

107TH CONGRESS
2^D SESSION

S. 3179

To amend the Public Health Service Act to provide health care coverage for qualified caregivers.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 19, 2002

Mr. DURBIN introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To amend the Public Health Service Act to provide health care coverage for qualified caregivers.

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.**

4 This Act may be cited as the “Caregivers Access to
5 Health Insurance Act”.

6 **SEC. 2. PURPOSES.**

7 It is the purpose of this Act to—

8 (1) expand the availability of health insurance
9 coverage to those individuals involved in the worthy

1 task of providing care for the children, the disabled,
2 and the elderly of the United States;

3 (2) provide incentives to attract and retain
4 quality caregivers; and

5 (3) prevent those caring full-time for disabled
6 or elderly relatives from losing access to health in-
7 surance coverage.

8 **SEC. 3. HEALTH CARE COVERAGE FOR CAREGIVERS**

9 The Public Health Service Act (42 U.S.C. 201 et
10 seq.) is amended by adding at the end the following:

11 **“TITLE XXVIII—HEALTH CARE**
12 **COVERAGE FOR CAREGIVERS**

13 **“SEC. 2801. PURPOSE; STATE PLANS.**

14 “(a) PURPOSE.—The purpose of this title is to pro-
15 vide funds to States to enable them to—

16 “(1) expand the availability of health insurance
17 coverage to those individuals involved in providing
18 care for children, the disabled, and the elderly; and

19 (2) provide incentives to attract and retain
20 quality caregivers.

21 “(b) STATE PLAN REQUIRED.—A State is not eligible
22 for payment under section 2805 unless the State has sub-
23 mitted to the Secretary under section 2806 a plan that—

24 “(1) sets forth how the State intends to use the
25 funds provided under this title to provide health in-

1 insurance or health care assistance through title XIX
2 of the Social Security Act, or other State or local
3 health care assistance or insurance programs, or to
4 provide assistance through the Federal Employees
5 Health Benefits Program if permitted under law, to
6 eligible caregivers consistent with the provisions of
7 this title, and

8 “(2) has been approved under section 2806.

9 “(c) STATE ENTITLEMENT.—This title constitutes
10 budget authority in advance of appropriations Acts and
11 represents the obligation of the Federal Government to
12 provide for the payment to States of amounts provided
13 under section 2804.

14 “(d) EFFECTIVE DATE.—No State is eligible for pay-
15 ments under section 2805 for health care assistance for
16 coverage provided for periods beginning before October 1,
17 2001.

18 **“SEC. 2802. GENERAL CONTENTS OF STATE PLAN; ELIGI-**
19 **BILITY; OUTREACH.**

20 “(a) GENERAL BACKGROUND AND DESCRIPTION.—
21 A State plan shall include a description, consistent with
22 the requirements of this title, of—

23 “(1) the extent to which, and manner in which,
24 eligible caregivers in the State, currently have cred-

1 itable health coverage (as defined in section
2 2810(e)(2));

3 “(2) current State efforts to provide or obtain
4 creditable health coverage for eligible caregivers, in-
5 cluding the steps the State is taking to identify and
6 enroll all such caregivers who are eligible to partici-
7 pate in public health insurance programs and health
8 insurance programs that involve public-private part-
9 nerships;

10 “(3) how the plan is designed to be coordinated
11 with such efforts to increase coverage of such care-
12 givers under creditable health coverage;

13 “(4) the health care assistance provided under
14 the plan for eligible caregivers and the dependent
15 children of such caregivers, including the proposed
16 methods of delivery, and utilization control systems;

17 “(5) eligibility standards consistent with sub-
18 section (b);

19 “(6) outreach activities consistent with sub-
20 section (c); and

21 “(7) methods (including monitoring) used—

22 “(A) to assure the quality and appropriate-
23 ness of care provided under the plan, and

24 “(B) to assure access to covered services,
25 including emergency services.

