1 "(ii) termination or nonrenewal of the
2 contract may result in termination of the
3 enrollments of individuals enrolled with the
4 plan under this section.
5 "(B) PLACEMENT OF NOTICE.—The notice
6 required by subparagraph (A) shall be included
7 in—
8 "(i) any marketing materials de-
9 scribed in subsection (a)(2)(C) that are
10 distributed by a plan to individuals eligible
11 to enroll under this section with the plan,
12 and
13 "(ii) any explanation provided to en-
14 rollees by the plan pursuant to paragraph
15 (6).
16 "(f) MEMBERSHIP ENROLLMENT REQUIREMENTS.—
17 "(1) IN GENERAL.—Each certified standard
18 health plan with a contract under this section shall
19 have, for the duration of such contract, an enrolled
20 membership at least one-half of which consists of in-
21 dividuals who are not entitled to benefits under this
22 title or under a State plan approved under title XIX.
23 "(2) WAIVER.—
24 "(A) IN GENERAL.—The Secretary may
25 modify or waive the requirement imposed by

1 paragraph (1) if the plan demonstrates that it
2 provides for an adequate quality of care for
3 beneficiaries by—
4 "(i) meeting the quality standards for
5 plans with contracts under this section;
6 "(ii) meeting the fiscal soundness re-
7 quirements under title XIII of the Public
8 Health Service Act and any such require-
9 ments necessary to remain a certified
10 standard health plan for at least the 3
11 years immediately preceding an application
12 for a waiver under this paragraph;
13 "(iii) demonstrating successful oper-
14 ational experience as a certified standard
15 health plan with a contract under this sec-
16 tion for at least the 3 years immediately
17 preceding an application for a waiver
18 under this paragraph; and
19 "(iv) demonstrating that the number
20 of individuals enrolled in the plan or its
21 parent organization is at least 50,000 at
22 the time of application for a waiver under
23 this paragraph.
24 "(B) STANDARDS.—In reviewing a plan's
25 quality performance, the Secretary may accept

1 quality performance standards as measured by
2 private organizations acceptable to the Sec-
3 retary or organizations designated by the Sec-
4 retary, including peer review organizations.
5 "(3) SUSPENSION OF ENROLLMENT.—If the
6 Secretary determines that a certified standard health
7 plan with a contract under this section has failed to
8 comply with the requirements of this subsection, the
9 Secretary may provide for the suspension of enroll-
10 ment of individuals under this section or of payment
11 to the plan under this section for individuals newly
12 enrolled with the plan, after the date the Secretary
13 notifies the plan of such noncompliance.
14 "(4) TERMINATION OF REQUIREMENT.—The
15 Secretary may terminate the requirement under
16 paragraph (1) when the Secretary determines that
17 health plans have established alternative quality as-
18 surance mechanisms that effectively provide suffi-
19 cient quality safeguards.
20 "(g) PAYMENT RULES FOR PLANS.—
21 "(1) SUBROGATION RIGHTS.—Notwithstanding
22 any other provision of law, each certified standard
23 health plan with a contract under this section may
24 (in the case of the provision of services to an individ-
25 ual enrolled under this section by a primary plan

1 under section 1862(b)(2)) charge or authorize the
2 provider of such services to charge, in accordance
3 with the charges allowed under such law or policy—
4 "(A) the insurance carrier, employer, or
5 other entity which under such law, plan, or pol-
6 icy is to pay for the provision of such services,
7 or
8 "(B) such individual to the extent that the
9 individual has been paid under such law, plan,
10 or policy for such services.
11 "(2) PROMPT PAYMENT REQUIREMENT.—
12 "(A) IN GENERAL.—A risk contract under
13 this section shall require the certified standard
14 health plan to provide prompt payment (consist-
15 ent with the provisions of sections 1816(c)(2)
16 and 1842(c)(2)) of claims submitted for serv-
17 ices and supplies furnished to individuals pursu-
18 ant to such contract, if the services or supplies
19 are not furnished under a contract between the
20 plan and the provider or supplier.
21 "(B) FAILURE.—In the case of a plan
22 which the Secretary determines, after notice
23 and opportunity for a hearing, has failed to
24 make payments of amounts in compliance with
25 subparagraph (A), the Secretary may provide

1 for direct payment of the amounts owed to pro-
2 viders and suppliers for such covered services
3 furnished to individuals enrolled under this sec-
4 tion under the contract. If the Secretary pro-
5 vides for such direct payments, the Secretary
6 shall provide for an appropriate reduction in
7 the amount of payments otherwise made to the
8 plan under this section to reflect the amount of
9 the Secretary's payments (and costs incurred by
10 the Secretary in making such payments).
11 "(h) DURATION, TERMINATION, EFFECTIVE DATE,
12 AND TERMS OF CONTRACT; POWERS AND DUTIES OF
13 SECRETARY.—
14 "(1) DURATION AND TERMINATION.—
15 "(A) IN GENERAL.—Except as provided in
16 subparagraph (B), each contract under this sec-
17 tion shall be for a term of at least one year, as
18 determined by the Secretary, and may be made
19 automatically renewable from term to term in
20 the absence of notice by either party of inten-
21 tion to terminate at the end of the current
22 term.
23 "(B) EXCEPTION.—The Secretary may
24 terminate a contract at any time (after such
25 reasonable notice and opportunity for hearing

1 to the certified standard health plan involved as
2 the Secretary may provide in regulations), if the
3 Secretary finds that the plan—
4 "(i) has failed substantially to carry
5 out the contract,
6 "(ii) is carrying out the contract in a
7 manner inconsistent with the efficient and
8 effective administration of this section, or
9 "(iii) no longer substantially complies
10 with the requirements of this section.
11 "(2) EFFECTIVE DATE.—The effective date of
12 any contract executed pursuant to this section shall
13 be specified in the contract.
14 "(3) TERMS.—Each contract under this
15 section—
16 "(A) shall provide that the Secretary, or
17 any person or organization designated by the
18 Secretary—
19 "(i) shall have the right to inspect or
20 otherwise evaluate—
21 "(I) the quality, appropriateness,
22 and timeliness of services performed
23 under the contract, and
24 "(II) the facilities of the organi-
25 zation when there is reasonable evi-

1 dence of some need for such inspec-
2 tion, and
3 "(ii) shall have the right to audit and
4 inspect any books and records of the cer-
5 tified standard health plan that pertain—
6 "(I) to the ability of the plan to
7 bear the risk of potential financial
8 losses, or
9 "(II) to services performed or de-
10 terminations of amounts payable
11 under the contract;
12 "(B) shall require the plan with a contract
13 to provide (and pay for) written notice in ad-
14 vance of the contract's termination, as well as
15 a description of alternatives for obtaining bene-
16 fits under this title, to each individual enrolled
17 under this section with the plan;
18 "(C)(i) shall require the plan to comply
19 with subsections (a) and (c) of section 1318 of
20 the Public Health Service Act (relating to dis-
21 closure of certain financial information) and
22 with the requirement of section 1301(c)(8) of
23 such Act (relating to liability arrangements to
24 protect members);

1 "(ii) shall require the plan to provide and
2 supply information determined appropriate by
3 the Secretary in the manner determined appro-
4 priate by the Secretary;
5 "(iii) shall require the plan to notify the
6 Secretary of loans and other special financial
7 arrangements which are made between the plan
8 and subcontractors, affiliates, and related par-
9 ties; and
10 "(D) shall contain such other terms and
11 conditions not inconsistent with this section (in-
12 cluding requiring the organization to provide
13 the Secretary with such information) as the
14 Secretary may find necessary and appropriate.
15 "(4) PERIOD OF DISQUALIFICATION.—The Sec-
16 retary may not enter into a risk contract with a cer-
17 tified standard health plan if a previous risk con-
18 tract with that plan under this section was termi-
19 nated at the request of the plan within the preceding
20 five-year period, except in circumstances which war-
21 rant special consideration, as determined by the Sec-
22 retary.
23 "(5) DISREGARD OF CERTAIN INCONSISTENT
24 LAWS, ETC.—The authority vested in the Secretary
25 by this section may be performed without regard to

1 such provisions of law or regulations relating to the
2 making, performance, amendment, or modification of
3 contracts of the United States as the Secretary may
4 determine to be inconsistent with the furtherance of
5 the purpose of this title.

6 "(6) FINDINGS OF FAILURE.—

7 "(A) IN GENERAL.—If the Secretary deter-
8 mines that a certified standard health plan with
9 a contract under this section—

10 "(i) fails substantially to provide
11 medically necessary items and services that
12 are required (under law or under the con-
13 tract) to be provided to an individual cov-
14 ered under the contract, if the failure has
15 adversely affected (or has substantial like-
16 lihood of adversely affecting) the individ-
17 ual;

18 "(ii) imposes premiums on individuals
19 enrolled under this section in excess of the
20 premiums permitted;

21 "(iii) acts to expel or to refuse to re-
22 enroll an individual in violation of the pro-
23 visions of this section;

24 "(iv) engages in any practice that
25 would reasonably be expected to have the

1 effect of denying or discouraging enroll-
2 ment (except as permitted by this section)
3 by eligible individuals with the plan whose
4 medical condition or history indicates a
5 need for substantial future medical serv-
6 ices;
7 "(v) misrepresents or falsifies infor-
8 mation that is furnished—
9 "(I) to the Secretary under this
10 section, or
11 "(II) to an individual or to any
12 other entity under this section;
13 "(vi) fails to comply with the require-
14 ments of subsection (g)(2)(A) or para-
15 graph (8);
16 "(vii) employs or contracts with any
17 individual or entity that is excluded from
18 participation under this title under section
19 1128 or 1128A for the provision of health
20 care, utilization review, medical social
21 work, or administrative services or employs
22 or contracts with any entity for the provi-
23 sion (directly or indirectly) through such
24 an excluded individual or entity of such
25 services; or

1 "(viii) substantially fails to cooperate
2 with the utilization and quality control
3 peer review organization;
4 the Secretary may provide, in addition to any
5 other remedies authorized by law, for any of the
6 remedies described in subparagraph (B).
7 "(B) REMEDIES.—The remedies described
8 in this subparagraph are—
9 "(i) civil money penalties of not more
10 than $25,000 for each determination under
11 subparagraph (A) or, with respect to a de-
12 termination under clause (iv) or (v)(I) of
13 such subparagraph, of not more than $
14 100,000 for each such determination, plus,
15 with respect to a determination under sub-
16 paragraph (A)(ii), double the excess
17 amount charged in violation of such sub-
18 paragraph (and the excess amount charged
19 shall be deducted from the penalty and re-
20 turned to the individual concerned), and
21 plus, with respect to a determination under
22 subparagraph (A)(iv), $15,000 for each in-
23 dividual not enrolled as a result of the
24 practice involved,

1 "(ii) suspension of enrollment of indi-
2 viduals under this section after the date
3 the Secretary notifies the plan of a deter-
4 mination under subparagraph (A) and
5 until the Secretary is satisfied that the
6 basis for such determination has been cor-
7 rected and is not likely to recur, or
8 "(iii) suspension of payment to the
9 plan under this section for individuals en-
10 rolled after the date the Secretary notifies
11 the plan of a determination under subpara-
12 graph (A) and until the Secretary is satis-
13 fied that the basis for such determination
14 has been corrected and is not likely to
15 recur.
16 The provisions of section 1128A (other than
17 subsections (a) and (b)) shall apply to a civil
18 money penalty under clause (i) in the same
19 manner as they apply to a civil money penalty
20 or proceeding under section 1128A(a).
21 "(7) AGREEMENT WITH UTILIZATION AND
22 QUALITY CONTROL PEER REVIEW ORGANIZATION.—
23 "(A) IN GENERAL.—Each risk contract
24 with a certified standard health plan under this
25 section shall provide that the plan will maintain

1 an agreement with a utilization and quality con-
2 trol peer review organization (which has a con-
3 tract with the Secretary under part B of title
4 XI for the area in which the eligible organiza-
5 tion is located) or with an entity selected by the
6 Secretary under section 1154(a)(4)(C) under
7 which the review organization will perform
8 functions under section 1154(a)(4)(B) and sec-
9 tion 1154(a)(14) (other than those performed
10 under contracts described in section
11 1866(a)(1)(F)) with respect to services, fur-
12 nished by the plan, for which payment may be
13 made under this title.

14 "(B) COST OF SERVICES.—For purposes of
15 payment under this title, the cost of such agree-
16 ment to the plan shall be considered a cost in-
17 curred by a provider of services in providing
18 covered services under this title and shall be
19 paid directly by the Secretary to the review or-
20 ganization on behalf of such plan in accordance
21 with a schedule established by the Secretary.

