

103^D CONGRESS
2^D SESSION

S. 2545

To provide for home and community-based services for individuals with disabilities.

IN THE SENATE OF THE UNITED STATES

OCTOBER 7 (legislative day, SEPTEMBER 12), 1994

Mr. FEINGOLD introduced the following bill; which was read the first time

A BILL

To provide for home and community-based services for individuals with disabilities.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

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

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Home and Community-Based Services for Individuals
6 with Disabilities Act of 1994”.

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

Sec. 1. Short title; table of contents.

TITLE I—HOME AND COMMUNITY-BASED SERVICES FOR
INDIVIDUALS WITH DISABILITIES

Sec. 102. State programs for home and community-based services for individuals with disabilities.

- Sec. 103. State plans.
- Sec. 104. Individuals with disabilities defined.
- Sec. 105. Home and community-based services covered under State plan.
- Sec. 106. Cost sharing.
- Sec. 107. Quality assurance and safeguards.
- Sec. 108. Advisory groups.
- Sec. 109. Payments to States.
- Sec. 110. Appropriations; allotments to States.
- Sec. 111. Federal evaluations.
- Sec. 112. Information and technical assistance grants relating to development of hospital linkage programs.

TITLE II—PROVISIONS RELATING TO MEDICARE

- Sec. 201. Recapture of certain health care subsidies received by high-income individuals.
- Sec. 202. Imposition of 10 percent copayment on home health services under medicare.
- Sec. 203. Reduction in payments for capital-related costs for inpatient hospital services.
- Sec. 204. Elimination of formula-driven overpayments for certain outpatient hospital services.
- Sec. 205. Reduction in routine cost limits for home health services.

1 **TITLE I—HOME AND COMMU-** 2 **NITY-BASED SERVICES FOR** 3 **INDIVIDUALS WITH DISABIL-** 4 **ITIES**

5 **SEC. 102. STATE PROGRAMS FOR HOME AND COMMUNITY-** 6 **BASED SERVICES FOR INDIVIDUALS WITH** 7 **DISABILITIES.**

8 (a) IN GENERAL.—Each State that has a plan for
 9 home and community-based services for individuals with
 10 disabilities submitted to and approved by the Secretary
 11 under section 103(b) may receive payment in accordance
 12 with section 109.

13 (b) ENTITLEMENT TO SERVICES.—Nothing in this
 14 title shall be construed to create a right to services for
 15 individuals or a requirement that a State with an approved

1 plan expend the entire amount of funds to which it is enti-
2 tled under this title.

3 (c) DESIGNATION OF AGENCY.—Not later than 6
4 months after the date of enactment of this Act, the Sec-
5 retary shall designate an agency responsible for program
6 administration under this title.

7 **SEC. 103. STATE PLANS.**

8 (a) PLAN REQUIREMENTS.—In order to be approved
9 under subsection (b), a State plan for home and commu-
10 nity-based services for individuals with disabilities must
11 meet the following requirements:

12 (1) STATE MAINTENANCE OF EFFORT.—

13 (A) IN GENERAL.—A State plan under this
14 title shall provide that the State will, during
15 any fiscal year that the State is furnishing serv-
16 ices under this title, make expenditures of State
17 funds in an amount equal to the State mainte-
18 nance of effort amount for the year determined
19 under subparagraph (B) for furnishing the
20 services described in subparagraph (C) under
21 the State plan under this title or the State plan
22 under title XIX of the Social Security Act.

23 (B) STATE MAINTENANCE OF EFFORT
24 AMOUNT.—

1 (i) IN GENERAL.—The maintenance of
2 effort amount for a State for a fiscal year
3 is an amount equal to—

4 (I) for fiscal year 1996, the base
5 amount for the State (as determined
6 under clause (ii)) updated through the
7 midpoint of fiscal year 1996 by the
8 estimated percentage change in the
9 index described in clause (iii) during
10 the period beginning on October 1,
11 1994, and ending at that midpoint;
12 and

13 (II) for succeeding fiscal years,
14 an amount equal to the amount deter-
15 mined under this clause for the pre-
16 vious fiscal year updated through the
17 midpoint of the year by the estimated
18 percentage change in the index de-
19 scribed in clause (iii) during the 12-
20 month period ending at that midpoint,
21 with appropriate adjustments to re-
22 flect previous underestimations or
23 overestimations under this clause in
24 the projected percentage change in
25 such index.

1 (ii) STATE BASE AMOUNT.—The base
2 amount for a State is an amount equal to
3 the total expenditures from State funds
4 made under the State plan under title XIX
5 of the Social Security Act during fiscal
6 year 1994 with respect to medical assist-
7 ance consisting of the services described in
8 subparagraph (C).

9 (iii) INDEX DESCRIBED.—For pur-
10 poses of clause (i), the Secretary shall de-
11 velop an index which reflects the projected
12 increases in spending for services under
13 subparagraph (C), adjusted for differences
14 among the States.

15 (C) MEDICAID SERVICES DESCRIBED.—
16 The services described in this subparagraph are
17 the following:

18 (i) Personal care services (as de-
19 scribed in section 1905(a)(24) of the Social
20 Security Act).

21 (ii) Home or community-based serv-
22 ices furnished under a waiver granted
23 under subsection (c), (d), or (e) of section
24 1915 of such Act.

1 (iii) Home and community care fur-
2 nished to functionally disabled elderly indi-
3 viduals under section 1929 of such Act.

4 (iv) Community supported living ar-
5 rangements services under section 1930 of
6 such Act.

7 (v) Services furnished in a hospital,
8 nursing facility, intermediate care facility
9 for the mentally retarded, or other institu-
10 tional setting specified by the Secretary.

11 (2) ELIGIBILITY.—

12 (A) IN GENERAL.—Within the amounts
13 provided by the State and under section 109 for
14 such plan, the plan shall provide that services
15 under the plan will be available to individuals
16 with disabilities (as defined in section 104(a))
17 in the State.

18 (B) INITIAL SCREENING.—The plan shall
19 provide a process for the initial screening of an
20 individual who appears to have some reasonable
21 likelihood of being an individual with disabili-
22 ties. Any such process shall require the provi-
23 sion of assistance to individuals who wish to
24 apply but whose disability limits their ability to
25 apply. The initial screening and the determina-

1 tion of disability (as defined under section
2 104(b)(1)) shall be conducted by a public agen-
3 cy.

4 (C) RESTRICTIONS.—

5 (i) IN GENERAL.—The plan may not
6 limit the eligibility of individuals with dis-
7 abilities based on—

8 (I) income;

9 (II) age;

10 (III) residential setting (other
11 than with respect to an institutional
12 setting, in accordance with clause
13 (ii)); or

14 (IV) other grounds specified by
15 the Secretary;

16 except that through fiscal year 2004, the
17 Secretary may permit a State to limit eligi-
18 bility based on level of disability or geog-
19 raphy (if the State ensures a balance be-
20 tween urban and rural areas).

21 (ii) INSTITUTIONAL SETTING.—The
22 plan may limit the eligibility of individuals
23 with disabilities based on the definition of
24 the term “institutional setting”, as deter-
25 mined by the State.

1 (D) CONTINUATION OF SERVICES.—The
2 plan must provide assurances that, in the case
3 of an individual receiving medical assistance for
4 home and community-based services under the
5 State medicaid plan under title XIX of the So-
6 cial Security Act as of the date a State’s plan
7 is approved under this title, the State will con-
8 tinue to make available (either under this plan,
9 under the State medicaid plan, or otherwise) to
10 such individual an appropriate level of assist-
11 ance for home and community-based services,
12 taking into account the level of assistance pro-
13 vided as of such date and the individual’s need
14 for home and community-based services.

15 (3) SERVICES.—

16 (A) NEEDS ASSESSMENT.—Not later than
17 the end of the second year of implementation,
18 the plan or its amendments shall include the re-
19 sults of a statewide assessment of the needs of
20 individuals with disabilities in a format required
21 by the Secretary. The needs assessment shall
22 include demographic data concerning the num-
23 ber of individuals within each category of dis-
24 ability described in this title, and the services
25 available to meet the needs of such individuals.

1 (B) SPECIFICATION.—Consistent with sec-
2 tion 105, the plan shall specify—

3 (i) the services made available under
4 the plan,

5 (ii) the extent and manner in which
6 such services are allocated and made avail-
7 able to individuals with disabilities, and

8 (iii) the manner in which services
9 under the plan are coordinated with each
10 other and with health and long-term care
11 services available outside the plan for indi-
12 viduals with disabilities.

13 (C) TAKING INTO ACCOUNT INFORMAL
14 CARE.—A State plan may take into account, in
15 determining the amount and array of services
16 made available to covered individuals with dis-
17 abilities, the availability of informal care. Any
18 individual plan of care developed under section
19 105(b)(1)(B) that includes informal care shall
20 be required to verify the availability of such
21 care.

22 (D) ALLOCATION.—The State plan—

23 (i) shall specify how services under
24 the plan will be allocated among covered
25 individuals with disabilities,

1 (ii) shall attempt to meet the needs of
2 individuals with a variety of disabilities
3 within the limits of available funding,

4 (iii) shall include services that assist
5 all categories of individuals with disabili-
6 ties, regardless of their age or the nature
7 of their disabling conditions,

8 (iv) shall demonstrate that services
9 are allocated equitably, in accordance with
10 the needs assessment required under sub-
11 paragraph (A), and

12 (v) shall ensure that—

13 (I) the proportion of the popu-
14 lation of low-income individuals with
15 disabilities in the State that rep-
16 resents individuals with disabilities
17 who are provided home and commu-
18 nity-based services either under the
19 plan, under the State medicaid plan,
20 or under both, is not less than

21 (II) the proportion of the popu-
22 lation of the State that represents in-
23 dividuals who are low-income individ-
24 uals.

1 (E) LIMITATION ON LICENSURE OR CER-
2 TIFICATION.—The State may not subject
3 consumer-directed providers of personal assist-
4 ance services to licensure, certification, or other
5 requirements which the Secretary finds not to
6 be necessary for the health and safety of indi-
7 viduals with disabilities.

8 (F) CONSUMER CHOICE.—To the extent
9 feasible, the State shall follow the choice of an
10 individual with disabilities (or that individual's
11 designated representative who may be a family
12 member) regarding which covered services to re-
13 ceive and the providers who will provide such
14 services.