1 “(b) GENERAL DESCRIPTION OF ELIGIBILITY
2 STANDARDS AND METHODOLOGY.—

3 “(1) ELIGIBILITY STANDARDS.—

4 “(A) IN GENERAL.—The plan shall include
5 a description of the standards used to deter-
6 mine the eligibility of caregivers for health care
7 assistance under the plan. Such standards may
8 include (to the extent consistent with this title)
9 those relating to the geographic areas to be
10 served by the plan, age, income and resources
11 (including any standards relating to
12 spenddowns and disposition of resources), resi-
13 dency, disability status (so long as any standard
14 relating to such status does not restrict eligi-
15 bility), access to or coverage under other health
16 coverage, and duration of eligibility. Such
17 standards may not discriminate on the basis of
18 diagnosis.

19 “(B) LIMITATIONS ON ELIGIBILITY STAND-
20 ARDS.—Such eligibility standards—

21 “(i) shall, within any defined group of
22 covered eligible caregivers, not cover such
23 caregivers with a higher family income
24 without covering caregivers with a lower
25 family income, and

1 “(ii) may not deny eligibility based on
2 a caregiver having a preexisting medical
3 condition.

4 “(2) METHODOLOGY.—The plan shall include a
5 description of methods of establishing and con-
6 tinuing eligibility and enrollment.

7 “(3) ELIGIBILITY SCREENING; COORDINATION
8 WITH OTHER HEALTH COVERAGE PROGRAMS.—The
9 plan shall include a description of procedures to be
10 used to ensure—

11 “(A) through both intake and followup
12 screening, that only eligible caregivers are fur-
13 nished health care assistance under the State
14 plan;

15 “(B) that eligible caregivers found through
16 the screening to be eligible for medical assist-
17 ance under the State medicaid plan under title
18 XIX of the Social Security Act are enrolled for
19 such assistance under such plan;

20 “(C) that the insurance provided under the
21 State plan does not substitute for coverage
22 under group health plans;

23 “(D) the provision of health care assist-
24 ance to eligible caregivers in the State who are
25 Indians (as defined in section 4(c) of the Indian

1 Health Care Improvement Act (25 U.S.C.
2 1603(c)); and

3 “(E) coordination with other public and
4 private programs providing creditable coverage
5 for eligible caregivers.

6 “(4) NONENTITLEMENT.—Nothing in this title
7 shall be construed as providing an individual with an
8 entitlement to health care assistance under a State
9 plan.

10 “(c) OUTREACH AND COORDINATION.—A State plan
11 shall include a description of the procedures to be used
12 by the State to accomplish the following:

13 “(1) OUTREACH.—Outreach to caregivers likely
14 to be eligible for health care assistance under the
15 plan or under other public or private health coverage
16 programs to inform such care givers of the avail-
17 ability of, and to assist them in enrolling in, such a
18 program.

19 “(2) COORDINATION WITH OTHER HEALTH IN-
20 SURANCE PROGRAMS.—Coordination of the adminis-
21 tration of the State program under this title with
22 other public and private health insurance programs.

23 “(d) PAYMENT OR PREMIUMS.—Nothing in this title
24 shall be construed to prohibit a State from paying the eli-
25 gible caregiver’s share of premiums required for health

1 care assistance provided to the caregiver under the State
2 plan.

3 **“SEC. 2803. COVERAGE REQUIREMENTS FOR HEALTH CARE**
4 **ASSISTANCE.**

5 “The health care assistance provided to an eligible
6 caregiver under the plan in the form described in para-
7 graph (1) of section 2801(a) shall consist of any of the
8 types of coverage, the benchmark benefit packages, the
9 categories of services, existing programs, the cost sharing
10 requirements, and the preexisting condition limitations de-
11 scribed in section 2103 of the Social Security Act, and
12 shall provide coverage for the dependent children of the
13 eligible caregiver.

14 **“SEC. 2804. ALLOTMENTS.**

15 “(a) APPROPRIATION.—For purpose of enabling
16 States to provide assistance under this title, there is ap-
17 propriated, out of any money in the Treasury not other-
18 wise appropriated, the following:

19 “(1) For fiscal year 2002, \$_____.