22 "(C) SOURCE OF PAYMENTS.—Such
23 payments—

24 "(i) shall be transferred in appro-
25 priate proportions from the Federal Hos-

1 pital Insurance Trust Fund and from the
2 Supplementary Medical Insurance Trust
3 Fund, without regard to amounts appro-
4 priated in advance in appropriation Acts,
5 in the same manner as transfers are made
6 for payment for services provided directly
7 to beneficiaries, and
8 "(ii) shall not be less in the aggregate
9 for such plans for a fiscal year than the
10 amounts the Secretary determines to be
11 sufficient to cover the costs of such plans'
12 conducting activities described in subpara-
13 graph (A) with respect to such plans under
14 part B of title XI.
15 "(i) OTHER GENERAL REQUIREMENTS ON PLANS.—
16 "(1) GRIEVANCE PROCEDURES.—Each certified
17 standard health plan with a contract under this sec-
18 tion must provide meaningful procedures for hearing
19 and resolving grievances between the plan (including
20 any entity or individual through which the plan pro-
21 vides health care services) and individuals enrolled
22 with the plan under this section.
23 "(2) APPEALS.—An individual enrolled with a
24 certified standard health plan under this section who
25 is dissatisfied by reason of the individual's failure to

1 receive any health service to which the individual be-
2 lieves the individual is entitled and at no greater
3 charge than the individual believes the individual is
4 required to pay is entitled, if the amount in con-
5 troversy is $100 or more, to a hearing before the
6 Secretary to the same extent as is provided in sec-
7 tion 205(b), and in any such hearing the Secretary
8 shall make the plan a party. If the amount in con-
9 troversy is $1,000 or more, the individual or plan
10 shall, upon notifying the other party, be entitled to
11 judicial review of the Secretary's final decision as
12 provided in section 205(g), and both the individual
13 and the plan shall be entitled to be parties to that
14 judicial review.
15 "(3) ADVANCE DIRECTIVES.—A contract under
16 this section shall provide that the certified standard
17 health plan shall meet the requirement of section
18 1866(f) (relating to maintaining written policies and
19 procedures respecting advance directives).
20 "(4) SPECIAL REQUIREMENT RELATING TO
21 SUBSECTION (d) HOSPITALS.—A risk contract under
22 this section shall provide that in the case of an indi-
23 vidual who is receiving inpatient hospital services
24 from a subsection (d) hospital (as defined in section

1 1886(d)(1)(B)) as of the effective date of the
2 individual's—
3 "(A) enrollment with such plan under this
4 section—
5 "(i) payment for such services until
6 the date of the individual's discharge shall
7 be made under this title as if the individual
8 were not enrolled with the plan,
9 "(ii) the plan shall not be financially
10 responsible for payment for such services
11 until the date after the date of the individ-
12 ual's discharge, and
13 "(iii) the plan shall nonetheless be
14 paid the full amount otherwise payable to
15 the plan under this section; or
16 "(B) termination of enrollment with a plan
17 under this section—
18 "(i) the plan shall be financially re-
19 sponsible for payment for such services
20 after such date and until the date of the
21 individual's discharge,
22 "(ii) payment for such services during
23 the stay shall not be made under section
24 1886(d), and

1 "(iii) the plan shall not receive any
2 payment with respect to the individual
3 under this section during the period the in-
4 dividual is not enrolled.
5 "(j) LIMIT ON CHARGES FOR CERTAIN SERVICES.—
6 "(1) IN GENERAL.—(A) In the case of physi-
7 cians' services or renal dialysis services described in
8 paragraph (2) which are furnished by a participating
9 physician to an individual enrolled with a certified
10 standard health plan under this section and enrolled
11 under part B, the applicable participation agreement
12 is deemed to provide that the physician or provider
13 of services or renal dialysis facility will accept as
14 payment in full from the eligible plan the amount
15 that would be payable to the physician or provider
16 of services or renal dialysis facility under part B and
17 from the individual under such part, if the individual
18 were not enrolled with a plan under this section.
19 "(B) In the case of physicians' services de-
20 scribed in paragraph (2) which are furnished by a
21 nonparticipating physician, the limitations on actual
22 charges for such services otherwise applicable under
23 part B (to services furnished by individuals not en-
24 rolled with an eligible organization under this sec-
25 tion) shall apply in the same manner as such limita-

1 tions apply to services furnished to individuals not
2 enrolled with such an organization.
3 "(2) SERVICES DESCRIBED.—The 'physicians'
4 services described in this paragraph are physicians'
5 services which are furnished to an enrollee of a cer-
6 tified standard health plan under this section by a
7 physician, provider of services, or renal dialysis facil-
8 ity who is not under a contract with the plan.
9 "(k) STUDY ON CERTIFIED STANDARD HEALTH
10 PLANS.—
11 "(1) IN GENERAL.—The Prospective Payment
12 Assessment Commission (established under section
13 1886(e)(2)) and the Physician Payment Review
14 Commission (established under section 1845) shall
15 study and make annual recommendations to Con-
16 gress on the matters described in paragraph (2).
17 "(2) MATTERS DESCRIBED.—The matters de-
18 scribed in this paragraph include—
19 "(A) ways in which enrollment in certified
20 standard health plans with risk contracts under
21 this section could be increased;
22 "(B) alternatives to the current payment
23 methodology that might encourage more health
24 plans to enter into certified standard health
25 plans with risk contracts under this section and

1 encourage more individuals to enroll in such
2 plans;
3 "(C) whether the demographic characteris-
4 tics and health status of beneficiaries enrolled
5 in certified standard health plans with risk con-
6 tracts under this section differs from other indi-
7 viduals entitled to benefits under part A and
8 enrolled under part B; and
9 "(D) whether the volume and quality of
10 care rendered to individuals enrolled in certified
11 standard health plans with risk contracts under
12 this section differs from that rendered to other
13 individuals entitled to benefits under part A
14 and enrolled under part B.".
15 (b) TECHNICAL AND CONFORMING AMENDMENTS.—
16 The Secretary shall, within 90 days of the date of the en-
17 actment of this section, submit to the appropriate commit-
18 tees of Congress, a legislative proposal providing for such
19 technical and conforming amendments in the law as are
20 required by the provisions of this section.
21 (c) EFFECTIVE DATE.—The amendments made by
22 this section shall be effective with respect to contracts in
23 effect on or after January 1, 1997.

1 **SEC. 3203. ENROLLMENT OF MEDICARE BENEFICIARIES IN**
2 **CERTIFIED STANDARD HEALTH PLANS.**
3 (a) ENROLLMENT OF MEDICARE BENEFICIARIES IN
4 CERTIFIED STANDARD HEALTH PLANS.—
5 (1) IN GENERAL.—Notwithstanding title XVIII
6 of the Social Security Act, the Secretary shall pro-
7 vide for a monthly payment as provided under sub-
8 section (b)(1) to a certified standard health plan on
9 behalf of an enrolled medicare beneficiary.
10 (2) ENROLLMENT AND TERMINATION.—A medi-
11 care beneficiary may enroll in a certified standard
12 health plan that receives payment under this section
13 in accordance with the enrollment provisions de-
14 scribed under section 1012, notwithstanding the pro-
15 visions of subsections (a)(2)(B) and subsection
16 (e)(3) of section 1876 of the Social Security Act (42
17 U.S.C. 1395ww).
18 (3) MEDICARE BENEFICIARY.—For purposes of
19 this section, the term "medicare beneficiary" means
20 an individual who is eligible for benefits under part
21 A of title XVIII of the Social Security Act and is en-
22 rolled under part B of such title.
23 (b) PAYMENT SPECIFIED.—
24 (1) FEDERAL PAYMENT.—
25 (A) IN GENERAL.—The amount of pay-
26 ment specified in this paragraph for an individ-

1 ual who is enrolled in a certified standard
2 health plan is the lesser of—
3 (i) the applicable rate specified in sec-
4 tion 1876(b)(1)(A) of the Social Security
5 Act (42 U.S.C. 1395mm(b)(1)(A)) for a
6 certified standard health plan with a con-
7 tract under section 1876; or
8 (ii) the monthly premium charged the
9 individual for coverage under the certified
10 standard health plan.
11 (B) SOURCE OF PAYMENT.—The payment
12 to a certified standard health plan under this
13 paragraph for individuals entitled to benefits
14 under part A and enrolled under part B of title
15 XVIII of the Social Security Act shall be made
16 from the Federal Hospital Insurance Trust
17 Fund and the Federal Supplementary Medical
18 Insurance Trust Fund, with the allocation to be
19 determined by the Secretary.
20 (2) INDIVIDUAL'S SHARE.—
21 (A) IN GENERAL.—If the monthly pre-
22 mium for the certified standard health plan in
23 which the individual is enrolled is greater than
24 the amount specified under paragraph (1)(A)(i),
25 the individual shall be responsible for paying to

1 the certified standard health plan the difference
2 between the monthly premium charged the indi-
3 vidual for coverage under the certified standard
4 health plan and the amount specified in para-
5 graph (1)(A)(i).
6 (B) MAXIMUM PREMIUM.—The premium
7 imposed with respect to such an individual by
8 the certified standard health plan shall be in an
9 amount (determined in accordance with rules of
10 the Secretary and notwithstanding other provi-
11 sions of such Act) which reflects the difference
12 between the premium otherwise established (ad-
13 justed by a factor to reflect the actuarial dif-
14 ference between medicare beneficiaries and
15 other plan enrollees) and the amount payable
16 under paragraph (1)(A)(i).
17 (c) PAYMENTS UNDER THIS SECTION AS SOLE MED-
18 ICARE BENEFITS.—Payments made under this section
19 shall be instead of the amounts that would otherwise be
20 payable, pursuant to sections 1814(b) and 1833(a) of the
21 Social Security Act, for services furnished to medicare
22 beneficiaries.
23 (d) CERTIFIED STANDARD HEALTH PLAN.—For
24 purposes of this section, the term "certified standard

1 health plan" shall have the meaning given to such term
2 in section 3(a)(2)(A).
3 (e) EFFECTIVE DATE.—This section shall apply on
4 and after January 1, 1997.

5 **PART 2—FINANCING PROVISIONS**

6 **Subpart A—Provisions Relating to Part A**

7 **SEC. 3211. INPATIENT HOSPITAL SERVICES UPDATE FOR**
8 **PPS HOSPITALS.**

9 Section 1886(b)(3)(B)(i) (42 U.S.C.
10 1395ww(b)(3)(B)(i)) is amended—
11 (1) by amending subclause (XII) to read as fol-
12 lows:
13 "(XII) for fiscal years 1997 through 2000, the
14 market basket percentage minus 2.0 percentage
15 points for hospitals in all areas, and"; and
16 (2) in subclause (XIII), by striking "1998" and
17 inserting "2001".

18 **SEC. 3212. REDUCTION IN PAYMENTS FOR CAPITAL-RELAT-**
19 **ED COSTS FOR INPATIENT HOSPITAL SERV-**
20 **ICES.**

21 (a) REDUCTION IN BASE PAYMENT RATES FOR PPS
22 HOSPITALS.—Section 1886(g)(1)(A) (42 U.S.C.
23 1395ww(g)(1)(A)) is amended by adding at the end the
24 following new sentence: "In addition to the reduction de-
25 scribed in the preceding sentence, for discharges occurring

1 after September 30, 1995, the Secretary shall reduce by
2 7.31 percent the unadjusted standard Federal capital pay-
3 ment rate (as described in 42 CFR 412.308(c), as in effect
4 on the date of the enactment of the Health Reform Act)
5 and shall reduce by 10.41 percent the unadjusted hospital-
6 specific rate (as described in 42 CFR 412.328(e)(1), as
7 in effect on the date of the enactment of the Health Re-
8 form Act).".

9 (b) REDUCTION IN PAYMENTS FOR PPS-EXEMPT
10 HOSPITALS.—Section 1861(v)(1) (42 U.S.C. 1395x(v)(1))
11 is amended by adding at the end the following new sub-
12 paragraph:

13 "(T) Such regulations shall provide that, in determin-
14 ing the amount of the payments that may be made under
15 this title with respect to the capital-related costs of inpa-
16 tient hospital services furnished by a hospital that is not
17 a subsection (d) hospital (as defined in section
18 1886(d)(1)(B)) or a subsection (d) Puerto Rico hospital
19 (as defined in section 1886(d)(9)(A)), the Secretary shall
20 reduce the amounts of such payments otherwise estab-
21 lished under this title by 15 percent for payments attrib-
22 utable to portions of cost reporting periods occurring dur-
23 ing each of the fiscal years 1996 through 2003.".

1 **SEC. 3213. REDUCTIONS IN DISPROPORTIONATE SHARE**
2 **PAYMENTS.**

3 Section 1886(d)(5)(F) (42 U.S.C. 1395ww(d)(5)(F))
4 is amended—
5 (1) in clause (ii), by striking "The amount"
6 and inserting "Subject to clause (ix), the amount";
7 (2) by adding at the end the following new
8 clause:
9 "(ix) Notwithstanding any other provision of this
10 subparagraph, the Secretary shall reduce the amount of
11 any additional payment made under this subparagraph to
12 a hospital located in a participating State by 33 percent
13 of such additional payment with respect to discharges oc-
14 curring on or after the date on which the State in which
15 a hospital is located becomes a participating State (as
16 such term is defined in the Health Reform Act).".

17 **SEC. 3214. PROSPECTIVE PAYMENT METHODOLOGY AND**
18 **REDUCTIONS IN INFLATION UPDATES FOR**
19 **SKILLED NURSING FACILITIES.**

20 Section 1888 (42 U.S.C. 1395yy) is amended—
21 (1) in subsection (a), in the matter preceding
22 paragraph (1), by striking "The Secretary" and in-
23 serting "Except as provided in subsection (e), the
24 Secretary"; and
25 (2) by adding at the end the following new sub-
26 section:

1 "(e)(1) Not later than October 1, 1995, and notwith-
2 standing any other provision of this title, the Secretary
3 shall develop and implement a prospective payment system
4 to provide payment to skilled nursing facilities for ex-
5 tended care services. Such prospective payment system
6 shall establish rates that—
7 "(A) are facility-specific, cost-based, and
8 recalculated annually;
9 "(B) take into account and adjust for cost vari-
10 ations, including resident acuity and severity and ge-
11 ographic markets;
12 "(C) eliminate any payment differential for
13 services provided in freestanding and hospital-based
14 skilled nursing facilities;
15 "(D) encourage treatment of residents in heavy
16 care categories and furnish incentives for efficiency
17 and economy; and
18 "(E) take into account the cost of capital in-
19 curred by skilled nursing facilities through the use
20 of a fair asset value approach.
21 Under this system and subject to paragraph (2), per diem
22 limits on routine service costs shall be established annually
23 at 112 percent of the mean projected per diem routine
24 service costs for freestanding and hospital-based skilled

1 nursing facilities located within relevant geographic
2 groupings.
3 "(2) In setting the prospective payment rates for all
4 skilled nursing facilities for extended care services fur-
5 nished for the first cost reporting periods of such facilities
6 beginning on and after October 1, 1995, and for the 10-
7 year period thereafter, the Secretary shall adjust the rel-
8 evant market basket for skilled nursing facilities and other
9 inflation factors used to establish the routine service cost
10 component of the prospective payment rates determined
11 for such facilities. The adjustments required by this para-
12 graph shall be designed to provide payments under this
13 section that are—
14 "(A) in fiscal year 1996, $100,000,000 less
15 than the amounts that would have been paid in such
16 fiscal year under this section as in effect on the day
17 before the date of the enactment of the Health Re-
18 form Act; and
19 "(B) in fiscal years 1997 through 2004, an ag-
20 gregate amount of $1,750,000,000 less than the
21 amount that would have been paid in such fiscal
22 years under this section as in effect on the day be-
23 fore the date of the enactment of the Health Reform
24 Act.".