15 (4) COST SHARING.—The plan shall impose cost
16 sharing with respect to covered services in accord-
17 ance with section 106.

18 (5) TYPES OF PROVIDERS AND REQUIREMENTS
19 FOR PARTICIPATION.—The plan shall specify—

20 (A) the types of service providers eligible
21 to participate in the program under the plan,
22 which shall include consumer-directed providers
23 of personal assistance services, except that the
24 plan—

1 (i) may not limit benefits to services
2 provided by registered nurses or licensed
3 practical nurses; and

4 (ii) may not limit benefits to services
5 provided by agencies or providers certified
6 under title XVIII of the Social Security
7 Act; and

8 (B) any requirements for participation ap-
9 plicable to each type of service provider.

10 (6) PROVIDER REIMBURSEMENT.—

11 (A) PAYMENT METHODS.—The plan shall
12 specify the payment methods to be used to re-
13 imburse providers for services furnished under
14 the plan. Such methods may include retrospec-
15 tive reimbursement on a fee-for-service basis,
16 prepayment on a capitation basis, payment by
17 cash or vouchers to individuals with disabilities,
18 or any combination of these methods. In the
19 case of payment to consumer-directed providers
20 of personal assistance services, including pay-
21 ment through the use of cash or vouchers, the
22 plan shall specify how the plan will assure com-
23 pliance with applicable employment tax and
24 health care coverage provisions.

1 (B) PAYMENT RATES.—The plan shall
2 specify the methods and criteria to be used to
3 set payment rates for—

4 (i) agency administered services fur-
5 nished under the plan; and

6 (ii) consumer-directed personal assist-
7 ance services furnished under the plan, in-
8 cluding cash payments or vouchers to indi-
9 viduals with disabilities, except that such
10 payments shall be adequate to cover
11 amounts required under applicable employ-
12 ment tax and health care coverage provi-
13 sions.

14 (C) PLAN PAYMENT AS PAYMENT IN
15 FULL.—The plan shall restrict payment under
16 the plan for covered services to those providers
17 that agree to accept the payment under the
18 plan (at the rates established pursuant to sub-
19 paragraph (B)) and any cost sharing permitted
20 or provided for under section 106 as payment
21 in full for services furnished under the plan.

22 (7) QUALITY ASSURANCE AND SAFEGUARDS.—
23 The State plan shall provide for quality assurance
24 and safeguards for applicants and beneficiaries in
25 accordance with section 107.

1 (8) ADVISORY GROUP.—The State plan shall—

2 (A) assure the establishment and mainte-
3 nance of an advisory group under section
4 108(b), and

5 (B) include the documentation prepared by
6 the group under section 108(b)(4).

7 (9) ADMINISTRATION AND ACCESS.—

8 (A) STATE AGENCY.—The plan shall des-
9 ignate a State agency or agencies to administer
10 (or to supervise the administration of) the plan.

11 (B) COORDINATION.—The plan shall speci-
12 fy how it will—

13 (i) coordinate services provided under
14 the plan, including eligibility prescreening,
15 service coordination, and referrals for indi-
16 viduals with disabilities who are ineligible
17 for services under this title with the State
18 medicaid plan under title XIX of the Social
19 Security Act, titles V and XX of such Act,
20 programs under the Older Americans Act
21 of 1965, programs under the Developmen-
22 tal Disabilities Assistance and Bill of
23 Rights Act, the Individuals with Disabil-
24 ities Education Act, and any other Federal
25 or State programs that provide services or

1 assistance targeted to individuals with dis-
2 abilities, and

3 (ii) coordinate with health plans.

4 (C) ADMINISTRATIVE EXPENDITURES.—
5 Effective beginning with fiscal year 2004, the
6 plan shall contain assurances that not more
7 than 10 percent of expenditures under the plan
8 for all quarters in any fiscal year shall be for
9 administrative costs.

10 (D) INFORMATION AND ASSISTANCE.—The
11 plan shall provide for a single point of access to
12 apply for services under the State program for
13 individuals with disabilities. Notwithstanding
14 the preceding sentence, the plan may designate
15 separate points of access to the State program
16 for individuals under 22 years of age, for indi-
17 viduals 65 years of age or older, or for other
18 appropriate classes of individuals.

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

22 (A) such reports, and will cooperate with
23 such audits, as the Secretary determines are
24 needed concerning the State's administration of

1 its plan under this title, including the process-
2 ing of claims under the plan, and

3 (B) such data and information as the Sec-
4 retary may require in a uniform format as spec-
5 ified by the Secretary.

6 (11) USE OF STATE FUNDS FOR MATCHING.—
7 The plan shall provide assurances that Federal
8 funds will not be used to provide for the State share
9 of expenditures under this title.

10 (12) HEALTH CARE WORKER REDEPLOY-
11 MENT.—The plan shall provide for the following:

12 (A) Before initiating the process of imple-
13 menting the State program under such plan,
14 negotiations will be commenced with labor
15 unions representing the employees of the af-
16 fected hospitals or other facilities.

17 (B) Negotiations under subparagraph (A)
18 will address the following:

19 (i) The impact of the implementation
20 of the program upon the workforce.

21 (ii) Methods to redeploy workers to
22 positions in the proposed system, in the
23 case of workers affected by the program.

24 (C) The plan will provide evidence that
25 there has been compliance with subparagraphs

1 (A) and (B), including a description of the re-
2 sults of the negotiations.

3 (13) 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, 1996, shall be effective as of January 1, 1996).

16 In order to budget funds allotted under this title, the Sec-
17 retary shall establish a deadline for the submission of such
18 a plan before the beginning of a fiscal year as a condition
19 of its approval effective with that fiscal year. Any signifi-
20 cant changes to the State plan shall be submitted to the
21 Secretary in the form of plan amendments and shall be
22 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 title according to specified performance

1 standards. In accordance with section 109(e), States that
2 fail to comply with such requirements may be subject to
3 a reduction in the Federal matching rates available to the
4 State under section 109(a) or the withholding of Federal
5 funds for services or administration until such time as
6 compliance is achieved.

7 (d) TECHNICAL ASSISTANCE.—The Secretary shall
8 ensure the availability of ongoing technical assistance to
9 States under this section. Such assistance shall include
10 serving as a clearinghouse for information regarding suc-
11 cessful practices in providing long-term care services.

12 (e) REGULATIONS.—The Secretary shall issue such
13 regulations as may be appropriate to carry out this title
14 on a timely basis.

15 **SEC. 104. INDIVIDUALS WITH DISABILITIES DEFINED.**

16 (a) IN GENERAL.—For purposes of this title, the
17 term ‘individual with disabilities’ means any individual
18 within one or more of the following categories of individ-
19 uals:

20 (1) INDIVIDUALS REQUIRING HELP WITH AC-
21 TIVITIES OF DAILY LIVING.—An individual of any
22 age who—

23 (A) requires hands-on or standby assist-
24 ance, supervision, or cueing (as defined in regu-

1 lations) to perform three or more activities of
2 daily living (as defined in subsection (d)), and

3 (B) is expected to require such assistance,
4 supervision, or cueing over a period of at least
5 90 days.

6 (2) INDIVIDUALS WITH SEVERE COGNITIVE OR
7 MENTAL IMPAIRMENT.—An individual of any age—

8 (A) whose score, on a standard mental sta-
9 tus protocol (or protocols) appropriate for
10 measuring the individual’s particular condition
11 specified by the Secretary, indicates either se-
12 vere cognitive impairment or severe mental im-
13 pairment, or both;

14 (B) who—

15 (i) requires hands-on or standby as-
16 sistance, supervision, or cueing with one or
17 more activities of daily living,

18 (ii) requires hands-on or standby as-
19 sistance, supervision, or cueing with at
20 least such instrumental activity (or activi-
21 ties) of daily living related to cognitive or
22 mental impairment as the Secretary speci-
23 fies, or

24 (iii) displays symptoms of one or more
25 serious behavioral problems (that is on a

1 list of such problems specified by the Sec-
2 retary) which create a need for supervision
3 to prevent harm to self or others; and

4 (C) who is expected to meet the require-
5 ments of subparagraphs (A) and (B) over a pe-
6 riod of at least 90 days.

7 Not later than 2 years after the date of enactment
8 of this Act, the Secretary shall make recommenda-
9 tions regarding the most appropriate duration of dis-
10 ability under this paragraph.

11 (3) INDIVIDUALS WITH SEVERE OR PROFOUND
12 MENTAL RETARDATION.—An individual of any age
13 who has severe or profound mental retardation (as
14 determined according to a protocol specified by the
15 Secretary).

16 (4) YOUNG CHILDREN WITH SEVERE DISABIL-
17 ITIES.—An individual under 6 years of age who—

18 (A) has a severe disability or chronic medi-
19 cal condition that limits functioning in a man-
20 ner that is comparable in severity to the stand-
21 ards established under paragraphs (1), (2), or
22 (3), and

23 (B) is expected to have such a disability or
24 condition and require such services over a pe-
25 riod of at least 90 days.

1 (5) STATE OPTION WITH RESPECT TO INDIVID-
2 UALS WITH COMPARABLE DISABILITIES.—Not more
3 than 2 percent of a State’s allotment for services
4 under this title may be expended for the provision of
5 services to individuals with severe disabilities that
6 are comparable in severity to the criteria described
7 in paragraphs (1) through (4), but who fail to meet
8 the criteria in any single category under such para-
9 graphs.

10 (b) DETERMINATION.—

11 (1) IN GENERAL.—In formulating eligibility cri-
12 teria under subsection (a), the Secretary shall estab-
13 lish criteria for assessing the functional level of dis-
14 ability among all categories of individuals with dis-
15 abilities that are comparable in severity, regardless
16 of the age or the nature of the disabling condition
17 of the individual. The determination of whether an
18 individual is an individual with disabilities shall be
19 made by a public or nonprofit agency that is speci-
20 fied under the State plan and that is not a provider
21 of home and community-based services under this
22 title and by using a uniform protocol consisting of
23 an initial screening and a determination of disability
24 specified by the Secretary. A State may not impose
25 cost sharing with respect to a determination of dis-

1 ability. A State may collect additional information,
2 at the time of obtaining information to make such
3 determination, in order to provide for the assess-
4 ment and plan described in section 105(b) or for
5 other purposes.

