

1 ‘network’) shall be a consortium of health care pro-
2 viders with a joint governance structure (including
3 providers within a single entity) that provides com-
4 prehensive coordinated and integrated health care
5 services (as defined by the Secretary) for low-income
6 populations.

7 “(2) *REQUIRED INCLUSION.*—A network shall in-
8 clude the following providers (unless such provider
9 does not exist within the community, declines or re-
10 fuses to participate, or places unreasonable conditions
11 on their participation):

12 “(A) A hospital that meets the criteria in
13 section 1923(b)(1) of the Social Security Act;
14 and

15 “(B) All Federally qualified health centers
16 (as defined in section 1861(aa) of the Social Se-
17 curity Act located in the community.

18 “(3) *PRIORITY.*—In awarding grants, the Sec-
19 retary shall give priority to networks that include—

20 “(A) the capability to provide the broadest
21 range of services to low-income individuals;

22 “(B) the broadest range of providers that
23 currently serve a high volume of low-income in-
24 dividuals; and

1 “(C) a county or municipal department of
2 health.

3 “(c) *APPLICATION.*—

4 “(1) *APPLICATION.*—A network described in sub-
5 section (b) shall submit an application to the Sec-
6 retary.

7 “(2) *RENEWAL.*—In subsequent years, based on
8 the performance of grantees, the Secretary may pro-
9 vide renewal grants to prior year grant recipients.

10 “(d) *USE OF FUNDS.*—

11 “(1) *USE BY GRANTEES.*—Grant funds may be
12 used for the following activities:

13 “(A) Assist low-income individuals to—

14 “(i) access and appropriately use
15 health services;

16 “(ii) enroll in health coverage pro-
17 grams; and

18 “(iii) obtain a regular primary care
19 provider or a medical home.

20 “(B) Provide case management and care
21 management.

22 “(C) Perform health outreach using neigh-
23 borhood health workers or through other means.

24 “(D) Provide transportation.

1 “(E) *Expand capacity, including through*
2 *telehealth, after-hours services or urgent care.*”

3 “(F) *Provide direct patient care services.*”

4 “(2) *GRANT FUNDS TO HRSA GRANTEES.—The*
5 *Secretary may limit the percent of grant funding that*
6 *may be spent on direct care services provided by*
7 *grantees of programs administered by the Health Re-*
8 *sources and Services Administration or impose other*
9 *requirements on such grantees deemed necessary.*”

10 “(e) *AUTHORIZATION OF APPROPRIATIONS.—There are*
11 *authorized to be appropriated to carry out this section such*
12 *sums as may be necessary for each of fiscal years 2011*
13 *through 2015.*”.

14 **SEC. 10334. MINORITY HEALTH.**

15 (a) *OFFICE OF MINORITY HEALTH.—*

16 (1) *IN GENERAL.—Section 1707 of the Public*
17 *Health Service Act (42 U.S.C. 300u-6) is amended—*

18 (A) *in subsection (a), by striking “within*
19 *the Office of Public Health and Science” and all*
20 *that follows through the end and inserting “. The*
21 *Office of Minority Health as existing on the date*
22 *of enactment of the Patient Protection and Af-*
23 *fordable Care Act shall be transferred to the Of-*
24 *fice of the Secretary in such manner that there*
25 *is established in the Office of the Secretary, the*

1 *Office of Minority Health, which shall be headed*
2 *by the Deputy Assistant Secretary for Minority*
3 *Health who shall report directly to the Secretary,*
4 *and shall retain and strengthen authorities (as*
5 *in existence on such date of enactment) for the*
6 *purpose of improving minority health and the*
7 *quality of health care minorities receive, and*
8 *eliminating racial and ethnic disparities. In*
9 *carrying out this subsection, the Secretary, act-*
10 *ing through the Deputy Assistant Secretary,*
11 *shall award grants, contracts, enter into memo-*
12 *randa of understanding, cooperative, inter-*
13 *agency, intra-agency and other agreements with*
14 *public and nonprofit private entities, agencies,*
15 *as well as Departmental and Cabinet agencies*
16 *and organizations, and with organizations that*
17 *are indigenous human resource providers in*
18 *communities of color to assure improved health*
19 *status of racial and ethnic minorities, and shall*
20 *develop measures to evaluate the effectiveness of*
21 *activities aimed at reducing health disparities*
22 *and supporting the local community. Such meas-*
23 *ures shall evaluate community outreach activi-*
24 *ties, language services, workforce cultural com-*

1 *petence, and other areas as determined by the*
2 *Secretary.”; and*

3 *(B) by striking subsection (h) and inserting*
4 *the following:*

5 “*(h) AUTHORIZATION OF APPROPRIATIONS.—For the*
6 *purpose of carrying out this section, there are authorized*
7 *to be appropriated such sums as may be necessary for each*
8 *of fiscal years 2011 through 2016.”.*

9 *(2) TRANSFER OF FUNCTIONS.—There are trans-*
10 *ferred to the Office of Minority Health in the office*
11 *of the Secretary of Health and Human Services, all*
12 *duties, responsibilities, authorities, accountabilities,*
13 *functions, staff, funds, award mechanisms, and other*
14 *entities under the authority of the Office of Minority*
15 *Health of the Public Health Service as in effect on the*
16 *date before the date of enactment of this Act, which*
17 *shall continue in effect according to the terms in effect*
18 *on the date before such date of enactment, until modi-*
19 *fied, terminated, superseded, set aside, or revoked in*
20 *accordance with law by the President, the Secretary,*
21 *a court of competent jurisdiction, or by operation of*
22 *law.*

23 *(3) REPORTS.—Not later than 1 year after the*
24 *date of enactment of this section, and biennially*
25 *thereafter, the Secretary of Health and Human Serv-*

1 *agency within which the Office is established, and shall re-*
2 *port directly to the head of the agency. The head of such*
3 *agency shall carry out this section (as this section relates*
4 *to the agency) acting through such Director.*

5 “(b) *SPECIFIED AGENCIES.*—*The agencies referred to*
6 *in subsection (a) are the Centers for Disease Control and*
7 *Prevention, the Health Resources and Services Administra-*
8 *tion, the Substance Abuse and Mental Health Services Ad-*
9 *ministration, the Agency for Healthcare Research and*
10 *Quality, the Food and Drug Administration, and the Cen-*
11 *ters for Medicare & Medicaid Services.*

12 “(c) *DIRECTOR; APPOINTMENT.*—*Each Office of Mi-*
13 *nority Health established in an agency listed in subsection*
14 *(a) shall be headed by a director, with documented experi-*
15 *ence and expertise in minority health services research and*
16 *health disparities elimination.*

17 “(d) *REFERENCES.*—*Except as otherwise specified,*
18 *any reference in Federal law to an Office of Minority*
19 *Health (in the Department of Health and Human Services)*
20 *is deemed to be a reference to the Office of Minority Health*
21 *in the Office of the Secretary.*

22 “(e) *FUNDING.*—

23 “(1) *ALLOCATIONS.*—*Of the amounts appro-*
24 *priated for a specified agency for a fiscal year, the*
25 *Secretary must designate an appropriate amount of*

1 *funds for the purpose of carrying out activities under*
2 *this section through the minority health office of the*
3 *agency. In reserving an amount under the preceding*
4 *sentence for a minority health office for a fiscal year,*
5 *the Secretary shall reduce, by substantially the same*
6 *percentage, the amount that otherwise would be avail-*
7 *able for each of the programs of the designated agency*
8 *involved.*

9 *“(2) AVAILABILITY OF FUNDS FOR STAFFING.—*
10 *The purposes for which amounts made available*
11 *under paragraph may be expended by a minority*
12 *health office include the costs of employing staff for*
13 *such office.”.*

14 *(2) NO NEW REGULATORY AUTHORITY.—Nothing*
15 *in this subsection and the amendments made by this*
16 *subsection may be construed as establishing regu-*
17 *latory authority or modifying any existing regulatory*
18 *authority.*

19 *(3) LIMITATION ON TERMINATION.—Notwith-*
20 *standing any other provision of law, a Federal office*
21 *of minority health or Federal appointive position*
22 *with primary responsibility over minority health*
23 *issues that is in existence in an office of agency of the*
24 *Department of Health and Human Services on the*
25 *date of enactment of this section shall not be termi-*

1 *nated, reorganized, or have any of its power or duties*
2 *transferred unless such termination, reorganization,*
3 *or transfer is approved by an Act of Congress.*

4 *(c) REDESIGNATION OF NATIONAL CENTER ON MINOR-*
5 *ITY HEALTH AND HEALTH DISPARITIES.—*

6 *(1) REDESIGNATION.—Title IV of the Public*
7 *Health Service Act (42 U.S.C. 281 et seq.) is amend-*
8 *ed—*

9 *(A) by redesignating subpart 6 of part E as*
10 *subpart 20;*

11 *(B) by transferring subpart 20, as so redesi-*
12 *gnated, to part C of such title IV;*

13 *(C) by inserting subpart 20, as so redesi-*
14 *gnated, after subpart 19 of such part C; and*

15 *(D) in subpart 20, as so redesignated—*

16 *(i) by redesignating sections 485E*
17 *through 485H as sections 464z–3 through*
18 *464z–6, respectively;*

19 *(ii) by striking “National Center on*
20 *Minority Health and Health Disparities”*
21 *each place such term appears and inserting*
22 *“National Institute on Minority Health and*
23 *Health Disparities”; and*

1 (iii) by striking “Center” each place
2 such term appears and inserting “Insti-
3 tute”.

4 (2) *PURPOSE OF INSTITUTE; DUTIES.*—Section
5 464z–3 of the Public Health Service Act, as so reded-
6 ignated, is amended—

7 (A) in subsection (h)(1), by striking “re-
8 search endowments at centers of excellence under
9 section 736.” and inserting the following: “re-
10 search endowments—

11 “(1) at centers of excellence under section 736;
12 and

13 “(2) at centers of excellence under section 464z–
14 4.”;

15 (B) in subsection (h)(2)(A), by striking “av-
16 erage” and inserting “median”; and

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

18 “(h) *INTERAGENCY COORDINATION.*—The Director of
19 the Institute, as the primary Federal officials with responsi-
20 bility for coordinating all research and activities conducted
21 or supported by the National Institutes of Health on minor-
22 ity health and health disparities, shall plan, coordinate, re-
23 view and evaluate research and other activities conducted
24 or supported by the Institutes and Centers of the National
25 Institutes of Health.”.

1 (3) *TECHNICAL AND CONFORMING AMEND-*
2 *MENTS.—*

3 (A) *Section 401(b)(24) of the Public Health*
4 *Service Act (42 U.S.C. 281(b)(24)) is amended*
5 *by striking “Center” and inserting “Institute”.*

6 (B) *Subsection (d)(1) of section 903 of the*
7 *Public Health Service Act (42 U.S.C. 299a-*
8 *1(d)(1)) is amended by striking “section 485E”*
9 *and inserting “section 464z-3”.*

10 **SEC. 10335. TECHNICAL CORRECTION TO THE HOSPITAL**
11 **VALUE-BASED PURCHASING PROGRAM.**

12 *Section 1886(o)(2)A) of the Social Security Act, as*
13 *added by section 3001, is amended, in the first sentence,*
14 *by inserting “, other than measures of readmissions,” after*
15 *“shall select measures”.*

16 **SEC. 10336. GAO STUDY AND REPORT ON MEDICARE BENE-**
17 **FIICIARY ACCESS TO HIGH-QUALITY DIALYSIS**
18 **SERVICES.**

19 (a) *STUDY.—*

20 (1) *IN GENERAL.—The Comptroller General of*
21 *the United States shall conduct a study on the impact*
22 *on Medicare beneficiary access to high-quality dialy-*
23 *sis services of including specified oral drugs that are*
24 *furnished to such beneficiaries for the treatment of*
25 *end stage renal disease in the bundled prospective*

1 *payment system under section 1881(b)(14) of the So-*
2 *cial Security Act (42 U.S.C. 1395rr(b)(14)) (pursu-*
3 *ant to the proposed rule published by the Secretary of*
4 *Health and Human Services in the Federal Register*
5 *on September 29, 2009 (74 Fed. Reg. 49922 et seq.)).*
6 *Such study shall include an analysis of—*

7 *(A) the ability of providers of services and*
8 *renal dialysis facilities to furnish specified oral*
9 *drugs or arrange for the provision of such drugs;*

10 *(B) the ability of providers of services and*
11 *renal dialysis facilities to comply, if necessary,*
12 *with applicable State laws (such as State phar-*
13 *macy licensure requirements) in order to furnish*
14 *specified oral drugs;*

15 *(C) whether appropriate quality measures*
16 *exist to safeguard care for Medicare beneficiaries*
17 *being furnished specified oral drugs by providers*
18 *of services and renal dialysis facilities; and*

19 *(D) other areas determined appropriate by*
20 *the Comptroller General.*

21 *(2) SPECIFIED ORAL DRUG DEFINED.—For pur-*
22 *poses of paragraph (1), the term “specified oral drug”*
23 *means a drug or biological for which there is no*
24 *injectable equivalent (or other non-oral form of ad-*
25 *ministration).*

1 (b) Section 1861(hhh)(4)(G) of the Social Security Act,
2 as added by section 4103(b), is amended to read as follows:

3 “(G) A beneficiary shall be eligible to re-
4 ceive only an initial preventive physical exam-
5 ination (as defined under subsection (ww)(1))
6 during the 12-month period after the date that
7 the beneficiary’s coverage begins under part B
8 and shall be eligible to receive personalized pre-
9 vention plan services under this subsection each
10 year thereafter provided that the beneficiary has
11 not received either an initial preventive physical
12 examination or personalized prevention plan
13 services within the preceding 12-month period.”.

14 **SEC. 10403. AMENDMENTS TO SUBTITLE C.**

15 Section 4201 of this Act is amended—

16 (1) in subsection (a), by adding before the period
17 the following: “, with not less than 20 percent of such
18 grants being awarded to rural and frontier areas”;

19 (2) in subsection (c)(2)(B)(vii), by striking “both
20 urban and rural areas” and inserting “urban, rural,
21 and frontier areas”; and

22 (3) in subsection (f), by striking “each fiscal
23 years” and inserting “each of fiscal year”.

1 **SEC. 10404. AMENDMENTS TO SUBTITLE D.**

2 *Section 399MM(2) of the Public Health Service Act,*
3 *as added by section 4303 of this Act, is amended by striking*
4 *“by ensuring” and inserting “and ensuring”.*

5 **SEC. 10405. AMENDMENTS TO SUBTITLE E.**

6 *Subtitle E of title IV of this Act is amended by striking*
7 *section 4401.*

8 **SEC. 10406. AMENDMENT RELATING TO WAIVING COINSUR-**
9 **ANCE FOR PREVENTIVE SERVICES.**

10 *Section 4104(b) of this Act is amended to read as fol-*
11 *lows:*

12 *“(b) PAYMENT AND ELIMINATION OF COINSURANCE IN*
13 *ALL SETTINGS.—Section 1833(a)(1) of the Social Security*
14 *Act (42 U.S.C. 1395l(a)(1)), as amended by section*
15 *4103(c)(1), is amended—*

16 *“(1) in subparagraph (T), by inserting ‘(or 100*
17 *percent if such services are recommended with a grade*
18 *of A or B by the United States Preventive Services*
19 *Task Force for any indication or population and are*
20 *appropriate for the individual)’ after ‘80 percent’;*

21 *“(2) in subparagraph (W)—*

22 *“(A) in clause (i), by inserting ‘(if such*
23 *subparagraph were applied, by substituting “100*
24 *percent” for “80 percent”)’ after ‘subparagraph*
25 *(D)’; and*

1 “(B) in clause (ii), by striking ‘80 percent’
2 and inserting ‘100 percent’;
3 “(3) by striking ‘and’ before ‘(X)’; and
4 “(4) by inserting before the semicolon at the end
5 the following: ‘, and (Y) with respect to preventive
6 services described in subparagraphs (A) and (B) of
7 section 1861(ddd)(3) that are appropriate for the in-
8 dividual and, in the case of such services described in
9 subparagraph (A), are recommended with a grade of
10 A or B by the United States Preventive Services Task
11 Force for any indication or population, the amount
12 paid shall be 100 percent of (i) except as provided in
13 clause (ii), the lesser of the actual charge for the serv-
14 ices or the amount determined under the fee schedule
15 that applies to such services under this part, and (ii)
16 in the case of such services that are covered OPD serv-
17 ices (as defined in subsection (t)(1)(B)), the amount
18 determined under subsection (t)’.”.

19 **SEC. 10407. BETTER DIABETES CARE.**

20 (a) *SHORT TITLE*.—This section may be cited as the
21 “Catalyst to Better Diabetes Care Act of 2009”.

22 (b) *NATIONAL DIABETES REPORT CARD*.—

23 (1) *IN GENERAL*.—The Secretary, in collabora-
24 tion with the Director of the Centers for Disease Con-
25 trol and Prevention (referred to in this section as the

1 “Director”), shall prepare on a biennial basis a na-
2 tional diabetes report card (referred to in this section
3 as a “Report Card”) and, to the extent possible, for
4 each State.

5 (2) CONTENTS.—

6 (A) IN GENERAL.—Each Report Card shall
7 include aggregate health outcomes related to in-
8 dividuals diagnosed with diabetes and
9 prediabetes including—

10 (i) preventative care practices and
11 quality of care;

12 (ii) risk factors; and

13 (iii) outcomes.

14 (B) UPDATED REPORTS.—Each Report
15 Card that is prepared after the initial Report
16 Card shall include trend analysis for the Nation
17 and, to the extent possible, for each State, for the
18 purpose of—

19 (i) tracking progress in meeting estab-
20 lished national goals and objectives for im-
21 proving diabetes care, costs, and prevalence
22 (including Healthy People 2010); and

23 (ii) informing policy and program de-
24 velopment.