1 **SEC. 3215. REVISED PAYMENT METHODOLOGY FOR REHA-**
2 **BILITATION AND LONG-TERM CARE HOS-**
3 **PITALS.**
4 (a) REHABILITATION HOSPITALS AND DISTINCT
5 PART UNITS.—
6 (1) DEFINITION.—Section 1886(d)(1)(B) (42
7 U.S.C. 1395ww(d)(1)(B)) is amended by adding at
8 the end the following new sentence: "In defining a
9 rehabilitation hospital and a rehabilitation unit of a
10 hospital which is a distinct part of a hospital, the
11 Secretary shall take into account the impact of new
12 technologies, survival rates, and changes in the prac-
13 tice of rehabilitation medicine.".
14 (2) TARGET AMOUNT CALCULATION FOR REHA-
15 BILITATION HOSPITALS AND DISTINCT PART
16 UNITS.—
17 (A) IN GENERAL.—Section 1886(b)(3) (42
18 U.S.C. 1395ww(b)(3)) is amended—
19 (i) in subparagraph (A), by striking
20 "(D), and (E)" and inserting "(D), (E),
21 and (F)";
22 (ii) in subparagraph (B)(ii), by strik-
23 ing "and (E)" and inserting "(E), and
24 (F)"; and
25 (iii) by adding at the end the follow-
26 ing new subparagraph:

1 "(F)(i) Subject to clause (ii), for cost re-
2 porting periods beginning on or after October 1,
3 1994, in the case of a hospital described in sub-
4 section (d)(1)(B)(ii) or a rehabilitation unit de-
5 scribed in such subparagraph, the term 'target
6 amount' means—
7 "(I) with respect to the first 12-
8 month cost reporting period in which this
9 subparagraph is applied to the hospital or
10 unit—
11 "(aa) the allowable operating
12 costs of inpatient hospital services (as
13 defined in subsection (a)(4)) recog-
14 nized under this title for the hospital
15 or unit for the 12-month cost report-
16 ing period (in this subparagraph re-
17 ferred to as the 'base cost reporting
18 period') preceding the first cost re-
19 porting period for which this subpara-
20 graph was in effect with respect to
21 such hospital, increased (in a
22 compounded manner), by
23 "(bb) the applicable percentage
24 increases applied to such hospital or
25 unit under this paragraph for cost re-

1 porting periods after the base cost re-
2 porting period and up to and includ-
3 ing such first 12-month cost reporting
4 period, or
5 "(II) with respect to a later cost re-
6 porting period, the target amount for the
7 preceding 12-month cost reporting period,
8 increased by the applicable percentage in-
9 crease under subparagraph (B).
10 There shall be substituted for the allowable av-
11 erage costs of inpatient hospital services deter-
12 mined under subclause (I)(aa), the average of
13 the allowable average costs of inpatient hospital
14 services (as so defined) recognized under this
15 title for the hospital or unit for cost reporting
16 periods beginning during fiscal years 1990 and
17 1991 (if any).
18 "(ii)(I) Notwithstanding the provisions of
19 clause (i), in the case of a hospital or unit to
20 which the last sentence of clause (i) applies, the
21 hospital or unit's target amount under such
22 clause for a cost reporting period shall be—
23 "(aa) not less than 70 percent of the
24 national weighted average of all target
25 amounts calculated under such clause for

1 all hospitals and units described in such
2 clause (as determined by the Secretary),
3 and
4 "(bb) not less than the allowable oper-
5 ating costs of inpatient hospital services
6 (as defined in subsection (a)(4) for such
7 hospital or unit in the base cost reporting
8 period (including any payments made to
9 such hospital or unit pursuant to para-
10 graph (1)(A)), multiplied by the applicable
11 percentage increase for such cost reporting
12 period under subparagraph (B).
13 "(II) Notwithstanding the provisions of
14 clause (i), in the case of a hospital or unit that
15 is not described in subclause (I), the hospital or
16 unit's target amount under such clause for a
17 cost reporting period shall be—
18 "(aa) not less than the amount de-
19 scribed in subclause (I)(aa), and
20 "(bb) not greater than 110 percent of
21 the national weighted average of all target
22 amounts calculated under clause (i) for all
23 hospitals and units described in such
24 clause (as determined by the Secretary).".

1 (B) EFFECTIVE DATE.—The amendments
2 made by subparagraph (A) shall apply with re-
3 spect to cost reporting periods beginning on or
4 after October 1, 1994.
5 (3) DEVELOPMENT OF NATIONAL PROSPECTIVE
6 RATES FOR REHABILITATION HOSPITALS AND DIS-
7 TINCT PART UNITS.—
8 (A) DEVELOPMENT OF PROPOSAL.—The
9 Secretary shall develop a proposal to replace the
10 current system under which rehabilitation hos-
11 pitals and rehabilitation units of a hospital
12 which are a distinct part of a hospital (as de-
13 scribed in section 1886(d)(1)(B) of the Social
14 Security Act (42 U.S.C. 1395ww(d)(1)(B))) re-
15 ceive payment for the operating and capital-re-
16 lated costs of inpatient hospital services under
17 part A of title XVIII of such Act with a pro-
18 spective payment system. In developing any
19 proposal under this paragraph to replace the
20 current system with a prospective payment sys-
21 tem, the Secretary shall develop a system that
22 provides for—
23 (i) a payment on a per-discharge
24 basis, and

1 (ii) an appropriate weighting of such
2 payment amount as it relates to the classi-
3 fication of the discharge.
4 (B) REPORTS.—Not later than October 1,
5 1996, the Secretary shall submit the proposal
6 developed under subparagraph (A) to the Con-
7 gress.
8 (b) ASSIGNMENT OF NEW BASE YEAR FOR CER-
9 TIFIED LONG-STAY HOSPITALS THAT ALSO SERVE A SIG-
10 NIFICANT PROPORTION OF LOW-INCOME PATIENTS.—
11 (1) REBASING FOR LONG-TERM HOSPITALS.—
12 (A) IN GENERAL.—Section 1886(b)(3) (42
13 U.S.C. 1395ww(b)(3)), as amended by sub-
14 section (a), is further amended—
15 (i) in subparagraph (A), by striking
16 "(E), and (F)" and inserting "(E), (F),
17 and (G)";
18 (ii) in subparagraph (B)(ii), by strik-
19 ing "(E), and (F)" and inserting "(E),
20 (F), and (G)"; and
21 (iii) by inserting after subparagraph
22 (F) the following new subparagraph:
23 "(G)(i) For cost reporting periods begin-
24 ning on or after October 1, 1994, in the case

1 of a hospital described in subsection
2 (d)(1)(B)(iv) that—
3 "(I) has not received the additional
4 payment amount described in paragraph
5 (1)(A) for at least the preceding 2 consecu-
6 tive 12-month cost reporting periods; and
7 "(II) for which the sum of the
8 amounts described in subclauses (I) and
9 (II) of subsection (d)(5)(F)(vi) during the
10 period described in clause (I) exceeds 25
11 percent,
12 the term 'target amount' has the meaning given
13 such term by clause (ii).
14 "(ii) In the case of a hospital described in
15 clause (i), the term 'target amount' means—
16 "(I) with respect to the first 12-
17 month cost reporting period in which this
18 subparagraph is applied to the hospital—
19 "(aa) the average allowable oper-
20 ating costs of inpatient hospital serv-
21 ices (as defined in subsection (a)(4))
22 recognized under this title for the hos-
23 pital during cost reporting periods of
24 the hospital beginning during fiscal
25 years 1990 and 1991 for such hos-

1 pital (in this subparagraph referred to
2 as the 'base cost reporting period'),
3 increased (in a compounded manner),
4 by
5 "(bb) the applicable percentage
6 increases applied to such hospital or
7 under this paragraph for cost report-
8 ing periods after the base cost report-
9 ing period and up to and including
10 such first 12-month cost reporting pe-
11 riods, or
12 "(II) with respect to a subsequent 12-
13 month cost reporting period, the target
14 amount for the preceding 12-month cost
15 reporting period, increased by the applica-
16 ble percentage increase under subpara-
17 graph (B).
18 "(iii) Notwithstanding clause (ii)(II), if,
19 after 2 consecutive 12-month cost reporting pe-
20 riods, a hospital continues to be described in
21 subclauses (I) and (II) of clause (i), there shall
22 be substituted for the base cost reporting period
23 described in clause (ii)(I)(aa) the most recent
24 preceding 2 12-month cost reporting periods of
25 the hospital for which data is available (as de-

1 termined by the Secretary), but only if such
2 substituting results in an increase in the target
3 amount for the hospital. The substitution under
4 the preceding sentence may not occur more
5 often than every 2 years.

6 "(iv) Effective October 1, 1994, the Sec-
7 retary shall take into account the enactment of
8 this subparagraph in making available to the
9 hospital the payments described in section
10 1815(e)(2), and shall increase such payments
11 as if the target amount of the hospital had been
12 established pursuant to this subparagraph as of
13 such date.".

14 (2) EFFECTIVE DATE.—The amendments made
15 by this subsection shall be effective with respect to
16 cost reporting periods beginning on or after October
17 1, 1994.

18 **Subpart B—Provisions Relating to Part B**

19 **SEC. 3221. SUBSTITUTION OF REAL GDP TO ADJUST FOR**
20 **VOLUME AND INTENSITY; REPEAL OF RE-**
21 **STRICTION ON MAXIMUM REDUCTION PER-**
22 **MITTED IN DEFAULT UPDATE.**

23 (a) USE OF REAL GDP TO ADJUST FOR VOLUME
24 AND INTENSITY.—Section 1848(f)(2)(A)(iii) (42 U.S.C.
25 1395w–4(f)(2)(A)(iii)) is amended to read as follows:

1 "(iii) 1 plus the average per capita
2 growth in the real gross domestic product
3 (divided by 100) for the 5-fiscal-year pe-
4 riod ending with the previous fiscal year
5 (increased by 1.5 percentage points for the
6 category of services consisting of primary
7 care services), and".
8 (b) REPEAL OF RESTRICTION ON MAXIMUM REDUC-
9 TION.—Section 1848(d)(3)(B)(ii) (42 U.S.C. 1395w–
10 4(d)(3)(B)(ii)) is amended—
11 (1) in the heading, by inserting "IN CERTAIN
12 YEARS" after "ADJUSTMENT";
13 (2) in the matter preceding subclause (I), by
14 striking "for a year";
15 (3) in subclause (I), by adding "and" at the
16 end;
17 (4) in subclause (II), by striking ", and" and
18 inserting a period; and
19 (5) by striking subclause (III).
20 (c) REPEAL OF PERFORMANCE STANDARD FAC-
21 TOR.—
22 (1) IN GENERAL.—Section 1848(f)(2) is
23 amended by striking subparagraph (B) and redesig-
24 nating subparagraph (C) as subparagraph (B).

1 (2) CONFORMING AMENDMENT.—Section
2 1848(f)(2)(A) is amended in the matter following
3 clause (iv) by striking "1, multiplied by 100" and all
4 that follows through "subparagraph (B))" and in-
5 serting "1 and multiplied by 100".
6 (d) EFFECTIVE DATE.—
7 (1) VOLUME PERFORMANCE STANDARDS.—The
8 amendments made by subsections (a) and (c) shall
9 apply with respect to volume performance standards
10 established beginning with fiscal year 1995.
11 (2) REPEAL OF RESTRICTION ON MAXIMUM RE-
12 DUCTION.—The amendments made by subsection (b)
13 shall apply to services furnished on or after January
14 1, 1997.

15 **SEC. 3222. CORRECTION OF MVPS UPWARD BIAS.**

16 (a) IN GENERAL.—Section 1848(f)(2)(A)(iv) (42
17 U.S.C. 1395w–4(f)(2)(A)(iv)) is amended by striking "in-
18 cluding changes in law and regulations affecting the per-
19 centage increase described in clause (i)" and inserting "ex-
20 cluding anticipated responses to such changes".
21 (b) EFFECTIVE DATE.—The amendment made by
22 subsection (a) shall apply with respect to performance
23 standard rates of increase determined for fiscal year 1995
24 and succeeding fiscal years.

1 **SEC. 3223. REDUCTION IN CONVERSION FACTOR FOR PHY-**
2 **SICIAN FEE SCHEDULE FOR 1995.**
3 Section 1848(d)(1) (42 U.S.C. 1395w-4(d)(1)) is
4 amended—
5 (1) in subparagraph (A), by inserting after
6 "subparagraph (B)" the following: ", and, in the
7 case of 1995, specified in subparagraph (C)";
8 (2) by redesignating subparagraph (C) as sub-
9 paragraph (D); and
10 (3) by inserting after subparagraph (B) the fol-
11 lowing new subparagraph:
12 "(C) SPECIAL PROVISION FOR 1995.—For
13 purposes of subparagraph (A), the conversion
14 factor specified in this subparagraph for 1995
15 is—
16 "(i) in the case of physicians' services
17 included in the category of primary care
18 services (as defined in subsection (j)(1)),
19 the conversion factor established under this
20 subsection for 1994 adjusted by the update
21 established under paragraph (3) for 1995;
22 and
23 "(ii) in the case of any other physi-
24 cians' services, the conversion factor estab-
25 lished under this subsection for 1994 re-
26 duced by 3 percent and adjusted by the

1 update established under paragraph (3) for
2 1995.".