20 “(2) For fiscal year 2003, \$_____.

21 “(3) For fiscal year 2004, \$_____.

22 “(4) For fiscal year 2005, \$_____.

23 “(5) For fiscal year 2006, \$_____.

24 “(6) For fiscal year 2007, \$_____.

25 “(7) For fiscal year 2008, \$_____.

1 “(8) For fiscal year 2009, \$_____.

2 “(b) ALLOTMENTS TO 50 STATES AND DISTRICT OF
3 COLUMBIA.—

4 “(1) IN GENERAL.—Of the amount available for
5 allotment under subsection (a) for a fiscal year, re-
6 duced by the amount of allotments made under sub-
7 section (c) for such fiscal year, the Secretary shall
8 allot to each State an amount the bears that same
9 ratio to such available amount as the population of
10 the State in such fiscal year bears to the total popu-
11 lations of all States in such fiscal year.

12 “(5) ADJUSTMENT FOR GEOGRAPHIC VARI-
13 ATIONS IN HEALTH COSTS.—In making allotments
14 under this subsection, the Secretary shall adjust a
15 State’s allotment based on section 2104(b)(3) of the
16 Social Security Act to reflect the geographic vari-
17 ations in health costs.

18 “(c) ALLOTMENTS TO TERRITORIES.—

19 “(1) IN GENERAL.—Of the amount available for
20 allotment under subsection (a) for a fiscal year, the
21 Secretary shall allot 0.25 percent among each of the
22 commonwealths and territories described in para-
23 graph (3) in the same proportion as the percentage
24 specified in paragraph (2) for such commonwealth or

1 territory bears to the sum of such percentages for all
2 such commonwealths or territories so described.

3 “(2) PERCENTAGE.—The percentage specified
4 in this paragraph for—

5 “(A) Puerto Rico is 91.6 percent,

6 “(B) Guam is 3.5 percent,

7 “(C) the Virgin Islands is 2.6 percent,

8 “(D) American Samoa is 1.2 percent, and

9 “(E) the Northern Mariana Islands is 1.1
10 percent.

11 “(3) COMMONWEALTHS AND TERRITORIES.—A
12 commonwealth or territory described in this para-
13 graph is any of the following if it has a State plan
14 approved under this title:

15 “(A) Puerto Rico.

16 “(B) Guam.

17 “(C) The Virgin Islands.

18 “(D) American Samoa.

19 “(E) The Northern Mariana Islands.

20 “(d) 3-YEAR AVAILABILITY OF AMOUNTS ALLOT-
21 TED.—Amounts allotted to a State pursuant to this sec-
22 tion for a fiscal year shall remain available for expenditure
23 by the State through the end of the second succeeding fis-
24 cal year; except that amounts reallocated to a State under
25 subsection (e) shall be available for expenditure by the

1 State through the end of the fiscal year in which they are
2 reallocated.

3 “(e) PROCEDURE FOR REDISTRIBUTION OF UNUSED
4 ALLOTMENTS.—The Secretary shall determine an appro-
5 priate procedure for redistribution of allotments from
6 States that were provided allotments under this section
7 for a fiscal year but that do not expend all of the amount
8 of such allotments during the period in which such allot-
9 ments are available for expenditure under subsection (d),
10 to States that have fully expended the amount of their
11 allotments under this section.

12 **“SEC. 2805. PAYMENTS TO STATES.**

13 “(a) IN GENERAL.—Subject to the succeeding provi-
14 sions of this section, the Secretary shall pay to each State
15 with a plan approved under this title, from its allotment
16 for a fiscal year under section 2804, an amount for each
17 quarter equal to the enhanced FMAP of expenditures in
18 the quarter—

19 “(1) for health care assistance under the plan
20 for eligible caregivers in the form of providing health
21 benefits coverage that meets the requirements of sec-
22 tion 2803; and

23 “(2) only to the extent permitted consistent
24 with subsection (c)—

1 “(A) for payment for other health care as-
2 sistance for such caregivers;

3 “(B) for expenditures for health services
4 initiatives under the plan for improving the
5 health of such caregivers;

6 “(C) for expenditures for outreach activi-
7 ties as provided in section 2802(c)(1) under the
8 plan; and

9 “(D) for other reasonable costs incurred by
10 the State to administer the plan.