1 (3) *AVAILABILITY.*—*The Secretary, in collabora-*
2 *tion with the Director, shall make each Report Card*
3 *publicly available, including by posting the Report*
4 *Card on the Internet.*

5 (c) *IMPROVEMENT OF VITAL STATISTICS COLLEC-*
6 *TION.*—

7 (1) *IN GENERAL.*—*The Secretary, acting through*
8 *the Director of the Centers for Disease Control and*
9 *Prevention and in collaboration with appropriate*
10 *agencies and States, shall—*

11 (A) *promote the education and training of*
12 *physicians on the importance of birth and death*
13 *certificate data and how to properly complete*
14 *these documents, including the collection of such*
15 *data for diabetes and other chronic diseases;*

16 (B) *encourage State adoption of the latest*
17 *standard revisions of birth and death certificates;*
18 *and*

19 (C) *work with States to re-engineer their*
20 *vital statistics systems in order to provide cost-*
21 *effective, timely, and accurate vital systems data.*

22 (2) *DEATH CERTIFICATE ADDITIONAL LAN-*
23 *GUAGE.*—*In carrying out this subsection, the Sec-*
24 *retary may promote improvements to the collection of*
25 *diabetes mortality data, including the addition of a*

1 *question for the individual certifying the cause of*
2 *death regarding whether the deceased had diabetes.*

3 *(d) STUDY ON APPROPRIATE LEVEL OF DIABETES*
4 *MEDICAL EDUCATION.—*

5 *(1) IN GENERAL.—The Secretary shall, in col-*
6 *laboration with the Institute of Medicine and appro-*
7 *priate associations and councils, conduct a study of*
8 *the impact of diabetes on the practice of medicine in*
9 *the United States and the appropriateness of the level*
10 *of diabetes medical education that should be required*
11 *prior to licensure, board certification, and board re-*
12 *certification.*

13 *(2) REPORT.—Not later than 2 years after the*
14 *date of the enactment of this Act, the Secretary shall*
15 *submit a report on the study under paragraph (1) to*
16 *the Committees on Ways and Means and Energy and*
17 *Commerce of the House of Representatives and the*
18 *Committees on Finance and Health, Education,*
19 *Labor, and Pensions of the Senate.*

20 *(e) AUTHORIZATION OF APPROPRIATIONS.—There are*
21 *authorized to be appropriated to carry out this section such*
22 *sums as may be necessary.*

1 **SEC. 10408. GRANTS FOR SMALL BUSINESSES TO PROVIDE**
2 **COMPREHENSIVE WORKPLACE WELLNESS**
3 **PROGRAMS.**

4 (a) *ESTABLISHMENT.*—*The Secretary shall award*
5 *grants to eligible employers to provide their employees with*
6 *access to comprehensive workplace wellness programs (as*
7 *described under subsection (c)).*

8 (b) *SCOPE.*—

9 (1) *DURATION.*—*The grant program established*
10 *under this section shall be conducted for a 5-year pe-*
11 *riod.*

12 (2) *ELIGIBLE EMPLOYER.*—*The term “eligible*
13 *employer” means an employer (including a non-prof-*
14 *it employer) that—*

15 (A) *employs less than 100 employees who*
16 *work 25 hours or greater per week; and*

17 (B) *does not provide a workplace wellness*
18 *program as of the date of enactment of this Act.*

19 (c) *COMPREHENSIVE WORKPLACE WELLNESS PRO-*
20 *GRAMS.*—

21 (1) *CRITERIA.*—*The Secretary shall develop pro-*
22 *gram criteria for comprehensive workplace wellness*
23 *programs under this section that are based on and*
24 *consistent with evidence-based research and best prac-*
25 *tices, including research and practices as provided in*
26 *the Guide to Community Preventive Services, the*

1 *Guide to Clinical Preventive Services, and the Na-*
2 *tional Registry for Effective Programs.*

3 (2) *REQUIREMENTS.—A comprehensive work-*
4 *place wellness program shall be made available by an*
5 *eligible employer to all employees and include the fol-*
6 *lowing components:*

7 (A) *Health awareness initiatives (including*
8 *health education, preventive screenings, and*
9 *health risk assessments).*

10 (B) *Efforts to maximize employee engage-*
11 *ment (including mechanisms to encourage em-*
12 *ployee participation).*

13 (C) *Initiatives to change unhealthy behav-*
14 *iors and lifestyle choices (including counseling,*
15 *seminars, online programs, and self-help mate-*
16 *rials).*

17 (D) *Supportive environment efforts (includ-*
18 *ing workplace policies to encourage healthy life-*
19 *styles, healthy eating, increased physical activ-*
20 *ity, and improved mental health).*

21 (d) *APPLICATION.—An eligible employer desiring to*
22 *participate in the grant program under this section shall*
23 *submit an application to the Secretary, in such manner*
24 *and containing such information as the Secretary may re-*
25 *quire, which shall include a proposal for a comprehensive*

1 *workplace wellness program that meet the criteria and re-*
2 *quirements described under subsection (c).*

3 (e) *AUTHORIZATION OF APPROPRIATION.—For pur-*
4 *poses of carrying out the grant program under this section,*
5 *there is authorized to be appropriated \$200,000,000 for the*
6 *period of fiscal years 2011 through 2015. Amounts appro-*
7 *priated pursuant to this subsection shall remain available*
8 *until expended.*

9 **SEC. 10409. CURES ACCELERATION NETWORK.**

10 (a) *SHORT TITLE.—This section may be cited as the*
11 *“Cures Acceleration Network Act of 2009”.*

12 (b) *REQUIREMENT FOR THE DIRECTOR OF NIH TO*
13 *ESTABLISH A CURES ACCELERATION NETWORK.—Section*
14 *402(b) of the Public Health Service Act (42 U.S.C. 282(b))*
15 *is amended—*

16 (1) *in paragraph (22), by striking “and” at the*
17 *end;*

18 (2) *in paragraph (23), by striking the period*
19 *and inserting “; and”; and*

20 (3) *by inserting after paragraph (23), the fol-*
21 *lowing:*

22 *“(24) implement the Cures Acceleration Network*
23 *described in section 402C.”.*

24 (c) *ACCEPTING GIFTS TO SUPPORT THE CURES AC-*
25 *CELERATION NETWORK.—Section 499(c)(1) of the Public*

1 *Health Service Act (42 U.S.C. 290b(c)(1)) is amended by*
2 *adding at the end the following:*

3 “(E) *The Cures Acceleration Network de-*
4 *scribed in section 402C.*”.

5 (d) *ESTABLISHMENT OF THE CURES ACCELERATION*
6 *NETWORK.—Part A of title IV of the Public Health Service*
7 *Act is amended by inserting after section 402B (42 U.S.C.*
8 *282b) the following:*

9 **“SEC. 402C. CURES ACCELERATION NETWORK.**

10 “(a) *DEFINITIONS.—In this section:*

11 “(1) *BIOLOGICAL PRODUCT.—The term ‘biologi-*
12 *cal product’ has the meaning given such term in sec-*
13 *tion 351 of the Public Health Service Act.*

14 “(2) *DRUG; DEVICE.—The terms ‘drug’ and ‘de-*
15 *vice’ have the meanings given such terms in section*
16 *201 of the Federal Food, Drug, and Cosmetic Act.*

17 “(3) *HIGH NEED CURE.—The term ‘high need*
18 *cure’ means a drug (as that term is defined by section*
19 *201(g)(1) of the Federal Food, Drug, and Cosmetic*
20 *Act, biological product (as that term is defined by sec-*
21 *tion 262(i)), or device (as that term is defined by sec-*
22 *tion 201(h) of the Federal Food, Drug, and Cosmetic*
23 *Act) that, in the determination of the Director of*
24 *NIH—*

1 “(A) is a priority to diagnose, mitigate,
2 prevent, or treat harm from any disease or con-
3 dition; and

4 “(B) for which the incentives of the commer-
5 cial market are unlikely to result in its adequate
6 or timely development.

7 “(4) *MEDICAL PRODUCT*.—The term ‘medical
8 product’ means a drug, device, biological product, or
9 product that is a combination of drugs, devices, and
10 biological products.

11 “(b) *ESTABLISHMENT OF THE CURES ACCELERATION*
12 *NETWORK*.—Subject to the appropriation of funds as de-
13 scribed in subsection (g), there is established within the Of-
14 fice of the Director of NIH a program to be known as the
15 Cures Acceleration Network (referred to in this section as
16 ‘CAN’), which shall—

17 “(1) be under the direction of the Director of
18 NIH, taking into account the recommendations of a
19 CAN Review Board (referred to in this section as the
20 ‘Board’), described in subsection (d); and

21 “(2) award grants and contracts to eligible enti-
22 ties, as described in subsection (e), to accelerate the
23 development of high need cures, including through the
24 development of medical products and behavioral
25 therapies.

1 “(c) *FUNCTIONS.*—*The functions of the CAN are to—*

2 “(1) *conduct and support revolutionary advances*
3 *in basic research, translating scientific discoveries*
4 *from bench to bedside;*

5 “(2) *award grants and contracts to eligible enti-*
6 *ties to accelerate the development of high need cures;*

7 “(3) *provide the resources necessary for govern-*
8 *ment agencies, independent investigators, research or-*
9 *ganizations, biotechnology companies, academic re-*
10 *search institutions, and other entities to develop high*
11 *need cures;*

12 “(4) *reduce the barriers between laboratory dis-*
13 *coveries and clinical trials for new therapies; and*

14 “(5) *facilitate review in the Food and Drug Ad-*
15 *ministration for the high need cures funded by the*
16 *CAN, through activities that may include—*

17 “(A) *the facilitation of regular and ongoing*
18 *communication with the Food and Drug Admin-*
19 *istration regarding the status of activities con-*
20 *ducted under this section;*

21 “(B) *ensuring that such activities are co-*
22 *ordinated with the approval requirements of the*
23 *Food and Drug Administration, with the goal of*
24 *expediting the development and approval of*
25 *countermeasures and products; and*

1 “(C) *connecting interested persons with ad-*
2 *ditional technical assistance made available*
3 *under section 565 of the Federal Food, Drug,*
4 *and Cosmetic Act.*

5 “(d) *CAN BOARD.—*

6 “(1) *ESTABLISHMENT.—There is established a*
7 *Cures Acceleration Network Review Board (referred to*
8 *in this section as the ‘Board’), which shall advise the*
9 *Director of NIH on the conduct of the activities of the*
10 *Cures Acceleration Network.*

11 “(2) *MEMBERSHIP.—*

12 “(A) *IN GENERAL.—*

13 “(i) *APPOINTMENT.—The Board shall*
14 *be comprised of 24 members who are ap-*
15 *pointed by the Secretary and who serve at*
16 *the pleasure of the Secretary.*

17 “(ii) *CHAIRPERSON AND VICE CHAIR-*
18 *PERSON.—The Secretary shall designate,*
19 *from among the 24 members appointed*
20 *under clause (i), one Chairperson of the*
21 *Board (referred to in this section as the*
22 *‘Chairperson’) and one Vice Chairperson.*

23 “(B) *TERMS.—*

24 “(i) *IN GENERAL.—Each member shall*
25 *be appointed to serve a 4-year term, except*

1 that any member appointed to fill a va-
2 cancy occurring prior to the expiration of
3 the term for which the member's predecessor
4 was appointed shall be appointed for the re-
5 mainder of such term.

6 “(ii) *CONSECUTIVE APPOINTMENTS;*
7 *MAXIMUM TERMS.*—A member may be ap-
8 pointed to serve not more than 3 terms on
9 the Board, and may not serve more than 2
10 such terms consecutively.

11 “(C) *QUALIFICATIONS.*—

12 “(i) *IN GENERAL.*—The Secretary shall
13 appoint individuals to the Board based sole-
14 ly upon the individual's established record
15 of distinguished service in one of the areas
16 of expertise described in clause (ii). Each
17 individual appointed to the Board shall be
18 of distinguished achievement and have a
19 broad range of disciplinary interests.

20 “(ii) *EXPERTISE.*—The Secretary shall
21 select individuals based upon the following
22 requirements:

23 “(I) For each of the fields of—

24 “(aa) basic research;

25 “(bb) medicine;

1 “(cc) biopharmaceuticals;
2 “(dd) discovery and delivery
3 of medical products;
4 “(ee) bioinformatics and gene
5 therapy;
6 “(ff) medical instrumenta-
7 tion; and
8 “(gg) regulatory review and
9 approval of medical products,
10 the Secretary shall select at least 1 in-
11 dividual who is eminent in such fields.

12 “(II) At least 4 individuals shall
13 be recognized leaders in professional
14 venture capital or private equity orga-
15 nizations and have demonstrated expe-
16 rience in private equity investing.

17 “(III) At least 8 individuals shall
18 represent disease advocacy organiza-
19 tions.

20 “(3) *EX-OFFICIO MEMBERS.*—

21 “(A) *APPOINTMENT.*—In addition to the 24
22 Board members described in paragraph (2), the
23 Secretary shall appoint as ex-officio members of
24 the Board—

1 “(i) a representative of the National
2 Institutes of Health, recommended by the
3 Secretary of the Department of Health and
4 Human Services;

5 “(ii) a representative of the Office of
6 the Assistant Secretary of Defense for
7 Health Affairs, recommended by the Sec-
8 retary of Defense;

9 “(iii) a representative of the Office of
10 the Under Secretary for Health for the Vet-
11 erans Health Administration, recommended
12 by the Secretary of Veterans Affairs;

13 “(iv) a representative of the National
14 Science Foundation, recommended by the
15 Chair of the National Science Board; and

16 “(v) a representative of the Food and
17 Drug Administration, recommended by the
18 Commissioner of Food and Drugs.

19 “(B) *TERMS.*—Each *ex-officio* member shall
20 serve a 3-year term on the Board, except that the
21 Chairperson may adjust the terms of the initial
22 *ex-officio* members in order to provide for a stag-
23 gered term of appointment for all such members.

24 “(4) *RESPONSIBILITIES OF THE BOARD AND THE*
25 *DIRECTOR OF NIH.*—

1 “(A) *RESPONSIBILITIES OF THE BOARD.*—

2 “*(i) IN GENERAL.*—*The Board shall*
3 *advise, and provide recommendations to, the*
4 *Director of NIH with respect to—*

5 “*(I) policies, programs, and pro-*
6 *cedures for carrying out the duties of*
7 *the Director of NIH under this section;*
8 *and*

9 “*(II) significant barriers to suc-*
10 *cessful translation of basic science into*
11 *clinical application (including issues*
12 *under the purview of other agencies*
13 *and departments).*

14 “*(ii) REPORT.*—*In the case that the*
15 *Board identifies a significant barrier, as*
16 *described in clause (i)(II), the Board shall*
17 *submit to the Secretary a report regarding*
18 *such barrier.*

19 “(B) *RESPONSIBILITIES OF THE DIRECTOR*
20 *OF NIH.*—*With respect to each recommendation*
21 *provided by the Board under subparagraph*
22 *(A)(i), the Director of NIH shall respond in*
23 *writing to the Board, indicating whether such*
24 *Director will implement such recommendation.*
25 *In the case that the Director of NIH indicates a*

1 *recommendation of the Board will not be imple-*
2 *mented, such Director shall provide an expla-*
3 *nation of the reasons for not implementing such*
4 *recommendation.*

5 “(5) *MEETINGS.*—

6 “(A) *IN GENERAL.*—*The Board shall meet 4*
7 *times per calendar year, at the call of the Chair-*
8 *person.*

9 “(B) *QUORUM; REQUIREMENTS; LIMITA-*
10 *TIONS.*—

11 “(i) *QUORUM.*—*A quorum shall consist*
12 *of a total of 13 members of the Board, ex-*
13 *cluding ex-officio members, with diverse*
14 *representation as described in clause (iii).*

15 “(ii) *CHAIRPERSON OR VICE CHAIR-*
16 *PERSON.*—*Each meeting of the Board shall*
17 *be attended by either the Chairperson or the*
18 *Vice Chairperson.*

19 “(iii) *DIVERSE REPRESENTATION.*—*At*
20 *each meeting of the Board, there shall be not*
21 *less than one scientist, one representative of*
22 *a disease advocacy organization, and one*
23 *representative of a professional venture cap-*
24 *ital or private equity organization.*

25 “(6) *COMPENSATION AND TRAVEL EXPENSES.*—

1 “(A) *COMPENSATION.*—*Members shall re-*
2 *ceive compensation at a rate to be fixed by the*
3 *Chairperson but not to exceed a rate equal to the*
4 *daily equivalent of the annual rate of basic pay*
5 *prescribed for level IV of the Executive Schedule*
6 *under section 5315 of title 5, United States Code,*
7 *for each day (including travel time) during*
8 *which the member is engaged in the performance*
9 *of the duties of the Board. All members of the*
10 *Board who are officers or employees of the*
11 *United States shall serve without compensation*
12 *in addition to that received for their services as*
13 *officers or employees of the United States.*

14 “(B) *TRAVEL EXPENSES.*—*Members of the*
15 *Board shall be allowed travel expenses, including*
16 *per diem in lieu of subsistence, at rates author-*
17 *ized for persons employed intermittently by the*
18 *Federal Government under section 5703(b) of*
19 *title 5, United States Code, while away from*
20 *their homes or regular places of business in the*
21 *performance of services for the Board.*

22 “(e) *GRANT PROGRAM.*—

23 “(1) *SUPPORTING INNOVATION.*—*To carry out*
24 *the purposes described in this section, the Director of*
25 *NIH shall award contracts, grants, or cooperative*

1 *agreements to the entities described in paragraph (2),*
2 *to—*

3 “(A) *promote innovation in technologies*
4 *supporting the advanced research and develop-*
5 *ment and production of high need cures, includ-*
6 *ing through the development of medical products*
7 *and behavioral therapies.*

8 “(B) *accelerate the development of high need*
9 *cures, including through the development of med-*
10 *ical products, behavioral therapies, and biomark-*
11 *ers that demonstrate the safety or effectiveness of*
12 *medical products; or*

13 “(C) *help the award recipient establish pro-*
14 *ocols that comply with Food and Drug Admin-*
15 *istration standards and otherwise permit the re-*
16 *ipient to meet regulatory requirements at all*
17 *stages of development, manufacturing, review,*
18 *approval, and safety surveillance of a medical*
19 *product.*

20 “(2) *ELIGIBLE ENTITIES.—To receive assistance*
21 *under paragraph (1), an entity shall—*

22 “(A) *be a public or private entity, which*
23 *may include a private or public research institu-*
24 *tion, an institution of higher education, a med-*
25 *ical center, a biotechnology company, a pharma-*

1 *ceutical company, a disease advocacy organiza-*
2 *tion, a patient advocacy organization, or an*
3 *academic research institution;*

4 “(B) submit an application containing—

5 “(i) a detailed description of the
6 project for which the entity seeks such grant
7 or contract;

8 “(ii) a timetable for such project;

9 “(iii) an assurance that the entity will
10 submit—

11 “(I) interim reports describing the
12 entity’s—

13 “(aa) progress in carrying
14 out the project; and

15 “(bb) compliance with all
16 provisions of this section and con-
17 ditions of receipt of such grant or
18 contract; and

19 “(II) a final report at the conclu-
20 sion of the grant period, describing the
21 outcomes of the project; and

22 “(iv) a description of the protocols the
23 entity will follow to comply with Food and
24 Drug Administration standards and regu-
25 latory requirements at all stages of develop-

1 *ment, manufacturing, review, approval, and*
2 *safety surveillance of a medical product;*
3 *and*

4 “(C) *provide such additional information as*
5 *the Director of NIH may require.*

6 “(3) *AWARDS.—*

7 “(A) *THE CURES ACCELERATION PARTNER-*
8 *SHIP AWARDS.—*

9 “(i) *INITIAL AWARD AMOUNT.—Each*
10 *award under this subparagraph shall be not*
11 *more than \$15,000,000 per project for the*
12 *first fiscal year for which the project is*
13 *funded, which shall be payable in one pay-*
14 *ment.*

15 “(ii) *FUNDING IN SUBSEQUENT FISCAL*
16 *YEARS.—An eligible entity receiving an*
17 *award under clause (i) may apply for addi-*
18 *tional funding for such project by submit-*
19 *ting to the Director of NIH the information*
20 *required under subparagraphs (B) and (C)*
21 *of paragraph (2). The Director may fund a*
22 *project of such eligible entity in an amount*
23 *not to exceed \$15,000,000 for a fiscal year*
24 *subsequent to the initial award under clause*
25 *(i).*

1 “(iii) *MATCHING FUNDS.*—As a condi-
2 tion for receiving an award under this sub-
3 section, an eligible entity shall contribute to
4 the project non-Federal funds in the amount
5 of \$1 for every \$3 awarded under clauses (i)
6 and (ii), except that the Director of NIH
7 may waive or modify such matching re-
8 quirement in any case where the Director
9 determines that the goals and objectives of
10 this section cannot adequately be carried
11 out unless such requirement is waived.

12 “(B) *THE CURES ACCELERATION GRANT*
13 *AWARDS.*—

14 “(i) *INITIAL AWARD AMOUNT.*—Each
15 award under this subparagraph shall be not
16 more than \$15,000,000 per project for the
17 first fiscal year for which the project is
18 funded, which shall be payable in one pay-
19 ment.