3 **SEC. 3224. ELIMINATION OF FORMULA-DRIVEN OVERPAY-**
4 **MENTS FOR CERTAIN OUTPATIENT HOSPITAL**
5 **SERVICES.**

6 (a) AMBULATORY SURGICAL CENTER PROCE-
7 DURES.—Section 1833(i)(3)(B)(i)(II) (42 U.S.C.
8 1395l(i)(3)(B)(i)(II)) is amended—
9 (1) by striking "of 80 percent"; and
10 (2) by striking the period at the end and insert-
11 ing the following: ", less the amount a provider may
12 charge as described in clause (ii) of section
13 1866(a)(2)(A).".
14 (b) RADIOLOGY SERVICES AND DIAGNOSTIC PROCE-
15 DURES.—Section 1833(n)(1)(B)(i)(II) (42 U.S.C.
16 1395l(n)(1)(B)(i)(II)) is amended—
17 (1) by striking "of 80 percent"; and
18 (2) by striking the period at the end and insert-
19 ing the following: ", less the amount a provider may
20 charge as described in clause (ii) of section
21 1866(a)(2)(A).".
22 (c) EFFECTIVE DATE.—The amendments made by
23 this section shall apply to services furnished during por-
24 tions of cost reporting periods occurring on or after Janu-
25 ary 1, 1995.

1 **SEC. 3225. GENERAL PART B PREMIUM.**

2 Section 1839(e) (42 U.S.C. 1395r(e)) is amended—

3 (1) in paragraph (1)(A), by striking "and prior
4 to January 1999"; and

5 (2) in paragraph (2), by striking "prior to Jan-
6 uary 1998".

7 **Subpart C—Provisions Relating to Parts A and B**

8 **SEC. 3231. REDUCTION IN ROUTINE COST LIMITS FOR**
9 **HOME HEALTH SERVICES.**

10 (a) REDUCTION IN UPDATE TO MAINTAIN FREEZE
11 IN 1996.—Section 1861(v)(1)(L)(i) (42 U.S.C.
12 1395x(v)(1)(L)(i)) is amended—

13 (1) in subclause (II), by striking "or" at the
14 end;

15 (2) in subclause (III), by striking "112 per-
16 cent," and inserting "and before July 1, 1996, 112
17 percent, or"; and

18 (3) by inserting after subclause (III) the follow-
19 ing new subclause:

20 "(IV) July 1, 1996, 100 percent (adjusted by
21 such amount as the Secretary determines to be nec-
22 essary to preserve the savings resulting from the en-
23 actment of section 13564(a)(1) of the Omnibus
24 Budget Reconciliation Act of 1993),".

25 (b) BASING LIMITS IN SUBSEQUENT YEARS ON ME-
26 DIAN OF COSTS.—

1 (1) IN GENERAL.—Section 1861(v)(1)(L)(i)
2 (U.S.C. 1395x(v)(1)(L)(i)), as amended by sub-
3 section (a), is amended in the matter following
4 subclause (IV) by striking "the mean" and inserting
5 "the median".
6 (2) EFFECTIVE DATE.—The amendment made
7 by paragraph (1) shall apply to cost reporting peri-
8 ods beginning on or after July 1, 1997.
9 **SEC. 3232. MEDICARE AS SECONDARY PAYER.**
10 (a) PERMANENT EXTENSION OF DATA MATCH PRO-
11 GRAM.—
12 (1) IN GENERAL.—Section 1862(b)(5)(C) (42
13 U.S.C. 1395y(b)(5)(C)) is amended by striking
14 clause (iii).
15 (2) PERMANENT EXTENSION OF CERTAIN TAX-
16 PAYER IDENTITY INFORMATION DISCLOSURE RE-
17 QUIREMENTS.—Section 6103(l)(12) of the Internal
18 Revenue Code of 1986 is amended by striking sub-
19 paragraph (F).
20 (b) PERMANENT EXTENSION OF MEDICARE SECOND-
21 ARY PAYER TO DISABLED BENEFICIARIES.—Section
22 1862(b)(1)(B)(iii) (42 U.S.C. 1395y(b)(1)(B)(iii)), is
23 amended—
24 (1) in the heading, by striking "SUNSET" and
25 inserting "EFFECTIVE DATE"; and

1 (2) by striking ", and October 1, 1998".

2 **SEC. 3233. INCREASE IN MEDICARE SECONDARY PAYER**
3 **COVERAGE FOR END STAGE RENAL DISEASE**
4 **SERVICES TO 24 MONTHS.**

5 (a) IN GENERAL.—Section 1862(b)(1)(C) (42 U.S.C.
6 1395y(b)(1)(C)), as amended by section 8309, is
7 amended—

8 (1) by striking the second sentence and insert-
9 ing the following: "Effective for items and services
10 furnished on or after January 1, 1996 (with respect
11 to periods beginning on or after July 1, 1994), this
12 subparagraph shall be applied by substituting '24-
13 month' for '12-month' each place it appears."; and

14 (2) in the last sentence, by striking "18-month"
15 and inserting "24-month".

16 (b) EFFECTIVE DATE.—The amendment made by
17 subsection (a) shall apply to items and services provided
18 on or after January 1, 1996.

1 # Subtitle C—Home and Community-
2 # Based Services

3 **SEC. 3301. STATE PROGRAMS FOR HOME AND COMMUNITY-**
4 **BASED SERVICES FOR ELIGIBLE INDIVID-**
5 **UALS WITH DISABILITIES.**

6 (a) IN GENERAL.—Each State that has a plan for
7 home and community-based services for eligible individ-
8 uals with disabilities (as defined in section 3303(a)) sub-
9 mitted to and approved by the Secretary under section
10 3302(b) is entitled to payment in accordance with section
11 3308.

12 (b) ENTITLEMENT TO SERVICES.—Nothing in this
13 subtitle shall be construed to create a right to services for
14 individuals or a requirement that a State with an approved
15 plan expend the entire amount of funds to which it is enti-
16 tled under this subtitle.

17 (c) DESIGNATION OF AGENCY.—Not later than 6
18 months after the date of enactment of this subtitle, the
19 Secretary shall designate an agency responsible for pro-
20 gram administration under this subtitle.

21 **SEC. 3302. STATE PLANS.**

22 (a) PLAN REQUIREMENTS.—In order to be approved
23 under subsection (b), a State plan for home and commu-
24 nity-based services for eligible individuals with disabilities
25 must meet the following requirements:

1 (1) ELIGIBILITY.—
2 (A) IN GENERAL.—Within the amounts
3 provided by the State and under section 3308
4 for such plan, the plan shall provide that serv-
5 ices under the plan will be available to eligible
6 individuals with disabilities in the State.
7 (B) INITIAL SCREENING.—The plan shall
8 provide a process for the initial screening of an
9 individual who has some reasonable probability
10 of being an eligible individual with disabilities.
11 Any such process shall require the provision of
12 assistance to individuals who wish to apply but
13 whose disability limits their ability to apply.
14 The initial screening and the determination of
15 disability (as defined under section 3303(b)(1))
16 shall be conducted by a public agency.
17 (C) RESTRICTIONS.—The plan may not
18 limit the eligibility of individuals with disabil-
19 ities based on—
20 (i) income,
21 (ii) age,
22 (iii) geography,
23 (iv) nature or category of disability,
24 (v) residential setting (other than an
25 institutional setting), or

1 (vi) other grounds specified by the
2 Secretary;
3 except that the Secretary may permit a State to
4 limit eligibility based on level of disability.
5 (D) CONTINUATION OF SERVICES.—The
6 plan must provide assurances that, in the case
7 of an individual receiving medical assistance for
8 home and community-based services under the
9 State medicaid plan as of the date the first
10 State plan is approved under this subtitle, the
11 State will continue to make available (either
12 under this plan, under the State medicaid plan,
13 or otherwise) to such individual an appropriate
14 level of assistance for home and community-
15 based services, taking into account the level of
16 assistance provided as of such date and the in-
17 dividual's need for home and community-based
18 services.
19 (2) SERVICES.—
20 (A) NEEDS ASSESSMENT.—Not later than
21 the end of the second year of implementation,
22 the plan or its amendments shall include the re-
23 sults of a statewide assessment of the needs of
24 eligible individuals with disabilities in a format
25 required by the Secretary. The needs assess-

1 ment shall include demographic data concerning
2 the number of individuals within each category
3 of disability described in this subtitle, and the
4 services available to meet the needs of such in-
5 dividuals.
6 (B) SPECIFICATION.—Consistent with sec-
7 tion 3304, the plan shall specify—
8 (i) the services made available under
9 the plan,
10 (ii) the extent and manner in which
11 such services are allocated and made avail-
12 able to eligible individuals with disabilities,
13 and
14 (iii) the manner in which services
15 under the plan are coordinated with each
16 other and with health and long-term care
17 services available outside the plan for eligi-
18 ble individuals with disabilities.
19 (C) TAKING INTO ACCOUNT INFORMAL
20 CARE.—A State plan may take into account, in
21 determining the amount and array of services
22 made available to eligible individuals with dis-
23 abilities, the availability of informal care.
24 (D) ALLOCATION.—The State plan—

1 (i) shall specify how services under
2 the plan will be allocated among eligible in-
3 dividuals with disabilities,
4 (ii) shall attempt to meet the needs of
5 individuals with a variety of disabilities
6 within the limits of available funding,
7 (iii) shall include services that assist
8 all categories of eligible individuals with
9 disabilities, regardless of their age or the
10 nature of their disabling conditions,
11 (iv) shall demonstrate that services
12 are allocated equitably, in accordance with
13 the needs assessment required under sub-
14 paragraph (A), and
15 (v) shall ensure that—
16 (I) the proportion of the popu-
17 lation of low-income individuals with
18 disabilities in the State that rep-
19 resents eligible individuals with dis-
20 abilities who are provided home and
21 community-based services either under
22 the plan, under the State medicaid
23 plan, or under both, is not less than,
24 (II) the proportion of the popu-
25 lation of the State that represents in-

1 dividuals who are low-income individ-
2 uals.
3 (E) LIMITATION ON LICENSURE OR CER-
4 TIFICATION.—The State may not subject
5 consumer-directed providers of personal assist-
6 ance services to licensure, certification, or other
7 requirements which the Secretary finds not to
8 be necessary for the health and safety of eligible
9 individuals with disabilities.
10 (F) CONSUMER CHOICE.—To the extent
11 feasible, the State shall follow the choice of an
12 eligible individual with disabilities (or that indi-
13 vidual's designated representative who may be a
14 family member) regarding which covered serv-
15 ices to receive and the providers who will pro-
16 vide such services.
17 (3) COST SHARING.—The plan shall impose cost
18 sharing with respect to covered services only in ac-
19 cordance with section 3305.
20 (4) TYPES OF PROVIDERS AND REQUIREMENTS
21 FOR PARTICIPATION.—The plan shall specify—
22 (A) the types of service providers eligible
23 to participate in the program under the plan,
24 which shall include consumer-directed providers

1 of personal assistance services, except that the
2 plan—
3 (i) may not limit benefits to services
4 provided by registered nurses or licensed
5 practical nurses; and
6 (ii) may not limit benefits to services
7 provided by agencies or providers certified
8 under title XVIII of the Social Security
9 Act; and
10 (B) any requirements for participation ap-
11 plicable to each type of service provider.
12 (5) PROVIDER REIMBURSEMENT.—
13 (A) PAYMENT METHODS.—The plan shall
14 specify the payment methods to be used to re-
15 imburse providers for services furnished under
16 the plan. Such methods may include retrospec-
17 tive reimbursement on a fee-for-service basis,
18 prepayment on a capitation basis, payment by
19 cash or vouchers to eligible individuals with dis-
20 abilities, or any combination of these methods.
21 In the case of payment to consumer-directed
22 providers of personal assistance services, includ-
23 ing payment through the use of cash or vouch-
24 ers, the plan shall specify how the plan will as-

1 sure compliance with applicable employment tax
2 and health care coverage provisions.
3 (B) PAYMENT RATES.—The plan shall
4 specify the methods and criteria to be used to
5 set payment rates for—
6 (i) agency administered services fur-
7 nished under the plan; and
8 (ii) consumer-directed personal assist-
9 ance services furnished under the plan, in-
10 cluding cash payments or vouchers to eligi-
11 ble individuals with disabilities, except that
12 such payments shall be adequate to cover
13 amounts required under applicable employ-
14 ment tax and health care coverage provi-
15 sions.
16 (C) PLAN PAYMENT AS PAYMENT IN
17 FULL.—The plan shall restrict payment under
18 the plan for covered services to those providers
19 that agree to accept the payment under the
20 plan (at the rates established pursuant to sub-
21 paragraph (B)) and any cost sharing permitted
22 or provided for under section 3305 as payment
23 in full for services furnished under the plan.
24 (7) QUALITY ASSURANCE AND SAFEGUARDS.—
25 The State plan shall provide for quality assurance

1 and safeguards for applicants and beneficiaries in
2 accordance with section 3306.
3 (8) ADVISORY GROUP.—The State plan shall—
4 (A) assure the establishment and mainte-
5 nance of an advisory group under section
6 3307(b), and
7 (B) include the documentation prepared by
8 the group under section 3307(b)(4).
9 (9) ADMINISTRATION AND ACCESS.—
10 (A) STATE AGENCY.—The plan shall des-
11 ignate a State agency or agencies to administer
12 (or to supervise the administration of) the plan.
13 (B) COORDINATION.—The plan shall speci-
14 fy how it will—
15 (i) coordinate services provided under
16 the plan, including eligibility prescreening,
17 service coordination, and referrals for indi-
18 viduals with disabilities who are ineligible
19 for services under this subtitle with the
20 State medicaid plan, titles V and XX of
21 the Social Security Act, programs under
22 the Older Americans Act of 1965, pro-
23 grams under the Developmental Disabil-
24 ities Assistance and Bill of Rights Act, the
25 Individuals with Disabilities Education

1 Act, and any other Federal or State pro-
2 grams that provide services or assistance
3 targeted to individuals with disabilities,
4 and

5 (ii) coordinate with health plans.