11 “(b) ENHANCED FMAP.—For purposes of sub-
12 section (a), the ‘enhanced FMAP’, for a State for a fiscal
13 year, is equal to the Federal medical assistance percentage
14 (as defined in the first sentence of section 1905(b) of the
15 Social Security Act) for the State increased by a number
16 of percentage points equal to 30 percent of the number
17 of percentage points by which (1) such Federal medical
18 assistance percentage for the State, is less than (2) 100
19 percent; but in no case shall the enhanced FMAP for a
20 State exceed 85 percent.

21 “(c) LIMITATION ON CERTAIN PAYMENTS FOR CER-
22 TAIN EXPENDITURES.—

23 “(1) GENERAL LIMITATIONS.—Funds provided
24 to a State under this title shall only be used to carry

1 out the purposes of this title (as described in section
2 2801).

3 “(2) USE OF NON-FEDERAL FUNDS FOR STATE
4 MATCHING REQUIREMENT.—Amounts provided by
5 the Federal Government, or services assisted or sub-
6 sidized to any significant extent by the Federal Gov-
7 ernment, may not be included in determining the
8 amount of non-Federal contributions required under
9 subsection (a).

10 “(3) OFFSET OF RECEIPTS ATTRIBUTABLE TO
11 PREMIUMS AND OTHER COST-SHARING.—For pur-
12 poses of subsection (a), the amount of the expendi-
13 tures under the plan shall be reduced by the amount
14 of any premiums and other cost-sharing received by
15 the State.

16 “(4) PREVENTION OF DUPLICATIVE PAY-
17 MENTS.—

18 “(A) OTHER HEALTH PLANS.—No pay-
19 ment shall be made to a State under this sec-
20 tion for expenditures for health care assistance
21 provided for an eligible caregiver under its plan
22 to the extent that a private insurer (as defined
23 by the Secretary by regulation and including a
24 group health plan (as defined in section 607(1)
25 of the Employee Retirement Income Security

1 Act of 1974), a service benefit plan, and a
2 health maintenance organization) would have
3 been obligated to provide such assistance but
4 for a provision of its insurance contract which
5 has the effect of limiting or excluding such obli-
6 gation because the individual is eligible for or is
7 provided health care assistance under the plan.

8 “(B) OTHER FEDERAL GOVERNMENTAL
9 PROGRAMS.—Except as otherwise provided by
10 law, no payment shall be made to a State under
11 this section for expenditures for health care as-
12 sistance provided for an eligible caregiver under
13 its plan to the extent that payment has been
14 made or can reasonably be expected to be made
15 promptly (as determined in accordance with
16 regulations) under any other federally operated
17 or financed health care insurance program,
18 other than an insurance program operated or fi-
19 nanced by the Indian Health Service, as identi-
20 fied by the Secretary. For purposes of this
21 paragraph, rules similar to the rules for over-
22 payments under section 1903(d)(2) of the So-
23 cial Security Act shall apply.

24 “(d) MAINTENANCE OF EFFORT.—

1 “(1) IN MEDICAID ELIGIBILITY STANDARDS.—
2 No payment may be made under subsection (a) with
3 respect to health care assistance provided under a
4 State plan if the State adopts income and resource
5 standards and methodologies for purposes of deter-
6 mining a caregiver’s eligibility for medical assistance
7 under the State plan under title XIX of the Social
8 Security Act that are more restrictive than those ap-
9 plied as of June 1, 1997.