20 “(ii) *FUNDING IN SUBSEQUENT FISCAL*
21 *YEARS.*—An eligible entity receiving an
22 award under clause (i) may apply for addi-
23 tional funding for such project by submit-
24 ting to the Board the information required
25 under subparagraphs (B) and (C) of para-

1 *graph (2). The Director of NIH may fund*
2 *a project of such eligible entity in an*
3 *amount not to exceed \$15,000,000 for a fis-*
4 *cal year subsequent to the initial award*
5 *under clause (i).*

6 “(C) *THE CURES ACCELERATION FLEXIBLE*
7 *RESEARCH AWARDS.—If the Director of NIH de-*
8 *termines that the goals and objectives of this sec-*
9 *tion cannot adequately be carried out through a*
10 *contract, grant, or cooperative agreement, the*
11 *Director of NIH shall have flexible research au-*
12 *thority to use other transactions to fund projects*
13 *in accordance with the terms and conditions of*
14 *this section. Awards made under such flexible re-*
15 *search authority for a fiscal year shall not exceed*
16 *20 percent of the total funds appropriated under*
17 *subsection (g)(1) for such fiscal year.*

18 “(4) *SUSPENSION OF AWARDS FOR DEFAULTS,*
19 *NONCOMPLIANCE WITH PROVISIONS AND PLANS, AND*
20 *DIVERSION OF FUNDS; REPAYMENT OF FUNDS.—The*
21 *Director of NIH may suspend the award to any enti-*
22 *ty upon noncompliance by such entity with provi-*
23 *sions and plans under this section or diversion of*
24 *funds.*

1 “(5) *AUDITS.*—*The Director of NIH may enter*
2 *into agreements with other entities to conduct peri-*
3 *odic audits of the projects funded by grants or con-*
4 *tracts awarded under this subsection.*

5 “(6) *CLOSEOUT PROCEDURES.*—*At the end of a*
6 *grant or contract period, a recipient shall follow the*
7 *closeout procedures under section 74.71 of title 45,*
8 *Code of Federal Regulations (or any successor regula-*
9 *tion).*

10 “(7) *REVIEW.*—*A determination by the Director*
11 *of NIH as to whether a drug, device, or biological*
12 *product is a high need cure (for purposes of subsection*
13 *(a)(3)) shall not be subject to judicial review.*

14 “(f) *COMPETITIVE BASIS OF AWARDS.*—*Any grant, co-*
15 *operative agreement, or contract awarded under this section*
16 *shall be awarded on a competitive basis.*

17 “(g) *AUTHORIZATION OF APPROPRIATIONS.*—

18 “(1) *IN GENERAL.*—*For purposes of carrying out*
19 *this section, there are authorized to be appropriated*
20 *\$500,000,000 for fiscal year 2010, and such sums as*
21 *may be necessary for subsequent fiscal years. Funds*
22 *appropriated under this section shall be available*
23 *until expended.*

24 “(2) *LIMITATION ON USE OF FUNDS OTHERWISE*
25 *APPROPRIATED.*—*No funds appropriated under this*

1 *Act, other than funds appropriated under paragraph*
2 *(1), may be allocated to the Cures Acceleration Net-*
3 *work.”.*

4 **SEC. 10410. CENTERS OF EXCELLENCE FOR DEPRESSION.**

5 *(a) SHORT TITLE.—This section may be cited as the*
6 *“Establishing a Network of Health-Advancing National*
7 *Centers of Excellence for Depression Act of 2009” or the*
8 *“ENHANCED Act of 2009”.*

9 *(b) CENTERS OF EXCELLENCE FOR DEPRESSION.—*
10 *Subpart 3 of part B of title V of the Public Health Service*
11 *Act (42 U.S.C. 290bb et seq.) is amended by inserting after*
12 *section 520A the following:*

13 **“SEC. 520B. NATIONAL CENTERS OF EXCELLENCE FOR DE-**
14 **PRESSION.**

15 *“(a) DEPRESSIVE DISORDER DEFINED.—In this sec-*
16 *tion, the term ‘depressive disorder’ means a mental or brain*
17 *disorder relating to depression, including major depression,*
18 *bipolar disorder, and related mood disorders.*

19 *“(b) GRANT PROGRAM.—*

20 *“(1) IN GENERAL.—The Secretary, acting*
21 *through the Administrator, shall award grants on a*
22 *competitive basis to eligible entities to establish na-*
23 *tional centers of excellence for depression (referred to*
24 *in this section as ‘Centers’), which shall engage in ac-*

1 *tivities related to the treatment of depressive dis-*
2 *orders.*

3 “(2) *ALLOCATION OF AWARDS.*—*If the funds au-*
4 *thorized under subsection (f) are appropriated in the*
5 *amounts provided for under such subsection, the Sec-*
6 *retary shall allocate such amounts so that—*

7 “(A) *not later than 1 year after the date of*
8 *enactment of the ENHANCED Act of 2009, not*
9 *more than 20 Centers may be established; and*

10 “(B) *not later than September 30, 2016, not*
11 *more than 30 Centers may be established.*

12 “(3) *GRANT PERIOD.*—

13 “(A) *IN GENERAL.*—*A grant awarded under*
14 *this section shall be for a period of 5 years.*

15 “(B) *RENEWAL.*—*A grant awarded under*
16 *subparagraph (A) may be renewed, on a com-*
17 *petitive basis, for 1 additional 5-year period, at*
18 *the discretion of the Secretary. In determining*
19 *whether to renew a grant, the Secretary shall*
20 *consider the report cards issued under subsection*
21 *(e)(2).*

22 “(4) *USE OF FUNDS.*—*Grant funds awarded*
23 *under this subsection shall be used for the establish-*
24 *ment and ongoing activities of the recipient of such*
25 *funds.*

1 “(5) *ELIGIBLE ENTITIES.*—

2 “(A) *REQUIREMENTS.*—*To be eligible to re-*
3 *ceive a grant under this section, an entity*
4 *shall—*

5 “(i) *be an institution of higher edu-*
6 *cation or a public or private nonprofit re-*
7 *search institution; and*

8 “(ii) *submit an application to the Sec-*
9 *retary at such time and in such manner as*
10 *the Secretary may require, as described in*
11 *subparagraph (B).*

12 “(B) *APPLICATION.*—*An application de-*
13 *scribed in subparagraph (A)(ii) shall include—*

14 “(i) *evidence that such entity—*

15 “(I) *provides, or is capable of co-*
16 *ordinating with other entities to pro-*
17 *vide, comprehensive health services*
18 *with a focus on mental health services*
19 *and subspecialty expertise for depres-*
20 *sive disorders;*

21 “(II) *collaborates with other men-*
22 *tal health providers, as necessary, to*
23 *address co-occurring mental illnesses;*

1 “(III) is capable of training
2 health professionals about mental
3 health; and

4 “(ii) such other information, as the
5 Secretary may require.

6 “(C) PRIORITIES.—In awarding grants
7 under this section, the Secretary shall give pri-
8 ority to eligible entities that meet 1 or more of
9 the following criteria:

10 “(i) Demonstrated capacity and exper-
11 tise to serve the targeted population.

12 “(ii) Existing infrastructure or exper-
13 tise to provide appropriate, evidence-based
14 and culturally and linguistically competent
15 services.

16 “(iii) A location in a geographic area
17 with disproportionate numbers of under-
18 served and at-risk populations in medically
19 underserved areas and health professional
20 shortage areas.

21 “(iv) Proposed innovative approaches
22 for outreach to initiate or expand services.

23 “(v) Use of the most up-to-date science,
24 practices, and interventions available.

1 “(vi) *Demonstrated capacity to estab-*
2 *lish cooperative and collaborative agree-*
3 *ments with community mental health cen-*
4 *ters and other community entities to pro-*
5 *vide mental health, social, and human serv-*
6 *ices to individuals with depressive dis-*
7 *orders.*

8 “(6) *NATIONAL COORDINATING CENTER.*—

9 “(A) *IN GENERAL.*—*The Secretary, acting*
10 *through the Administrator, shall designate 1 re-*
11 *cipient of a grant under this section to be the co-*
12 *ordinating center of excellence for depression (re-*
13 *ferred to in this section as the ‘coordinating cen-*
14 *ter’). The Secretary shall select such coordinating*
15 *center on a competitive basis, based upon the*
16 *demonstrated capacity of such center to perform*
17 *the duties described in subparagraph (C).*

18 “(B) *APPLICATION.*—*A Center that has been*
19 *awarded a grant under paragraph (1) may*
20 *apply for designation as the coordinating center*
21 *by submitting an application to the Secretary at*
22 *such time, in such manner, and containing such*
23 *information as the Secretary may require.*

24 “(C) *DUTIES.*—*The coordinating center*
25 *shall—*

1 “(i) develop, administer, and coordi-
2 nate the network of Centers under this sec-
3 tion;

4 “(ii) oversee and coordinate the na-
5 tional database described in subsection (d);

6 “(iii) lead a strategy to disseminate
7 the findings and activities of the Centers
8 through such database; and

9 “(iv) serve as a liaison with the Ad-
10 ministration, the National Registry of Evi-
11 dence-based Programs and Practices of the
12 Administration, and any Federal inter-
13 agency or interagency forum on mental
14 health.

15 “(7) MATCHING FUNDS.—The Secretary may not
16 award a grant or contract under this section to an
17 entity unless the entity agrees that it will make avail-
18 able (directly or through contributions from other
19 public or private entities) non-Federal contributions
20 toward the activities to be carried out under the grant
21 or contract in an amount equal to \$1 for each \$5 of
22 Federal funds provided under the grant or contract.
23 Such non-Federal matching funds may be provided
24 directly or through donations from public or private

1 *entities and may be in cash or in-kind, fairly evalu-*
2 *ated, including plant, equipment, or services.*

3 “(c) *ACTIVITIES OF THE CENTERS.—Each Center shall*
4 *carry out the following activities:*

5 “(1) *GENERAL ACTIVITIES.—Each Center shall—*

6 “(A) *integrate basic, clinical, or health serv-*
7 *ices interdisciplinary research and practice in*
8 *the development, implementation, and dissemi-*
9 *nation of evidence-based interventions;*

10 “(B) *involve a broad cross-section of stake-*
11 *holders, such as researchers, clinicians, con-*
12 *sumers, families of consumers, and voluntary*
13 *health organizations, to develop a research agen-*
14 *da and disseminate findings, and to provide*
15 *support in the implementation of evidence-based*
16 *practices;*

17 “(C) *provide training and technical assist-*
18 *ance to mental health professionals, and engage*
19 *in and disseminate translational research with a*
20 *focus on meeting the needs of individuals with*
21 *depressive disorders; and*

22 “(D) *educate policy makers, employers,*
23 *community leaders, and the public about depres-*
24 *sive disorders to reduce stigma and raise aware-*
25 *ness of treatments.*

1 “(2) *IMPROVED TREATMENT STANDARDS, CLINICAL GUIDELINES, DIAGNOSTIC PROTOCOLS, AND CARE COORDINATION PRACTICE.—Each Center shall collaborate with other Centers in the network to—*

2
3
4
5 “(A) *develop and implement treatment standards, clinical guidelines, and protocols that emphasize primary prevention, early intervention, treatment for, and recovery from, depressive disorders;*

6
7
8
9
10 “(B) *foster communication with other providers attending to co-occurring physical health conditions such as cardiovascular, diabetes, cancer, and substance abuse disorders;*

11
12
13
14 “(C) *leverage available community resources, develop and implement improved self-management programs, and, when appropriate, involve family and other providers of social support in the development and implementation of care plans; and*

15
16
17
18
19
20 “(D) *use electronic health records and telehealth technology to better coordinate and manage, and improve access to, care, as determined by the coordinating center.*

1 “(3) *TRANSLATIONAL RESEARCH THROUGH COL-*
2 *LABORATION OF CENTERS AND COMMUNITY-BASED OR-*
3 *GANIZATIONS.—Each Center shall—*

4 “(A) *demonstrate effective use of a public-*
5 *private partnership to foster collaborations*
6 *among members of the network and community-*
7 *based organizations such as community mental*
8 *health centers and other social and human serv-*
9 *ices providers;*

10 “(B) *expand interdisciplinary,*
11 *translational, and patient-oriented research and*
12 *treatment; and*

13 “(C) *coordinate with accredited academic*
14 *programs to provide ongoing opportunities for*
15 *the professional and continuing education of*
16 *mental health providers.*

17 “(d) *NATIONAL DATABASE.—*

18 “(1) *IN GENERAL.—The coordinating center shall*
19 *establish and maintain a national, publicly available*
20 *database to improve prevention programs, evidence-*
21 *based interventions, and disease management pro-*
22 *grams for depressive disorders, using data collected*
23 *from the Centers, as described in paragraph (2).*

1 “(2) *DATA COLLECTION.*—*Each Center shall sub-*
2 *mit data gathered at such center, as appropriate, to*
3 *the coordinating center regarding—*

4 “(A) *the prevalence and incidence of depres-*
5 *sive disorders;*

6 “(B) *the health and social outcomes of indi-*
7 *viduals with depressive disorders;*

8 “(C) *the effectiveness of interventions de-*
9 *signed, tested, and evaluated;*

10 “(D) *other information, as the Secretary*
11 *may require.*

12 “(3) *SUBMISSION OF DATA TO THE ADMINIS-*
13 *TRATOR.*—*The coordinating center shall submit to the*
14 *Administrator the data and financial information*
15 *gathered under paragraph (2).*

16 “(4) *PUBLICATION USING DATA FROM THE DATA-*
17 *BASE.*—*A Center, or an individual affiliated with a*
18 *Center, may publish findings using the data described*
19 *in paragraph (2) only if such center submits such*
20 *data to the coordinating center, as required under*
21 *such paragraph.*

22 “(e) *ESTABLISHMENT OF STANDARDS; REPORT CARDS*
23 *AND RECOMMENDATIONS; THIRD PARTY REVIEW.*—

1 “(1) *ESTABLISHMENT OF STANDARDS.*—*The Sec-*
2 *retary, acting through the Administrator, shall estab-*
3 *lish performance standards for—*

4 “(A) *each Center; and*

5 “(B) *the network of Centers as a whole.*

6 “(2) *REPORT CARDS.*—*The Secretary, acting*
7 *through the Administrator, shall—*

8 “(A) *for each Center, not later than 3 years*
9 *after the date on which such center of excellence*
10 *is established and annually thereafter, issue a re-*
11 *port card to the coordinating center to rate the*
12 *performance of such Center; and*

13 “(B) *not later than 3 years after the date*
14 *on which the first grant is awarded under sub-*
15 *section (b)(1) and annually thereafter, issue a re-*
16 *port card to Congress to rate the performance of*
17 *the network of centers of excellence as a whole.*

18 “(3) *RECOMMENDATIONS.*—*Based upon the re-*
19 *port cards described in paragraph (2), the Secretary*
20 *shall, not later than September 30, 2015—*

21 “(A) *make recommendations to the Centers*
22 *regarding improvements such centers shall make;*
23 *and*

1 “(B) make recommendations to Congress for
2 expanding the Centers to serve individuals with
3 other types of mental disorders.

4 “(4) *THIRD PARTY REVIEW.*—Not later than 3
5 years after the date on which the first grant is award-
6 ed under subsection (b)(1) and annually thereafter,
7 the Secretary shall arrange for an independent third
8 party to conduct an evaluation of the network of Cen-
9 ters to ensure that such centers are meeting the goals
10 of this section.

11 “(f) *AUTHORIZATION OF APPROPRIATIONS.*—

12 “(1) *IN GENERAL.*—To carry out this section,
13 there are authorized to be appropriated—

14 “(A) \$100,000,000 for each of the fiscal
15 years 2011 through 2015; and

16 “(B) \$150,000,000 for each of the fiscal
17 years 2016 through 2020.

18 “(2) *ALLOCATION OF FUNDS AUTHORIZED.*—Of
19 the amount appropriated under paragraph (1) for a
20 fiscal year, the Secretary shall determine the alloca-
21 tion of each Center receiving a grant under this sec-
22 tion, but in no case may the allocation be more than
23 \$5,000,000, except that the Secretary may allocate not
24 more than \$10,000,000 to the coordinating center.”.

1 **SEC. 10411. PROGRAMS RELATING TO CONGENITAL HEART**
2 **DISEASE.**

3 (a) *SHORT TITLE.*—*This subtitle may be cited as the*
4 *“Congenital Heart Futures Act”.*

5 (b) *PROGRAMS RELATING TO CONGENITAL HEART*
6 *DISEASE.*—

7 (1) *NATIONAL CONGENITAL HEART DISEASE SUR-*
8 *VEILLANCE SYSTEM.*—*Part P of title III of the Public*
9 *Health Service Act (42 U.S.C. 280g et seq.), as*
10 *amended by section 5405, is further amended by add-*
11 *ing at the end the following:*

12 **“SEC. 399V-2. NATIONAL CONGENITAL HEART DISEASE SUR-**
13 **VEILLANCE SYSTEM.**

14 (a) *IN GENERAL.*—*The Secretary, acting through the*
15 *Director of the Centers for Disease Control and Prevention,*
16 *may—*

17 (1) *enhance and expand infrastructure to track*
18 *the epidemiology of congenital heart disease and to*
19 *organize such information into a nationally-rep-*
20 *resentative, population-based surveillance system that*
21 *compiles data concerning actual occurrences of con-*
22 *genital heart disease, to be known as the ‘National*
23 *Congenital Heart Disease Surveillance System’; or*

24 (2) *award a grant to one eligible entity to un-*
25 *dertake the activities described in paragraph (1).*

1 “(b) *PURPOSE.*—*The purpose of the Congenital Heart*
2 *Disease Surveillance System shall be to facilitate further*
3 *research into the types of health services patients use and*
4 *to identify possible areas for educational outreach and pre-*
5 *vention in accordance with standard practices of the Cen-*
6 *ters for Disease Control and Prevention.*

7 “(c) *CONTENT.*—*The Congenital Heart Disease Sur-*
8 *veillance System—*

9 “(1) *may include information concerning the in-*
10 *cidence and prevalence of congenital heart disease in*
11 *the United States;*

12 “(2) *may be used to collect and store data on*
13 *congenital heart disease, including data concerning—*

14 “(A) *demographic factors associated with*
15 *congenital heart disease, such as age, race, eth-*
16 *nicity, sex, and family history of individuals*
17 *who are diagnosed with the disease;*

18 “(B) *risk factors associated with the disease;*

19 “(C) *causation of the disease;*

20 “(D) *treatment approaches; and*

21 “(E) *outcome measures, such that analysis*
22 *of the outcome measures will allow derivation of*
23 *evidence-based best practices and guidelines for*
24 *congenital heart disease patients; and*

1 “(3) may ensure the collection and analysis of
2 longitudinal data related to individuals of all ages
3 with congenital heart disease, including infants,
4 young children, adolescents, and adults of all ages.

5 “(d) *PUBLIC ACCESS.*—*The Congenital Heart Disease*
6 *Surveillance System shall be made available to the public,*
7 *as appropriate, including congenital heart disease research-*
8 *ers.*

9 “(e) *PATIENT PRIVACY.*—*The Secretary shall ensure*
10 *that the Congenital Heart Disease Surveillance System is*
11 *maintained in a manner that complies with the regulations*
12 *promulgated under section 264 of the Health Insurance*
13 *Portability and Accountability Act of 1996.*

14 “(f) *ELIGIBILITY FOR GRANT.*—*To be eligible to receive*
15 *a grant under subsection (a)(2), an entity shall—*

16 “(1) *be a public or private nonprofit entity with*
17 *specialized experience in congenital heart disease; and*

18 “(2) *submit to the Secretary an application at*
19 *such time, in such manner, and containing such in-*
20 *formation as the Secretary may require.”.*

21 “(2) *CONGENITAL HEART DISEASE RESEARCH.*—
22 *Subpart 2 of part C of title IV of the Public Health*
23 *Service Act (42 U.S.C. 285b et seq.) is amended by*
24 *adding at the end the following:*

1 **“SEC. 425. CONGENITAL HEART DISEASE.**

2 “(a) *IN GENERAL.*—*The Director of the Institute may*
3 *expand, intensify, and coordinate research and related ac-*
4 *tivities of the Institute with respect to congenital heart dis-*
5 *ease, which may include congenital heart disease research*
6 *with respect to—*

7 “(1) *causation of congenital heart disease, in-*
8 *cluding genetic causes;*

9 “(2) *long-term outcomes in individuals with con-*
10 *genital heart disease, including infants, children,*
11 *teenagers, adults, and elderly individuals;*

12 “(3) *diagnosis, treatment, and prevention;*

13 “(4) *studies using longitudinal data and retro-*
14 *spective analysis to identify effective treatments and*
15 *outcomes for individuals with congenital heart dis-*
16 *ease; and*

17 “(5) *identifying barriers to life-long care for in-*
18 *dividuals with congenital heart disease.*

19 “(b) *COORDINATION OF RESEARCH ACTIVITIES.*—*The*
20 *Director of the Institute may coordinate research efforts re-*
21 *lated to congenital heart disease among multiple research*
22 *institutions and may develop research networks.*

23 “(c) *MINORITY AND MEDICALLY UNDERSERVED COM-*
24 *MUNITIES.*—*In carrying out the activities described in this*
25 *section, the Director of the Institute shall consider the appli-*

1 *cation of such research and other activities to minority and*
2 *medically underserved communities.”.*

3 *(c) AUTHORIZATION OF APPROPRIATIONS.—There are*
4 *authorized to be appropriated to carry out the amendments*
5 *made by this section such sums as may be necessary for*
6 *each of fiscal years 2011 through 2015.*

7 **SEC. 10412. AUTOMATED DEFIBRILLATION IN ADAM’S MEM-**
8 **ORY ACT.**

9 *Section 312 of the Public Health Service Act (42*
10 *U.S.C. 244) is amended—*

11 *(1) in subsection (c)(6), after “clearinghouse” in-*
12 *sert “, that shall be administered by an organization*
13 *that has substantial expertise in pediatric education,*
14 *pediatric medicine, and electrophysiology and sudden*
15 *death,”; and*

16 *(2) in the first sentence of subsection (e), by*
17 *striking “fiscal year 2003” and all that follows*
18 *through “2006” and inserting “for each of fiscal years*
19 *2003 through 2014”.*

20 **SEC. 10413. YOUNG WOMEN’S BREAST HEALTH AWARENESS**
21 **AND SUPPORT OF YOUNG WOMEN DIAG-**
22 **NOSED WITH BREAST CANCER.**

23 *(a) SHORT TITLE.—This section may be cited as the*
24 *“Young Women’s Breast Health Education and Awareness*

1 *Requires Learning Young Act of 2009*” or the “*EARLY*
2 *Act*”.