6 (C) ADMINISTRATIVE EXPENDITURES.—
7 Effective beginning with fiscal year 2003, the
8 plan shall contain assurances that not more
9 than 10 percent of expenditures under the plan
10 for all quarters in any fiscal year shall be for
11 administrative costs.

12 (10) REPORTS AND INFORMATION TO SEC-
13 RETARY; AUDITS.—The plan shall provide that the
14 State will furnish to the Secretary—

15 (A) such reports, and will cooperate with
16 such audits, as the Secretary determines are
17 needed concerning the State's administration of
18 its plan under this subtitle, including the proc-
19 essing of claims under the plan, and

20 (B) such data and information as the Sec-
21 retary may require in a uniform format as spec-
22 ified by the Secretary.

23 (11) USE OF STATE FUNDS FOR MATCHING.—
24 The plan shall provide assurances that Federal

1 funds will not be used to provide for the State share
2 of expenditures under this subtitle.
3 (12) TERMINOLOGY.—The plan shall adhere to
4 uniform definitions of terms, as specified by the Sec-
5 retary.
6 (b) APPROVAL OF PLANS.—The Secretary shall ap-
7 prove a plan submitted by a State if the Secretary deter-
8 mines that the plan—
9 (1) was developed by the State after a public
10 comment period of not less than 30 days, and
11 (2) meets the requirements of subsection (a).
12 The approval of such a plan shall take effect as of the
13 first day of the first fiscal year beginning after the date
14 of such approval (except that any approval made before
15 January 1, 1998, shall be effective as of January 1, 1998).
16 In order to budget funds allotted under this subtitle, the
17 Secretary shall establish a deadline for the submission of
18 such a plan before the beginning of a fiscal year as a con-
19 dition of its approval effective with that fiscal year. Any
20 significant changes to the State plan shall be submitted
21 to the Secretary in the form of plan amendments and shall
22 be subject to approval by the Secretary.
23 (c) MONITORING.—The Secretary shall annually
24 monitor the compliance of State plans with the require-
25 ments of this subtitle according to specified performance

1 standards. States that fail to comply with such require-
2 ments may be subject to the withholding of Federal funds
3 for services or administration until such time as compli-
4 ance is achieved.
5 (d) TECHNICAL ASSISTANCE.—The Secretary shall
6 ensure the availability of ongoing technical assistance to
7 States under this section. Such assistance shall include
8 serving as a clearinghouse for information regarding suc-
9 cessful practices in providing long-term care services.
10 (e) REGULATIONS.—The Secretary shall issue such
11 regulations as may be appropriate to carry out this sub-
12 title on a timely basis.

13 **SEC. 3303. INDIVIDUALS WITH DISABILITIES DEFINED.**

14 (a) DEFINITIONS.—
15 (1) IN GENERAL.—The term "eligible individual
16 with disabilities" means any individual who is within
17 one or more of the categories of individuals de-
18 scribed in subparagraphs (A) through (D) of para-
19 graph (2)
20 (2) CATEGORIES OF INDIVIDUALS WITH DIS-
21 ABILITIES.—
22 (A) INDIVIDUALS REQUIRING HELP WITH
23 ACTIVITIES OF DAILY LIVING.—An individual of
24 any age who—

1 (i) requires hands-on or standby as-
2 sistance, supervision, or cueing (as defined
3 in regulations) to perform three or more
4 activities of daily living (as defined in sub-
5 section (d)), and
6 (ii) is expected to require such assist-
7 ance, supervision, or cueing over a period
8 of at least 90 days.
9 (B) INDIVIDUALS WITH SEVERE COGNITIVE
10 OR MENTAL IMPAIRMENT.—An individual of
11 any age—
12 (i) whose score, on a standard mental
13 status protocol (or protocols) appropriate
14 for measuring the individual's particular
15 condition specified by the Secretary, indi-
16 cates either severe cognitive impairment or
17 severe mental impairment, or both;
18 (ii) who—
19 (I) requires hands-on or standby
20 assistance, supervision, or cueing with
21 one or more activities of daily living,
22 (II) requires hands-on or standby
23 assistance, supervision, or cueing with
24 at least such instrumental activity (or
25 activities) of daily living related to

1 cognitive or mental impairment as the
2 Secretary specifies, or
3 (III) displays symptoms of one or
4 more serious behavioral problems
5 (that is on a list of such problems
6 specified by the Secretary) which cre-
7 ate a need for supervision to prevent
8 harm to self or others; and
9 (iii) who is expected to meet the re-
10 quirements of clauses (i) and (ii) over a pe-
11 riod of at least 90 days.
12 Not later than 2 years after the date of enact-
13 ment of this subtitle, the Secretary shall make
14 recommendations regarding the most appro-
15 priate duration of disability under this subpara-
16 graph.
17 (C) INDIVIDUALS WITH SEVERE OR PRO-
18 FOUND MENTAL RETARDATION.—An individual
19 of any age who has severe or profound mental
20 retardation (as determined according to a pro-
21 tocol specified by the Secretary).
22 (D) YOUNG CHILDREN WITH SEVERE DIS-
23 ABILITIES.—An individual under 6 years of age
24 who—

1 (i) has a severe disability or chronic
2 medical condition that limits functioning in
3 a manner that is comparable in severity to
4 the standards established under subpara-
5 graphs (A), (B), or (C), and
6 (ii) is expected to have such a disabil-
7 ity or condition and require such services
8 over a period of at least 90 days.
9 (b) DETERMINATION.—
10 (1) IN GENERAL.—In formulating eligibility cri-
11 teria under subsection (a), the Secretary shall estab-
12 lish criteria for assessing the functional level of dis-
13 ability among all categories of individuals with dis-
14 abilities that are comparable in severity, regardless
15 of the age or the nature of the disabling condition
16 of the individual. The determination of whether an
17 individual is an individual with disabilities shall be
18 made by a public or nonprofit agency that is speci-
19 fied under the State plan and that is not a provider
20 of home and community-based services under this
21 subtitle and by using a uniform protocol consisting
22 of an initial screening and a determination of dis-
23 ability specified by the Secretary. A State may not
24 impose cost sharing with respect to a determination
25 of disability. A State may collect additional informa-

1 tion, at the time of obtaining information to make
2 such determination, in order to provide for the as-
3 sessment and plan described in section 3304(b) or
4 for other purposes.

5 (2) PERIODIC REASSESSMENT.—The determina-
6 tion that an individual is an eligible individual with
7 disabilities shall be considered to be effective under
8 the State plan for a period of not more than 6
9 months (or for such longer period in such cases as
10 a significant change in an individual's condition that
11 may affect such determination is unlikely). A reas-
12 sessment shall be made if there is a significant
13 change in an individual's condition that may affect
14 such determination.

15 (c) ELIGIBILITY CRITERIA.—The Secretary shall re-
16 assess the validity of the eligibility criteria described in
17 subsection (a) as new knowledge regarding the assess-
18 ments of functional disabilities becomes available. The
19 Secretary shall report to the Committee on Finance of the
20 Senate and the Committees on Ways and Means and En-
21 ergy and Commerce of the House of Representatives on
22 its findings under the preceding sentence as determined
23 appropriate by the Secretary.

24 (d) ACTIVITY OF DAILY LIVING DEFINED.—For pur-
25 poses of this subtitle, the term "activity of daily living"

1 means any of the following: eating, toileting, dressing,
2 bathing, and transferring.

3 **SEC. 3304. HOME AND COMMUNITY-BASED SERVICES COV-**
4 **ERED UNDER STATE PLAN.**

5 (a) SPECIFICATION.—
6 (1) IN GENERAL.—Subject to the succeeding
7 provisions of this section, the State plan under this
8 subtitle shall specify—
9 (A) the home and community-based serv-
10 ices available under the plan to eligible individ-
11 uals with disabilities (or to such categories of
12 such individuals), and
13 (B) any limits with respect to such serv-
14 ices.
15 (2) FLEXIBILITY IN MEETING INDIVIDUAL
16 NEEDS.—Subject to subsection (e)(2), such services
17 may be delivered in an individual's home, a range of
18 community residential arrangements, or outside the
19 home.
20 (b) REQUIREMENT FOR CARE MANAGEMENT.—
21 (1) IN GENERAL.—The State shall make avail-
22 able to each category of eligible individuals with dis-
23 abilities care management services that at a mini-
24 mum include—

1 (A) a comprehensive assessment of the in-
2 dividual's need for home and community-based
3 services (regardless of whether all needed serv-
4 ices are available under the plan),
5 (B) an individualized plan of care based on
6 such assessment,
7 (C) arrangements for the provision of such
8 services, and
9 (D) monitoring of the delivery of services.
10 (2) CARE MANAGEMENT SERVICES.—
11 (A) IN GENERAL.—Except as provided in
12 subparagraph (B), the care management serv-
13 ices described in paragraph (1) shall be pro-
14 vided by a public or private entity that is not
15 providing home and community-based services
16 under this subtitle.
17 (B) EXCEPTION.—A person who provides
18 home and community-based services under this
19 subtitle may provide care management services
20 if—
21 (i) the State determines that there is
22 an insufficient pool of entities willing to
23 provide such services in an area due to a
24 low population of individuals eligible to re-
25 ceive home and community-based services

1 under this subtitle residing in such area;
2 and
3 (ii) the State plan specifies procedures
4 that the State will implement in order to
5 avoid conflicts of interest.
6 (3) COMPREHENSIVE ASSESSMENTS.—The Sec-
7 retary shall develop a uniform comprehensive assess-
8 ment tool that shall be used by the States under
9 paragraph (1)(A). Alternative comprehensive assess-
10 ment tools may be used by the States only with the
11 approval of the Secretary. The Secretary shall pro-
12 vide guidance to the States with regard to the ap-
13 propriate qualifications for individuals who conduct
14 comprehensive assessments.
15 (4) INDIVIDUALIZED PLAN OF CARE.—
16 (A) IN GENERAL.—The plan of care under
17 paragraph (1)(B) shall—
18 (i) specify which services included
19 under the individual plan will be provided
20 under the State plan under this subtitle,
21 (ii) identify (to the extent possible)
22 how the individual will be provided any
23 services specified under the plan of care
24 and not provided under the State plan,

1 (iii) specify how the provision of serv-
2 ices to the individual under the plan will be
3 coordinated with the provision of other
4 health care services to the individual, and
5 (iv) be reviewed and updated every 6
6 months (or more frequently if there is a
7 change in the individual's condition).
8 The State shall make reasonable efforts to iden-
9 tify and arrange for services described in clause
10 (ii). Nothing in this subsection shall be con-
11 strued as requiring a State (under the State
12 plan or otherwise) to provide all the services
13 specified in such a plan.
14 (B) INVOLVEMENT OF INDIVIDUALS.—The
15 individualized plan of care under paragraph
16 (1)(B) for an individual with disabilities shall—
17 (i) be developed by qualified individ-
18 uals (specified under the State plan);
19 (ii) be developed and implemented in
20 close consultation with the individual or
21 the individual's designated representative,
22 and
23 (iii) be approved by the individual (or
24 the individual's designated representative).

1 (c) MANDATORY COVERAGE OF PERSONAL ASSIST-
2 ANCE SERVICES.—The State plan shall include, in the
3 array of services made available to each category of indi-
4 viduals with disabilities, both agency-administered and
5 consumer-directed personal assistance services (as defined
6 in subsection (g)).
7 (d) ADDITIONAL SERVICES.—
8 (1) TYPES OF SERVICES.—Subject to subsection
9 (e), services available under a State plan under this
10 subtitle may include any (or all) of the following:
11 (A) Homemaker and chore assistance.
12 (B) Home modifications.
13 (C) Respite services.
14 (D) Assistive devices, as defined in the
15 Technology Related Assistance for Individuals
16 with Disabilities Act.
17 (E) Adult day services.
18 (F) Habilitation and rehabilitation.
19 (G) Supported employment.
20 (H) Home health services.
21 (I) Transportation.
22 (J) Any other care or assistive services
23 specified by the State and approved by the Sec-
24 retary that will help eligible individuals with

1 disabilities to remain in their homes and com-
2 munities.
3 (2) CRITERIA FOR SELECTION OF SERVICES.—
4 The State electing services under paragraph (1)
5 shall specify in the State plan—
6 (A) the methods and standards used to se-
7 lect the types, and the amount, duration, and
8 scope, of services to be covered under the plan
9 and to be available to each category of eligible
10 individuals with disabilities, and
11 (B) how the types, and the amount, dura-
12 tion, and scope, of services specified, within the
13 limits of available funding, provide substantial
14 assistance in living independently to individuals
15 within each of the categories of eligible individ-
16 uals with disabilities.
17 (e) EXCLUSIONS AND LIMITATIONS.—
18 (1) IN GENERAL.—A State plan may not pro-
19 vide for coverage of—
20 (A) room and board,
21 (B) services furnished in a hospital, nurs-
22 ing facility, intermediate care facility for the
23 mentally retarded, or other institutional setting
24 specified by the Secretary,

1 (C) items and services to the extent cov-
2 erage is provided for the individual under a
3 health plan or the medicare program, or
4 (D) the services described in paragraph (2)
5 with respect to an individual who is eligible to
6 receive medical assistance consisting of such
7 services under the State plan under part A of
8 title XIX of the Social Security Act.
9 (2) MEDICAID SERVICES DESCRIBED.—The
10 services described in this paragraph are the follow-
11 ing:
12 (A) Personal care services (as described in
13 section 1905(a)(24) of the Social Security Act).
14 (B) Private duty nursing services (as re-
15 ferred to in section 1905(a)(8) of the Social Se-
16 curity Act).
17 (C) Home or community-based services
18 furnished under a waiver granted under sub-
19 section (c), (d), or (e) of section 1915 of the
20 Social Security Act.
21 (D) Home and community care furnished
22 to functionally disabled elderly individuals
23 under section 1929 of the Social Security Act.