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

16 (c) ELIGIBILITY CRITERIA.—The Secretary shall re-
17 assess the validity of the eligibility criteria described in
18 subsection (a) as new knowledge regarding the assess-
19 ments of functional disabilities becomes available. The
20 Secretary shall report to the Congress on its findings
21 under the preceding sentence as determined appropriate
22 by the Secretary.

23 (d) ACTIVITY OF DAILY LIVING DEFINED.—For pur-
24 poses of this title, the term 'activity of daily living' means

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

3 **SEC. 105. 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 title shall specify—

9 (A) the home and community-based serv-
10 ices available under the plan to individuals with
11 disabilities (or to such categories of such indi-
12 viduals), 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 NEEDS ASSESSMENT AND
21 PLAN OF CARE.—

22 (1) IN GENERAL.—The State plan shall provide
23 for home and community-based services to an indi-
24 vidual with disabilities only if the following require-
25 ments are met:

1 (A) COMPREHENSIVE ASSESSMENT.—

2 (i) IN GENERAL.—A comprehensive
3 assessment of an individual's need for
4 home and community-based services (re-
5 gardless of whether all needed services are
6 available under the plan) shall be made in
7 accordance with a uniform, comprehensive
8 assessment tool that shall be used by a
9 State under this paragraph with the ap-
10 proval of the Secretary. The comprehensive
11 assessment shall be made by a public or
12 nonprofit agency that is specified under
13 the State plan and that is not a provider
14 of home and community-based services
15 under this title.

16 (ii) EXCEPTION.—The State may elect
17 to waive the provisions of clause (i) if—

18 (I) with respect to any area of
19 the State, the State has determined
20 that there is an insufficient pool of
21 entities willing to perform comprehen-
22 sive assessments in such area due to
23 a low population of individuals eligible
24 for home and community-based serv-

1 ices under this title residing in the
2 area, and

3 (II) the State plan specifies pro-
4 cedures that the State will implement
5 in order to avoid conflicts of interest.

6 (B) INDIVIDUALIZED PLAN OF CARE.—

7 (i) IN GENERAL.—An individualized
8 plan of care based on the assessment made
9 under subparagraph (A) shall be developed
10 by a public or nonprofit agency that is
11 specified under the State plan and that is
12 not a provider of home and community-
13 based services under this title, except that
14 the State may elect to waive the provisions
15 of this sentence if, with respect to any area
16 of the State, the State has determined
17 there is an insufficient pool of entities will-
18 ing to develop individualized plans of care
19 in such area due to a low population of in-
20 dividuals eligible for home and community-
21 based services under this title residing in
22 the area, and the State plan specifies pro-
23 cedures that the State will implement in
24 order to avoid conflicts of interest.

1 (ii) REQUIREMENTS WITH RESPECT
2 TO PLAN OF CARE.—A plan of care under
3 this subparagraph shall—

4 (I) specify which services in-
5 cluded under the individual plan will
6 be provided under the State plan
7 under this title,

8 (II) identify (to the extent pos-
9 sible) how the individual will be pro-
10 vided any services specified under the
11 plan of care and not provided under
12 the State plan,

13 (III) specify how the provision of
14 services to the individual under the
15 plan will be coordinated with the pro-
16 vision of other health care services to
17 the individual, and

18 (IV) be reviewed and updated
19 every 6 months (or more frequently if
20 there is a change in the individual's
21 condition).

22 The State shall make reasonable efforts to
23 identify and arrange for services described
24 in subclause (II). Nothing in this sub-
25 section shall be construed as requiring a

1 State (under the State plan or otherwise)
2 to provide all the services specified in such
3 a plan.

4 (C) INVOLVEMENT OF INDIVIDUALS.—The
5 individualized plan of care under subparagraph
6 (B) for an individual with disabilities shall—

7 (i) be developed by qualified individ-
8 uals (specified in subparagraph (B));

9 (ii) be developed and implemented in
10 close consultation with the individual (or
11 the individual's designated representative);
12 and

13 (iii) be approved by the individual (or
14 the individual's designated representative).

15 (c) REQUIREMENT FOR CARE MANAGEMENT.—

16 (1) IN GENERAL.—The State shall make avail-
17 able to each category of individuals with disabilities
18 care management services that at a minimum in-
19 clude—

20 (A) arrangements for the provision of such
21 services, and

22 (B) monitoring of the delivery of services.

23 (2) CARE MANAGEMENT SERVICES.—

24 (A) IN GENERAL.—Except as provided in
25 subparagraph (B), the care management serv-

1 ices described in paragraph (1) shall be pro-
2 vided by a public or private entity that is not
3 providing home and community-based services
4 under this title.

5 (B) EXCEPTION.—A person who provides
6 home and community-based services under this
7 title may provide care management services if—

8 (i) the State determines that there is
9 an insufficient pool of entities willing to
10 provide such services in an area due to a
11 low population of individuals eligible for
12 home and community-based services under
13 this title residing in such area; and

14 (ii) the State plan specifies procedures
15 that the State will implement in order to
16 avoid conflicts of interest.

17 (d) MANDATORY COVERAGE OF PERSONAL ASSIST-
18 ANCE SERVICES.—The State plan shall include, in the
19 array of services made available to each category of indi-
20 viduals with disabilities, both agency-administered and
21 consumer-directed personal assistance services (as defined
22 in subsection (h)).

23 (e) ADDITIONAL SERVICES.—

1 (1) TYPES OF SERVICES.—Subject to subsection
2 (f), services available under a State plan under this
3 title may include any (or all) of the following:

4 (A) Homemaker and chore assistance.

5 (B) Home modifications.

6 (C) Respite services.

7 (D) Assistive devices, as defined in the
8 Technology Related Assistance for Individuals
9 with Disabilities Act.

10 (E) Adult day services.

11 (F) Habilitation and rehabilitation.

12 (G) Supported employment.

13 (H) Home health services.

14 (I) Transportation.

15 (J) Any other care or assistive services
16 specified by the State and approved by the Sec-
17 retary that will help individuals with disabilities
18 to remain in their homes and communities.

19 (2) CRITERIA FOR SELECTION OF SERVICES.—
20 The State electing services under paragraph (1)
21 shall specify in the State plan—

22 (A) the methods and standards used to se-
23 lect the types, and the amount, duration, and
24 scope, of services to be covered under the plan

1 and to be available to each category of individ-
2 uals with disabilities, and

3 (B) how the types, and the amount, dura-
4 tion, and scope, of services specified, within the
5 limits of available funding, provide substantial
6 assistance in living independently to individuals
7 within each of the categories of individuals with
8 disabilities.

9 (f) EXCLUSIONS AND LIMITATIONS.—A State plan
10 may not provide for coverage of—

11 (1) room and board,

12 (2) services furnished in a hospital, nursing fa-
13 cility, intermediate care facility for the mentally re-
14 tarded, or other institutional setting specified by the
15 Secretary, or

16 (3) items and services to the extent coverage is
17 provided for the individual under a health plan or
18 the medicare program.

19 (g) PAYMENT FOR SERVICES.—In order to pay for
20 covered services, a State plan may provide for the use of—

21 (1) vouchers,

22 (2) cash payments directly to individuals with
23 disabilities,

24 (3) capitation payments to health plans, and

25 (4) payment to providers.

1 (h) PERSONAL ASSISTANCE SERVICES.—

2 (1) IN GENERAL.—For purposes of this title,
3 the term “personal assistance services” means those
4 services specified under the State plan as personal
5 assistance services and shall include at least hands-
6 on and standby assistance, supervision, cueing with
7 activities of daily living, and such instrumental ac-
8 tivities of daily living as deemed necessary or appro-
9 priate, whether agency-administered or consumer-di-
10 rected (as defined in paragraph (2)). Such services
11 shall include services that are determined to be nec-
12 essary to help all categories of individuals with dis-
13 abilities, regardless of the age of such individuals or
14 the nature of the disabling conditions of such indi-
15 viduals.

16 (2) CONSUMER-DIRECTED.—For purposes of
17 this title:

18 (A) IN GENERAL.—The term “consumer-
19 directed” means, with reference to personal as-
20 sistance services or the provider of such serv-
21 ices, services that are provided by an individual
22 who is selected and managed (and, at the op-
23 tion of the service recipient, trained) by the in-
24 dividual receiving the services.

1 (B) STATE RESPONSIBILITIES.—A State
2 plan shall ensure that where services are pro-
3 vided in a consumer-directed manner, the State
4 shall create or contract with an entity, other
5 than the consumer or the individual provider,
6 to—

7 (i) inform both recipients and provid-
8 ers of rights and responsibilities under all
9 applicable Federal labor and tax law; and

10 (ii) assume responsibility for providing
11 effective billing, payments for services, tax
12 withholding, unemployment insurance, and
13 workers' compensation coverage, and act
14 as the employer of the home care provider.

15 (C) RIGHT OF CONSUMERS.—Notwith-
16 standing the State responsibilities described in
17 subparagraph (B), service recipients, and,
18 where appropriate, their designated representa-
19 tive, shall retain the right to independently se-
20 lect, hire, terminate, and direct (including man-
21 age, train, schedule, and verify services pro-
22 vided) the work of a home care provider.

23 (3) AGENCY ADMINISTERED.—For purposes of
24 this title, the term “agency-administered” means,

1 with respect to such services, services that are not
2 consumer-directed.

3 **SEC. 106. COST SHARING.**

4 (a) NO COST SHARING FOR POOREST.—

5 (1) IN GENERAL.—The State plan may not im-
6 pose any cost sharing for individuals with income (as
7 determined under subsection (d)) less than 150 per-
8 cent of the official poverty level (referred to in para-
9 graph (2)) applicable to a family of the size involved.

10 (2) OFFICIAL POVERTY LEVEL.—The term ‘ap-
11 plicable poverty level’ means, for a family for a year,
12 the official poverty line (as defined by the Office of
13 Management and Budget, and revised annually in
14 accordance with section 673(2) of the Omnibus
15 Budget Reconciliation Act of 1981) applicable to a
16 family of the size involved.