3 (b) *AMENDMENT.*—*Title III of the Public Health Serv-*
4 *ice Act (42 U.S.C. 241 et seq.), as amended by this Act,*
5 *is further amended by adding at the end the following:*

6 **“PART V—PROGRAMS RELATING TO BREAST**

7 **HEALTH AND CANCER**

8 **“SEC. 399NN. YOUNG WOMEN’S BREAST HEALTH AWARE-**
9 **NESS AND SUPPORT OF YOUNG WOMEN DIAG-**
10 **NOSED WITH BREAST CANCER.**

11 **“(a) PUBLIC EDUCATION CAMPAIGN.—**

12 **“(1) IN GENERAL.—***The Secretary, acting*
13 *through the Director of the Centers for Disease Con-*
14 *trol and Prevention, shall conduct a national evi-*
15 *dence-based education campaign to increase aware-*
16 *ness of young women’s knowledge regarding—*

17 **“(A) breast health in young women of all**
18 **racial, ethnic, and cultural backgrounds;**

19 **“(B) breast awareness and good breast**
20 **health habits;**

21 **“(C) the occurrence of breast cancer and the**
22 **general and specific risk factors in women who**
23 **may be at high risk for breast cancer based on**
24 **familial, racial, ethnic, and cultural back-**
25 **grounds such as Ashkenazi Jewish populations;**

1 “(D) evidence-based information that would
2 encourage young women and their health care
3 professional to increase early detection of breast
4 cancers; and

5 “(E) the availability of health information
6 and other resources for young women diagnosed
7 with breast cancer.

8 “(2) EVIDENCE-BASED, AGE APPROPRIATE MES-
9 SAGES.—The campaign shall provide evidence-based,
10 age-appropriate messages and materials as developed
11 by the Centers for Disease Control and Prevention
12 and the Advisory Committee established under para-
13 graph (4).

14 “(3) MEDIA CAMPAIGN.—In conducting the edu-
15 cation campaign under paragraph (1), the Secretary
16 shall award grants to entities to establish national
17 multimedia campaigns oriented to young women that
18 may include advertising through television, radio,
19 print media, billboards, posters, all forms of existing
20 and especially emerging social networking media,
21 other Internet media, and any other medium deter-
22 mined appropriate by the Secretary.

23 “(4) ADVISORY COMMITTEE.—

24 “(A) ESTABLISHMENT.—Not later than 60
25 days after the date of the enactment of this sec-

1 *tion, the Secretary, acting through the Director*
2 *of the Centers for Disease Control and Preven-*
3 *tion, shall establish an advisory committee to as-*
4 *sist in creating and conducting the education*
5 *campaigns under paragraph (1) and subsection*
6 *(b)(1).*

7 *“(B) MEMBERSHIP.—The Secretary, acting*
8 *through the Director of the Centers for Disease*
9 *Control and Prevention, shall appoint to the ad-*
10 *visory committee under subparagraph (A) such*
11 *members as deemed necessary to properly advise*
12 *the Secretary, and shall include organizations*
13 *and individuals with expertise in breast cancer,*
14 *disease prevention, early detection, diagnosis,*
15 *public health, social marketing, genetic screening*
16 *and counseling, treatment, rehabilitation, pallia-*
17 *tive care, and survivorship in young women.*

18 *“(b) HEALTH CARE PROFESSIONAL EDUCATION CAM-*
19 *PAIGN.—The Secretary, acting through the Director of the*
20 *Centers for Disease Control and Prevention, and in con-*
21 *sultation with the Administrator of the Health Resources*
22 *and Services Administration, shall conduct an education*
23 *campaign among physicians and other health care profes-*
24 *sionals to increase awareness—*

1 “(1) of breast health, symptoms, and early diag-
2 nosis and treatment of breast cancer in young women,
3 including specific risk factors such as family history
4 of cancer and women that may be at high risk for
5 breast cancer, such as Ashkenazi Jewish population;

6 “(2) on how to provide counseling to young
7 women about their breast health, including knowledge
8 of their family cancer history and importance of pro-
9 viding regular clinical breast examinations;

10 “(3) concerning the importance of discussing
11 healthy behaviors, and increasing awareness of serv-
12 ices and programs available to address overall health
13 and wellness, and making patient referrals to address
14 tobacco cessation, good nutrition, and physical activ-
15 ity;

16 “(4) on when to refer patients to a health care
17 provider with genetics expertise;

18 “(5) on how to provide counseling that addresses
19 long-term survivorship and health concerns of young
20 women diagnosed with breast cancer; and

21 “(6) on when to provide referrals to organiza-
22 tions and institutions that provide credible health in-
23 formation and substantive assistance and support to
24 young women diagnosed with breast cancer.

1 “(c) *PREVENTION RESEARCH ACTIVITIES.*—*The Sec-*
2 *retary, acting through—*

3 “(1) *the Director of the Centers for Disease Con-*
4 *trol and Prevention, shall conduct prevention research*
5 *on breast cancer in younger women, including—*

6 “(A) *behavioral, survivorship studies, and*
7 *other research on the impact of breast cancer di-*
8 *agnosis on young women;*

9 “(B) *formative research to assist with the*
10 *development of educational messages and infor-*
11 *mation for the public, targeted populations, and*
12 *their families about breast health, breast cancer,*
13 *and healthy lifestyles;*

14 “(C) *testing and evaluating existing and*
15 *new social marketing strategies targeted at*
16 *young women; and*

17 “(D) *surveys of health care providers and*
18 *the public regarding knowledge, attitudes, and*
19 *practices related to breast health and breast can-*
20 *cer prevention and control in high-risk popu-*
21 *lations; and*

22 “(2) *the Director of the National Institutes of*
23 *Health, shall conduct research to develop and validate*
24 *new screening tests and methods for prevention and*
25 *early detection of breast cancer in young women.*

1 “(d) *SUPPORT FOR YOUNG WOMEN DIAGNOSED WITH*
2 *BREAST CANCER.*—

3 “(1) *IN GENERAL.*—*The Secretary shall award*
4 *grants to organizations and institutions to provide*
5 *health information from credible sources and sub-*
6 *stantive assistance directed to young women diag-*
7 *nosed with breast cancer and pre-neoplastic breast*
8 *diseases.*

9 “(2) *PRIORITY.*—*In making grants under para-*
10 *graph (1), the Secretary shall give priority to appli-*
11 *cants that deal specifically with young women diag-*
12 *nosed with breast cancer and pre-neoplastic breast*
13 *disease.*

14 “(e) *NO DUPLICATION OF EFFORT.*—*In conducting an*
15 *education campaign or other program under subsections*
16 *(a), (b), (c), or (d), the Secretary shall avoid duplicating*
17 *other existing Federal breast cancer education efforts.*

18 “(f) *MEASUREMENT; REPORTING.*—*The Secretary, act-*
19 *ing through the Director of the Centers for Disease Control*
20 *and Prevention, shall—*

21 “(1) *measure—*

22 “(A) *young women’s awareness regarding*
23 *breast health, including knowledge of family can-*
24 *cer history, specific risk factors and early warn-*

1 *ing signs, and young women’s proactive efforts*
2 *at early detection;*

3 *“(B) the number or percentage of young*
4 *women utilizing information regarding lifestyle*
5 *interventions that foster healthy behaviors;*

6 *“(C) the number or percentage of young*
7 *women receiving regular clinical breast exams;*
8 *and*

9 *“(D) the number or percentage of young*
10 *women who perform breast self exams, and the*
11 *frequency of such exams, before the implementa-*
12 *tion of this section;*

13 *“(2) not less than every 3 years, measure the im-*
14 *pact of such activities; and*

15 *“(3) submit reports to the Congress on the results*
16 *of such measurements.*

17 *“(g) DEFINITION.—In this section, the term ‘young*
18 *women’ means women 15 to 44 years of age.*

19 *“(h) AUTHORIZATION OF APPROPRIATIONS.—To carry*
20 *out subsections (a), (b), (c)(1), and (d), there are authorized*
21 *to be appropriated \$9,000,000 for each of the fiscal years*
22 *2010 through 2014.”.*

1 ***Subtitle E—Provisions Relating to***
2 ***Title V***

3 ***SEC. 10501. AMENDMENTS TO THE PUBLIC HEALTH SERV-***
4 ***ICE ACT, THE SOCIAL SECURITY ACT, AND***
5 ***TITLE V OF THIS ACT.***

6 *(a) Section 5101 of this Act is amended—*

7 *(1) in subsection (c)(2)(B)(i)(II), by inserting “,*
8 *including representatives of small business and self-*
9 *employed individuals” after “employers”;*

10 *(2) in subsection (d)(4)(A)—*

11 *(A) by redesignating clause (iv) as clause*
12 *(v); and*

13 *(B) by inserting after clause (iii) the fol-*
14 *lowing:*

15 *“(iv) An analysis of, and recommenda-*
16 *tions for, eliminating the barriers to enter-*
17 *ing and staying in primary care, including*
18 *provider compensation.”; and*

19 *(3) in subsection (i)(2)(B), by inserting “optom-*
20 *etrists, ophthalmologists,” after “occupational thera-*
21 *pists,”.*

22 *(b) Subtitle B of title V of this Act is amended by add-*
23 *ing at the end the following:*

1 **“SEC. 5104. INTERAGENCY TASK FORCE TO ASSESS AND IM-**
2 **PROVE ACCESS TO HEALTH CARE IN THE**
3 **STATE OF ALASKA.**

4 “(a) *ESTABLISHMENT.*—*There is established a task*
5 *force to be known as the ‘Interagency Access to Health Care*
6 *in Alaska Task Force’ (referred to in this section as the*
7 *‘Task Force’).*

8 “(b) *DUTIES.*—*The Task Force shall—*

9 “(1) *assess access to health care for beneficiaries*
10 *of Federal health care systems in Alaska; and*

11 “(2) *develop a strategy for the Federal Govern-*
12 *ment to improve delivery of health care to Federal*
13 *beneficiaries in the State of Alaska.*

14 “(c) *MEMBERSHIP.*—*The Task Force shall be com-*
15 *prised of Federal members who shall be appointed, not later*
16 *than 45 days after the date of enactment of this Act, as*
17 *follows:*

18 “(1) *The Secretary of Health and Human Serv-*
19 *ices shall appoint one representative of each of the fol-*
20 *lowing:*

21 “(A) *The Department of Health and*
22 *Human Services.*

23 “(B) *The Centers for Medicare and Med-*
24 *icaid Services.*

25 “(C) *The Indian Health Service.*

1 “(2) *The Secretary of Defense shall appoint one*
2 *representative of the TRICARE Management Activity.*

3 “(3) *The Secretary of the Army shall appoint*
4 *one representative of the Army Medical Department.*

5 “(4) *The Secretary of the Air Force shall appoint*
6 *one representative of the Air Force, from among offi-*
7 *cers at the Air Force performing medical service func-*
8 *tions.*

9 “(5) *The Secretary of Veterans Affairs shall ap-*
10 *point one representative of each of the following:*

11 “(A) *The Department of Veterans Affairs.*

12 “(B) *The Veterans Health Administration.*

13 “(6) *The Secretary of Homeland Security shall*
14 *appoint one representative of the United States Coast*
15 *Guard.*

16 “(d) *CHAIRPERSON.—One chairperson of the Task*
17 *Force shall be appointed by the Secretary at the time of*
18 *appointment of members under subsection (c), selected from*
19 *among the members appointed under paragraph (1).*

20 “(e) *MEETINGS.—The Task Force shall meet at the call*
21 *of the chairperson.*

22 “(f) *REPORT.—Not later than 180 days after the date*
23 *of enactment of this Act, the Task Force shall submit to*
24 *Congress a report detailing the activities of the Task Force*
25 *and containing the findings, strategies, recommendations,*

1 *policies, and initiatives developed pursuant to the duty de-*
2 *scribed in subsection (b)(2). In preparing such report, the*
3 *Task Force shall consider completed and ongoing efforts by*
4 *Federal agencies to improve access to health care in the*
5 *State of Alaska.*

6 “(g) *TERMINATION.*—*The Task Force shall be termi-*
7 *nated on the date of submission of the report described in*
8 *subsection (f).”.*

9 (c) *Section 399V of the Public Health Service Act, as*
10 *added by section 5313, is amended—*

11 (1) *in subsection (b)(4), by striking “identify,*
12 *educate, refer, and enroll” and inserting “identify*
13 *and refer”; and*

14 (2) *in subsection (k)(1), by striking “, as defined*
15 *by the Department of Labor as Standard Occupa-*
16 *tional Classification [21–1094]”.*

17 (d) *Section 738(a)(3) of the Public Health Service Act*
18 *(42 U.S.C. 293b(a)(3)) is amended by inserting “schools of-*
19 *fering physician assistant education programs,” after “pub-*
20 *lic health,”.*

21 (e) *Subtitle D of title V of this Act is amended by add-*
22 *ing at the end the following:*

1 **“SEC. 5316. DEMONSTRATION GRANTS FOR FAMILY NURSE**
2 **PRACTITIONER TRAINING PROGRAMS.**

3 “(a) *ESTABLISHMENT OF PROGRAM.*—*The Secretary*
4 *of Health and Human Services (referred to in this section*
5 *as the ‘Secretary’) shall establish a training demonstration*
6 *program for family nurse practitioners (referred to in this*
7 *section as the ‘program’) to employ and provide 1-year*
8 *training for nurse practitioners who have graduated from*
9 *a nurse practitioner program for careers as primary care*
10 *providers in Federally qualified health centers (referred to*
11 *in this section as ‘FQHCs’) and nurse-managed health clin-*
12 *ics (referred to in this section as ‘NMHCs’).*

13 “(b) *PURPOSE.*—*The purpose of the program is to en-*
14 *able each grant recipient to—*

15 “(1) *provide new nurse practitioners with clin-*
16 *ical training to enable them to serve as primary care*
17 *providers in FQHCs and NMHCs;*

18 “(2) *train new nurse practitioners to work under*
19 *a model of primary care that is consistent with the*
20 *principles set forth by the Institute of Medicine and*
21 *the needs of vulnerable populations; and*

22 “(3) *create a model of FQHC and NMHC train-*
23 *ing for nurse practitioners that may be replicated na-*
24 *tionwide.*

25 “(c) *GRANTS.*—*The Secretary shall award 3-year*
26 *grants to eligible entities that meet the requirements estab-*

1 *lished by the Secretary, for the purpose of operating the*
2 *nurse practitioner primary care programs described in sub-*
3 *section (a) in such entities.*

4 “(d) *ELIGIBLE ENTITIES.—To be eligible to receive a*
5 *grant under this section, an entity shall—*

6 “(1)(A) *be a FQHC as defined in section*
7 *1861(aa) of the Social Security Act (42 U.S.C.*
8 *1395x(aa)); or*

9 “(B) *be a nurse-managed health clinic, as de-*
10 *efined in section 330A–1 of the Public Health Service*
11 *Act (as added by section 5208 of this Act); and*

12 “(2) *submit to the Secretary an application at*
13 *such time, in such manner, and containing such in-*
14 *formation as the Secretary may require.*

15 “(e) *PRIORITY IN AWARDING GRANTS.—In awarding*
16 *grants under this section, the Secretary shall give priority*
17 *to eligible entities that—*

18 “(1) *demonstrate sufficient infrastructure in size,*
19 *scope, and capacity to undertake the requisite train-*
20 *ing of a minimum of 3 nurse practitioners per year,*
21 *and to provide to each awardee 12 full months of full-*
22 *time, paid employment and benefits consistent with*
23 *the benefits offered to other full-time employees of such*
24 *entity;*

1 “(2) will assign not less than 1 staff nurse prac-
2 titioner or physician to each of 4 precepted clinics;

3 “(3) will provide to each awardee specialty rota-
4 tions, including specialty training in prenatal care
5 and women’s health, adult and child psychiatry, or-
6 thopedics, geriatrics, and at least 3 other high-volume,
7 high-burden specialty areas;

8 “(4) provide sessions on high-volume, high-risk
9 health problems and have a record of training health
10 care professionals in the care of children, older adults,
11 and underserved populations; and

12 “(5) collaborate with other safety net providers,
13 schools, colleges, and universities that provide health
14 professions training.

15 “(f) *ELIGIBILITY OF NURSE PRACTITIONERS.*—

16 “(1) *IN GENERAL.*—To be eligible for acceptance
17 to a program funded through a grant awarded under
18 this section, an individual shall—

19 “(A) be licensed or eligible for licensure in
20 the State in which the program is located as an
21 advanced practice registered nurse or advanced
22 practice nurse and be eligible or board-certified
23 as a family nurse practitioner; and

1 “(B) demonstrate commitment to a career
2 as a primary care provider in a FQHC or in a
3 NMHC.

4 “(2) PREFERENCE.—In selecting awardees under
5 the program, each grant recipient shall give pref-
6 erence to bilingual candidates that meet the require-
7 ments described in paragraph (1).

8 “(3) DEFERRAL OF CERTAIN SERVICE.—The
9 starting date of required service of individuals in the
10 National Health Service Corps Service program
11 under title II of the Public Health Service Act (42
12 U.S.C. 202 et seq.) who receive training under this
13 section shall be deferred until the date that is 22 days
14 after the date of completion of the program.

15 “(g) GRANT AMOUNT.—Each grant awarded under
16 this section shall be in an amount not to exceed \$600,000
17 per year. A grant recipient may carry over funds from 1
18 fiscal year to another without obtaining approval from the
19 Secretary.

20 “(h) TECHNICAL ASSISTANCE GRANTS.—The Sec-
21 retary may award technical assistance grants to 1 or more
22 FQHCs or NMHCs that have demonstrated expertise in es-
23 tablishing a nurse practitioner residency training program.
24 Such technical assistance grants shall be for the purpose

1 of providing technical assistance to other recipients of
2 grants under subsection (c).

3 “(i) *AUTHORIZATION OF APPROPRIATIONS.*—To carry
4 out this section, there is authorized to be appropriated such
5 sums as may be necessary for each of fiscal years 2011
6 through 2014.”.