1 (E) Community supported living arrange-
2 ments services under section 1930 of the Social
3 Security Act.
4 (F) Case-management services (as de-
5 scribed in section 1915(g)(2) of the Social Se-
6 curity Act).
7 (G) Home health care services (as referred
8 to in section 1905(a)(7) of the Social Security
9 Act).
10 (H) Clinic services and rehabilitation serv-
11 ices that are furnished to an individual who has
12 a condition or disability that qualifies the indi-
13 vidual to receive any of the services described in
14 subparagraph (F).
15 (3) STATE MAINTENANCE OF EFFORT REGARD-
16 ING MEDICAID ELIGIBILITY AND COVERED SERV-
17 ICES.—
18 (A) IN GENERAL.—A State plan under this
19 subtitle shall provide that the State will, during
20 the time that the State is furnishing home and
21 community-based services under this subtitle,
22 continue to make available under the State plan
23 under part A of title XIX of the Social Security
24 Act to the classes or categories of individuals
25 described in subparagraph (B) any of the serv-

1 ices described in paragraph (2) that were avail-
2 able to such classes or categories of individuals
3 during the fiscal year immediately preceding the
4 fiscal year in which the State first submits a
5 State plan for approval under this subtitle.
6 (B) CLASSES OR CATEGORIES OF INDIVID-
7 UALS.—The classes or categories of individuals
8 described in this subparagraph are any classes
9 or categories of individuals who were eligible for
10 medical assistance consisting of any of the serv-
11 ices described in paragraph (2) during the fiscal
12 year immediately preceding the fiscal year in
13 which the State first submits a State plan for
14 approval under this subtitle.
15 (f) PAYMENT FOR SERVICES.—In order to pay for
16 covered services, a State plan may provide for the use of—
17 (1) vouchers,
18 (2) cash payments directly to eligible individ-
19 uals with disabilities,
20 (3) capitation payments to health plans, and
21 (4) payment to providers.
22 (g) PERSONAL ASSISTANCE SERVICES.—
23 (1) IN GENERAL.—For purposes of this sub-
24 title, the term "personal assistance services" means
25 those services specified under the State plan as per-

1 sonal assistance services and shall include at least
2 hands-on and standby assistance, supervision, and
3 cueing with activities of daily living, whether agency-
4 administered or consumer-directed (as defined in
5 paragraph (2)).
6 (2) CONSUMER-DIRECTED.—For purposes of
7 this subtitle:
8 (A) IN GENERAL.—The term "consumer-
9 directed" means, with reference to personal as-
10 sistance services or the provider of such serv-
11 ices, services that are provided by an individual
12 who is selected and managed (and, at the op-
13 tion of the service recipient, trained) by the in-
14 dividual receiving the services.
15 (B) STATE RESPONSIBILITIES.—A State
16 plan shall ensure that where services are pro-
17 vided in a consumer-directed manner, the State
18 shall create or contract with an entity, other
19 than the consumer or the individual provider,
20 to—
21 (i) inform both recipients and provid-
22 ers of rights and responsibilities under all
23 applicable Federal labor and tax law; and
24 (ii) assume responsibility for providing
25 effective billing, payments for services, tax

1 withholding, unemployment insurance, and
2 workers' compensation coverage, and act
3 as the employer of the home care provider.
4 (C) RIGHT OF CONSUMERS.—Notwith-
5 standing the State responsibilities described in
6 subparagraph (B), service recipients, and,
7 where appropriate, their designated representa-
8 tive, shall retain the right to independently se-
9 lect, hire, terminate, and direct (including man-
10 age, train, schedule, and verify services pro-
11 vided) the work of a home care provider.
12 (3) AGENCY ADMINISTERED.—For purposes of
13 this subtitle, the term "agency-administered" means,
14 with respect to such services, services that are not
15 consumer-directed.
16 **SEC. 3305. COST SHARING.**
17 (a) IN GENERAL.—
18 (1) NO COST SHARING FOR POOREST.—The
19 State plan may not impose any cost sharing for eli-
20 gible individuals with disabilities with income less
21 than 100 percent of the official poverty level applica-
22 ble to a family of the size involved.
23 (2) SLIDING SCALE FOR REMAINDER.—
24 (A) REQUIRED COINSURANCE.—The State
25 plan shall impose cost sharing in the form of

1 coinsurance (based on the amount paid under
2 the State plan for a service) on eligible individ-
3 uals with disabilities—
4 (i) at a rate of 25 percent for such in-
5 dividuals with income not less than 100
6 percent, and less than 150 percent, of such
7 official poverty line (as so applied);
8 (ii) at a rate of 50 percent for such
9 individuals with income not less than 150
10 percent, and less than 175 percent, of such
11 official poverty line (as so applied);
12 (iii) at a rate of 75 percent for such
13 individuals with income not less than 175
14 percent, and less than 200 percent, of such
15 official poverty line (as so applied); and
16 (iv) at a rate of 100 percent for such
17 individuals with income equal to at least
18 200 percent of such official poverty line (as
19 so applied).
20 (B) REQUIRED ANNUAL DEDUCTIBLE.—
21 The State plan shall impose cost sharing in the
22 form of an annual deductible on eligible individ-
23 uals with disabilities—
24 (i) of $50 for such individuals with in-
25 come not less than 100 percent, and less

1 than 150 percent, of such official poverty
2 line (as so applied);
3 (ii) of $100 for such individuals with
4 income not less than 150 percent, and less
5 than 175 percent, of such official poverty
6 line (as so applied); and
7 (iii) of $200 for such individuals with
8 income not less than 175 percent, and less
9 than 200 percent, of such official poverty
10 line (as so applied).
11 (c) DETERMINATION OF INCOME.—The State plan
12 shall specify the process to be used to determine the in-
13 come of an individual with disabilities for purposes of this
14 section. Such standards shall include a uniform Federal
15 definition of income and any allowable deductions from in-
16 come.
17 (d) DEFINITION OF OFFICIAL POVERTY LEVEL.—For
18 purposes of this section, the term "applicable poverty
19 level" means, for a family for a year, the official poverty
20 line (as defined by the Office of Management and Budget,
21 and revised annually in accordance with section 673(2) of
22 the Omnibus Budget Reconciliation Act of 1981) applica-
23 ble to a family of the size involved.
24 **SEC. 3306. QUALITY ASSURANCE AND SAFEGUARDS.**
25 (a) QUALITY ASSURANCE.—

1 (1) IN GENERAL.—The State plan shall specify
2 how the State will ensure and monitor the quality of
3 services, including—
4 (A) safeguarding the health and safety of
5 eligible individuals with disabilities,
6 (B) setting the minimum standards for
7 agency providers and how such standards will
8 be enforced,
9 (C) setting the minimum competency re-
10 quirements for agency provider employees who
11 provide direct services under this subtitle and
12 how the competency of such employees will be
13 enforced,
14 (D) setting minimum competency require-
15 ments for consumer directed providers of per-
16 sonal assistance services and how such com-
17 petency requirements will be demonstrated,
18 (E) obtaining meaningful consumer input,
19 including consumer surveys that measure the
20 extent to which participants receive the services
21 described in the plan of care and participant
22 satisfaction with such services,
23 (F) establishing a process to receive, inves-
24 tigate, and resolve allegations of neglect or
25 abuse,

1 (G) establishing optional training pro-
2 grams for eligible individuals with disabilities in
3 the use and direction of consumer directed pro-
4 viders of personal assistance services,
5 (H) establishing an appeals procedure for
6 eligibility denials and a grievance procedure for
7 disagreements with the terms of an individual-
8 ized plan of care;
9 (I) providing for participation in quality
10 assurance activities, and
11 (J) specifying the role of the long-term
12 care ombudsman (under the Older Americans
13 Act of 1965) and the Protection and Advocacy
14 Agency (under the Developmental Disabilities
15 Assistance and Bill of Rights Act) in assuring
16 quality of services and protecting the rights of
17 eligible individuals with disabilities.
18 (2) ISSUANCE OF REGULATIONS.—Not later
19 than 1 year after the date of enactment of this sub-
20 title, the Secretary shall issue regulations imple-
21 menting the quality provisions of this subsection.
22 (b) FEDERAL STANDARDS.—The State plan shall ad-
23 here to Federal quality standards in the following areas:
24 (1) Case review of a specified sample of client
25 records.

1 (2) The mandatory reporting of abuse, neglect,
2 or exploitation.
3 (3) The development of a registry of provider
4 agencies or home care workers and consumer di-
5 rected providers of personal assistance services
6 against whom any complaints have been sustained,
7 which shall be available to the public.
8 (4) Sanctions to be imposed on States or pro-
9 viders, including disqualification from the program,
10 if minimum standards are not met.
11 (5) Surveys of client satisfaction.
12 (6) State optional training programs for infor-
13 mal caregivers.
14 (c) SAFEGUARDS.—
15 (1) CONFIDENTIALITY.—The State plan shall
16 provide safeguards which restrict the use or disclo-
17 sure of information concerning applicants and bene-
18 ficiaries to purposes directly connected with the ad-
19 ministration of the plan.
20 (2) SAFEGUARDS AGAINST ABUSE.—The State
21 plans shall provide safeguards against physical, emo-
22 tional, or financial abuse or exploitation (specifically
23 including appropriate safeguards in cases where pay-
24 ment for program benefits is made by cash pay-
25 ments or vouchers given directly to eligible individ-

1 uals with disabilities). All providers of services shall
2 be required to register with the State agency.
3 (d) SPECIFIED RIGHTS.—The State plan shall pro-
4 vide that in furnishing home and community-based serv-
5 ices under the plan the following individual rights are pro-
6 tected:
7 (1) The right to be fully informed in advance,
8 orally and in writing, of the care to be provided, to
9 be fully informed in advance of any changes in care
10 to be provided, and (except with respect to an indi-
11 vidual determined incompetent) to participate in
12 planning care or changes in care.
13 (2) The right to—
14 (A) voice grievances with respect to serv-
15 ices that are (or fail to be) furnished without
16 discrimination or reprisal for voicing grievances,
17 (B) be told how to complain to State and
18 local authorities, and
19 (C) prompt resolution of any grievances or
20 complaints.
21 (3) The right to confidentiality of personal and
22 clinical records and the right to have access to such
23 records.
24 (4) The right to privacy and to have one's prop-
25 erty treated with respect.

1 (5) The right to refuse all or part of any care
2 and to be informed of the likely consequences of
3 such refusal.
4 (6) The right to education or training for one-
5 self and for members of one's family or household on
6 the management of care.
7 (7) The right to be free from physical or mental
8 abuse, corporal punishment, and any physical or
9 chemical restraints imposed for purposes of dis-
10 cipline or convenience and not included in an indi-
11 vidual's plan of care.
12 (8) The right to be fully informed orally and in
13 writing of the individual's rights.
14 (9) The right to a free choice of providers.
15 (10) The right to direct provider activities when
16 an individual is competent and willing to direct such
17 activities.
18 **SEC. 3307. ADVISORY GROUPS.**
19 (a) FEDERAL ADVISORY GROUP.—
20 (1) ESTABLISHMENT.—The Secretary shall es-
21 tablish an advisory group, to advise the Secretary
22 and States on all aspects of the program under this
23 subtitle.
24 (2) COMPOSITION.—The group shall be com-
25 posed of eligible individuals with disabilities and

1 their representatives, providers, Federal and State
2 officials, and local community implementing agen-
3 cies. A majority of its members shall be eligible indi-
4 viduals with disabilities and their representatives.
5 (b) STATE ADVISORY GROUPS.—
6 (1) IN GENERAL.—Each State plan shall pro-
7 vide for the establishment and maintenance of an
8 advisory group to advise the State on all aspects of
9 the State plan under this subtitle.
10 (2) COMPOSITION.—Members of each advisory
11 group shall be appointed by the Governor (or other
12 chief executive officer of the State) and shall include
13 eligible individuals with disabilities and their rep-
14 resentatives, providers, State officials, and local
15 community implementing agencies. A majority of its
16 members shall be eligible individuals with disabilities
17 and their representatives. The members of the advi-
18 sory group shall be selected from the those nomi-
19 nated as described in paragraph (3).
20 (3) SELECTION OF MEMBERS.—Each State
21 shall establish a process whereby all residents of the
22 State, including eligible individuals with disabilities
23 and their representatives, shall be given the oppor-
24 tunity to nominate members to the advisory group.

1 (4) PARTICULAR CONCERNS.—Each advisory
2 group shall—
3 (A) before the State plan is developed, ad-
4 vise the State on guiding principles and values,
5 policy directions, and specific components of the
6 plan,
7 (B) meet regularly with State officials in-
8 volved in developing the plan, during the devel-
9 opment phase, to review and comment on all as-
10 pects of the plan,
11 (C) participate in the public hearings to
12 help assure that public comments are addressed
13 to the extent practicable,
14 (D) report to the Governor and make
15 available to the public any differences between
16 the group's recommendations and the plan,
17 (E) report to the Governor and make avail-
18 able to the public specifically the degree to
19 which the plan is consumer-directed, and
20 (F) meet regularly with officials of the des-
21 ignated State agency (or agencies) to provide
22 advice on all aspects of implementation and
23 evaluation of the plan.