17 (b) SLIDING SCALE FOR REMAINDER.—

18 (1) REQUIRED COINSURANCE.—The State plan
19 shall impose cost sharing in the form of coinsurance
20 (based on the amount paid under the State plan for
21 a service)—

22 (A) at a rate of 10 percent for individuals
23 with disabilities with income not less than 150
24 percent, and less than 175 percent, of such offi-
25 cial poverty line (as so applied);

1 (B) at a rate of 15 percent for such indi-
2 viduals with income not less than 175 percent,
3 and less than 225 percent, of such official pov-
4 erty line (as so applied);

5 (C) at a rate of 25 percent for such indi-
6 viduals with income not less than 225 percent,
7 and less than 275 percent, of such official pov-
8 erty line (as so applied);

9 (D) at a rate of 30 percent for such indi-
10 viduals with income not less than 275 percent,
11 and less than 325 percent, of such official pov-
12 erty line (as so applied);

13 (E) at a rate of 35 percent for such indi-
14 viduals with income not less than 325 percent,
15 and less than 400 percent, of such official pov-
16 erty line (as so applied); and

17 (F) at a rate of 40 percent for such indi-
18 viduals with income equal to at least 400 per-
19 cent of such official poverty line (as so applied).

20 (2) REQUIRED ANNUAL DEDUCTIBLE.—The
21 State plan shall impose cost sharing in the form of
22 an annual deductible—

23 (A) of \$100 for individuals with disabilities
24 with income not less than 150 percent, and less

1 than 175 percent, of such official poverty line
2 (as so applied);

3 (B) of \$200 for such individuals with in-
4 come not less than 175 percent, and less than
5 225 percent, of such official poverty line (as so
6 applied);

7 (C) of \$300 for such individuals with in-
8 come not less than 225 percent, and less than
9 275 percent, of such official poverty line (as so
10 applied);

11 (D) of \$400 for such individuals with in-
12 come not less than 275 percent, and less than
13 325 percent, of such official poverty line (as so
14 applied);

15 (E) of \$500 for such individuals with in-
16 come not less than 325 percent, and less than
17 400 percent, of such official poverty line (as so
18 applied); and

19 (F) of \$600 for such individuals with in-
20 come equal to at least 400 percent of such offi-
21 cial poverty line (as so applied).

22 (c) RECOMMENDATION OF THE SECRETARY.—The
23 Secretary shall make recommendations to the States as
24 to how to reduce cost-sharing for individuals with extraor-
25 dinary out-of-pocket costs for whom the cost-sharing pro-

1 visions of this section could jeopardize their ability to take
2 advantage of the services offered under this title. The Sec-
3 retary shall establish a methodology for reducing the cost-
4 sharing burden for individuals with exceptionally high out-
5 of-pocket costs under this title.

6 (d) DETERMINATION OF INCOME FOR PURPOSES OF
7 COST SHARING.—The State plan shall specify the process
8 to be used to determine the income of an individual with
9 disabilities for purposes of this section. Such standards
10 shall include a uniform Federal definition of income and
11 any allowable deductions from income.

12 **SEC. 107. QUALITY ASSURANCE AND SAFEGUARDS.**

13 (a) QUALITY ASSURANCE.—

14 (1) IN GENERAL.—The State plan shall specify
15 how the State will ensure and monitor the quality of
16 services, including—

17 (A) safeguarding the health and safety of
18 individuals with disabilities,

19 (B) setting the minimum standards for
20 agency providers and how such standards will
21 be enforced,

22 (C) setting the minimum competency re-
23 quirements for agency provider employees who
24 provide direct services under this title and how

1 the competency of such employees will be en-
2 forced,

3 (D) obtaining meaningful consumer input,
4 including consumer surveys that measure the
5 extent to which participants receive the services
6 described in the plan of care and participant
7 satisfaction with such services,

8 (E) establishing a process to receive, inves-
9 tigate, and resolve allegations of neglect and/or
10 abuse,

11 (F) establishing optional training programs
12 for individuals with disabilities in the use and
13 direction of consumer directed providers of per-
14 sonal assistance services,

15 (G) establishing an appeals procedure for
16 eligibility denials and a grievance procedure for
17 disagreements with the terms of an individual-
18 ized plan of care,

19 (H) providing for participation in quality
20 assurance activities, and

21 (I) specifying the role of the long-term care
22 ombudsman (under the Older Americans Act of
23 1965) and the Protection and Advocacy Agency
24 (under the Developmental Disabilities Assist-
25 ance and Bill of Rights Act) in assuring quality

1 of services and protecting the rights of individ-
2 uals with disabilities.

3 (2) ISSUANCE OF REGULATIONS.—Not later
4 than 1 year after the date of enactment of this Act,
5 the Secretary shall issue regulations implementing
6 the quality provisions of this subsection.

7 (b) FEDERAL STANDARDS.—The State plan shall ad-
8 here to Federal quality standards in the following areas:

9 (1) Case review of a specified sample of client
10 records.

11 (2) The mandatory reporting of abuse, neglect,
12 or exploitation.

13 (3) The development of a registry of provider
14 agencies or home care workers and consumer di-
15 rected providers of personal assistance services
16 against whom any complaints have been sustained,
17 which shall be available to the public.

18 (4) Sanctions to be imposed on States or pro-
19 viders, including disqualification from the program,
20 if minimum standards are not met.

21 (5) Surveys of client satisfaction.

22 (6) State optional training programs for infor-
23 mal caregivers.

24 (c) CLIENT ADVOCACY.—

1 (1) IN GENERAL.—The State plan shall provide
2 that the State will expend the amount allocated
3 under section 110(b)(2) for client advocacy activi-
4 ties. The State may use such funds to augment the
5 budgets of the long-term care ombudsman (under
6 the Older Americans Act of 1965) and the Protec-
7 tion and Advocacy Agency (under the Developmental
8 Disabilities Assistance and Bill of Rights Act) or
9 may establish a separate and independent client ad-
10 vocacy office in accordance with paragraph (2) to
11 administer a new program designed to advocate for
12 client rights.

13 (2) CLIENT ADVOCACY OFFICE.—

14 (A) IN GENERAL.—A client advocacy office
15 established under this paragraph shall—

16 (i) identify, investigate, and resolve
17 complaints that—

18 (I) are made by, or on behalf of,
19 clients; and

20 (II) relate to action, inaction, or
21 decisions, that may adversely affect
22 the health, safety, welfare, or rights of
23 the clients (including the welfare and
24 rights of the clients with respect to
25 the appointment and activities of

1 guardians and representative payees),
2 of—

3 (aa) providers, or represent-
4 atives of providers, of long-term
5 care services;

6 (bb) public agencies; or

7 (cc) health and social service
8 agencies;

9 (ii) provide services to assist the cli-
10 ents in protecting the health, safety, wel-
11 fare, and rights of the clients;

12 (iii) inform the clients about means of
13 obtaining services provided by providers or
14 agencies described in clause (i)(II) or serv-
15 ices described in clause (ii);

16 (iv) ensure that the clients have regu-
17 lar and timely access to the services pro-
18 vided through the office and that the cli-
19 ents and complainants receive timely re-
20 sponses from representatives of the office
21 to complaints; and

22 (v) represent the interests of the cli-
23 ents before governmental agencies and
24 seek administrative, legal, and other rem-
25 edies to protect the health, safety, welfare,

1 and rights of the clients with regard to the
2 provisions of this title.

3 (B) CONTRACTS AND ARRANGEMENTS.—

4 (i) IN GENERAL.—Except as provided
5 in clause (ii), the State agency may estab-
6 lish and operate the office, and carry out
7 the program, directly, or by contract or
8 other arrangement with any public agency
9 or nonprofit private organization.

10 (ii) LICENSING AND CERTIFICATION
11 ORGANIZATIONS; ASSOCIATIONS.—The
12 State agency may not enter into the con-
13 tract or other arrangement described in
14 clause (i) with an agency or organization
15 that is responsible for licensing, certifying,
16 or providing long-term care services in the
17 State.

18 (d) SAFEGUARDS.—

19 (1) CONFIDENTIALITY.—The State plan shall
20 provide safeguards which restrict the use or disclo-
21 sure of information concerning applicants and bene-
22 ficiaries to purposes directly connected with the ad-
23 ministration of the plan.

24 (2) SAFEGUARDS AGAINST ABUSE.—The State
25 plans shall provide safeguards against physical, emo-

1 tional, or financial abuse or exploitation (specifically
2 including appropriate safeguards in cases where pay-
3 ment for program benefits is made by cash pay-
4 ments or vouchers given directly to individuals with
5 disabilities). All providers of services shall be re-
6 quired to register with the State agency.

7 (3) REGULATIONS.—Not later than January 1,
8 1996, the Secretary shall promulgate regulations
9 with respect to the requirements on States under
10 this subsection.

11 (e) SPECIFIED RIGHTS.—The State plan shall pro-
12 vide that in furnishing home and community-based serv-
13 ices under the plan the following individual rights are pro-
14 tected:

15 (1) The right to be fully informed in advance,
16 orally and in writing, of the care to be provided, to
17 be fully informed in advance of any changes in care
18 to be provided, and (except with respect to an indi-
19 vidual determined incompetent) to participate in
20 planning care or changes in care.

21 (2) The right to—

22 (A) voice grievances with respect to serv-
23 ices that are (or fail to be) furnished without
24 discrimination or reprisal for voicing grievances,

1 (B) be told how to complain to State and
2 local authorities, and

3 (C) prompt resolution of any grievances or
4 complaints.

5 (3) The right to confidentiality of personal and
6 clinical records and the right to have access to such
7 records.

8 (4) The right to privacy and to have one's prop-
9 erty treated with respect.

10 (5) The right to refuse all or part of any care
11 and to be informed of the likely consequences of
12 such refusal.

13 (6) The right to education or training for one-
14 self and for members of one's family or household on
15 the management of care.

16 (7) The right to be free from physical or mental
17 abuse, corporal punishment, and any physical or
18 chemical restraints imposed for purposes of dis-
19 cipline or convenience and not included in an indi-
20 vidual's plan of care.

21 (8) The right to be fully informed orally and in
22 writing of the individual's rights.

23 (9) The right to a free choice of providers.

1 (10) The right to direct provider activities when
2 an individual is competent and willing to direct such
3 activities.

4 **SEC. 108. ADVISORY GROUPS.**

5 (a) FEDERAL ADVISORY GROUP.—

6 (1) ESTABLISHMENT.—The Secretary shall es-
7 tablish an advisory group, to advise the Secretary
8 and States on all aspects of the program under this
9 title.

10 (2) COMPOSITION.—The group shall be com-
11 posed of individuals with disabilities and their rep-
12 resentatives, providers, Federal and State officials,
13 and local community implementing agencies. A ma-
14 jority of its members shall be individuals with dis-
15 abilities and their representatives.