7 (f)(1) *Section 399W of the Public Health Service Act,*
8 *as added by section 5405, is redesignated as section 399V–*
9 *1.*

10 (2) *Section 399V–1 of the Public Health Service Act,*
11 *as so redesignated, is amended in subsection (b)(2)(A) by*
12 *striking “and the departments of 1 or more health profes-*
13 *sions schools in the State that train providers in primary*
14 *care” and inserting “and the departments that train pro-*
15 *viders in primary care in 1 or more health professions*
16 *schools in the State”.*

17 (3) *Section 934 of the Public Health Service Act, as*
18 *added by section 3501, is amended by striking “399W” each*
19 *place such term appears and inserting “399V–1”.*

20 (4) *Section 935(b) of the Public Health Service Act,*
21 *as added by section 3503, is amended by striking “399W”*
22 *and inserting “399V–1”.*

23 (g) *Part P of title III of the Public Health Service*
24 *Act 42 U.S.C. 280g et seq.), as amended by section 10411,*
25 *is amended by adding at the end the following:*

1 **“SEC. 399V-3. NATIONAL DIABETES PREVENTION PROGRAM.**

2 “(a) *IN GENERAL.*—*The Secretary, acting through the*
3 *Director of the Centers for Disease Control and Prevention,*
4 *shall establish a national diabetes prevention program (re-*
5 *ferred to in this section as the ‘program’) targeted at adults*
6 *at high risk for diabetes in order to eliminate the prevent-*
7 *able burden of diabetes.*

8 “(b) *PROGRAM ACTIVITIES.*—*The program described*
9 *in subsection (a) shall include—*

10 “(1) *a grant program for community-based dia-*
11 *betes prevention program model sites;*

12 “(2) *a program within the Centers for Disease*
13 *Control and Prevention to determine eligibility of en-*
14 *tities to deliver community-based diabetes prevention*
15 *services;*

16 “(3) *a training and outreach program for life-*
17 *style intervention instructors; and*

18 “(4) *evaluation, monitoring and technical assist-*
19 *ance, and applied research carried out by the Centers*
20 *for Disease Control and Prevention.*

21 “(c) *ELIGIBLE ENTITIES.*—*To be eligible for a grant*
22 *under subsection (b)(1), an entity shall be a State or local*
23 *health department, a tribal organization, a national net-*
24 *work of community-based non-profits focused on health and*
25 *wellbeing, an academic institution, or other entity, as the*
26 *Secretary determines.*

1 “(d) *AUTHORIZATION OF APPROPRIATIONS.*—For the
2 *purpose of carrying out this section, there are authorized*
3 *to be appropriated such sums as may be necessary for each*
4 *of fiscal years 2010 through 2014.*”

5 (h) *The provisions of, and amendment made by, sec-*
6 *tion 5501(c) of this Act are repealed.*

7 (i)(1) *The provisions of, and amendments made by,*
8 *section 5502 of this Act are repealed.*

9 (2)(A) *Section 1861(aa)(3)(A) of the Social Security*
10 *Act (42 U.S.C. 1395w(aa)(3)(A)) is amended to read as fol-*
11 *lows:*

12 “(A) *services of the type described in subpara-*
13 *graphs (A) through (C) of paragraph (1) and preven-*
14 *tive services (as defined in section 1861(ddd)(3));*
15 *and*”.

16 (B) *The amendment made by subparagraph (A) shall*
17 *apply to services furnished on or after January 1, 2011.*

18 (3)(A) *Section 1834 of the Social Security Act (42*
19 *U.S.C. 1395m), as amended by section 4105, is amended*
20 *by adding at the end the following new subsection:*

21 “(o) *DEVELOPMENT AND IMPLEMENTATION OF PRO-*
22 *SPECTIVE PAYMENT SYSTEM.*—

23 “(1) *DEVELOPMENT.*—

24 “(A) *IN GENERAL.*—*The Secretary shall de-*
25 *velop a prospective payment system for payment*

1 *for Federally qualified health center services fur-*
2 *nished by Federally qualified health centers*
3 *under this title. Such system shall include a*
4 *process for appropriately describing the services*
5 *furnished by Federally qualified health centers*
6 *and shall establish payment rates for specific*
7 *payment codes based on such appropriate de-*
8 *scriptions of services. Such system shall be estab-*
9 *lished to take into account the type, intensity,*
10 *and duration of services furnished by Federally*
11 *qualified health centers. Such system may in-*
12 *clude adjustments, including geographic adjust-*
13 *ments, determined appropriate by the Secretary.*

14 “(B) *COLLECTION OF DATA AND EVALUA-*
15 *TION.—By not later than January 1, 2011, the*
16 *Secretary shall require Federally qualified health*
17 *centers to submit to the Secretary such informa-*
18 *tion as the Secretary may require in order to de-*
19 *velop and implement the prospective payment*
20 *system under this subsection, including the re-*
21 *porting of services using HCPCS codes.*

22 “(2) *IMPLEMENTATION.—*

23 “(A) *IN GENERAL.—Notwithstanding sec-*
24 *tion 1833(a)(3)(A), the Secretary shall provide,*
25 *for cost reporting periods beginning on or after*

1 *October 1, 2014, for payments of prospective*
2 *payment rates for Federally qualified health cen-*
3 *ter services furnished by Federally qualified*
4 *health centers under this title in accordance with*
5 *the prospective payment system developed by the*
6 *Secretary under paragraph (1).*

7 “(B) *PAYMENTS.*—

8 “(i) *INITIAL PAYMENTS.*—*The Sec-*
9 *retary shall implement such prospective*
10 *payment system so that the estimated aggre-*
11 *gate amount of prospective payment rates*
12 *(determined prior to the application of sec-*
13 *tion 1833(a)(1)(Z)) under this title for Fed-*
14 *erally qualified health center services in the*
15 *first year that such system is implemented*
16 *is equal to 100 percent of the estimated*
17 *amount of reasonable costs (determined*
18 *without the application of a per visit pay-*
19 *ment limit or productivity screen and prior*
20 *to the application of section*
21 *1866(a)(2)(A)(ii)) that would have occurred*
22 *for such services under this title in such*
23 *year if the system had not been imple-*
24 *mented.*

1 “(i) *PAYMENTS IN SUBSEQUENT*
2 *YEARS.—Payment rates in years after the*
3 *year of implementation of such system shall*
4 *be the payment rates in the previous year*
5 *increased—*

6 “(I) *in the first year after imple-*
7 *mentation of such system, by the per-*
8 *centage increase in the MEI (as de-*
9 *fined in section 1842(i)(3)) for the*
10 *year involved; and*

11 “(II) *in subsequent years, by the*
12 *percentage increase in a market basket*
13 *of Federally qualified health center*
14 *goods and services as promulgated*
15 *through regulations, or if such an*
16 *index is not available, by the percent-*
17 *age increase in the MEI (as defined in*
18 *section 1842(i)(3)) for the year in-*
19 *volved.*

20 “(C) *PREPARATION FOR PPS IMPLEMENTA-*
21 *TION.—Notwithstanding any other provision of*
22 *law, the Secretary may establish and implement*
23 *by program instruction or otherwise the payment*
24 *codes to be used under the prospective payment*
25 *system under this section.”.*

1 (B) Section 1833(a)(1) of the Social Security Act (42
2 U.S.C. 1395l(a)(1)), as amended by section 4104, is amend-
3 ed—

4 (i) by striking “and” before “(Y)”; and
5 (ii) by inserting before the semicolon at the end
6 the following: “, and (Z) with respect to Federally
7 qualified health center services for which payment is
8 made under section 1834(o), the amounts paid shall
9 be 80 percent of the lesser of the actual charge or the
10 amount determined under such section”.

11 (C) Section 1833(a) of the Social Security Act (42
12 U.S.C. 1395l(a)) is amended—

13 (i) in paragraph (3)(B)(i)—

14 (I) by inserting “(I)” after “otherwise been
15 provided”; and

16 (II) by inserting “, or (II) in the case of
17 such services furnished on or after the implemen-
18 tation date of the prospective payment system
19 under section 1834(o), under such section (cal-
20 culated as if ‘100 percent’ were substituted for
21 ‘80 percent’ in such section) for such services if
22 the individual had not been so enrolled” after
23 “been so enrolled”; and

24 (ii) by adding at the end the following flush sen-
25 tence:

1 “Paragraph (3)(A) shall not apply to Federally
2 qualified health center services furnished on or after
3 the implementation date of the prospective payment
4 system under section 1834(0).”.

5 (j) Section 5505 is amended by adding at the end the
6 following new subsection:

7 “(d) *APPLICATION.*—The amendments made by this
8 section shall not be applied in a manner that requires re-
9 opening of any settled cost reports as to which there is not
10 a jurisdictionally proper appeal pending as of the date of
11 the enactment of this Act on the issue of payment for indi-
12 rect costs of medical education under section 1886(d)(5)(B)
13 of the Social Security Act (42 U.S.C. 1395ww(d)(5)(B)) or
14 for direct graduate medical education costs under section
15 1886(h) of such Act (42 U.S.C. 1395ww(h)).”.

16 (k) Subtitle G of title V of this Act is amended by add-
17 ing at the end the following:

18 “**SEC. 5606. STATE GRANTS TO HEALTH CARE PROVIDERS**
19 **WHO PROVIDE SERVICES TO A HIGH PER-**
20 **CENTAGE OF MEDICALLY UNDERSERVED**
21 **POPULATIONS OR OTHER SPECIAL POPU-**
22 **LATIONS.**”

23 “(a) *IN GENERAL.*—A State may award grants to
24 health care providers who treat a high percentage, as deter-

1 *mined by such State, of medically underserved populations*
2 *or other special populations in such State.*

3 “(b) *SOURCE OF FUNDS.*—A grant program estab-
4 *lished by a State under subsection (a) may not be estab-*
5 *lished within a department, agency, or other entity of such*
6 *State that administers the Medicaid program under title*
7 *XIX of the Social Security Act (42 U.S.C. 1396 et seq.),*
8 *and no Federal or State funds allocated to such Medicaid*
9 *program, the Medicare program under title XVIII of the*
10 *Social Security Act (42 U.S.C. 1395 et seq.), or the*
11 *TRICARE program under chapter 55 of title 10, United*
12 *States Code, may be used to award grants or to pay admin-*
13 *istrative costs associated with a grant program established*
14 *under subsection (a).”.*

15 (l) *Part C of title VII of the Public Health Service*
16 *Act (42 U.S.C. 293k et seq.) is amended—*

17 (1) *after the part heading, by inserting the fol-*
18 *lowing:*

19 **“Subpart I—Medical Training Generally”;**

20 *and*

21 (2) *by inserting at the end the following:*

22 **“Subpart II—Training in Underserved Communities**

23 **“SEC. 749B. RURAL PHYSICIAN TRAINING GRANTS.**

24 “(a) *IN GENERAL.*—The Secretary, acting through the
25 *Administrator of the Health Resources and Services Admin-*

1 *istration, shall establish a grant program for the purposes*
2 *of assisting eligible entities in recruiting students most like-*
3 *ly to practice medicine in underserved rural communities,*
4 *providing rural-focused training and experience, and in-*
5 *creasing the number of recent allopathic and osteopathic*
6 *medical school graduates who practice in underserved rural*
7 *communities.*

8 “(b) *ELIGIBLE ENTITIES.*—*In order to be eligible to*
9 *receive a grant under this section, an entity shall—*

10 “(1) *be a school of allopathic or osteopathic med-*
11 *icine accredited by a nationally recognized accred-*
12 *iting agency or association approved by the Secretary*
13 *for this purpose, or any combination or consortium of*
14 *such schools; and*

15 “(2) *submit an application to the Secretary that*
16 *includes a certification that such entity will use*
17 *amounts provided to the institution as described in*
18 *subsection (d)(1).*

19 “(c) *PRIORITY.*—*In awarding grant funds under this*
20 *section, the Secretary shall give priority to eligible entities*
21 *that—*

22 “(1) *demonstrate a record of successfully train-*
23 *ing students, as determined by the Secretary, who*
24 *practice medicine in underserved rural communities;*

1 “(2) demonstrate that an existing academic pro-
2 gram of the eligible entity produces a high percentage,
3 as determined by the Secretary, of graduates from
4 such program who practice medicine in underserved
5 rural communities;

6 “(3) demonstrate rural community institutional
7 partnerships, through such mechanisms as matching
8 or contributory funding, documented in-kind services
9 for implementation, or existence of training partners
10 with interprofessional expertise in community health
11 center training locations or other similar facilities; or

12 “(4) submit, as part of the application of the en-
13 tity under subsection (b), a plan for the long-term
14 tracking of where the graduates of such entity practice
15 medicine.

16 “(d) *USE OF FUNDS.*—

17 “(1) *ESTABLISHMENT.*—An eligible entity receiv-
18 ing a grant under this section shall use the funds
19 made available under such grant to establish, im-
20 prove, or expand a rural-focused training program
21 (referred to in this section as the ‘Program’) meeting
22 the requirements described in this subsection and to
23 carry out such program.

24 “(2) *STRUCTURE OF PROGRAM.*—An eligible en-
25 tity shall—

1 “(A) enroll no fewer than 10 students per
2 class year into the Program; and

3 “(B) develop criteria for admission to the
4 Program that gives priority to students—

5 “(i) who have originated from or lived
6 for a period of 2 or more years in an un-
7 derserved rural community; and

8 “(ii) who express a commitment to
9 practice medicine in an underserved rural
10 community.

11 “(3) CURRICULA.—The Program shall require
12 students to enroll in didactic coursework and clinical
13 experience particularly applicable to medical practice
14 in underserved rural communities, including—

15 “(A) clinical rotations in underserved rural
16 communities, and in applicable specialties, or
17 other coursework or clinical experience deemed
18 appropriate by the Secretary; and

19 “(B) in addition to core school curricula,
20 additional coursework or training experiences fo-
21 cused on medical issues prevalent in underserved
22 rural communities.

23 “(4) RESIDENCY PLACEMENT ASSISTANCE.—
24 Where available, the Program shall assist all students
25 of the Program in obtaining clinical training experi-

1 *ences in locations with postgraduate programs offer-*
2 *ing residency training opportunities in underserved*
3 *rural communities, or in local residency training pro-*
4 *grams that support and train physicians to practice*
5 *in underserved rural communities.*

6 “(5) *PROGRAM STUDENT COHORT SUPPORT.*—
7 *The Program shall provide and require all students of*
8 *the Program to participate in group activities de-*
9 *signed to further develop, maintain, and reinforce the*
10 *original commitment of such students to practice in*
11 *an underserved rural community.*

12 “(e) *ANNUAL REPORTING.*—*An eligible entity receiv-*
13 *ing a grant under this section shall submit an annual re-*
14 *port to the Secretary on the success of the Program, based*
15 *on criteria the Secretary determines appropriate, including*
16 *the residency program selection of graduating students who*
17 *participated in the Program.*

18 “(f) *REGULATIONS.*—*Not later than 60 days after the*
19 *date of enactment of this section, the Secretary shall by reg-*
20 *ulation define ‘underserved rural community’ for purposes*
21 *of this section.*

22 “(g) *SUPPLEMENT NOT SUPPLANT.*—*Any eligible enti-*
23 *ty receiving funds under this section shall use such funds*
24 *to supplement, not supplant, any other Federal, State, and*

1 *local funds that would otherwise be expended by such entity*
2 *to carry out the activities described in this section.*

3 “(h) *MAINTENANCE OF EFFORT.*—*With respect to ac-*
4 *tivities for which funds awarded under this section are to*
5 *be expended, the entity shall agree to maintain expenditures*
6 *of non-Federal amounts for such activities at a level that*
7 *is not less than the level of such expenditures maintained*
8 *by the entity for the fiscal year preceding the fiscal year*
9 *for which the entity receives a grant under this section.*

10 “(i) *AUTHORIZATION OF APPROPRIATIONS.*—*There are*
11 *authorized to be appropriated \$4,000,000 for each of the*
12 *fiscal years 2010 through 2013.”.*

13 (m)(1) *Section 768 of the Public Health Service Act*
14 *(42 U.S.C. 295c) is amended to read as follows:*

15 **“SEC. 768. PREVENTIVE MEDICINE AND PUBLIC HEALTH**
16 **TRAINING GRANT PROGRAM.**

17 “(a) *GRANTS.*—*The Secretary, acting through the Ad-*
18 *ministrator of the Health Resources and Services Adminis-*
19 *tration and in consultation with the Director of the Centers*
20 *for Disease Control and Prevention, shall award grants to,*
21 *or enter into contracts with, eligible entities to provide*
22 *training to graduate medical residents in preventive medi-*
23 *cine specialties.*

24 “(b) *ELIGIBILITY.*—*To be eligible for a grant or con-*
25 *tract under subsection (a), an entity shall be—*

1 “(1) an accredited school of public health or
2 school of medicine or osteopathic medicine;

3 “(2) an accredited public or private nonprofit
4 hospital;

5 “(3) a State, local, or tribal health department;
6 or

7 “(4) a consortium of 2 or more entities described
8 in paragraphs (1) through (3).

9 “(c) *USE OF FUNDS.*—Amounts received under a grant
10 or contract under this section shall be used to—

11 “(1) plan, develop (including the development of
12 curricula), operate, or participate in an accredited
13 residency or internship program in preventive medi-
14 cine or public health;

15 “(2) defray the costs of practicum experiences, as
16 required in such a program; and

17 “(3) establish, maintain, or improve—

18 “(A) academic administrative units (in-
19 cluding departments, divisions, or other appro-
20 priate units) in preventive medicine and public
21 health; or

22 “(B) programs that improve clinical teach-
23 ing in preventive medicine and public health.

1 “(d) *REPORT.*—*The Secretary shall submit to the Con-*
2 *gress an annual report on the program carried out under*
3 *this section.*”.

4 (2) *Section 770(a) of the Public Health Service*
5 *Act (42 U.S.C. 295e(a)) is amended to read as fol-*
6 *lows:*

7 “(a) *IN GENERAL.*—*For the purpose of carrying out*
8 *this subpart, there is authorized to be appropriated*
9 *\$43,000,000 for fiscal year 2011, and such sums as may*
10 *be necessary for each of the fiscal years 2012 through*
11 *2015.*”.

12 (n)(1) *Subsection (i) of section 331 of the Public*
13 *Health Service Act (42 U.S.C. 254d) of the Public Health*
14 *Service Act is amended—*

15 (A) *in paragraph (1), by striking “In carrying*
16 *out subpart III” and all that follows through the pe-*
17 *riod and inserting “In carrying out subpart III, the*
18 *Secretary may, in accordance with this subsection,*
19 *issue waivers to individuals who have entered into a*
20 *contract for obligated service under the Scholarship*
21 *Program or the Loan Repayment Program under*
22 *which the individuals are authorized to satisfy the re-*
23 *quirement of obligated service through providing clin-*
24 *ical practice that is half time.”;*

25 (B) *in paragraph (2)—*

1 (i) in subparagraphs (A)(ii) and (B), by
2 striking “less than full time” each place it ap-
3 pears and inserting “half time”;

4 (ii) in subparagraphs (C) and (F), by strik-
5 ing “less than full-time service” each place it ap-
6 pears and inserting “half-time service”; and

7 (iii) by amending subparagraphs (D) and
8 (E) to read as follows:

9 “(D) the entity and the Corps member agree in
10 writing that the Corps member will perform half-time
11 clinical practice;

12 “(E) the Corps member agrees in writing to ful-
13 fill all of the service obligations under section 338C
14 through half-time clinical practice and either—

15 “(i) double the period of obligated service
16 that would otherwise be required; or

17 “(ii) in the case of contracts entered into
18 under section 338B, accept a minimum service
19 obligation of 2 years with an award amount
20 equal to 50 percent of the amount that would
21 otherwise be payable for full-time service; and”;
22 and

23 (C) in paragraph (3), by striking “In evaluating
24 a demonstration project described in paragraph (1)”

1 and inserting “In evaluating waivers issued under
2 paragraph (1)”.

3 (2) Subsection (j) of section 331 of the Public Health
4 Service Act (42 U.S.C. 254d) is amended by adding at the
5 end the following:

6 “(5) The terms ‘full time’ and ‘full-time’ mean a
7 minimum of 40 hours per week in a clinical practice,
8 for a minimum of 45 weeks per year.

9 “(6) The terms ‘half time’ and ‘half-time’ mean
10 a minimum of 20 hours per week (not to exceed 39
11 hours per week) in a clinical practice, for a min-
12 imum of 45 weeks per year.”.

13 (3) Section 337(b)(1) of the Public Health Service Act
14 (42 U.S.C. 254j(b)(1)) is amended by striking “Members
15 may not be reappointed to the Council.”.

16 (4) Section 338B(g)(2)(A) of the Public Health Service
17 Act (42 U.S.C. 254l–1(g)(2)(A)) is amended by striking
18 “\$35,000” and inserting “\$50,000, plus, beginning with fis-
19 cal year 2012, an amount determined by the Secretary on
20 an annual basis to reflect inflation,”.