1 **SEC. 3308. PAYMENTS TO STATES.**

2 (a) IN GENERAL.—Subject to section 3302(a)(9)(C)
3 (relating to limitation on payment for administrative
4 costs), the Secretary, in accordance with the Cash Man-
5 agement Improvement Act, shall authorize payment to
6 each State with a plan approved under this subtitle, for
7 each quarter (beginning on or after January 1, 1998),
8 from its allotment under section 3309(b), an amount equal
9 to—

10 (1) the Federal home and community-based
11 services matching percentage (as defined in sub-
12 section (b)) of amount demonstrated by State claims
13 to have been expended during the quarter for home
14 and community-based services under the plan for eli-
15 gible individuals with disabilities; plus

16 (2) an amount equal to 90 percent of the
17 amount demonstrated by the State to have been ex-
18 pended during the quarter for quality assurance ac-
19 tivities under the plan; plus

20 (3) an amount equal to 90 percent of amount
21 expended during the quarter under the plan for ac-
22 tivities (including preliminary screening) relating to
23 determination of eligibility and performance of needs
24 assessment; plus

25 (4) an amount equal to 90 percent (or, begin-
26 ning with quarters in fiscal year 2003, 75 percent)

1 of the amount expended during the quarter for the
2 design, development, and installation of mechanical
3 claims processing systems and for information re-
4 trieval; plus
5 (5) an amount equal to 50 percent of the re-
6 mainder of the amounts expended during the quar-
7 ter as found necessary by the Secretary for the prop-
8 er and efficient administration of the State plan.
9 (b) FEDERAL HOME AND COMMUNITY-BASED SERV-
10 ICES MATCHING PERCENTAGE.—In subsection (a), the
11 term "Federal home and community-based services
12 matching percentage" means, with respect to a State, the
13 State's Federal medical assistance percentage (as defined
14 in section 1905(b) of the Social Security Act) increased
15 by 15 percentage points, except that the Federal home and
16 community-based services matching percentage shall in no
17 case be less than 65 percent or more than 90 percent.
18 (c) PAYMENTS ON ESTIMATES WITH RETROSPECTIVE
19 ADJUSTMENTS.—The method of computing and making
20 payments under this section shall be as follows:
21 (1) The Secretary shall, prior to the beginning
22 of each quarter, estimate the amount to be paid to
23 the State under subsection (a) for such quarter,
24 based on a report filed by the State containing its
25 estimate of the total sum to be expended in such

1 quarter, and such other information as the Secretary
2 may find necessary.
3 (2) From the allotment available therefore, the
4 Secretary shall provide for payment of the amount
5 so estimated, reduced or increased, as the case may
6 be, by any sum (not previously adjusted under this
7 section) by which the Secretary finds that the esti-
8 mate of the amount to be paid the State for any
9 prior period under this section was greater or less
10 than the amount which should have been paid.
11 (d) APPLICATION OF RULES REGARDING LIMITA-
12 TIONS ON PROVIDER-RELATED DONATIONS AND HEALTH
13 CARE RELATED TAXES.—The provisions of section
14 1903(w) of the Social Security Act shall apply to pay-
15 ments to States under this section in the same manner
16 as they apply to payments to States under section 1903(a)
17 of the Social Security Act.
18 (e) FAILURE TO COMPLY WITH STATE PLAN.—If a
19 State furnishing home and community-based services
20 under this subtitle fails to comply with the State plan ap-
21 proved under this subtitle, the Secretary may withhold an
22 amount of funds determined appropriate by the Secretary
23 from any payment to the State under this section.

1 **SEC. 3309. TOTAL FEDERAL BUDGET; ALLOTMENTS TO**
2 **STATES.**
3 (a) IN GENERAL.—
4 (1) FISCAL YEARS 1998 THROUGH 2004.—Sub-
5 ject to paragraph (5)(C), the total Federal budget
6 for State plans under this subtitle for each of fiscal
7 years 1998 through 2004 is the following:
8 (A) for fiscal year 1998, $500,000,000;
9 (B) for fiscal year 1999, $750,000,000;
10 (C) for fiscal year 2000, $1,000,000,000;
11 (D) for fiscal year 2001, $1,500,000,000;
12 (E) for fiscal year 2002, $1,750,000,000;
13 (F) for fiscal year 2003, $2,000,000,000;
14 and
15 (G) for fiscal year 2004, $2,500,000,000.
16 (2) SUBSEQUENT FISCAL YEARS.—For pur-
17 poses of this subtitle, the total Federal budget for
18 State plans under this subtitle for each fiscal year
19 after fiscal year 2004 is the total Federal budget
20 under this subsection for the preceding fiscal year
21 multiplied by—
22 (A) a factor (described in paragraph (3))
23 reflecting the change in the consumer price
24 index for the fiscal year, and

1 (B) a factor (described in paragraph (4))
2 reflecting the change in the number of individ-
3 uals with disabilities for the fiscal year.
4 (3) CPI INCREASE FACTOR.—For purposes of
5 paragraph (2)(A), the factor described in this para-
6 graph for a fiscal year is the ratio of—
7 (A) the annual average index of the
8 consumer price index for the preceding fiscal
9 year, to—
10 (B) such index, as so measured, for the
11 second preceding fiscal year.
12 (4) DISABLED POPULATION FACTOR.—For pur-
13 poses of paragraph (2)(B), the factor described in
14 this paragraph for a fiscal year is 100 percent plus
15 (or minus) the percentage increase (or decrease)
16 change in the disabled population of the United
17 States (as determined for purposes of the most re-
18 cent update under subsection (b)(3)(D)).
19 (5) ADDITIONAL FUNDS DUE TO MEDICAID
20 OFFSETS.—
21 (A) IN GENERAL.—Each participating
22 State must provide the Secretary with informa-
23 tion concerning offsets and reductions in the
24 medicaid program resulting from home and
25 community-based services provided disabled in-

1 dividuals under this subtitle, that would have
2 been paid for such individuals under the State
3 medicaid plan but for the provision of similar
4 services under the program under this subtitle.
5 At the time a State first submits its plan under
6 this subtitle and before each subsequent fiscal
7 year (through fiscal year 2004), the State also
8 must provide the Secretary with such budgetary
9 information (for each fiscal year through fiscal
10 year 2004), as the Secretary determines to be
11 necessary to carry out this paragraph.
12 (B) REPORTS.—Each State with a pro-
13 gram under this subtitle shall submit such re-
14 ports to the Secretary as the Secretary may re-
15 quire in order to monitor compliance with sub-
16 paragraph (A). The Secretary shall specify the
17 format of such reports and establish uniform
18 data reporting elements.
19 (C) ADJUSTMENTS TO TOTAL FEDERAL
20 BUDGET.—
21 (i) IN GENERAL.—For each fiscal year
22 (beginning with fiscal year 1998 and end-
23 ing with fiscal year 2004) and based on a
24 review of information submitted under sub-
25 paragraph (A), the Secretary shall deter-

1 mine the amount by which the total Fed-
2 eral budget under this subsection will in-
3 crease. The amount of such increase for a
4 fiscal year shall be limited to the reduction
5 in Federal expenditures of medical assist-
6 ance (as determined by Secretary) that
7 would have been made under part A of
8 title XIX for home and community based
9 services for disabled individuals but for the
10 provision of similar services under the pro-
11 gram under this subtitle.
12 (ii) ANNUAL PUBLICATION.—The Sec-
13 retary shall publish before the beginning of
14 such fiscal year, the revised total Federal
15 budget under this subsection for such fis-
16 cal year.
17 (D) CONSTRUCTION.—Nothing in this sub-
18 section shall be construed as requiring States to
19 determine eligibility for medical assistance
20 under the State medicaid plan on behalf of indi-
21 viduals receiving assistance under this subtitle.
22 (b) ALLOTMENTS TO STATES.—
23 (1) IN GENERAL.—The Secretary shall allot to
24 each State for each fiscal year an amount that bears
25 the same ratio to the total Federal budget for the

1 (determined under paragraph (4)) for the
2 fiscal year.
3 (iii) WAGE ADJUSTMENT FACTOR.—
4 The wage adjustment factor (determined
5 under paragraph (5)) for the State for the
6 fiscal year.
7 (iv) FEDERAL HOME AND COMMU-
8 NITY-BASED SERVICES MATCHING PER-
9 CENTAGE.—The Federal home and com-
10 munity-based services matching percentage
11 (determined under section 3308(b)) for the
12 fiscal year.
13 (v) LOW INCOME INDEX.—The low in-
14 come index (determined under paragraph
15 (6)) for the State for the preceding fiscal
16 year.
17 (3) NUMBER OF ELIGIBLE INDIVIDUALS WITH
18 DISABILITIES.—The number of eligible individuals
19 with disabilities in a State for a fiscal year shall be
20 determined as follows:
21 (A) BASE.—The Secretary shall determine
22 the number of individuals in the State by age,
23 sex, and income category, based on the 1990
24 decennial census, adjusted (as appropriate) by
25 the March 1996 current population survey.

1 (B) DISABILITY PREVALENCE LEVEL BY
2 POPULATION CATEGORY.—The Secretary shall
3 determine, for each such age, sex, and income
4 category, the national average proportion of the
5 population of such category that represents eli-
6 gible individuals with disabilities. The Secretary
7 may conduct periodic surveys in order to deter-
8 mine such proportions.
9 (C) BASE DISABLED POPULATION IN A
10 STATE.—The number of eligible individuals
11 with disabilities in a State in 1996 is equal to
12 the sum of the products, for such each age, sex,
13 and income category, of—
14 (i) the population of individuals in the
15 State in the category (determined under
16 subparagraph (A)), and
17 (ii) the national average proportion
18 for such category (determined under sub-
19 paragraph (B)).
20 (D) UPDATE.—The Secretary shall deter-
21 mine the number of eligible individuals with dis-
22 abilities in a State in a fiscal year equal to the
23 number determined under subparagraph (C) for
24 the State increased (or decreased) by the per-
25 centage increase (or decrease) in the disabled

1 population of the State as determined under the
2 current population survey from 1996 to the
3 year before the fiscal year involved.
4 (4) NATIONAL PER CAPITA BUDGET AMOUNT.—
5 The national average per capita budget amount, for
6 a fiscal year, is—
7 (A) the total Federal budget specified
8 under subsection (a) for the fiscal year; divided
9 by
10 (B) the sum, for the fiscal year, of the
11 numbers of eligible individuals with disabilities
12 (determined under paragraph (3)) for all the
13 States for the fiscal year.
14 (5) WAGE ADJUSTMENT FACTOR.—The wage
15 adjustment factor, for a State for a fiscal year, is
16 equal to the ratio of—
17 (A) the average hourly wages for service
18 workers (other than household or protective
19 services) in the State, to
20 (B) the national average hourly wages for
21 service workers (other than household or protec-
22 tive services).
23 The hourly wages shall be determined under this
24 paragraph based on data from the most recent de-
25 cennial census for which such data are available.

1 (6) LOW INCOME INDEX.—The low income
2 index for each State for a fiscal year is the ratio, de-
3 termined for the preceding fiscal year, of—
4 (A) the percentage of the State's popu-
5 lation that has income below 150 percent of the
6 poverty level, to
7 (B) the percentage of the population of the
8 United States that has income below 150 per-
9 cent of the poverty level.
10 Such percentages shall be based on data from the
11 most recent decennial census for which such data
12 are available, adjusted by data from the most recent
13 current population survey as determined appropriate
14 by the Secretary.
15 (7) NO DUPLICATE PAYMENT.—No payment
16 may be made to a State under this section for any
17 services provided to an individual to the extent that
18 the State received payment for such services under
19 section 1903(a) of the Social Security Act.
20 (8) REALLOCATIONS.—Any amounts allotted to
21 States under this subsection for a year that are not
22 expended in such year shall remain available for
23 State programs under this subtitle and may be re-
24 allocated to States as the Secretary determines ap-
25 propriate.

1 (c) CARRY-OVER.—With respect to fiscal years 1998
2 through 2005, a State shall be permitted to carry-over not
3 more than 25 percent of the allotment of such State for
4 expenditures in the subsequent year.
5 (d) STATE ENTITLEMENT.—This subtitle constitutes
6 budget authority in advance of appropriations Acts, and
7 represents the obligation of the Federal Government to
8 provide for the payment to States of amounts described
9 in subsection (a).

10 **SEC. 3310. FEDERAL EVALUATIONS.**

11 Not later than December 31, 2003, December 31,
12 2006, and each December 31 thereafter, the Secretary
13 shall provide to Congress analytical reports that
14 evaluate—
15 (1) the extent to which individuals with low in-
16 comes and disabilities are equitably served;
17 (2) the adequacy and equity of service plans to
18 individuals with similar levels of disability across
19 States;
20 (3) the comparability of program participation
21 across States, described by level and type of disabil-
22 ity; and
23 (4) the ability of service providers to sufficiently
24 meet the demand for services.