10 “(2) IN AMOUNTS OF PAYMENT EXPENDED FOR
11 CERTAIN STATE-FUNDED HEALTH INSURANCE PRO-
12 GRAMS.—

13 “(A) IN GENERAL.—The amount of the al-
14 lotment for a State in a fiscal year (beginning
15 with fiscal year 2002) shall be reduced by the
16 amount by which—

17 “(i) the total of the State health in-
18 surance expenditures for caregivers in the
19 preceding fiscal year, is less than

20 “(ii) the total of such expenditures in
21 fiscal year 2000.

22 “(B) STATE HEALTH INSURANCE EXPEND-
23 ITURES FOR CAREGIVERS.—The term ‘State
24 health insurance expenditures for caregivers’
25 means the following:

1 “(1) IN GENERAL.—As a condition of receiving
2 payment under section 2805, a State shall submit to
3 the Secretary a State plan that meets the applicable
4 requirements of this title.

5 “(2) APPROVAL.—Except as the Secretary may
6 provide under subsection (e), a State plan submitted
7 under paragraph (1)—

8 “(A) shall be approved for purposes of this
9 title, and

10 “(B) shall be effective beginning with a
11 calendar quarter that is specified in the plan,
12 but in no case earlier than October 1, 2001.

13 “(b) PLAN AMENDMENTS.—The provisions of section
14 2106(b) of the Social Security Act shall apply with respect
15 to the amendment of a State plan under this title.

16 “(c) DISAPPROVAL OF PLANS AND PLAN AMEND-
17 MENTS.—

18 “(1) PROMPT REVIEW OF PLAN SUBMITTALS.—
19 The Secretary shall promptly review State plans and
20 plan amendments submitted under this section to
21 determine if they substantially comply with the re-
22 quirements of this title.

23 “(2) 90-DAY APPROVAL DEADLINES.—A State
24 plan or plan amendment is considered approved un-
25 less the Secretary notifies the State in writing, with-

1 in 90 days after receipt of the plan or amendment,
2 that the plan or amendment is disapproved (and the
3 reasons for disapproval) or that specified additional
4 information is needed.

5 “(3) CORRECTION.—In the case of a dis-
6 approval of a plan or plan amendment, the Secretary
7 shall provide a State with a reasonable opportunity
8 for correction before taking financial sanctions
9 against the State on the basis of such disapproval.

10 “(d) PROGRAM OPERATION.—

11 “(1) IN GENERAL.—The State shall conduct the
12 program in accordance with the plan (and any
13 amendments) approved under subsection (c) and
14 with the requirements of this title.

15 “(2) VIOLATIONS.—The Secretary shall estab-
16 lish a process for enforcing requirements under this
17 title. Such process shall provide for the withholding
18 of funds in the case of substantial noncompliance
19 with such requirements. In the case of an enforce-
20 ment action against a State under this paragraph,
21 the Secretary shall provide a State with a reasonable
22 opportunity for correction before taking financial
23 sanctions against the State on the basis of such an
24 action.

1 “(e) CONTINUED APPROVAL.—An approved State
 2 caregivers health plan shall continue in effect unless and
 3 until the State amends the plan under subsection (b) or
 4 the Secretary finds, under subsection (d), substantial non-
 5 compliance of the plan with the requirements of this title.

6 **“SEC. 2807. STRATEGIC OBJECTIVES AND PERFORMANCE**
 7 **GOALS; PLAN ADMINISTRATION.**

8 “(a) STRATEGIC OBJECTIVES AND PERFORMANCE
 9 GOALS.—

10 “(1) DESCRIPTION.—A State plan shall include
 11 a description of—

12 “(A) the strategic objectives,

13 “(B) the performance goals, and

14 “(C) the performance measures,

15 the State has established for providing health care
 16 assistance to eligible caregivers under the plan and
 17 otherwise for maximizing health benefits coverage
 18 for other caregivers generally in the State.

19 “(2) STRATEGIC OBJECTIVES.—Such plan shall
 20 identify specific strategic objectives relating to in-
 21 creasing the extent of creditable health coverage
 22 among eligible caregivers.

23 “(3) PERFORMANCE GOALS.—Such plan shall
 24 specify 1 or more performance goals for each such
 25 strategic objective so identified.