21 (5) Subsection (a) of section 338C of the Public Health
22 Service Act (42 U.S.C. 254m), as amended by section 5508,
23 is amended—

24 (A) by striking the second sentence and inserting
25 the following: “The Secretary may treat teaching as

1 *clinical practice for up to 20 percent of such period*
2 *of obligated service.”; and*

3 *(B) by adding at the end the following: “Not-*
4 *withstanding the preceding sentence, with respect to a*
5 *member of the Corps participating in the teaching*
6 *health centers graduate medical education program*
7 *under section 340H, for the purpose of calculating*
8 *time spent in full-time clinical practice under this*
9 *section, up to 50 percent of time spent teaching by*
10 *such member may be counted toward his or her serv-*
11 *ice obligation.”.*

12 **SEC. 10502. INFRASTRUCTURE TO EXPAND ACCESS TO**
13 **CARE.**

14 *(a) APPROPRIATION.—There are authorized to be ap-*
15 *propriated, and there are appropriated to the Department*
16 *of Health and Human Services, \$100,000,000 for fiscal year*
17 *2010, to remain available for obligation until September*
18 *30, 2011, to be used for debt service on, or direct construc-*
19 *tion or renovation of, a health care facility that provides*
20 *research, inpatient tertiary care, or outpatient clinical serv-*
21 *ices. Such facility shall be affiliated with an academic*
22 *health center at a public research university in the United*
23 *States that contains a State’s sole public academic medical*
24 *and dental school.*

1 (b) *REQUIREMENT.*—Amount appropriated under sub-
2 section (a) may only be made available by the Secretary
3 of Health and Human Services upon the receipt of an ap-
4 plication from the Governor of a State that certifies that—

5 (1) *the new health care facility is critical for the*
6 *provision of greater access to health care within the*
7 *State;*

8 (2) *such facility is essential for the continued fi-*
9 *nancial viability of the State’s sole public medical*
10 *and dental school and its academic health center;*

11 (3) *the request for Federal support represents not*
12 *more than 40 percent of the total cost of the proposed*
13 *new facility; and*

14 (4) *the State has established a dedicated funding*
15 *mechanism to provide all remaining funds necessary*
16 *to complete the construction or renovation of the pro-*
17 *posed facility.*

18 **SEC. 10503. COMMUNITY HEALTH CENTERS AND THE NA-**
19 **TIONAL HEALTH SERVICE CORPS FUND.**

20 (a) *PURPOSE.*—*It is the purpose of this section to es-*
21 *tablish a Community Health Center Fund (referred to in*
22 *this section as the “CHC Fund”), to be administered*
23 *through the Office of the Secretary of the Department of*
24 *Health and Human Services to provide for expanded and*
25 *sustained national investment in community health centers*

1 *under section 330 of the Public Health Service Act and the*
2 *National Health Service Corps.*

3 *(b) FUNDING.—There is authorized to be appropriated,*
4 *and there is appropriated, out of any monies in the Treas-*
5 *ury not otherwise appropriated, to the CHC Fund—*

6 *(1) to be transferred to the Secretary of Health*
7 *and Human Services to provide enhanced funding for*
8 *the community health center program under section*
9 *330 of the Public Health Service Act—*

10 *(A) \$700,000,000 for fiscal year 2011;*

11 *(B) \$800,000,000 for fiscal year 2012;*

12 *(C) \$1,000,000,000 for fiscal year 2013;*

13 *(D) \$1,600,000,000 for fiscal year 2014;*

14 *and*

15 *(E) \$2,900,000,000 for fiscal year 2015;*

16 *and*

17 *(2) to be transferred to the Secretary of Health*
18 *and Human Services to provide enhanced funding for*
19 *the National Health Service Corps—*

20 *(A) \$290,000,000 for fiscal year 2011;*

21 *(B) \$295,000,000 for fiscal year 2012;*

22 *(C) \$300,000,000 for fiscal year 2013;*

23 *(D) \$305,000,000 for fiscal year 2014; and*

24 *(E) \$310,000,000 for fiscal year 2015.*

1 (c) *CONSTRUCTION.*—*There is authorized to be appro-*
2 *priated, and there is appropriated, out of any monies in*
3 *the Treasury not otherwise appropriated, \$1,500,000,000 to*
4 *be available for fiscal years 2011 through 2015 to be used*
5 *by the Secretary of Health and Human Services for the con-*
6 *struction and renovation of community health centers.*

7 (d) *USE OF FUND.*—*The Secretary of Health and*
8 *Human Services shall transfer amounts in the CHC Fund*
9 *to accounts within the Department of Health and Human*
10 *Services to increase funding, over the fiscal year 2008 level,*
11 *for community health centers and the National Health*
12 *Service Corps.*

13 (e) *AVAILABILITY.*—*Amounts appropriated under sub-*
14 *sections (b) and (c) shall remain available until expended.*

15 **SEC. 10504. DEMONSTRATION PROJECT TO PROVIDE AC-**
16 **CESS TO AFFORDABLE CARE.**

17 (a) *IN GENERAL.*—*Not later than 6 months after the*
18 *date of enactment of this Act, the Secretary of Health and*
19 *Human Services (referred to in this section as the “Sec-*
20 *retary”), acting through the Health Resources and Services*
21 *Administration, shall establish a 3 year demonstration*
22 *project in up to 10 States to provide access to comprehensive*
23 *health care services to the uninsured at reduced fees. The*
24 *Secretary shall evaluate the feasibility of expanding the*
25 *project to additional States.*

1 (b) *CONFORMING AMENDMENT.*—Section 6001(b)(2) of
2 *this Act is amended by striking “November 1, 2011” and*
3 *inserting “May 1, 2012”.*

4 **SEC. 10602. CLARIFICATIONS TO PATIENT-CENTERED OUT-**
5 **COMES RESEARCH.**

6 Section 1181 of the Social Security Act (as added by
7 section 6301) is amended—

8 (1) in subsection (d)(2)(B)—

9 (A) in clause (ii)(IV)—

10 (i) by inserting “, as described in sub-
11 paragraph (A)(i),” after “original re-
12 search”; and

13 (ii) by inserting “, as long as the re-
14 searcher enters into a data use agreement
15 with the Institute for use of the data from
16 the original research, as appropriate” after
17 “publication”; and

18 (B) by amending clause (iv) to read as fol-
19 lows:

20 “(iv) *SUBSEQUENT USE OF THE*
21 *DATA.*—The Institute shall not allow the
22 subsequent use of data from original re-
23 search in work-for-hire contracts with indi-
24 viduals, entities, or instrumentalities that
25 have a financial interest in the results, un-

1 less approved under a data use agreement
2 with the Institute.”;

3 (2) in subsection (d)(8)(A)(iv), by striking “not
4 be construed as mandates for” and inserting “do not
5 include”; and

6 (3) in subsection (f)(1)(C), by amending clause
7 (ii) to read as follows:

8 “(ii) 7 members representing physi-
9 cians and providers, including 4 members
10 representing physicians (at least 1 of whom
11 is a surgeon), 1 nurse, 1 State-licensed inte-
12 grative health care practitioner, and 1 rep-
13 resentative of a hospital.”.

14 **SEC. 10603. STRIKING PROVISIONS RELATING TO INDI-**
15 **VIDUAL PROVIDER APPLICATION FEES.**

16 (a) *IN GENERAL.*—Section 1866(j)(2)(C) of the Social
17 Security Act, as added by section 6401(a), is amended—

18 (1) by striking clause (i);

19 (2) by redesignating clauses (ii) through (iv), re-
20 spectively, as clauses (i) through (iii); and

21 (3) in clause (i), as redesignated by paragraph
22 (2), by striking “clause (iii)” and inserting “clause
23 (ii)”.

24 (b) *TECHNICAL CORRECTION.*—Section 6401(a)(2) of
25 this Act is amended to read as follows:

1 “(2) by redesignating paragraph (2) as para-
2 graph (8); and”.

3 **SEC. 10604. TECHNICAL CORRECTION TO SECTION 6405.**

4 *Paragraphs (1) and (2) of section 6405(b) are amend-*
5 *ed to read as follows:*

6 “(1) *PART A.*—Section 1814(a)(2) of the Social
7 Security Act (42 U.S.C. 1395(a)(2)) is amended in
8 the matter preceding subparagraph (A) by inserting
9 ‘, or, in the case of services described in subparagraph
10 (C), a physician enrolled under section 1866(j),’ after
11 ‘in collaboration with a physician,’.

12 “(2) *PART B.*—Section 1835(a)(2) of the Social
13 Security Act (42 U.S.C. 1395n(a)(2)) is amended in
14 the matter preceding subparagraph (A) by inserting
15 ‘, or, in the case of services described in subparagraph
16 (A), a physician enrolled under section 1866(j),’ after
17 ‘a physician.’.”

18 **SEC. 10605. CERTAIN OTHER PROVIDERS PERMITTED TO**
19 **CONDUCT FACE TO FACE ENCOUNTER FOR**
20 **HOME HEALTH SERVICES.**

21 (a) *PART A.*—Section 1814(a)(2)(C) of the Social Se-
22 curity Act (42 U.S.C. 1395f(a)(2)(C)), as amended by sec-
23 tion 6407(a)(1), is amended by inserting “, or a nurse prac-
24 titioner or clinical nurse specialist (as those terms are de-
25 fined in section 1861(aa)(5)) who is working in collabora-

1 *tion with the physician in accordance with State law, or*
2 *a certified nurse-midwife (as defined in section 1861(gg))*
3 *as authorized by State law, or a physician assistant (as*
4 *defined in section 1861(aa)(5)) under the supervision of the*
5 *physician,” after “himself or herself”.*

6 (b) *PART B.—Section 1835(a)(2)(A)(iv) of the Social*
7 *Security Act, as added by section 6407(a)(2), is amended*
8 *by inserting “, or a nurse practitioner or clinical nurse spe-*
9 *cialist (as those terms are defined in section 1861(aa)(5))*
10 *who is working in collaboration with the physician in ac-*
11 *cordance with State law, or a certified nurse-midwife (as*
12 *defined in section 1861(gg)) as authorized by State law, or*
13 *a physician assistant (as defined in section 1861(aa)(5))*
14 *under the supervision of the physician,” after “must docu-*
15 *ment that the physician”.*

16 **SEC. 10606. HEALTH CARE FRAUD ENFORCEMENT.**

17 (a) *FRAUD SENTENCING GUIDELINES.—*

18 (1) *DEFINITION.—In this subsection, the term*
19 *“Federal health care offense” has the meaning given*
20 *that term in section 24 of title 18, United States*
21 *Code, as amended by this Act.*

22 (2) *REVIEW AND AMENDMENTS.—Pursuant to*
23 *the authority under section 994 of title 28, United*
24 *States Code, and in accordance with this subsection,*
25 *the United States Sentencing Commission shall—*

1 (A) review the Federal Sentencing Guide-
2 lines and policy statements applicable to persons
3 convicted of Federal health care offenses;

4 (B) amend the Federal Sentencing Guide-
5 lines and policy statements applicable to persons
6 convicted of Federal health care offenses involv-
7 ing Government health care programs to provide
8 that the aggregate dollar amount of fraudulent
9 bills submitted to the Government health care
10 program shall constitute prima facie evidence of
11 the amount of the intended loss by the defendant;
12 and

13 (C) amend the Federal Sentencing Guide-
14 lines to provide—

15 (i) a 2-level increase in the offense level
16 for any defendant convicted of a Federal
17 health care offense relating to a Government
18 health care program which involves a loss of
19 not less than \$1,000,000 and less than
20 \$7,000,000;

21 (ii) a 3-level increase in the offense
22 level for any defendant convicted of a Fed-
23 eral health care offense relating to a Gov-
24 ernment health care program which involves

1 a loss of not less than \$7,000,000 and less
2 than \$20,000,000;

3 (iii) a 4-level increase in the offense
4 level for any defendant convicted of a Fed-
5 eral health care offense relating to a Gov-
6 ernment health care program which involves
7 a loss of not less than \$20,000,000; and

8 (iv) if appropriate, otherwise amend
9 the Federal Sentencing Guidelines and pol-
10 icy statements applicable to persons con-
11 victed of Federal health care offenses involv-
12 ing Government health care programs.

13 (3) *REQUIREMENTS.*—In carrying this sub-
14 section, the United States Sentencing Commission
15 shall—

16 (A) ensure that the Federal Sentencing
17 Guidelines and policy statements—

18 (i) reflect the serious harms associated
19 with health care fraud and the need for ag-
20 gressive and appropriate law enforcement
21 action to prevent such fraud; and

22 (ii) provide increased penalties for per-
23 sons convicted of health care fraud offenses
24 in appropriate circumstances;

1 (B) consult with individuals or groups rep-
2 resenting health care fraud victims, law enforce-
3 ment officials, the health care industry, and the
4 Federal judiciary as part of the review described
5 in paragraph (2);

6 (C) ensure reasonable consistency with other
7 relevant directives and with other guidelines
8 under the Federal Sentencing Guidelines;

9 (D) account for any aggravating or miti-
10 gating circumstances that might justify excep-
11 tions, including circumstances for which the Fed-
12 eral Sentencing Guidelines, as in effect on the
13 date of enactment of this Act, provide sentencing
14 enhancements;

15 (E) make any necessary conforming changes
16 to the Federal Sentencing Guidelines; and

17 (F) ensure that the Federal Sentencing
18 Guidelines adequately meet the purposes of sen-
19 tencing.

20 (b) *INTENT REQUIREMENT FOR HEALTH CARE*
21 *FRAUD.*—Section 1347 of title 18, United States Code, is
22 amended—

23 (1) by inserting “(a)” before “Whoever know-
24 ingly”; and

25 (2) by adding at the end the following:

1 “(b) *With respect to violations of this section, a person*
2 *need not have actual knowledge of this section or specific*
3 *intent to commit a violation of this section.*”.

4 (c) *HEALTH CARE FRAUD OFFENSE.—Section 24(a)*
5 *of title 18, United States Code, is amended—*

6 (1) *in paragraph (1), by striking the semicolon*
7 *and inserting “or section 1128B of the Social Secu-*
8 *urity Act (42 U.S.C. 1320a–7b); or”;* and

9 (2) *in paragraph (2)—*

10 (A) *by inserting “1349,” after “1343,”; and*

11 (B) *by inserting “section 301 of the Federal*
12 *Food, Drug, and Cosmetic Act (21 U.S.C. 331),*
13 *or section 501 of the Employee Retirement In-*
14 *come Security Act of 1974 (29 U.S.C. 1131),”*
15 *after “title,”.*

16 (d) *SUBPOENA AUTHORITY RELATING TO HEALTH*
17 *CARE.—*

18 (1) *SUBPOENAS UNDER THE HEALTH INSURANCE*
19 *PORTABILITY AND ACCOUNTABILITY ACT OF 1996.—*
20 *Section 1510(b) of title 18, United States Code, is*
21 *amended—*

22 (A) *in paragraph (1), by striking “to the*
23 *grand jury”;* and

24 (B) *in paragraph (2)—*

1 (i) in subparagraph (A), by striking
2 “grand jury subpoena” and inserting “sub-
3 poena for records”; and

4 (ii) in the matter following subpara-
5 graph (B), by striking “to the grand jury”.

6 (2) *SUBPOENAS UNDER THE CIVIL RIGHTS OF IN-*
7 *STITUTIONALIZED PERSONS ACT.—The Civil Rights of*
8 *Institutionalized Persons Act (42 U.S.C. 1997 et seq.)*
9 *is amended by inserting after section 3 the following:*
10 **“SEC. 3A. SUBPOENA AUTHORITY.**

11 “(a) **AUTHORITY.**—The Attorney General, or at the
12 direction of the Attorney General, any officer or employee
13 of the Department of Justice may require by subpoena
14 access to any institution that is the subject of an investiga-
15 tion under this Act and to any document, record, material,
16 file, report, memorandum, policy, procedure, investigation,
17 video or audio recording, or quality assurance report relat-
18 ing to any institution that is the subject of an investiga-
19 tion under this Act to determine whether there are condi-
20 tions which deprive persons residing in or confined to the
21 institution of any rights, privileges, or immunities secured
22 or protected by the Constitution or laws of the United
23 States.

24 “(b) **ISSUANCE AND ENFORCEMENT OF SUB-**
25 **POENAS.**—

1 “(1) ISSUANCE.—Subpoenas issued under this
2 section—

3 “(A) shall bear the signature of the Attor-
4 ney General or any officer or employee of the
5 Department of Justice as designated by the At-
6 torney General; and

7 “(B) shall be served by any person or class
8 of persons designated by the Attorney General
9 or a designated officer or employee for that
10 purpose.

11 “(2) ENFORCEMENT.—In the case of contu-
12 macy or failure to obey a subpoena issued under this
13 section, the United States district court for the judi-
14 cial district in which the institution is located may
15 issue an order requiring compliance. Any failure to
16 obey the order of the court may be punished by the
17 court as a contempt that court.

18 “(c) *PROTECTION OF SUBPOENAED RECORDS AND IN-*
19 *FORMATION.—Any document, record, material, file, report,*
20 *memorandum, policy, procedure, investigation, video or*
21 *audio recording, or quality assurance report or other infor-*
22 *mation obtained under a subpoena issued under this sec-*
23 *tion—*

24 “(1) *may not be used for any purpose other than*
25 *to protect the rights, privileges, or immunities secured*

1 or protected by the Constitution or laws of the United
2 States of persons who reside, have resided, or will re-
3 side in an institution;

4 “(2) may not be transmitted by or within the
5 Department of Justice for any purpose other than to
6 protect the rights, privileges, or immunities secured or
7 protected by the Constitution or laws of the United
8 States of persons who reside, have resided, or will re-
9 side in an institution; and

10 “(3) shall be redacted, obscured, or otherwise al-
11 tered if used in any publicly available manner so as
12 to prevent the disclosure of any personally identifiable
13 information.”.

14 **SEC. 10607. STATE DEMONSTRATION PROGRAMS TO EVALU-**
15 **ATE ALTERNATIVES TO CURRENT MEDICAL**
16 **TORT LITIGATION.**

17 Part P of title III of the Public Health Service Act
18 (42 U.S.C. 280g et seq.), as amended by this Act, is further
19 amended by adding at the end the following:

20 **“SEC. 399V-4. STATE DEMONSTRATION PROGRAMS TO**
21 **EVALUATE ALTERNATIVES TO CURRENT MED-**
22 **ICAL TORT LITIGATION.**

23 “(a) *IN GENERAL.*—The Secretary is authorized to
24 award demonstration grants to States for the development,
25 implementation, and evaluation of alternatives to current

1 *tort litigation for resolving disputes over injuries allegedly*
2 *caused by health care providers or health care organiza-*
3 *tions. In awarding such grants, the Secretary shall ensure*
4 *the diversity of the alternatives so funded.*

5 “(b) *DURATION.*—*The Secretary may award grants*
6 *under subsection (a) for a period not to exceed 5 years.*

7 “(c) *CONDITIONS FOR DEMONSTRATION GRANTS.*—

8 “(1) *REQUIREMENTS.*—*Each State desiring a*
9 *grant under subsection (a) shall develop an alter-*
10 *native to current tort litigation that—*

11 “(A) *allows for the resolution of disputes*
12 *over injuries allegedly caused by health care pro-*
13 *viders or health care organizations; and*

14 “(B) *promotes a reduction of health care er-*
15 *rors by encouraging the collection and analysis*
16 *of patient safety data related to disputes resolved*
17 *under subparagraph (A) by organizations that*
18 *engage in efforts to improve patient safety and*
19 *the quality of health care.*

20 “(2) *ALTERNATIVE TO CURRENT TORT LITIGA-*
21 *TION.*—*Each State desiring a grant under subsection*
22 *(a) shall demonstrate how the proposed alternative de-*
23 *scribed in paragraph (1)(A)—*

1 “(A) makes the medical liability system
2 more reliable by increasing the availability of
3 prompt and fair resolution of disputes;

4 “(B) encourages the efficient resolution of
5 disputes;

6 “(C) encourages the disclosure of health care
7 errors;

8 “(D) enhances patient safety by detecting,
9 analyzing, and helping to reduce medical errors
10 and adverse events;

11 “(E) improves access to liability insurance;

12 “(F) fully informs patients about the dif-
13 ferences in the alternative and current tort liti-
14 gation;

15 “(G) provides patients the ability to opt out
16 of or voluntarily withdraw from participating in
17 the alternative at any time and to pursue other
18 options, including litigation, outside the alter-
19 native;

20 “(H) would not conflict with State law at
21 the time of the application in a way that would
22 prohibit the adoption of an alternative to current
23 tort litigation; and

24 “(I) would not limit or curtail a patient’s
25 existing legal rights, ability to file a claim in or

1 *access a State’s legal system, or otherwise abro-*
2 *gate a patient’s ability to file a medical mal-*
3 *practice claim.*

4 “(3) *SOURCES OF COMPENSATION.*—*Each State*
5 *desiring a grant under subsection (a) shall identify*
6 *the sources from and methods by which compensation*
7 *would be paid for claims resolved under the proposed*
8 *alternative to current tort litigation, which may in-*
9 *clude public or private funding sources, or a com-*
10 *bination of such sources. Funding methods shall to the*
11 *extent practicable provide financial incentives for ac-*
12 *tivities that improve patient safety.*

13 “(4) *SCOPE.*—

14 “(A) *IN GENERAL.*—*Each State desiring a*
15 *grant under subsection (a) shall establish a scope*
16 *of jurisdiction (such as Statewide, designated ge-*
17 *ographic region, a designated area of health care*
18 *practice, or a designated group of health care*
19 *providers or health care organizations) for the*
20 *proposed alternative to current tort litigation*
21 *that is sufficient to evaluate the effects of the al-*
22 *ternative. No scope of jurisdiction shall be estab-*
23 *lished under this paragraph that is based on a*
24 *health care payer or patient population.*

1 “(B) *NOTIFICATION OF PATIENTS.*—A State
2 shall demonstrate how patients would be notified
3 that they are receiving health care services that
4 fall within such scope, and the process by which
5 they may opt out of or voluntarily withdraw
6 from participating in the alternative. The deci-
7 sion of the patient whether to participate or con-
8 tinue participating in the alternative process
9 shall be made at any time and shall not be lim-
10 ited in any way.