1 # TITLE IV—INFRASTRUCTURE
2 # REFORM

3 ## Subtitle A—Programs to Improve
4 ## Access To Underserved Areas

5 ### PART I—GRANTS FOR THE DEVELOPMENT AND
6 ### OPERATION OF COMMUNITY HEALTH
7 ### GROUPS AND FOR CAPITAL ASSISTANCE

8 **SEC. 4001. DESIGNATION OF RURAL AND URBAN UNDER-**
9 **SERVED AREAS.**

10 (a) STATE DESIGNATION.—
11 (1) IN GENERAL.—Subject to paragraph (2), a
12 participating State may designate areas within the
13 State as rural or urban underserved areas in accord-
14 ance with the criteria developed by the Secretary
15 under subsection (c).
16 (2) SECRETARIAL APPROVAL OF STATE DES-
17 IGNATION.—A State designation of an area within
18 the State as a rural or urban underserved area is
19 subject to approval by the Secretary.
20 (b) DESIGNATION BY THE SECRETARY.—In addition
21 to rural and urban underserved areas designated by a par-
22 ticipating State under subsection (a)(1) and approved by
23 the Secretary under subsection (a)(2), the Secretary may
24 designate additional areas within participating States as

1 rural or urban underserved areas in accordance with the
2 criteria developed by the Secretary under subsection (c).
3 (c) CRITERIA.—The Secretary shall develop criteria
4 for designating an area as a rural or underserved area.
5 Such criteria shall take into account—
6 (1) whether the area is—
7 (A) an area in an urban or rural area
8 (which need not conform to the geographic
9 boundaries of a political subdivision and which
10 is a rational area for the delivery of health serv-
11 ices) which the Secretary determines has a
12 health professional shortage, or
13 (B) a population group which the Sec-
14 retary determines has such a shortage,
15 except that the Secretary shall not remove an area
16 from an area determined to be an area described in
17 subparagraph (A) until the Secretary has afforded
18 interested persons and groups in such area an op-
19 portunity to provide data and information in support
20 of the designation as such an area or a population
21 group described in subparagraph (B) or a facility
22 described in subparagraph (C), and has made a de-
23 termination on the basis of the data and information
24 submitted by such persons and groups and other
25 data and information available to the Secretary;

1 (2) whether a significant number of individuals
2 who are furnished health care services in the area
3 are members of a population of an urban or rural
4 area designated by the Secretary as an area with a
5 shortage of personal health services or are a popu-
6 lation group designated by the Secretary as having
7 a shortage of such services;
8 (3) the financial and geographic access to cer-
9 tified health plans;
10 (4) the availability, adequacy, and quality of
11 health care providers and health care facilities; and
12 (5) the health status of residents of the area.

13 **SEC. 4002. COMMUNITY HEALTH GROUP; CERTIFIED COM-**
14 **MUNITY HEALTH PLAN; COMMUNITY HEALTH**
15 **NETWORK; ELIGIBLE ENTITIES; ISOLATED**
16 **RURAL FACILITIES.**

17 (a) COMMUNITY HEALTH GROUP.—For purposes of
18 this part, the term "community health group" means a
19 certified community health plan or a community health
20 network.

21 (b) COMMUNITY HEALTH NETWORK.—For purposes
22 of this part, the term "community health network" means
23 a consortium of health care providers that—
24 (1) is a public or non-profit private entity;

1 (2) furnishes at least a portion of the services
2 included in the standard benefit package either di-
3 rectly or indirectly through affiliations with other
4 entities;
5 (3) has an agreement with one or more certified
6 health plans;
7 (4) has a written agreement with each of the
8 health care providers in the consortium governing
9 the participation of the providers;
10 (5) has as participating members of the consor-
11 tium two or more of the categories of eligible entities
12 described in subsection (d);
13 (6) ensures that the health care services fur-
14 nished by the consortium are available and accessible
15 to each client with reasonable promptness; and
16 (7) furnishes a significant volume of health care
17 services in a rural or urban underserved area des-
18 ignated by the State and approved by the Secretary
19 under section 4001(a), or designated by the Sec-
20 retary under subsection (b) of such section.
21 (c) CERTIFIED COMMUNITY HEALTH PLAN.—For
22 purposes of this part, the term "certified community
23 health plan" means a health plan that—
24 (1) is a public or nonprofit private entity;

1 (2) furnishes a significant volume of health care
2 services in a rural or urban underserved area des-
3 ignated by the State and approved by the Secretary
4 under section 4001(a), or designated by the Sec-
5 retary under subsection (b) of such section;
6 (3) has two or more of the categories of eligible
7 entities described in subsection (d) furnishing health
8 services through the health plan;
9 (4) ensures that each individual enrolled with
10 the plan has a primary care provider; and
11 (5) meets all other criteria required of a cer-
12 tified health plan, including the offering of a stand-
13 ard benefits package under title I.
14 (d) ELIGIBLE ENTITIES.—For purposes of this part,
15 the term "eligible entities" means the following categories
16 of entities:
17 (1) Physicians, other health professionals, or
18 health care institutions, which may include public
19 hospitals, that provide a significant amount of
20 health care services in a rural or urban underserved
21 area designated by the State and approved by the
22 Secretary under section 4001(a) or designated by
23 the Secretary under subsection (b) of such section.

1 (2) Entities providing health services under
2 grants under sections 329 and 330 of the Public
3 Health Service Act.
4 (3) Entities providing health services under
5 grants under sections 340 and 340A of such Act.
6 (4) Entities providing health services under
7 grants under section 1001 or title XXVI of such
8 Act.
9 (5) Entities providing health services under title
10 V of the Social Security Act.
11 (6) Entities providing health services through
12 rural health clinics (as defined in section
13 1861(aa)(2) of the Social Security Act) and other
14 federally qualified health centers (as defined in
15 1861(aa)(4) of such Act).
16 (7) Entities providing health services in urban
17 areas through programs under title V of the Indian
18 Health Care Improvement Act, and entities provid-
19 ing outpatient health services through programs
20 under the Indian Self-Determination Act.
21 (8) Programs providing personal health services
22 and operating through State or local public health
23 agencies.
24 (9) Isolated rural facilities (as defined in sub-
25 section (e)).

1 (e) ISOLATED RURAL FACILITIES.—The term "iso-
2 lated rural facility" means a facility providing health serv-
3 ices that is located in a county (or equivalent unit of local
4 government) with fewer than 6 residents per square mile.

5 **Subpart A—Grants for the Development and**
6 **Operation of Community Health Groups**

7 **SEC. 4011. GRANTS AND CONTRACTS FOR DEVELOPMENT**
8 **OF PLANS AND NETWORKS.**

9 (a) IN GENERAL.—In the case of a public or private
10 non-profit consortium of eligible entities that submits an
11 application in accordance with subsection (b), the Sec-
12 retary may make grants to and enter into contracts with
13 such consortium for the development of community health
14 groups.

15 (b) APPLICATION.—For purposes of subsection (a),
16 an application is in accordance with this subsection if—
17 (1) the applicant submits an application to the
18 Secretary at such time and in such manner as the
19 Secretary may reasonably require;
20 (2) the application is accompanied by an assess-
21 ment of need of the population or populations pro-
22 posed to be served by the applicant;
23 (3) the application is accompanied by—
24 (A) a description of how the applicant will
25 design the proposed community health group

1 (including the service sites involved) for such
2 populations based on the assessment of need;
3 (B) a description of efforts to secure, with-
4 in the proposed service area of such community
5 health group (including the service sites in-
6 volved), financial and professional assistance
7 and support for the project; and
8 (C) evidence of significant community in-
9 volvement in the initiation, development and on-
10 going operation of the project;
11 (4) the application is accompanied by the assur-
12 ances described in subsection (c); and
13 (5) the application is accompanied by such ad-
14 ditional assurances, agreements and other informa-
15 tion as the Secretary may reasonably require.
16 (c) ASSURANCES DESCRIBED.—The assurances de-
17 scribed in this subsection are the following:
18 (1) GUARANTEED ACCESS AND CONTINUED DE-
19 LIVERY OF HEALTH CARE SERVICES IN A DES-
20 IGNATED AREA.—An assurance that the applicant
21 involved will furnish—
22 (A) a significant volume of health care
23 services within a rural or urban underserved
24 area designated by the State and approved by
25 the Secretary under section 4001(a) or des-

1 ignated by the Secretary under subsection (b)
2 of such section, and
3 (B) health care services without regard to
4 the financial or insurance status of an individ-
5 ual.
6 (2) ACCESSIBILITY OF SERVICES.—
7 (A) SERVICES FOR CERTAIN INDIVID-
8 UALS.—An assurance that the applicant will en-
9 sure that the services of the applicant will be
10 accessible directly or through formal contrac-
11 tual arrangements with its participating provid-
12 ers regardless of whether individuals who seek
13 care from the applicant are eligible individuals
14 (as such term is defined in section 1958(3) of
15 the Social Security Act).
16 (B) USE OF THIRD-PARTY PAYORS.—An
17 assurance that the applicant will ensure that
18 the health care providers of the group are all
19 approved by the Secretary as providers under
20 title XVIII of the Social Security Act and by
21 the appropriate State agency as providers under
22 title XIX of such Act, and the applicant has
23 made or will make every reasonable effort to
24 collect appropriate reimbursement for its costs
25 in providing health services to individuals who

1 are enrolled in a private health insurance pro-
2 gram or certified health plan, or who are enti-
3 tled to insurance benefits under title XVIII of
4 such Act, medical assistance under a State plan
5 approved under title XIX of such Act, or to as-
6 sistance for medical expenses under any other
7 public assistance program.
8 (C) SCHEDULE OF FEES.—An assurance
9 that the applicant will—
10 (i) prepare a schedule of fees or pay-
11 ments for the provision of all health care
12 services furnished by the applicant that is
13 consistent with locally prevailing rates or
14 charges and designed to cover its reason-
15 able costs of operation and has prepared a
16 corresponding schedule of discounts to be
17 applied to the payment of such fees or pay-
18 ments (or payments of cost sharing
19 amounts owed in the case of covered bene-
20 fits), which discounts are applied on the
21 basis of the patient's ability to pay; and
22 (ii) make every reasonable effort to
23 secure from patients payment in accord-
24 ance with such schedules, and to collect re-
25 imbursement for services to persons enti-

1 tled to public or private insurance benefits
2 or other medical assistance on the basis of
3 full fees without application of discounts,
4 except that the applicant will ensure that
5 no person is denied service based on the
6 person's inability to pay therefore.
7 (D) BARRIERS WITHIN SERVICE AREA.—
8 An assurance that the applicant will ensure
9 that the following conditions are met:
10 (i) In the service area of the group,
11 the applicant will ensure that—
12 (I) the services of the applicant
13 are accessible to all residents; and
14 (II) to the maximum extent pos-
15 sible, barriers to access to the services
16 of the applicant are eliminated, in-
17 cluding barriers resulting from the
18 area's physical characteristics, its resi-
19 dential patterns, its economic, social
20 and cultural groupings, its available
21 transportation, and the ability of the
22 area's residents to speak the English
23 language.
24 (ii) The applicant will periodically
25 conduct reviews within the service area of

1 the group to determine whether the conditions described in clause (i) are being met.

3 (3) QUALITY CONTROL SYSTEM.—An assurance that the applicant will maintain a community-oriented, patient responsive, quality control system under which the group, in accordance with regulations prescribed by the Secretary—

8 (A) conducts an ongoing quality assurance program for the health services delivered by participating provider entities;

11 (B) maintains a continuous community health status improvement process; and

13 (C) maintains a system for development, compilation, evaluation, and reporting of information to the public regarding the costs of operation, service utilization patterns, availability, accessibility and acceptability of services, developments in the health status of the populations served, uniform health and clinical performance measures and financial performance of the applicant.

22 (4) USE OF EXISTING RESOURCES.—An assurance that the applicant will, in developing the community health group involved, utilize existing resources to the maximum extent practicable.

1 (d) DEVELOPMENT GRANTS.—

2 (1) PREFERENCE.—In making a grant or en-
3 tering into a contract under subsection (a), the Sec-
4 retary shall give a greater degree of preference to
5 applicants—

6 (A) according to the extent to which a
7 greater number of categories of eligible entities
8 described in section 4002(d) are members of
9 the consortium, except in areas such as rural
10 areas, where providers are severely limited in
11 number, and

12 (B) in which the population to be served
13 by the consortium has a higher degree of unmet
14 need.

15 (2) USE OF FINANCIAL ASSISTANCE.—A consor-
16 tium of eligible entities receiving financial assistance
17 under a grant or contract pursuant to subsection (a)
18 may use such assistance for activities relating to the
19 development of a community health group,
20 including—

21 (A) planning such group, including enter-
22 ing into contracts between the recipient of the
23 award and health care providers who are to
24 participate in the group;

1 (B) recruitment, compensation, training,
2 and retention of health care professionals and
3 administrative staff;
4 (C) acquisition and development of infor-
5 mation, billing, and reporting systems;
6 (D) providing linkages between providers,
7 including through the use of information sys-
8 tems;
9 (E) in the case of a consortium receiving
10 a grant or contract pursuant to subsection (a)
11 for the development of a certified community
12 health plan, the establishment of reserves re-
13 quired for furnishing services on a prepaid or
14 capitated basis; and
15 (F) such other expenditures as the Sec-
16 retary determines to be appropriate to support
17 other activities related to the development of
18 community groups.
19 (e) REPORTS AND AUDITS.—A public or private non-
20 profit consortium of eligible entities that receives a grant
21 or contract under subsection (a) shall—
22 (1) provide such reports and information on ac-
23 tivities carried out under this section in a manner
24 and form required by the Secretary; and

1 (2) provide an annual organizationwide audit
2 that meets applicable standards of the Secretary.
3 (f) AUTHORIZATION OF APPROPRIATIONS.—There
4 are authorized to be appropriated to make payments
5 under subsection (a), such sums as may be necessary for
6 each of the fiscal years 1995 through 2004.

7 **SEC. 4012. GRANTS AND CONTRACTS FOR OPERATION OF**
8 **PLANS AND NETWORKS.**

9 (a) IN GENERAL.—In the case of a community health
10 group that submits an application in accordance with sub-
11 section (b), the Secretary may make grants to and enter
12 into contracts with such groups for the operation of such
13 groups.
14 (b) APPLICATION.—For purposes of subsection (a),
15 an application is in accordance with this subsection if—
16 (1) the applicant submits an application to the
17 Secretary at such time and in such manner as the
18 Secretary may reasonably require;
19 (2) the application is accompanied by an assess-
20 ment of need of the population or populations served
21 by the applicant;
22 (3) the application provides evidence of signifi-
23 cant community involvement in the ongoing oper-
24 ation of the community health group;