16 (b) STATE ADVISORY GROUPS.—

17 (1) IN GENERAL.—Each State plan shall pro-
18 vide for the establishment and maintenance of an
19 advisory group to advise the State on all aspects of
20 the State plan under this title.

21 (2) COMPOSITION.—Members of each advisory
22 group shall be appointed by the Governor (or other
23 chief executive officer of the State) and shall include
24 individuals with disabilities and their representa-
25 tives, providers, State officials, and local community

1 implementing agencies. A majority of its members
2 shall be individuals with disabilities and their rep-
3 resentatives. The members of the advisory group
4 shall be selected from those nominated as described
5 in paragraph (3).

6 (3) SELECTION OF MEMBERS.—Each State
7 shall establish a process whereby all residents of the
8 State, including individuals with disabilities and
9 their representatives, shall be given the opportunity
10 to nominate members to the advisory group.

11 (4) PARTICULAR CONCERNS.—Each advisory
12 group shall—

13 (A) before the State plan is developed, ad-
14 vise the State on guiding principles and values,
15 policy directions, and specific components of the
16 plan,

17 (B) meet regularly with State officials in-
18 volved in developing the plan, during the devel-
19 opment phase, to review and comment on all as-
20 pects of the plan,

21 (C) participate in the public hearings to
22 help assure that public comments are addressed
23 to the extent practicable,

1 (D) report to the Governor and make
2 available to the public any differences between
3 the group's recommendations and the plan,

4 (E) report to the Governor and make avail-
5 able to the public specifically the degree to
6 which the plan is consumer-directed, and

7 (F) meet regularly with officials of the des-
8 igned State agency (or agencies) to provide
9 advice on all aspects of implementation and
10 evaluation of the plan.

11 **SEC. 109. PAYMENTS TO STATES.**

12 (a) IN GENERAL.—Subject to section 103(a)(9)(C)
13 (relating to limitation on payment for administrative
14 costs), the Secretary, in accordance with the Cash Man-
15 agement Improvement Act, shall authorize payment to
16 each State with a plan approved under this title, for each
17 quarter (beginning on or after January 1, 1996), from its
18 allotment under section 110(b), an amount equal to—

19 (1)(A) with respect to the amount demonstrated
20 by State claims to have been expended during the
21 year for home and community-based services under
22 the plan for individuals with disabilities that does
23 not exceed 20 percent of the amount allotted to the
24 State under section 110(b), 100 percent of such
25 amount; and

1 (B) with respect to the amount demonstrated
2 by State claims to have been expended during the
3 year for home and community-based services under
4 the plan for individuals with disabilities that exceeds
5 20 percent of the amount allotted to the State under
6 section 110(b), the Federal home and community-
7 based services matching percentage (as defined in
8 subsection (b)) of such amount; plus

9 (2) an amount equal to 90 percent of the
10 amount demonstrated by the State to have been ex-
11 pended during the quarter for quality assurance ac-
12 tivities under the plan; plus

13 (3) an amount equal to 90 percent of amount
14 expended during the quarter under the plan for ac-
15 tivities (including preliminary screening) relating to
16 determination of eligibility and performance of needs
17 assessment; plus

18 (4) an amount equal to 90 percent (or, begin-
19 ning with quarters in fiscal year 2004, 75 percent)
20 of the amount expended during the quarter for the
21 design, development, and installation of mechanical
22 claims processing systems and for information re-
23 trieval; plus

24 (5) an amount equal to 50 percent of the re-
25 mainder of the amounts expended during the quar-

1 ter as found necessary by the Secretary for the prop-
2 er and efficient administration of the State plan.

3 (b) FEDERAL HOME AND COMMUNITY-BASED SERV-
4 ICES MATCHING PERCENTAGE.—In subsection (a), the
5 term ‘Federal home and community-based services match-
6 ing percentage’ means, with respect to a State, the State’s
7 Federal medical assistance percentage (as defined in sec-
8 tion 1905(b) of the Social Security Act) increased by 15
9 percentage points, except that the Federal home and com-
10 munity-based services matching percentage shall in no
11 case be more than 95 percent.

12 (c) PAYMENTS ON ESTIMATES WITH RETROSPECTIVE
13 ADJUSTMENTS.—The method of computing and making
14 payments under this section shall be as follows:

15 (1) The Secretary shall, prior to the beginning
16 of each quarter, estimate the amount to be paid to
17 the State under subsection (a) for such quarter,
18 based on a report filed by the State containing its
19 estimate of the total sum to be expended in such
20 quarter, and such other information as the Secretary
21 may find necessary.

22 (2) From the allotment available therefore, the
23 Secretary shall provide for payment of the amount
24 so estimated, reduced or increased, as the case may
25 be, by any sum (not previously adjusted under this

1 section) by which the Secretary finds that the esti-
2 mate of the amount to be paid the State for any
3 prior period under this section was greater or less
4 than the amount which should have been paid.

5 (d) APPLICATION OF RULES REGARDING LIMITA-
6 TIONS ON PROVIDER-RELATED DONATIONS AND HEALTH
7 CARE RELATED TAXES.—The provisions of section
8 1903(w) of the Social Security Act shall apply to pay-
9 ments to States under this section in the same manner
10 as they apply to payments to States under section 1903(a)
11 of such Act.

12 (e) FAILURE TO COMPLY WITH STATE PLAN.—If a
13 State furnishing home and community-based services
14 under this title fails to comply with the State plan ap-
15 proved under this title, the Secretary may either reduce
16 the Federal matching rates available to the State under
17 subsection (a) or withhold an amount of funds determined
18 appropriate by the Secretary from any payment to the
19 State under this section.

20 **SEC. 110. APPROPRIATIONS; ALLOTMENTS TO STATES.**

21 (a) APPROPRIATIONS.—

22 (1) FISCAL YEARS 1996 THROUGH 2004.—Sub-
23 ject to paragraph (5)(C), for purposes of this title,
24 the appropriation authorized under this title for each
25 of fiscal years 1996 through 2004 is the following:

1 (A) For fiscal year 1996, \$1,800,000,000.

2 (B) For fiscal year 1997, \$3,500,000,000.

3 (C) For fiscal year 1998, \$5,800,000,000.

4 (D) For fiscal year 1999, \$7,300,000,000.

5 (E) For fiscal year 2000,
6 \$10,000,000,000.

7 (F) For fiscal year 2001,
8 \$15,700,000,000.

9 (G) For fiscal year 2002,
10 \$22,800,000,000.

11 (H) For fiscal year 2003,
12 \$30,700,000,000.

13 (I) For fiscal year 2004, \$34,600,000,000.

14 (2) SUBSEQUENT FISCAL YEARS.—For pur-
15 poses of this title, the appropriation authorized for
16 State plans under this title for each fiscal year after
17 fiscal year 2004 is the appropriation authorized
18 under this subsection for the preceding fiscal year
19 multiplied by—

20 (A) a factor (described in paragraph (3))
21 reflecting the change in the consumer price
22 index for the fiscal year, and

23 (B) a factor (described in paragraph (4))
24 reflecting the change in the number of individ-
25 uals with disabilities for the fiscal year.

1 (3) CPI INCREASE FACTOR.—For purposes of
2 paragraph (2)(A), the factor described in this para-
3 graph for a fiscal year is the ratio of—

4 (A) the annual average index of the
5 consumer price index for the preceding fiscal
6 year, to—

7 (B) such index, as so measured, for the
8 second preceding fiscal year.

9 (4) DISABLED POPULATION FACTOR.—For pur-
10 poses of paragraph (2)(B), the factor described in
11 this paragraph for a fiscal year is 100 percent plus
12 (or minus) the percentage increase (or decrease)
13 change in the disabled population of the United
14 States (as determined for purposes of the most re-
15 cent update under subsection (b)(3)(D)).

16 (5) ADDITIONAL FUNDS DUE TO MEDICAID
17 OFFSETS.—

18 (A) IN GENERAL.—Each participating
19 State must provide the Secretary with informa-
20 tion concerning offsets and reductions in the
21 medicaid program resulting from home and
22 community-based services provided disabled in-
23 dividuals under this title, that would have been
24 paid for such individuals under the State medic-
25 aid plan. At the time a State first submits its

1 plan under this title and before each subsequent
2 fiscal year (through fiscal year 2004), the State
3 also must provide the Secretary with such
4 budgetary information (for each fiscal year
5 through fiscal year 2004), as the Secretary de-
6 termines to be necessary to carry out this para-
7 graph.

8 (B) REPORTS.—Each State with a pro-
9 gram under this title shall submit such reports
10 to the Secretary as the Secretary may require
11 in order to monitor compliance with subpara-
12 graph (A). The Secretary shall specify the for-
13 mat of such reports and establish uniform data
14 reporting elements.

15 (C) ADJUSTMENTS TO APPROPRIATION.—

16 (i) IN GENERAL.—For each fiscal year
17 (beginning with fiscal year 1996 and end-
18 ing with fiscal year 2004) and based on a
19 review of information submitted under sub-
20 paragraph (A), the Secretary shall deter-
21 mine the amount by which the appropria-
22 tion authorized under subsection (a) will
23 increase. The amount of such increase for
24 a fiscal year shall be limited to the reduc-
25 tion in Federal expenditures of medical as-

1 sistance (as determined by Secretary) that
2 would have been made under title XIX of
3 the Social Security Act but for the provi-
4 sion of home and community based serv-
5 ices under the program under this title.

6 (ii) ANNUAL PUBLICATION.—The Sec-
7 retary shall publish before the beginning of
8 such fiscal year, the revised appropriation
9 authorized under this subsection for such
10 fiscal year.

11 (D) CONSTRUCTION.—Nothing in this sub-
12 section shall be construed as requiring States to
13 determine eligibility for medical assistance
14 under the State medicaid plan on behalf of indi-
15 viduals receiving assistance under this title.

16 (b) ALLOTMENTS TO STATES.—

17 (1) IN GENERAL.—The Secretary shall allot the
18 amounts available under the appropriation author-
19 ized for the fiscal year under paragraph (1) of sub-
20 section (a) (without regard to any adjustment to
21 such amount under paragraph (5) of such sub-
22 section), to the States with plans approved under
23 this title in accordance with an allocation formula
24 developed by the Secretary which takes into ac-
25 count—

1 (A) the percentage of the total number of
2 individuals with disabilities in all States that re-
3 side in a particular State;

4 (B) the per capita costs of furnishing home
5 and community-based services to individuals
6 with disabilities in the State; and

7 (C) the percentage of all individuals with
8 incomes at or below 150 percent of the official
9 poverty line (as described in section 106(a)(2))
10 in all States that reside in a particular State.