11 “(5) *PREFERENCE IN AWARDING DEMONSTRATION GRANTS.*—In awarding grants under subsection
12 (a), the Secretary shall give preference to States—

13 “(A) that have developed the proposed alter-
14 native through substantive consultation with rel-
15 evant stakeholders, including patient advocates,
16 health care providers and health care organiza-
17 tions, attorneys with expertise in representing
18 patients and health care providers, medical mal-
19 practice insurers, and patient safety experts;

20 “(B) that make proposals that are likely to
21 enhance patient safety by detecting, analyzing,
22 and helping to reduce medical errors and adverse
23 events; and
24

1 “(C) that make proposals that are likely to
2 improve access to liability insurance.

3 “(d) APPLICATION.—

4 “(1) IN GENERAL.—Each State desiring a grant
5 under subsection (a) shall submit to the Secretary an
6 application, at such time, in such manner, and con-
7 taining such information as the Secretary may re-
8 quire.

9 “(2) REVIEW PANEL.—

10 “(A) IN GENERAL.—In reviewing applica-
11 tions under paragraph (1), the Secretary shall
12 consult with a review panel composed of relevant
13 experts appointed by the Comptroller General.

14 “(B) COMPOSITION.—

15 “(i) NOMINATIONS.—The Comptroller
16 General shall solicit nominations from the
17 public for individuals to serve on the review
18 panel.

19 “(ii) APPOINTMENT.—The Comptroller
20 General shall appoint, at least 9 but not
21 more than 13, highly qualified and knowl-
22 edgeable individuals to serve on the review
23 panel and shall ensure that the following
24 entities receive fair representation on such
25 panel:

1 “(I) *Patient advocates.*

2 “(II) *Health care providers and*
3 *health care organizations.*

4 “(III) *Attorneys with expertise in*
5 *representing patients and health care*
6 *providers.*

7 “(IV) *Medical malpractice insur-*
8 *ers.*

9 “(V) *State officials.*

10 “(VI) *Patient safety experts.*

11 “(C) *CHAIRPERSON.—The Comptroller Gen-*
12 *eral, or an individual within the Government*
13 *Accountability Office designated by the Comp-*
14 *troller General, shall be the chairperson of the re-*
15 *view panel.*

16 “(D) *AVAILABILITY OF INFORMATION.—The*
17 *Comptroller General shall make available to the*
18 *review panel such information, personnel, and*
19 *administrative services and assistance as the re-*
20 *view panel may reasonably require to carry out*
21 *its duties.*

22 “(E) *INFORMATION FROM AGENCIES.—The*
23 *review panel may request directly from any de-*
24 *partment or agency of the United States any in-*
25 *formation that such panel considers necessary to*

1 *carry out its duties. To the extent consistent with*
2 *applicable laws and regulations, the head of such*
3 *department or agency shall furnish the requested*
4 *information to the review panel.*

5 “(e) *REPORTS.*—

6 “(1) *BY STATE.*—*Each State receiving a grant*
7 *under subsection (a) shall submit to the Secretary an*
8 *annual report evaluating the effectiveness of activities*
9 *funded with grants awarded under such subsection.*
10 *Such report shall, at a minimum, include the impact*
11 *of the activities funded on patient safety and on the*
12 *availability and price of medical liability insurance.*

13 “(2) *BY SECRETARY.*—*The Secretary shall sub-*
14 *mit to Congress an annual compendium of the reports*
15 *submitted under paragraph (1) and an analysis of*
16 *the activities funded under subsection (a) that exam-*
17 *ines any differences that result from such activities in*
18 *terms of the quality of care, number and nature of*
19 *medical errors, medical resources used, length of time*
20 *for dispute resolution, and the availability and price*
21 *of liability insurance.*

22 “(f) *TECHNICAL ASSISTANCE.*—

23 “(1) *IN GENERAL.*—*The Secretary shall provide*
24 *technical assistance to the States applying for or*
25 *awarded grants under subsection (a).*

1 “(2) *REQUIREMENTS.—Technical assistance*
2 *under paragraph (1) shall include—*

3 “(A) *guidance on non-economic damages,*
4 *including the consideration of individual facts*
5 *and circumstances in determining appropriate*
6 *payment, guidance on identifying avoidable in-*
7 *juries, and guidance on disclosure to patients of*
8 *health care errors and adverse events; and*

9 “(B) *the development, in consultation with*
10 *States, of common definitions, formats, and data*
11 *collection infrastructure for States receiving*
12 *grants under this section to use in reporting to*
13 *facilitate aggregation and analysis of data both*
14 *within and between States.*

15 “(3) *USE OF COMMON DEFINITIONS, FORMATS,*
16 *AND DATA COLLECTION INFRASTRUCTURE.—States*
17 *not receiving grants under this section may also use*
18 *the common definitions, formats, and data collection*
19 *infrastructure developed under paragraph (2)(B).*

20 “(g) *EVALUATION.—*

21 “(1) *IN GENERAL.—The Secretary, in consulta-*
22 *tion with the review panel established under sub-*
23 *section (d)(2), shall enter into a contract with an ap-*
24 *propriate research organization to conduct an overall*
25 *evaluation of the effectiveness of grants awarded*

1 *under subsection (a) and to annually prepare and*
2 *submit a report to Congress. Such an evaluation shall*
3 *begin not later than 18 months following the date of*
4 *implementation of the first program funded by a*
5 *grant under subsection (a).*

6 *“(2) CONTENTS.—The evaluation under para-*
7 *graph (1) shall include—*

8 *“(A) an analysis of the effects of the grants*
9 *awarded under subsection (a) with regard to the*
10 *measures described in paragraph (3);*

11 *“(B) for each State, an analysis of the ex-*
12 *tent to which the alternative developed under*
13 *subsection (c)(1) is effective in meeting the ele-*
14 *ments described in subsection (c)(2);*

15 *“(C) a comparison among the States receiv-*
16 *ing grants under subsection (a) of the effective-*
17 *ness of the various alternatives developed by such*
18 *States under subsection (c)(1);*

19 *“(D) a comparison, considering the meas-*
20 *ures described in paragraph (3), of States receiv-*
21 *ing grants approved under subsection (a) and*
22 *similar States not receiving such grants; and*

23 *“(E) a comparison, with regard to the*
24 *measures described in paragraph (3), of—*

1 “(i) States receiving grants under sub-
2 section (a);

3 “(ii) States that enacted, prior to the
4 date of enactment of the Patient Protection
5 and Affordable Care Act, any cap on non-
6 economic damages; and

7 “(iii) States that have enacted, prior to
8 the date of enactment of the Patient Protec-
9 tion and Affordable Care Act, a requirement
10 that the complainant obtain an opinion re-
11 garding the merit of the claim, although the
12 substance of such opinion may have no
13 bearing on whether the complainant may
14 proceed with a case.

15 “(3) MEASURES.—The evaluations under para-
16 graph (2) shall analyze and make comparisons on the
17 basis of—

18 “(A) the nature and number of disputes
19 over injuries allegedly caused by health care pro-
20 viders or health care organizations;

21 “(B) the nature and number of claims in
22 which tort litigation was pursued despite the ex-
23 istence of an alternative under subsection (a);

1 “(C) the disposition of disputes and claims,
2 including the length of time and estimated costs
3 to all parties;

4 “(D) the medical liability environment;

5 “(E) health care quality;

6 “(F) patient safety in terms of detecting,
7 analyzing, and helping to reduce medical errors
8 and adverse events;

9 “(G) patient and health care provider and
10 organization satisfaction with the alternative
11 under subsection (a) and with the medical liabil-
12 ity environment; and

13 “(H) impact on utilization of medical serv-
14 ices, appropriately adjusted for risk.

15 “(4) FUNDING.—The Secretary shall reserve 5
16 percent of the amount appropriated in each fiscal
17 year under subsection (k) to carry out this subsection.

18 “(h) MEDPAC AND MACPAC REPORTS.—

19 “(1) MEDPAC.—The Medicare Payment Advi-
20 sory Commission shall conduct an independent review
21 of the alternatives to current tort litigation that are
22 implemented under grants under subsection (a) to de-
23 termine the impact of such alternatives on the Medi-
24 care program under title XVIII of the Social Security
25 Act, and its beneficiaries.

1 “(2) *MACPAC.*—*The Medicaid and CHIP Pay-*
2 *ment and Access Commission shall conduct an inde-*
3 *pendent review of the alternatives to current tort liti-*
4 *gation that are implemented under grants under sub-*
5 *section (a) to determine the impact of such alter-*
6 *natives on the Medicaid or CHIP programs under ti-*
7 *tles XIX and XXI of the Social Security Act, and*
8 *their beneficiaries.*

9 “(3) *REPORTS.*—*Not later than December 31,*
10 *2016, the Medicare Payment Advisory Commission*
11 *and the Medicaid and CHIP Payment and Access*
12 *Commission shall each submit to Congress a report*
13 *that includes the findings and recommendations of*
14 *each respective Commission based on independent re-*
15 *views conducted under paragraphs (1) and (2), in-*
16 *cluding an analysis of the impact of the alternatives*
17 *reviewed on the efficiency and effectiveness of the re-*
18 *spective programs.*

19 “(i) *OPTION TO PROVIDE FOR INITIAL PLANNING*
20 *GRANTS.*—*Of the funds appropriated pursuant to sub-*
21 *section (k), the Secretary may use a portion not to exceed*
22 *\$500,000 per State to provide planning grants to such*
23 *States for the development of demonstration project applica-*
24 *tions meeting the criteria described in subsection (c). In se-*
25 *lecting States to receive such planning grants, the Secretary*

1 *shall give preference to those States in which State law at*
2 *the time of the application would not prohibit the adoption*
3 *of an alternative to current tort litigation.*

4 “(j) *DEFINITIONS.—In this section:*

5 “(1) *HEALTH CARE SERVICES.—The term ‘health*
6 *care services’ means any services provided by a health*
7 *care provider, or by any individual working under*
8 *the supervision of a health care provider, that relate*
9 *to—*

10 “(A) *the diagnosis, prevention, or treatment*
11 *of any human disease or impairment; or*

12 “(B) *the assessment of the health of human*
13 *beings.*

14 “(2) *HEALTH CARE ORGANIZATION.—The term*
15 *‘health care organization’ means any individual or*
16 *entity which is obligated to provide, pay for, or ad-*
17 *minister health benefits under any health plan.*

18 “(3) *HEALTH CARE PROVIDER.—The term*
19 *‘health care provider’ means any individual or enti-*
20 *ty—*

21 “(A) *licensed, registered, or certified under*
22 *Federal or State laws or regulations to provide*
23 *health care services; or*

1 *and apply to any act or omission which occurs on or after*
2 *that date.*

3 **SEC. 10609. LABELING CHANGES.**

4 *Section 505(j) of the Federal Food, Drug, and Cos-*
5 *metic Act (21 U.S.C. 355(j)) is amended by adding at the*
6 *end the following:*

7 *“(10)(A) If the proposed labeling of a drug that is the*
8 *subject of an application under this subsection differs from*
9 *the listed drug due to a labeling revision described under*
10 *clause (i), the drug that is the subject of such application*
11 *shall, notwithstanding any other provision of this Act, be*
12 *eligible for approval and shall not be considered misbranded*
13 *under section 502 if—*

14 *“(i) the application is otherwise eligible for ap-*
15 *proval under this subsection but for expiration of pat-*
16 *ent, an exclusivity period, or of a delay in approval*
17 *described in paragraph (5)(B)(iii), and a revision to*
18 *the labeling of the listed drug has been approved by*
19 *the Secretary within 60 days of such expiration;*

20 *“(ii) the labeling revision described under clause*
21 *(i) does not include a change to the ‘Warnings’ sec-*
22 *tion of the labeling;*

23 *“(iii) the sponsor of the application under this*
24 *subsection agrees to submit revised labeling of the*
25 *drug that is the subject of such application not later*

1 *than 60 days after the notification of any changes to*
2 *such labeling required by the Secretary; and*

3 *“(iv) such application otherwise meets the appli-*
4 *cable requirements for approval under this subsection.*

5 *“(B) If, after a labeling revision described in subpara-*
6 *graph (A)(i), the Secretary determines that the continued*
7 *presence in interstate commerce of the labeling of the listed*
8 *drug (as in effect before the revision described in subpara-*
9 *graph (A)(i)) adversely impacts the safe use of the drug,*
10 *no application under this subsection shall be eligible for ap-*
11 *proval with such labeling.”.*

12 ***Subtitle G—Provisions Relating to***
13 ***Title VIII***

14 ***SEC. 10801. PROVISIONS RELATING TO TITLE VIII.***

15 *(a) Title XXXII of the Public Health Service Act, as*
16 *added by section 8002(a)(1), is amended—*

17 *(1) in section 3203—*

18 *(A) in subsection (a)(1), by striking sub-*
19 *paragraph (E);*

20 *(B) in subsection (b)(1)(C)(i), by striking*
21 *“for enrollment” and inserting “for reenroll-*
22 *ment”;* and

23 *(C) in subsection (c)(1), by striking “, as*
24 *part of their automatic enrollment in the*
25 *CLASS program,”; and*

1 (2) in section 3204—

2 (A) in subsection (c)(2), by striking sub-
3 paragraph (A) and inserting the following:

4 “(A) receives wages or income on which
5 there is imposed a tax under section 3101(a) or
6 3201(a) of the Internal Revenue Code of 1986;
7 or”;

8 (B) in subsection (d), by striking “subpara-
9 graph (B) or (C) of subsection (c)(1)” and in-
10 sserting “subparagraph (A) or (B) of subsection
11 (c)(2)”;

12 (C) in subsection (e)(2)(A), by striking
13 “subparagraph (A)” and inserting “paragraph
14 (1)”; and

15 (D) in subsection (g)(1), by striking “has
16 elected to waive enrollment” and inserting “has
17 not enrolled”.

18 (b) Section 8002 of this Act is amended in the heading
19 for subsection (d), by striking “INFORMATION ON SUPPLE-
20 MENTAL COVERAGE” and inserting “CLASS PROGRAM IN-
21 FORMATION”.

22 (c) Section 6021(d)(2)(A)(iv) of the Deficit Reduction
23 Act of 2005, as added by section 8002(d) of this Act, is
24 amended by striking “and coverage available” and all that
25 follows through “that program,”.

1 ***Subtitle H—Provisions Relating to***
2 ***Title IX***

3 ***SEC. 10901. MODIFICATIONS TO EXCISE TAX ON HIGH COST***
4 ***EMPLOYER-SPONSORED HEALTH COVERAGE.***

5 (a) *LONGSHORE WORKERS TREATED AS EMPLOYEES*
6 *ENGAGED IN HIGH-RISK PROFESSIONS.*—Paragraph (3) of
7 *section 4980I(f) of the Internal Revenue Code of 1986, as*
8 *added by section 9001 of this Act, is amended by inserting*
9 *“individuals whose primary work is longshore work (as de-*
10 *fin ed in section 258(b) of the Immigration and Nationality*
11 *Act (8 U.S.C. 1288(b)), determined without regard to para-*
12 *graph (2) thereof),” before “and individuals engaged in the*
13 *construction, mining”.*

14 (b) *EXEMPTION FROM HIGH-COST INSURANCE TAX IN-*
15 *CLUDES CERTAIN ADDITIONAL EXCEPTED BENEFITS.*—
16 *Clause (i) of section 4980I(d)(1)(B) of the Internal Revenue*
17 *Code of 1986, as added by section 9001 of this Act, is*
18 *amended by striking “section 9832(c)(1)(A)” and inserting*
19 *“section 9832(c)(1) (other than subparagraph (G) thereof)”.*

20 (c) *EFFECTIVE DATE.*—*The amendments made by this*
21 *section shall apply to taxable years beginning after Decem-*
22 *ber 31, 2012.*

1 **SEC. 10902. INFLATION ADJUSTMENT OF LIMITATION ON**
2 **HEALTH FLEXIBLE SPENDING ARRANGE-**
3 **MENTS UNDER CAFETERIA PLANS.**

4 *(a) IN GENERAL.—Subsection (i) of section 125 of the*
5 *Internal Revenue Code of 1986, as added by section 9005*
6 *of this Act, is amended to read as follows:*

7 *“(i) LIMITATION ON HEALTH FLEXIBLE SPENDING*
8 *ARRANGEMENTS.—*

9 *“(1) IN GENERAL.—For purposes of this section,*
10 *if a benefit is provided under a cafeteria plan through*
11 *employer contributions to a health flexible spending*
12 *arrangement, such benefit shall not be treated as a*
13 *qualified benefit unless the cafeteria plan provides*
14 *that an employee may not elect for any taxable year*
15 *to have salary reduction contributions in excess of*
16 *\$2,500 made to such arrangement.*

17 *“(2) ADJUSTMENT FOR INFLATION.—In the case*
18 *of any taxable year beginning after December 31,*
19 *2011, the dollar amount in paragraph (1) shall be in-*
20 *creased by an amount equal to—*

21 *“(A) such amount, multiplied by*

22 *“(B) the cost-of-living adjustment deter-*
23 *mined under section 1(f)(3) for the calendar year*
24 *in which such taxable year begins by sub-*
25 *stituting ‘calendar year 2010’ for ‘calendar year*
26 *1992’ in subparagraph (B) thereof.*

1 (3) by striking “2008” in subsection (i) and in-
2 serting “2009”.

3 (b) *EFFECTIVE DATE.*—*The amendments made by this*
4 *section shall take effect as if included in the enactment of*
5 *section 9009.*

6 **SEC. 10905. MODIFICATION OF ANNUAL FEE ON HEALTH IN-**
7 **SURANCE PROVIDERS.**

8 (a) *DETERMINATION OF FEE AMOUNT.*—*Subsection*
9 *(b) of section 9010 of this Act is amended to read as follows:*

10 “(b) *DETERMINATION OF FEE AMOUNT.*—

11 “(1) *IN GENERAL.*—*With respect to each covered*
12 *entity, the fee under this section for any calendar*
13 *year shall be equal to an amount that bears the same*
14 *ratio to the applicable amount as—*

15 “(A) *the covered entity’s net premiums*
16 *written with respect to health insurance for any*
17 *United States health risk that are taken into ac-*
18 *count during the preceding calendar year, bears*
19 *to*

20 “(B) *the aggregate net premiums written*
21 *with respect to such health insurance of all cov-*
22 *ered entities that are taken into account during*
23 *such preceding calendar year.*

24 “(2) *AMOUNTS TAKEN INTO ACCOUNT.*—*For pur-*
25 *poses of paragraph (1), the net premiums written*

1 with respect to health insurance for any United
 2 States health risk that are taken into account during
 3 any calendar year with respect to any covered entity
 4 shall be determined in accordance with the following
 5 table:

<p>“With respect to a covered entity’s net premiums written during the calendar year that are:</p>	<p>The percentage of net premiums written that are taken into account is:</p>
Not more than \$25,000,000	0 percent
More than \$25,000,000 but not more than \$50,000,000.	50 percent
More than \$50,000,000	100 percent.