1 “(4) PERFORMANCE MEASURES.—Such plan
2 shall describe how performance under the plan will
3 be—

4 “(A) measured through objective, inde-
5 pendently verifiable means, and

6 “(B) compared against performance goals,
7 in order to determine the State’s performance
8 under this title.

9 “(b) RECORDS, REPORTS, AUDITS, AND EVALUA-
10 TION.—

11 “(1) DATA COLLECTION, RECORDS, AND RE-
12 PORTS.—A State plan shall include an assurance
13 that the State will collect the data, maintain the
14 records, and furnish the reports to the Secretary, at
15 the times and in the standardized format the Sec-
16 retary may require in order to enable the Secretary
17 to monitor State program administration and com-
18 pliance and to evaluate and compare the effective-
19 ness of State plans under this title.

20 “(2) STATE ASSESSMENT AND STUDY.—A State
21 plan shall include a description of the State’s plan
22 for the annual assessments and reports under sec-
23 tion 2808(a) and the evaluation required by section
24 2808(b).

1 “(3) AUDITS.—A State plan shall include an
2 assurance that the State will afford the Secretary
3 access to any records or information relating to the
4 plan for the purposes of review or audit.

5 “(c) PROGRAM DEVELOPMENT PROCESS.—A State
6 plan shall include a description of the process used to in-
7 volve the public in the design and implementation of the
8 plan and the method for ensuring ongoing public involve-
9 ment.

10 “(d) PROGRAM BUDGET.—A State plan shall include
11 a description of the budget for the plan. The description
12 shall be updated periodically as necessary and shall in-
13 clude details on the planned use of funds and the sources
14 of the non-Federal share of plan expenditures, including
15 any requirements for cost-sharing by beneficiaries.

16 “(e) APPLICATION OF CERTAIN GENERAL PROVI-
17 SIONS.—The following sections of the Social Security Act
18 shall apply to States under this title in the same manner
19 as they apply to a State under title XIX or title XI of
20 such Act, as appropriate:

21 “(1) TITLE XIX PROVISIONS.—

22 “(A) Section 1902(a)(4)(C) (relating to
23 conflict of interest standards).

1 “(B) Paragraphs (2), (16), and (17) of
2 section 1903(i) (relating to limitations on pay-
3 ment).

4 “(C) Section 1903(w) (relating to limita-
5 tions on provider taxes and donations).

6 “(2) TITLE XI PROVISIONS.—

7 “(A) Section 1115 (relating to waiver au-
8 thority).

9 “(B) Section 1116 (relating to administra-
10 tive and judicial review), but only insofar as
11 consistent with this title.

12 “(C) Section 1124 (relating to disclosure
13 of ownership and related information).

14 “(D) Section 1126 (relating to disclosure
15 of information about certain convicted individ-
16 uals).

17 “(E) Section 1128A (relating to civil mon-
18 etary penalties).

19 “(F) Section 1128B(d) (relating to crimi-
20 nal penalties for certain additional charges).

21 “(G) Section 1132 (relating to periods
22 within which claims must be filed).

23 **“SEC. 2808. ANNUAL REPORTS; EVALUATIONS.**

24 “(a) ANNUAL REPORT.—The State shall—

1 “(1) assess the operation of the State plan
2 under this title in each fiscal year, including the
3 progress made in reducing the number of uncovered
4 eligible caregivers; and

5 “(2) report to the Secretary, by January 1 fol-
6 lowing the end of the fiscal year, on the result of the
7 assessment.

8 “(b) STATE EVALUATIONS.—

9 “(1) IN GENERAL.—By March 31, 2003, each
10 State that has a State plan shall submit to the Sec-
11 retary an evaluation that includes each of the fol-
12 lowing:

13 “(A) An assessment of the effectiveness of
14 the State plan in increasing the number of care-
15 givers with creditable health coverage.