11 (2) ALLOCATION FOR CLIENT ADVOCACY AC-
12 TIVITIES.—Each State with a plan approved under
13 this title shall allocate one-half of one percent of the
14 State’s total allotment under paragraph (1) for cli-
15 ent advocacy activities as described in section
16 107(c).

17 (3) NO DUPLICATE PAYMENT.—No payment
18 may be made to a State under this section for any
19 services provided to an individual to the extent that
20 the State received payment for such services under
21 section 1903(a) of the Social Security Act.

22 (4) REALLOCATIONS.—Any amounts allotted to
23 States under this subsection for a year that are not
24 expended in such year shall remain available for
25 State programs under this title and may be reallo-

1 cated to States as the Secretary determines appro-
2 priate.

3 (5) SAVINGS DUE TO MEDICAID OFFSETS.—

4 (A) IN GENERAL.—Except as provided in
5 subparagraph (B), from the total amount of the
6 increase in the amount available for a fiscal
7 year under paragraph (1) of subsection (a) re-
8 sulting from the application of paragraph (5) of
9 such subsection, the Secretary shall allot to
10 each State with a plan approved under this
11 title, an amount equal to the Federal offsets
12 and reductions in the State's medicaid plan for
13 such fiscal year that was reported to the Sec-
14 retary under subsection (a)(5), reduced or in-
15 creased, as the case may be, by any amount by
16 which the Secretary determines that any esti-
17 mated Federal offsets and reductions in such
18 State's medicaid plan reported to the Secretary
19 under subsection (a)(5) for the previous fiscal
20 year were greater or less than the actual Fed-
21 eral offsets and reductions in such State's med-
22 icaid plan.

23 (B) CAP ON STATE SAVINGS ALLOT-
24 MENT.—In no case shall the allotment made

1 under this paragraph to any State for a fiscal
2 year exceed the product of—

3 (i) the Federal medical assistance per-
4 centage for such State (as defined under
5 section 1905(b) of the Social Security Act);
6 multiplied by

7 (ii)(I) for fiscal year 1996, the base
8 medical assistance amount for the State
9 (as determined under subparagraph (C))
10 updated through the midpoint of fiscal
11 year 1996 by the estimated percentage
12 change in the index described in section
13 103(a)(1)(B)(iii) during the period begin-
14 ning on October 1, 1994, and ending at
15 that midpoint; and

16 (II) for succeeding fiscal years, an
17 amount equal to the amount determined
18 under this clause for the previous fiscal
19 year updated through the midpoint of the
20 year by the estimated percentage change in
21 such index during the 12-month period
22 ending at that midpoint, with appropriate
23 adjustments to reflect previous
24 underestimations or overestimations under

1 this clause in the projected percentage
2 change in such index.

3 (C) BASE MEDICAL ASSISTANCE
4 AMOUNT.—The base medical assistance amount
5 for a State is an amount equal to the total ex-
6 penditures from Federal and State funds made
7 under the State plan under title XIX of the So-
8 cial Security Act during fiscal year 1994 with
9 respect to medical assistance consisting of the
10 services described in section 103(a)(1)(C).

11 (c) STATE ENTITLEMENT.—This title constitutes
12 budget authority in advance of appropriations Acts, and
13 represents the obligation of the Federal Government to
14 provide for the payment to States of amounts described
15 in subsection (a).

16 **SEC. 111. FEDERAL EVALUATIONS.**

17 (a) IN GENERAL.—Not later than December 31,
18 2001, December 31, 2004, and each December 31 there-
19 after, the Secretary shall provide to Congress analytical
20 reports that evaluate—

21 (1) the extent to which individuals with low in-
22 comes and disabilities are equitably served;

23 (2) the adequacy and equity of service plans to
24 individuals with similar levels of disability across
25 States;

1 (3) the comparability of program participation
2 across States, described by level and type of disabili-
3 ty; and

4 (4) the ability of service providers to sufficiently
5 meet the demand for services.

6 (b) GERIATRIC ASSESSMENTS.—Not later than 18
7 months after the date of enactment of this Act, the Sec-
8 retary shall report to Congress concerning the feasibility
9 of providing reimbursement under health plans and other
10 payers of health services for full geriatric assessment,
11 when recommended by a physician.

12 **SEC. 112. INFORMATION AND TECHNICAL ASSISTANCE**
13 **GRANTS RELATING TO DEVELOPMENT OF**
14 **HOSPITAL LINKAGE PROGRAMS.**

15 (a) FINDINGS.—Congress finds that—

16 (1) demonstration programs and projects have
17 been developed to offer care management to hos-
18 pitalized individuals awaiting discharge who are in
19 need of long-term health care services that meet in-
20 dividual needs and preferences in home and commu-
21 nity-based settings as an alternative to long-term
22 nursing home care or institutional placement; and

23 (2) there is a need to disseminate information
24 and technical assistance to hospitals and State and
25 local community organizations regarding such pro-

1 grams and projects and to provide incentive grants
 2 to State and local public and private agencies, in-
 3 cluding area agencies on aging, to establish and ex-
 4 pand programs that offer care management to indi-
 5 viduals awaiting discharge from acute care hospitals
 6 who are in need of long-term care so that services
 7 to meet individual needs and preferences can be ar-
 8 ranged in home and community-based settings as an
 9 alternative to long-term placement in nursing homes
 10 or other institutional settings.

11 (b) DISSEMINATION OF INFORMATION, TECHNICAL
 12 ASSISTANCE, AND INCENTIVE GRANTS TO ASSIST IN THE
 13 DEVELOPMENT OF HOSPITAL LINKAGE PROGRAMS.—
 14 Part C of title III of the Public Health Service Act (42
 15 U.S.C. 248 et seq.) is amended by adding at the end there-
 16 of the following new section:

17 **“SEC. 327B. DISSEMINATION OF INFORMATION, TECHNICAL**
 18 **ASSISTANCE AND INCENTIVE GRANTS TO AS-**
 19 **SIST IN THE DEVELOPMENT OF HOSPITAL**
 20 **LINKAGE PROGRAMS.**

21 “(a) DISSEMINATION OF INFORMATION.—The Sec-
 22 retary shall compile, evaluate, publish and disseminate to
 23 appropriate State and local officials and to private organi-
 24 zations and agencies that provide services to individuals
 25 in need of long-term health care services, such information

1 and materials as may assist such entities in replicating
2 successful programs that are aimed at offering care man-
3 agement to hospitalized individuals who are in need of
4 long-term care so that services to meet individual needs
5 and preferences can be arranged in home and community-
6 based settings as an alternative to long-term nursing home
7 placement. The Secretary may provide technical assistance
8 to entities seeking to replicate such programs.

9 “(b) INCENTIVE GRANTS TO ASSIST IN THE DEVEL-
10 OPMENT OF HOSPITAL LINKAGE PROGRAMS.—The Sec-
11 retary shall establish a program under which incentive
12 grants may be awarded to assist private and public agen-
13 cies, including area agencies on aging, and organizations
14 in developing and expanding programs and projects that
15 facilitate the discharge of individuals in hospitals or other
16 acute care facilities who are in need of long-term care serv-
17 ices and placement of such individuals into home and com-
18 munity-based settings.

19 “(c) ADMINISTRATIVE PROVISIONS.—

20 “(1) ELIGIBLE ENTITIES.—To be eligible to re-
21 ceive a grant under subsection (b) an entity shall
22 be—

23 “(A)(i) a State agency as defined in sec-
24 tion 102(43) of the Older Americans Act of
25 1965; or

1 “(ii) a State agency responsible for admin-
2 istering home and community care programs
3 under title XIX of the Social Security Act; or

4 “(B) if no State agency described in sub-
5 paragraph (A) applies with respect to a particu-
6 lar State, a public or nonprofit private entity.

7 “(2) APPLICATIONS.—To be eligible to receive
8 an incentive grant under subsection (b), an entity
9 shall prepare and submit to the Secretary an appli-
10 cation at such time, in such manner and containing
11 such information as the Secretary may require, in-
12 cluding—

13 “(A) an assessment of the need within the
14 community to be served for the establishment
15 or expansion of a program to facilitate the dis-
16 charge of individuals in need of long-term care
17 who are in hospitals or other acute care facili-
18 ties into home and community-care programs
19 that provide individually planned, flexible serv-
20 ices that reflect individual choice or preference
21 rather than nursing home or institutional set-
22 tings;

23 “(B) a plan for establishing or expanding
24 a program for identifying individuals in hospital
25 or acute care facilities who are in need of indi-

1 vidualized long-term care provided in home and
2 community-based settings rather than nursing
3 homes or other institutional settings and under-
4 taking the planning and management of indi-
5 vidualized care plans to facilitate discharge into
6 such settings;

7 “(C) assurances that nongovernmental
8 case management agencies funded under grants
9 awarded under this section are not direct pro-
10 viders of home and community-based services;

11 “(D) satisfactory assurances that adequate
12 home and community-based long term care
13 services are available, or will be made available,
14 within the community to be served so that indi-
15 viduals being discharged from hospitals or acute
16 care facilities under the proposed program can
17 be served in such home and community-based
18 settings, with flexible, individualized care which
19 reflects individual choice and preference;

20 “(E) a description of the manner in which
21 the program to be administered with amounts
22 received under the grant will be continued after
23 the termination of the grant for which such ap-
24 plication is submitted; and

1 “(F) a description of any waivers or ap-
2 provals necessary to expand the number of indi-
3 viduals served in federally funded home and
4 community-based long term care programs in
5 order to provide satisfactory assurances that
6 adequate home and community-based long term
7 care services are available in the community to
8 be served.

9 “(3) AWARDING OF GRANTS.—

10 “(A) PREFERENCES.—In awarding grants
11 under subsection (b), the Secretary shall give
12 preference to entities submitting applications
13 that—

14 “(i) demonstrate an ability to coordi-
15 nate activities funded using amounts re-
16 ceived under the grant with programs pro-
17 viding individualized home and community-
18 based case management and services to in-
19 dividuals in need of long term care with
20 hospital discharge planning programs; and

21 “(ii) demonstrate that adequate home
22 and community-based long term care man-
23 agement and services are available, or will
24 be made available to individuals being

1 served under the program funded with
2 amounts received under subsection (b).