6 “(3) *SECRETARIAL DETERMINATION.*—The Sec-
 7 retary shall calculate the amount of each covered enti-
 8 ty’s fee for any calendar year under paragraph (1).
 9 In calculating such amount, the Secretary shall deter-
 10 mine such covered entity’s net premiums written with
 11 respect to any United States health risk on the basis
 12 of reports submitted by the covered entity under sub-
 13 section (g) and through the use of any other source of
 14 information available to the Secretary.”.

15 (b) *APPLICABLE AMOUNT.*—Subsection (e) of section
 16 9010 of this Act is amended to read as follows:

17 “(e) *APPLICABLE AMOUNT.*—For purposes of sub-
 18 section (b)(1), the applicable amount shall be determined
 19 in accordance with the following table:

“Calendar year	Applicable amount
2011	\$2,000,000,000

2012	\$4,000,000,000
2013	\$7,000,000,000
2014, 2015 and 2016	\$9,000,000,000
2017 and thereafter	\$10,000,000,000.”.

1 (c) *EXEMPTION FROM ANNUAL FEE ON HEALTH IN-*
2 *SURANCE FOR CERTAIN NONPROFIT ENTITIES.*—Section
3 *9010(c)(2) of this Act is amended by striking “or” at the*
4 *end of subparagraph (A), by striking the period at the end*
5 *of subparagraph (B) and inserting a comma, and by add-*
6 *ing at the end the following new subparagraphs:*

7 “(C) any entity—

8 “(i)(I) which is incorporated as, is a
9 wholly owned subsidiary of, or is a wholly
10 owned affiliate of, a nonprofit corporation
11 under a State law, or

12 “(II) which is described in section
13 501(c)(4) of the Internal Revenue Code of
14 1986 and the activities of which consist of
15 providing commercial-type insurance (with-
16 in the meaning of section 501(m) of such
17 Code),

18 “(ii) the premium rate increases of
19 which are regulated by a State authority,

20 “(iii) which, as of the date of the en-
21 actment of this section, acts as the insurer
22 of last resort in the State and is subject to
23 State guarantee issue requirements, and

1 “(iv) for which the medical loss ratio
2 (determined in a manner consistent with
3 the determination of such ratio under sec-
4 tion 2718(b)(1)(A) of the Public Health
5 Service Act) with respect to the individual
6 insurance market for such entity for the cal-
7 endar year is not less than 100 percent,

8 “(D) any entity—

9 “(i)(I) which is incorporated as a non-
10 profit corporation under a State law, or

11 “(II) which is described in section
12 501(c)(4) of the Internal Revenue Code of
13 1986 and the activities of which consist of
14 providing commercial-type insurance (with-
15 in the meaning of section 501(m) of such
16 Code), and

17 “(ii) for which the medical loss ratio
18 (as so determined)—

19 “(I) with respect to each of the in-
20 dividual, small group, and large group
21 insurance markets for such entity for
22 the calendar year is not less than 90
23 percent, and

1 “(II) with respect to all such mar-
2 kets for such entity for the calendar
3 year is not less than 92 percent, or

4 “(E) any entity—

5 “(i) which is a mutual insurance com-
6 pany,

7 “(ii) which for the period reported on
8 the 2008 Accident and Health Policy Expe-
9 rience Exhibit of the National Association
10 of Insurance Commissioners had—

11 “(I) a market share of the insured
12 population of a State of at least 40 but
13 not more than 60 percent, and

14 “(II) with respect to all markets
15 described in subparagraph (D)(ii)(I), a
16 medical loss ratio of not less than 90
17 percent, and

18 “(iii) with respect to annual payment
19 dates in calendar years after 2011, for
20 which the medical loss ratio (determined in
21 a manner consistent with the determination
22 of such ratio under section 2718(b)(1)(A) of
23 the Public Health Service Act) with respect
24 to all such markets for such entity for the
25 preceding calendar year is not less than 89

1 *percent (except that with respect to such an-*
2 *annual payment date for 2012, the calculation*
3 *under 2718(b)(1)(B)(ii) of such Act is deter-*
4 *mined by reference to the previous year, and*
5 *with respect to such annual payment date*
6 *for 2013, such calculation is determined by*
7 *reference to the average for the previous 2*
8 *years).”.*

9 *(d) CERTAIN INSURANCE EXEMPTED FROM FEE.—*
10 *Paragraph (3) of section 9010(h) of this Act is amended*
11 *to read as follows:*

12 *“(3) HEALTH INSURANCE.—The term ‘health in-*
13 *surance’ shall not include—*

14 *“(A) any insurance coverage described in*
15 *paragraph (1)(A) or (3) of section 9832(c) of the*
16 *Internal Revenue Code of 1986,*

17 *“(B) any insurance for long-term care, or*

18 *“(C) any medicare supplemental health in-*
19 *surance (as defined in section 1882(g)(1) of the*
20 *Social Security Act).”.*

21 *(e) ANTI-AVOIDANCE GUIDANCE.—Subsection (i) of*
22 *section 9010 of this Act is amended by inserting “and shall*
23 *prescribe such regulations as are necessary or appropriate*
24 *to prevent avoidance of the purposes of this section, includ-*

1 *ing inappropriate actions taken to qualify as an exempt*
2 *entity under subsection (c)(2)” after “section”.*

3 *(f) CONFORMING AMENDMENTS.—*

4 *(1) Section 9010(a)(1) of this Act is amended by*
5 *striking “2009” and inserting “2010”.*

6 *(2) Section 9010(c)(2)(B) of this Act is amended*
7 *by striking “(except” and all that follows through*
8 *“1323)”.*

9 *(3) Section 9010(c)(3) of this Act is amended by*
10 *adding at the end the following new sentence: “If any*
11 *entity described in subparagraph (C)(i)(I), (D)(i)(I),*
12 *or (E)(i) of paragraph (2) is treated as a covered en-*
13 *tity by reason of the application of the preceding sen-*
14 *tence, the net premiums written with respect to health*
15 *insurance for any United States health risk of such*
16 *entity shall not be taken into account for purposes of*
17 *this section.”.*

18 *(4) Section 9010(g)(1) of this Act is amended by*
19 *striking “and third party administration agreement*
20 *fees”.*

21 *(5) Section 9010(j) of this Act is amended—*

22 *(A) by striking “2008” and inserting*
23 *“2009”, and*

1 (B) by striking “, and any third party ad-
2 ministration agreement fees received after such
3 date”.

4 (g) *EFFECTIVE DATE.*—The amendments made by this
5 section shall take effect as if included in the enactment of
6 section 9010.

7 **SEC. 10906. MODIFICATIONS TO ADDITIONAL HOSPITAL IN-**
8 **SURANCE TAX ON HIGH-INCOME TAXPAYERS.**

9 (a) *FICA.*—Section 3101(b)(2) of the Internal Revenue
10 Code of 1986, as added by section 9015(a)(1) of this Act,
11 is amended by striking “0.5 percent” and inserting “0.9
12 percent”.

13 (b) *SECA.*—Section 1401(b)(2)(A) of the Internal
14 Revenue Code of 1986, as added by section 9015(b)(1) of
15 this Act, is amended by striking “0.5 percent” and inserting
16 “0.9 percent”.

17 (c) *EFFECTIVE DATE.*—The amendments made by this
18 section shall apply with respect to remuneration received,
19 and taxable years beginning, after December 31, 2012.

20 **SEC. 10907. EXCISE TAX ON INDOOR TANNING SERVICES IN**
21 **LIEU OF ELECTIVE COSMETIC MEDICAL PRO-**
22 **CEDURES.**

23 (a) *IN GENERAL.*—The provisions of, and amendments
24 made by, section 9017 of this Act are hereby deemed null,
25 void, and of no effect.

1 (b) *EXCISE TAX ON INDOOR TANNING SERVICES.*—
 2 *Subtitle D of the Internal Revenue Code of 1986, as amend-*
 3 *ed by this Act, is amended by adding at the end the fol-*
 4 *lowing new chapter:*

5 **“CHAPTER 49—COSMETIC SERVICES**

“Sec. 5000B. Imposition of tax on indoor tanning services.

6 **“SEC. 5000B. IMPOSITION OF TAX ON INDOOR TANNING**
 7 **SERVICES.**

8 “(a) *IN GENERAL.*—*There is hereby imposed on any*
 9 *indoor tanning service a tax equal to 10 percent of the*
 10 *amount paid for such service (determined without regard*
 11 *to this section), whether paid by insurance or otherwise.*

12 “(b) *INDOOR TANNING SERVICE.*—*For purposes of this*
 13 *section—*

14 “(1) *IN GENERAL.*—*The term ‘indoor tanning*
 15 *service’ means a service employing any electronic*
 16 *product designed to incorporate 1 or more ultraviolet*
 17 *lamps and intended for the irradiation of an indi-*
 18 *vidual by ultraviolet radiation, with wavelengths in*
 19 *air between 200 and 400 nanometers, to induce skin*
 20 *tanning.*

21 “(2) *EXCLUSION OF PHOTOTHERAPY SERV-*
 22 *ICES.*—*Such term does not include any phototherapy*
 23 *service performed by a licensed medical professional.*

24 “(c) *PAYMENT OF TAX.*—

1 “(1) *IN GENERAL.*—*The tax imposed by this sec-*
2 *tion shall be paid by the individual on whom the*
3 *service is performed.*

4 “(2) *COLLECTION.*—*Every person receiving a*
5 *payment for services on which a tax is imposed under*
6 *subsection (a) shall collect the amount of the tax from*
7 *the individual on whom the service is performed and*
8 *remit such tax quarterly to the Secretary at such time*
9 *and in such manner as provided by the Secretary.*

10 “(3) *SECONDARY LIABILITY.*—*Where any tax im-*
11 *posed by subsection (a) is not paid at the time pay-*
12 *ments for indoor tanning services are made, then to*
13 *the extent that such tax is not collected, such tax shall*
14 *be paid by the person who performs the service.”.*

15 “(c) *CLERICAL AMENDMENT.*—*The table of chapter for*
16 *subtitle D of the Internal Revenue Code of 1986, as amended*
17 *by this Act, is amended by inserting after the item relating*
18 *to chapter 48 the following new item:*

“CHAPTER 49—COSMETIC SERVICES”.

19 “(d) *EFFECTIVE DATE.*—*The amendments made by this*
20 *section shall apply to services performed on or after July*
21 *1, 2010.*

1 **SEC. 10908. EXCLUSION FOR ASSISTANCE PROVIDED TO**
2 **PARTICIPANTS IN STATE STUDENT LOAN RE-**
3 **PAYMENT PROGRAMS FOR CERTAIN HEALTH**
4 **PROFESSIONALS.**

5 (a) *IN GENERAL.*—Paragraph (4) of section 108(f) of
6 the Internal Revenue Code of 1986 is amended to read as
7 follows:

8 “(4) *PAYMENTS UNDER NATIONAL HEALTH SERV-*
9 *ICE CORPS LOAN REPAYMENT PROGRAM AND CERTAIN*
10 *STATE LOAN REPAYMENT PROGRAMS.*—*In the case of*
11 *an individual, gross income shall not include any*
12 *amount received under section 338B(g) of the Public*
13 *Health Service Act, under a State program described*
14 *in section 338I of such Act, or under any other State*
15 *loan repayment or loan forgiveness program that is*
16 *intended to provide for the increased availability of*
17 *health care services in underserved or health profes-*
18 *sional shortage areas (as determined by such State).”.*

19 (b) *EFFECTIVE DATE.*—*The amendment made by this*
20 *section shall apply to amounts received by an individual*
21 *in taxable years beginning after December 31, 2008.*

22 **SEC. 10909. EXPANSION OF ADOPTION CREDIT AND ADOP-**
23 **TION ASSISTANCE PROGRAMS.**

24 (a) *INCREASE IN DOLLAR LIMITATION.*—

25 (1) *ADOPTION CREDIT.*—

1 (A) *IN GENERAL.*—Paragraph (1) of section
2 23(b) of the Internal Revenue Code of 1986 (re-
3 lating to dollar limitation) is amended by strik-
4 ing “\$10,000” and inserting “\$13,170”.

5 (B) *CHILD WITH SPECIAL NEEDS.*—Para-
6 graph (3) of section 23(a) of such Code (relating
7 to \$10,000 credit for adoption of child with spe-
8 cial needs regardless of expenses) is amended—

9 (i) in the text by striking “\$10,000”
10 and inserting “\$13,170”, and

11 (ii) in the heading by striking
12 “\$10,000” and inserting “\$13,170”.

13 (C) *CONFORMING AMENDMENT TO INFLA-*
14 *TION ADJUSTMENT.*—Subsection (h) of section 23
15 of such Code (relating to adjustments for infla-
16 tion) is amended to read as follows:

17 “(h) *ADJUSTMENTS FOR INFLATION.*—

18 “(1) *DOLLAR LIMITATIONS.*—In the case of a
19 taxable year beginning after December 31, 2010, each
20 of the dollar amounts in subsections (a)(3) and (b)(1)
21 shall be increased by an amount equal to—

22 “(A) such dollar amount, multiplied by

23 “(B) the cost-of-living adjustment deter-
24 mined under section 1(f)(3) for the calendar year
25 in which the taxable year begins, determined by

1 *substituting ‘calendar year 2009’ for ‘calendar*
2 *year 1992’ in subparagraph (B) thereof.*

3 *If any amount as increased under the preceding sen-*
4 *tence is not a multiple of \$10, such amount shall be*
5 *rounded to the nearest multiple of \$10.*

6 “(2) *INCOME LIMITATION.*—*In the case of a tax-*
7 *able year beginning after December 31, 2002, the dol-*
8 *lar amount in subsection (b)(2)(A)(i) shall be in-*
9 *creased by an amount equal to—*

10 “(A) *such dollar amount, multiplied by*
11 “(B) *the cost-of-living adjustment deter-*
12 *mined under section 1(f)(3) for the calendar year*
13 *in which the taxable year begins, determined by*
14 *substituting ‘calendar year 2001’ for ‘calendar*
15 *year 1992’ in subparagraph (B) thereof.*

16 *If any amount as increased under the preceding sen-*
17 *tence is not a multiple of \$10, such amount shall be*
18 *rounded to the nearest multiple of \$10.”.*

19 (2) *ADOPTION ASSISTANCE PROGRAMS.*—

20 (A) *IN GENERAL.*—*Paragraph (1) of section*
21 *137(b) of the Internal Revenue Code of 1986 (re-*
22 *lating to dollar limitation) is amended by strik-*
23 *ing “\$10,000” and inserting “\$13,170”.*

24 (B) *CHILD WITH SPECIAL NEEDS.*—*Para-*
25 *graph (2) of section 137(a) of such Code (relat-*

1 ing to \$10,000 exclusion for adoption of child
2 with special needs regardless of expenses) is
3 amended—

4 (i) in the text by striking “\$10,000”
5 and inserting “\$13,170”, and

6 (ii) in the heading by striking
7 “\$10,000” and inserting “\$13,170”.

8 (C) CONFORMING AMENDMENT TO INFLA-
9 TION ADJUSTMENT.—Subsection (f) of section
10 137 of such Code (relating to adjustments for in-
11 flation) is amended to read as follows:

12 “(f) ADJUSTMENTS FOR INFLATION.—

13 “(1) DOLLAR LIMITATIONS.—In the case of a
14 taxable year beginning after December 31, 2010, each
15 of the dollar amounts in subsections (a)(2) and (b)(1)
16 shall be increased by an amount equal to—

17 “(A) such dollar amount, multiplied by

18 “(B) the cost-of-living adjustment deter-
19 mined under section 1(f)(3) for the calendar year
20 in which the taxable year begins, determined by
21 substituting ‘calendar year 2009’ for ‘calendar
22 year 1992’ in subparagraph (B) thereof.

23 If any amount as increased under the preceding sen-
24 tence is not a multiple of \$10, such amount shall be
25 rounded to the nearest multiple of \$10.

1 “(2) *INCOME LIMITATION.*—*In the case of a tax-*
2 *able year beginning after December 31, 2002, the dol-*
3 *lar amount in subsection (b)(2)(A) shall be increased*
4 *by an amount equal to—*

5 “(A) *such dollar amount, multiplied by*

6 “(B) *the cost-of-living adjustment deter-*
7 *mined under section 1(f)(3) for the calendar year*
8 *in which the taxable year begins, determined by*
9 *substituting ‘calendar year 2001’ for ‘calendar*
10 *year 1992’ in subparagraph thereof.*

11 *If any amount as increased under the preceding sen-*
12 *tence is not a multiple of \$10, such amount shall be*
13 *rounded to the nearest multiple of \$10.”.*

14 “(b) *CREDIT MADE REFUNDABLE.*—

15 “(1) *CREDIT MOVED TO SUBPART RELATING TO*
16 *REFUNDABLE CREDITS.*—*The Internal Revenue Code*
17 *of 1986 is amended—*

18 “(A) *by redesignating section 23, as amended*
19 *by subsection (a), as section 36C, and*

20 “(B) *by moving section 36C (as so redesign-*
21 *ated) from subpart A of part IV of subchapter*
22 *A of chapter 1 to the location immediately before*
23 *section 37 in subpart C of part IV of subchapter*
24 *A of chapter 1.*

25 “(2) *CONFORMING AMENDMENTS.*—

1 (A) Section 24(b)(3)(B) of such Code is
2 amended by striking “23,”.

3 (B) Section 25(e)(1)(C) of such Code is
4 amended by striking “23,” both places it ap-
5 pears.

6 (C) Section 25A(i)(5)(B) of such Code is
7 amended by striking “23, 25D,” and inserting
8 “25D”.

9 (D) Section 25B(g)(2) of such Code is
10 amended by striking “23,”.

11 (E) Section 26(a)(1) of such Code is amend-
12 ed by striking “23,”.

13 (F) Section 30(c)(2)(B)(ii) of such Code is
14 amended by striking “23, 25D,” and inserting
15 “25D”.

16 (G) Section 30B(g)(2)(B)(ii) of such Code is
17 amended by striking “23,”.

18 (H) Section 30D(c)(2)(B)(ii) of such Code
19 is amended by striking “sections 23 and” and
20 inserting “section”.

21 (I) Section 36C of such Code, as so redesign-
22 ated, is amended—

23 (i) by striking paragraph (4) of sub-
24 section (b), and

25 (ii) by striking subsection (c).

1 *(J) Section 137 of such Code is amended—*

2 *(i) by striking “section 23(d)” in sub-*
3 *section (d) and inserting “section 36C(d),”*
4 *and*

5 *(ii) by striking “section 23” in sub-*
6 *section (e) and inserting “section 36C”.*

7 *(K) Section 904(i) of such Code is amended*
8 *by striking “23,”.*

9 *(L) Section 1016(a)(26) is amended by*
10 *striking “23(g)” and inserting “36C(g)”.*

11 *(M) Section 1400C(d) of such Code is*
12 *amended by striking “23,”.*

13 *(N) Section 6211(b)(4)(A) of such Code is*
14 *amended by inserting “36C,” before “53(e)”.*

15 *(O) The table of sections for subpart A of*
16 *part IV of subchapter A of chapter 1 of such*
17 *Code of 1986 is amended by striking the item re-*
18 *lating to section 23.*

19 *(P) Paragraph (2) of section 1324(b) of title*
20 *31, United States Code, as amended by this Act,*
21 *is amended by inserting “36C,” after “36B,”.*

22 *(Q) The table of sections for subpart C of*
23 *part IV of subchapter A of chapter 1 of the Inter-*
24 *nal Revenue Code of 1986, as amended by this*

1 *Act, is amended by inserting after the item relat-*
2 *ing to section 36B the following new item:*

“Sec. 36C. Adoption expenses.”.

3 *(c) APPLICATION AND EXTENSION OF EGTRRA SUN-*
4 *SET.—Notwithstanding section 901 of the Economic Growth*
5 *and Tax Relief Reconciliation Act of 2001, such section*
6 *shall apply to the amendments made by this section and*
7 *the amendments made by section 202 of such Act by sub-*
8 *stituting “December 31, 2011” for “December 31, 2010” in*
9 *subsection (a)(1) thereof.*

10 *(d) EFFECTIVE DATE.—The amendments made by this*
11 *section shall apply to taxable years beginning after Decem-*
12 *ber 31, 2009.*

Amend the title so as to read: “An Act entitled The Patient Protection and Affordable Care Act.”.

Attest:

Secretary.

11TH CONGRESS
1ST SESSION

H. R. 3590

AMENDMENTS