

103^D CONGRESS
1ST SESSION

S. 551

To amend title XIX of the Social Security Act to improve the program related to home and community based care.

IN THE SENATE OF THE UNITED STATES

MARCH 10 (legislative day, MARCH 3), 1993

Mr. PRYOR (for himself and Mr. GRAHAM) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend title XIX of the Social Security Act to improve the program related to home and community based care.

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. REFERENCES TO SOCIAL SECURITY ACT.**

4 Except as otherwise specifically provided, whenever in
5 this Act an amendment is expressed in terms of an amend-
6 ment to or repeal of a section or other provision, the ref-
7 erence shall be considered to be made to that section or
8 other provision of the Social Security Act.

1 **SEC. 2. DEFINITION OF FUNCTIONALLY DISABLED ELDER-**
2 **LY INDIVIDUAL.**

3 Section 1929(b)(1)(C) (42 U.S.C. 1396t(b)(1)(C)) is
4 amended to read as follows:

5 “(C) subject to section 1902(f) (as applied
6 consistent with section 1902(r)(2))—

7 “(i) is receiving supplemental security
8 income benefits under title XVI (or under
9 a State plan approved under title XVI), or

10 “(ii) at the option of the State—

11 “(I) is described in section
12 1902(a)(10)(C), or

13 “(II) has income (as determined
14 under section 1612 for purposes of
15 the supplementary security income
16 program) that does not exceed three
17 times the maximum amount of income
18 that an individual may have and ob-
19 tain benefits under such program.”.

20 **SEC. 3. DETERMINATIONS OF FUNCTIONAL DISABILITY.**

21 Section 1929(c)(1) (42 U.S.C. 1396t(c)(1)) is
22 amended—

23 (1) in subparagraph (A)—

24 (A) by striking “3” and inserting “5”, and

1 (B) by striking “toileting, transferring,
2 and eating; or” and inserting “bathing, dress-
3 ing, toileting, transferring, and eating;”,

4 (2) in subparagraph (B)—

5 (A) by striking “of the following 5 activi-
6 ties of daily living: bathing, dressing, toileting,
7 transferring, and eating” and inserting “of the
8 5 activities of daily living described in subpara-
9 graph (A)”, and

10 (B) by striking the period at the end and
11 inserting “; or”, and

12 (3) by adding at the end the following new sub-
13 paragraph:

14 “(C) needs substantial supervision due to
15 cognitive or other mental impairment resulting
16 in behaviors that are dangerous (to the individ-
17 ual or others), disruptive, or difficult to man-
18 age.”.

19 **SEC. 4. LIMITATION ON PARTICIPATION OF STATES IN PRO-**
20 **GRAM.**

21 (a) IN GENERAL.—Section 1929(m) (42 U.S.C.
22 1396t(m)) is amended—

23 (1) by redesignating paragraphs (2), (3), and
24 (4), as paragraphs (3), (4), and (5), respectively;

1 (2) by inserting after paragraph (1) the follow-
2 ing new paragraph:

3 “(2) PARTICIPATION OF STATES.—

4 “(A) APPLICATIONS BY STATES.—Each
5 State desiring to provide home and community
6 care under this section shall submit an applica-
7 tion to the Secretary at such time and in such
8 manner as the Secretary determines appro-
9 priate.

10 “(B) CRITERIA FOR SELECTION OF PAR-
11 TICIPATING STATES.—The Secretary shall de-
12 velop criteria to review the applications of
13 States submitted under this section to provide
14 home and community care.

15 “(C) LIMIT ON NUMBER OF PARTICIPAT-
16 ING STATES.—The Secretary shall select no
17 more than 25 States to receive Federal finan-
18 cial participation for providing home and com-
19 munity care.”.

20 (b) CONFORMING AMENDMENTS.—Section 1929 (42
21 U.S.C. 1396t) is amended—

22 (1) in subsection (b)(2)(A)(i), by striking “elec-
23 tion” and inserting “selection under subsection
24 (m)(2)”;

1 (2) in subsection (b)(2)(B), by striking “a
2 State” and inserting “a State selected to provide
3 home and community care”;

4 (3) in subsection (b)(3), by striking “a State”
5 and inserting “a State selected to provide such
6 care”;

7 (4) in subsection (c)(2)(A), by striking “has
8 elected” and inserting “is selected”;

9 (5) in subsection (c)(2)(G), by striking “which
10 elects” and inserting “which is selected”;

11 (6) in subsection (d)(3), by striking “which
12 elects” and inserting “which is selected”;

13 (7) in subsection (i)(1)(A), by striking “under
14 this title” and inserting “under this title of a State
15 which is selected to provide home and community
16 care under this section”;

17 (8) in subsection (i)(3)(A), by striking “each
18 State’s” and inserting “a State’s”;

19 (9) in subsection (i)(3)(D)—

20 (A) by striking “each State” and inserting
21 “each State which is selected to provide home
22 and community care under this section”; and

23 (B) by striking “each State’s” and insert-
24 ing “each such State’s”;

1 (10) in subsection (i)(4), by striking “Each
2 State” and inserting “Each State which is selected
3 to provide home and community care under this
4 section”;

5 (11) in subsection (i)(6)(A), by striking “Each
6 State” and inserting “Each State which is selected
7 to provide home and community care under this
8 section”;

9 (12) in subsection (i)(6)(C), by striking “Each
10 State” and inserting “Each State which is selected
11 to provide home and community care under this
12 section”;

13 (13) in subsection (j)(1)(B)(i), by striking
14 “Each State” and inserting “Each State which is se-
15 lected to provide home and community care under
16 this section”;

17 (14) in subsection (j)(1)(B)(ii), by striking
18 “which elects” and inserting “which is selected”;
19 and

20 (15) in paragraph (5) of subsection (m), by
21 striking “paragraph (2)” and inserting “paragraph
22 (3)”.

1 **SEC. 5. LIMITATION ON NUMBER OF INDIVIDUALS ELIGI-**
 2 **BLE TO PARTICIPATE.**

3 Section 1929(m)(3) (42 U.S.C. 1396t(m)(3)), as re-
 4 designated, is amended by striking “, without regard to
 5 the amount of funds available to the State under para-
 6 graph (1).”. and inserting “. If a State determines that
 7 the amount of funds available to such State under para-
 8 graph (1) is insufficient to serve all individuals described
 9 in subsection (b), such State may, at any time during an
 10 election period, limit the number of individuals who will
 11 receive home and community care under this section.”.

12 **SEC. 6. APPLICATION OF SPOUSAL IMPOVERISHMENT**
 13 **RULES UNDER MEDICAID TO SPOUSES OF IN-**
 14 **DIVIDUALS RECEIVING HOME OR COMMU-**
 15 **NITY-BASED SERVICES.**

16 Section 1924(h)(1)(A) (42 U.S.C. 1396r-5(h)(1)(A))
 17 is amended to read as follows:

18 “(A)(i) is in a medical institution or nurs-
 19 ing facility; or

20 “(ii) is described in section
 21 1902(a)(10)(A)(ii)(VI) (except that for pur-
 22 poses of subsection (d), such term shall include
 23 such individual only if the State elects to apply
 24 such subsection to the individual); and”.

1 **SEC. 7. EFFECTIVE DATE.**

2 The amendments made by this Act shall be effective
3 on the date of the enactment of this Act.

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