3 “(B) DISTRIBUTION.—In awarding grants
4 under subsection (b), the Secretary shall ensure
5 that such grants—

6 “(i) are equitably distributed on a ge-
7 ographic basis;

8 “(ii) include projects operating in
9 urban areas and projects operating in rural
10 areas; and

11 “(iii) are awarded for the expansion of
12 existing hospital linkage programs as well
13 as the establishment of new programs.

14 “(C) EXPEDITED CONSIDERATION.—The
15 Secretary shall provide for the expedited consid-
16 eration of any waiver application that is nec-
17 essary under title XIX of the Social Security
18 Act to enable an applicant for a grant under
19 subsection (b) to satisfy the assurance required
20 under paragraph (1)(D).

21 “(4) USE OF GRANTS.—An entity that receives
22 amounts under a grant under subsection (b) may
23 use such amounts for planning, development and
24 evaluation services and to provide reimbursements
25 for the costs of one or more case managers to be lo-

1 cated in or assigned to selected hospitals who
2 would—

3 “(A) identify patients in need of individ-
4 ualized care in home and community-based
5 long-term care;

6 “(B) assess and develop care plans in co-
7 operation with the hospital discharge planning
8 staff; and

9 “(C) arrange for the provision of commu-
10 nity care either immediately upon discharge
11 from the hospital or after any short term nurs-
12 ing-home stay that is needed for recuperation
13 or rehabilitation;

14 “(5) DIRECT SERVICES SUBJECT TO REIM-
15 BURSEMENTS.—None of the amounts provided
16 under a grant under this section may be used to
17 provide direct services, other than case management,
18 for which reimbursements are otherwise available
19 under title XVIII or XIX of the Social Security Act.

20 “(6) LIMITATIONS.—

21 “(A) TERM.—Grants awarded under this
22 section shall be for terms of less than 3 years.

23 “(B) AMOUNT.—Grants awarded to an en-
24 tity under this section shall not exceed
25 \$300,000 per year. The Secretary may waive

1 the limitation under this subparagraph where
2 an applicant demonstrates that the number of
3 hospitals or individuals to be served under the
4 grant justifies such increased amounts.

5 “(C) SUPPLANTING OF FUNDS.—Amounts
6 awarded under a grant under this section may
7 not be used to supplant existing State funds
8 that are provided to support hospital link pro-
9 grams.

10 “(d) EVALUATION AND REPORTS.—

11 “(1) BY GRANTEES.—An entity that receives a
12 grant under this section shall evaluate the effective-
13 ness of the services provided under the grant in fa-
14 cilitating the placement of individuals being dis-
15 charged from hospitals or acute care facilities into
16 home and community-based long term care settings
17 rather than nursing homes. Such entity shall pre-
18 pare and submit to the Secretary a report containing
19 such information and data concerning the activities
20 funded under the grant as the Secretary determines
21 appropriate.

22 “(2) BY SECRETARY.—Not later than the end
23 of the third fiscal year for which funds are appro-
24 priated under subsection (e), the Secretary shall pre-
25 pare and submit to the appropriate committees of

1 Congress, a report concerning the results of the eval-
 2 uations and reports conducted and prepared under
 3 paragraph (1).

4 “(e) AUTHORIZATION OF APPROPRIATIONS.—There
 5 are authorized to be appropriated to carry out this section,
 6 \$5,000,000 for each of the fiscal years 1994 through
 7 1996.”.

8 **TITLE II—PROVISIONS**

9 **RELATING TO MEDICARE**

10 **SEC. 201. RECAPTURE OF CERTAIN HEALTH CARE SUB-**

11 **SIDIES RECEIVED BY HIGH-INCOME INDIVID-**

12 **UALS.**

13 (a) IN GENERAL.—Subchapter A of chapter 1 of the
 14 Internal Revenue Code of 1986 is amended by adding at
 15 the end the following new part:

16 **“PART VIII—CERTAIN HEALTH CARE SUBSIDIES**

17 **RECEIVED BY HIGH-INCOME INDIVIDUALS**

“Sec. 59B. Recapture of certain health care subsidies.

18 **“SEC. 59B. RECAPTURE OF CERTAIN HEALTH CARE SUB-**

19 **SIDIES.**

20 “(a) IMPOSITION OF RECAPTURE AMOUNT.—In the
 21 case of an individual, if the modified adjusted gross in-
 22 come of the taxpayer for the taxable year exceeds the
 23 threshold amount, such taxpayer shall pay (in addition to
 24 any other amount imposed by this subtitle) a recapture

1 amount for such taxable year equal to the aggregate of
2 the Medicare part B recapture amounts (if any) for
3 months during such year that a premium is paid under
4 part B of title XVIII of the Social Security Act for the
5 coverage of the individual under such part.

6 “(b) MEDICARE PART B PREMIUM RECAPTURE
7 AMOUNT FOR MONTH.—For purposes of this section, the
8 Medicare part B premium recapture amount for any
9 month is the amount equal to the excess of—

10 “(1) 200 percent of the monthly actuarial rate
11 for enrollees age 65 and over determined for that
12 calendar year under section 1839(a)(1) of the Social
13 Security Act, over

14 “(2) the total monthly premium under section
15 1839 of the Social Security Act (determined without
16 regard to subsections (b) and (f) of section 1839 of
17 such Act).

18 “(c) PHASE-IN OF RECAPTURE AMOUNT.—

19 “(1) IN GENERAL.—If the modified adjusted
20 gross income of the taxpayer for any taxable year
21 exceeds the threshold amount by less than \$25,000,
22 the recapture amount imposed by this section for
23 such taxable year shall be an amount which bears
24 the same ratio to the recapture amount which would
25 (but for this subsection) be imposed by this section

1 for such taxable year as such excess bears to
2 \$25,000.

3 “(2) JOINT RETURNS.—If a recapture amount
4 is determined separately for each spouse filing a
5 joint return, paragraph (1) shall be applied by sub-
6 stituting ‘\$50,000’ for ‘\$25,000’ each place it ap-
7 pears.

8 “(d) OTHER DEFINITIONS AND SPECIAL RULES.—
9 For purposes of this section:

10 “(1) THRESHOLD AMOUNT.—The term ‘thresh-
11 old amount’ means—

12 “(A) except as otherwise provided in this
13 paragraph, \$100,000,

14 “(B) \$125,000 in the case of a joint re-
15 turn, and

16 “(C) zero in the case of a taxpayer who—

17 “(i) is married (as determined under
18 section 7703) but does not file a joint re-
19 turn for such year, and

20 “(ii) does not live apart from his
21 spouse at all times during the taxable year.

22 “(2) MODIFIED ADJUSTED GROSS INCOME.—

23 The term ‘modified adjusted gross income’ means
24 adjusted gross income—

1 “(A) determined without regard to sections
2 135, 911, 931, and 933, and

3 “(B) increased by the amount of interest
4 received or accrued by the taxpayer during the
5 taxable year which is exempt from tax.

6 “(3) JOINT RETURNS.—In the case of a joint
7 return—

8 “(A) the recapture amount under sub-
9 section (a) shall be the sum of the recapture
10 amounts determined separately for each spouse,
11 and

12 “(B) subsections (a) and (c) shall be ap-
13 plied by taking into account the combined modi-
14 fied adjusted gross income of the spouses.

15 “(4) COORDINATION WITH OTHER PROVI-
16 SIONS.—

17 “(A) TREATED AS TAX FOR SUBTITLE F.—
18 For purposes of subtitle F, the recapture
19 amount imposed by this section shall be treated
20 as if it were a tax imposed by section 1.

21 “(B) NOT TREATED AS TAX FOR CERTAIN
22 PURPOSES.—The recapture amount imposed by
23 this section shall not be treated as a tax im-
24 posed by this chapter for purposes of determin-
25 ing—

1 “(i) the amount of any credit allow-
2 able under this chapter, or

3 “(ii) the amount of the minimum tax
4 under section 55.

5 “(C) TREATED AS PAYMENT FOR MEDICAL
6 INSURANCE.—The recapture amount imposed
7 by this section shall be treated as an amount
8 paid for insurance covering medical care, within
9 the meaning of section 213(d).”

10 (b) TRANSFERS TO FEDERAL SUPPLEMENTARY
11 MEDICAL INSURANCE TRUST FUND.—

12 (1) IN GENERAL.—There are hereby appro-
13 priated to the Federal Supplementary Medical Insur-
14 ance Trust Fund amounts equivalent to the aggre-
15 gate increase in liabilities under chapter 1 of the In-
16 ternal Revenue Code of 1986 which is attributable
17 to the application of section 59B(a) of such Code, as
18 added by this section.

19 (2) TRANSFERS.—The amounts appropriated
20 by paragraph (1) to the Federal Supplementary
21 Medical Insurance Trust Fund shall be transferred
22 from time to time (but not less frequently than
23 quarterly) from the general fund of the Treasury on
24 the basis of estimates made by the Secretary of the
25 Treasury of the amounts referred to in paragraph

1 (1). Any quarterly payment shall be made on the
2 first day of such quarter and shall take into account
3 the recapture amounts referred to in such section
4 59B(a) for such quarter. Proper adjustments shall
5 be made in the amounts subsequently transferred to
6 the extent prior estimates were in excess of or less
7 than the amounts required to be transferred.

8 (c) REPORTING REQUIREMENTS.—

9 (1) Paragraph (1) of section 6050F(a) of the
10 Internal Revenue Code of 1986 (relating to returns
11 relating to social security benefits) is amended by
12 striking “and” at the end of subparagraph (B) and
13 by inserting after subparagraph (C) the following
14 new subparagraph:

15 “(D) the number of months during the cal-
16 endar year for which a premium was paid under
17 part B of title XVIII of the Social Security Act
18 for the coverage of such individual under such
19 part, and”.

20 (2) Paragraph (2) of section 6050F(b) of such
21 Code is amended to read as follows:

22 “(2) the information required to be shown on
23 such return with respect to such individual.”

24 (3) Subparagraph (A) of section 6050F(c)(1) of
25 such Code is amended by inserting before the

1 comma “and in the case of the information specified
2 in subsection (a)(1)(D)”.

3 (4) The heading for section 6050F of such
4 Code is amended by inserting “**AND MEDICARE**
5 **PART B COVERAGE**” before the period.

6 (5) The item relating to section 6050F in the
7 table of sections for subpart B of part III of sub-
8 chapter A of chapter 61 of such Code is amended by
9 inserting “and Medicare part B coverage” before the
10 period.

11 (d) WAIVER OF CERTAIN ESTIMATED TAX PEN-
12 ALTIES.—No addition to tax shall be imposed under sec-
13 tion 6654 of the Internal Revenue Code of 1986 (relating
14 to failure to pay estimated income tax) for any period be-
15 fore April 16, 1997, with respect to any underpayment
16 to the extent that such underpayment resulted from sec-
17 tion 59B(a) of the Internal Revenue Code of 1986, as
18 added by this section.

19 (e) CLERICAL AMENDMENT.—The table of parts for
20 subchapter A of chapter 1 of the Internal Revenue Code
21 of 1986 is amended by adding at the end thereof the fol-
22 lowing new item:

“Part VIII. Certain health care subsidies received by high-income
individuals.”

1 (f) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years beginning after
3 December 31, 1994.

4 **SEC. 202. IMPOSITION OF 10 PERCENT COPAYMENT ON**
5 **HOME HEALTH SERVICES UNDER MEDICARE.**

6 (a) IN GENERAL.—

7 (1) PART A.—Section 1813(a) of the Social Se-
8 curity Act (42 U.S.C. 1395e(a)) is amended by add-
9 ing at the end the following new paragraph:

10 “(5)(A) The amount payable for a home health serv-
11 ice furnished to an individual under this part shall be re-
12 duced by a copayment amount equal to 10 percent of the
13 average nationwide per visit cost for such a service fur-
14 nished under this title (as determined by the Secretary
15 on a prospective basis for services furnished during a cal-
16 endar year).

17 “(B) Subparagraph (A) shall not apply to individuals
18 whose family income does not exceed 150 percent of the
19 official poverty line (referred to in section 1905(p)(2)) for
20 a family of the size involved.”.

21 (2) PART B.—

22 (A) IN GENERAL.—Section 1833(b) of the
23 Social Security Act (42 U.S.C. 1395l(b)) is
24 amended by adding at the end the following
25 new sentence: “If the total amount of the ex-

1 penses incurred by an individual as determined
2 under the preceding provisions of this sub-
3 section include expenses for a home health serv-
4 ice, such expenses shall be further reduced by
5 a copayment amount equal to 10 percent of the
6 average nationwide per visit cost for such a
7 service furnished under this title (as determined
8 by the Secretary on a prospective basis for serv-
9 ices furnished during a calendar year). The pre-
10 ceding sentence shall not apply to individuals
11 whose family income does not exceed 150 per-
12 cent of the official poverty line (referred to in
13 section 1905(p)(2)) for a family of the size in-
14 volved.”.

15 (B) CONFORMING AMENDMENT.—Section
16 1833(a)(2) of the Social Security Act (42
17 U.S.C. 1395l(a)(2)) is amended—

18 (i) in subparagraph (A), by striking
19 “to home health services,” and by striking
20 the comma after “opinion”;

21 (ii) in subparagraph (D), by striking
22 “and” at the end;

23 (iii) in subparagraph (E), by striking
24 the semicolon at the end and inserting “;
25 and”; and

1 (iv) by adding at the end the following
2 new subparagraph:

3 “(F) with respect to any home health serv-
4 ice—

5 “(i) the lesser of —

6 “(I) the reasonable cost of such
7 service, as determined under section
8 1861(v), or

9 “(II) the customary charges with
10 respect to such service,

11 less the amount a provider may charge as
12 described in clause (ii) of section
13 1866(a)(2)(A), or

14 “(ii) if such service is furnished by a
15 public provider of services, or by another
16 provider which demonstrates to the satis-
17 faction of the Secretary that a significant
18 portion of its patients are low-income (and
19 requests that payment be made under this
20 clause), free of charge or at nominal
21 charges to the public, the amount deter-
22 mined in accordance with section
23 1814(b)(2).”.

1 (3) PROVIDER CHARGES.—Section
2 1866(a)(2)(A)(i) of the Social Security Act (42
3 U.S.C. 1395cc(a)(2)(A)(i)) is amended—

4 (A) by striking “deduction or coinsurance”
5 and inserting “deduction, coinsurance, or
6 copayment”; and

7 (B) by striking “or (a)(4)” and inserting
8 “(a)(4), or (a)(5)”.

9 (b) EFFECTIVE DATE.—The amendments made by
10 subsection (a) shall apply to home health services fur-
11 nished on or after January 1, 1995.

12 **SEC. 203. REDUCTION IN PAYMENTS FOR CAPITAL-RELAT-**
13 **ED COSTS FOR INPATIENT HOSPITAL**
14 **SERVICES.**

15 (a) PPS HOSPITALS.—

16 (1) REDUCTION IN BASE PAYMENT RATES FOR
17 PPS HOSPITALS.—Section 1886(g)(1)(A) of the So-
18 cial Security Act (42 U.S.C. 1395ww(g)(1)(A)) is
19 amended by adding at the end the following new
20 sentence: “In addition to the reduction described in
21 the preceding sentence, for discharges occurring
22 after September 30, 1995, the Secretary shall reduce
23 by 7.31 percent the unadjusted standard Federal
24 capital payment rate (as described in 42 CFR
25 412.308(c), as in effect on the date of the enactment

1 of the Home and Community-Based Services for In-
2 dividuals with Disabilities Act of 1994) and shall re-
3 duce by 10.41 percent the unadjusted hospital-spe-
4 cific rate (as described in 42 CFR 412.328(e)(1), as
5 in effect on the date of the enactment of the Home
6 and Community-Based Services for Individuals with
7 Disabilities Act of 1994).”.

8 (2) REDUCTION IN UPDATE.—Section
9 1886(g)(1) of the Social Security Act (42 U.S.C.
10 1395ww(g)(1)) is amended—

11 (A) in subparagraph (B)(i)—

12 (i) by striking “and (II)” and insert-
13 ing “(II)”, and

14 (ii) by striking the semicolon at the
15 end and inserting the following: “, and
16 (III) an annual update factor established
17 for the prospective payment rates applica-
18 ble to discharges in a fiscal year which
19 (subject to reduction under subparagraph
20 (C)) will be based upon such factor as the
21 Secretary determines appropriate to take
22 into account amounts necessary for the ef-
23 ficient and effective delivery of medically
24 appropriate and necessary care of high
25 quality;”;

1 (B) by redesignating subparagraph (C) as
2 subparagraph (D); and

3 (C) by inserting after subparagraph (B)
4 the following new subparagraph:

5 “(C)(i) With respect to payments attributable
6 to portions of cost reporting periods or discharges
7 occurring during each of the fiscal years 1996
8 through 2003, the Secretary shall include a reduc-
9 tion in the annual update factor established under
10 subparagraph (B)(i)(III) for discharges in the year
11 equal to the applicable update reduction described in
12 clause (ii) to adjust for excessive increases in capital
13 costs per discharge for fiscal years prior to fiscal
14 year 1992 (but in no event may such reduction re-
15 sult in an annual update factor less than zero).

16 “(ii) In clause (i), the term ‘applicable update
17 reduction’ means, with respect to the update factor
18 for a fiscal year—

19 “(I) 4.9 percentage points; or

20 “(II) if the annual update factor for the
21 previous fiscal year was less than the applicable
22 update reduction for the previous year, the sum
23 of 4.9 percentage points and the difference be-
24 tween the annual update factor for the previous

1 year and the applicable update reduction for the
2 previous year.”.

3 (b) PPS-EXEMPT HOSPITALS.—Section 1861(v)(1)
4 of the Social Security Act (42 U.S.C. 1395x(v)(1)) is fur-
5 ther amended by adding at the end the following new sub-
6 paragraph:

7 “(T) Such regulations shall provide that, in determin-
8 ing the amount of the payments that may be made under
9 this title with respect to the capital-related costs of inpa-
10 tient hospital services furnished by a hospital that is not
11 a subsection (d) hospital (as defined in section
12 1886(d)(1)(B)) or a subsection (d) Puerto Rico hospital
13 (as defined in section 1886(d)(9)(A)), the Secretary shall
14 reduce the amounts of such payments otherwise estab-
15 lished under this title by 15 percent for payments attrib-
16 utable to portions of cost reporting periods occurring dur-
17 ing each of the fiscal years 1996 through 2003.”.

18 **SEC. 204. ELIMINATION OF FORMULA-DRIVEN OVERPAY-**
19 **MENTS FOR CERTAIN OUTPATIENT HOSPITAL**
20 **SERVICES.**

21 (a) AMBULATORY SURGICAL CENTER PROCE-
22 DURES.—Section 1833(i)(3)(B)(i)(II) of the Social Secu-
23 rity Act (42 U.S.C. 1395l(i)(3)(B)(i)(II)) is amended—
24 (1) by striking “of 80 percent”; and

1 (B) in subclause (III), by striking “112
2 percent,” and inserting “and before July 1,
3 1996, 112 percent, or”; and

4 (C) by inserting after subclause (III) the
5 following new subclause:

6 “(IV) July 1, 1996, 100 percent (adjusted by
7 such amount as the Secretary determines to be nec-
8 essary to preserve the savings resulting from the en-
9 actment of section 13564(a)(1) of the Omnibus
10 Budget Reconciliation Act of 1993),”.

11 (2) ADJUSTMENT TO LIMITS.—Section
12 1861(v)(1)(L)(ii) of the Social Security Act (42
13 U.S.C. 1395x(v)(1)(L)(ii)) is amended by adding at
14 the end the following new sentence: “The effect of
15 the amendments made by section 205(a)(1) of the
16 Home and Community-Based Services for Individ-
17 uals with Disabilities Act of 1994 shall not be con-
18 sidered by the Secretary in making adjustments pur-
19 suant to this clause.”.

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

22 (1) IN GENERAL.—Section 1861(v)(1)(L)(i) of
23 the Social Security Act (42 U.S.C.
24 1395x(v)(1)(L)(i)), as amended by subsection (a), is

1 amended in the matter following subclause (IV) by
2 striking “the mean” and inserting “the median”.

3 (2) EFFECTIVE DATE.—The amendment made
4 by paragraph (1) shall apply to cost reporting peri-
5 ods beginning on or after July 1, 1997.

S 2545 IS—2

S 2545 IS—3

S 2545 IS—4

S 2545 IS—5

S 2545 IS—6

S 2545 IS—7