16 “(B) A description and analysis of the ef-
17 fectiveness of elements of the State plan, in-
18 cluding—

19 “(i) the characteristics of the care-
20 givers assisted under the State plan includ-
21 ing family income, and the assisted care-
22 giver’s access to or coverage by other
23 health insurance prior to the State plan
24 and after eligibility for the State plan
25 ends,

1 “(ii) the quality of health coverage
2 provided including the types of benefits
3 provided,

4 “(iii) the amount and level (including
5 payment of part or all of any premium) of
6 assistance provided by the State,

7 “(iv) the service area of the State
8 plan,

9 “(v) the time limits for coverage of a
10 caregiver under the State plan,

11 “(vi) the State’s choice of health bene-
12 fits coverage and other methods used for
13 providing health care assistance, and

14 “(vii) the sources of non-Federal
15 funding used in the State plan.

16 “(C) An assessment of the effectiveness of
17 other public and private programs in the State
18 in increasing the availability of affordable qual-
19 ity individual and family health insurance for
20 caregivers.

21 “(D) A review and assessment of State ac-
22 tivities to coordinate the plan under this title
23 with other public and private programs pro-
24 viding health care and health care financing, in-

1 including medicaid and maternal and child health
2 services.

3 “(E) An analysis of changes and trends in
4 the State that affect the provision of accessible,
5 affordable, quality health insurance and health
6 care to caregivers.

7 “(F) A description of any plans the State
8 has for improving the availability of health in-
9 surance and health care for caregivers.

10 “(G) Recommendations for improving the
11 program under this title.

12 “(H) Any other matters the State and the
13 Secretary consider appropriate.

14 “(2) REPORT OF THE SECRETARY.—The Sec-
15 retary shall submit to Congress and make available
16 to the public by December 31, 2003, a report based
17 on the evaluations submitted by States under para-
18 graph (1), containing any conclusions and rec-
19 ommendations the Secretary considers appropriate.

20 **“SEC. 2809. MISCELLANEOUS PROVISIONS.**

21 “(a) HIPAA.—Health benefits coverage provided
22 under section 2801(a)(1) shall be treated as creditable
23 coverage for purposes of part 7 of subtitle B of title I
24 of the Employee Retirement Income Security Act of 1974,

1 title XXVII of the Public Health Service Act, and subtitle
2 K of the Internal Revenue Code of 1986.

3 “(b) ERISA.—Nothing in this title shall be construed
4 as affecting or modifying section 514 of the Employee Re-
5 tirement Income Security Act of 1974 with respect to a
6 group health plan (as defined in section 2791(a)(1) of this
7 Act.

8 “(c) LIMITATION ON ENTITIES.—Notwithstanding
9 any other provision of this title, a State may limit the ap-
10 plication of this title to eligible caregivers who are em-
11 ployed by entities that provide services to a specific per-
12 centage of individuals who receive assistance under, or
13 through, Federal or State assistance programs.

14 **“SEC. 2810. DEFINITIONS.**

15 (a) HEALTH CARE ASSISTANCE.—For purposes of
16 this title, the term ‘health care assistance’ means payment
17 for part or all of the cost of health benefits coverage for
18 eligible caregivers (and the dependent children of such
19 caregivers) that includes any of the following (and in-
20 cludes, in the case described in section 2805(a)(2)(A),
21 payment for part or all of the cost of providing any of
22 the following), as specified under the State plan:

23 “(1) Inpatient hospital services.

24 “(2) Outpatient hospital services.

25 “(3) Physician services.

1 “(4) Surgical services.

2 “(5) Clinic services (including health center
3 services) and other ambulatory health care services.

4 “(6) Prescription drugs and biologicals and the
5 administration of such drugs and biologicals, only if
6 such drugs and biologicals are not furnished for the
7 purpose of causing, or assisting in causing, the
8 death, suicide, euthanasia, or mercy killing of a per-
9 son.

10 “(7) Over-the-counter medications.

11 “(8) Laboratory and radiological services.

12 “(9) Prenatal care and prepregnancy family
13 planning services and supplies.

14 “(10) Inpatient mental health services, other
15 than services described in paragraph (18) but in-
16 cluding services furnished in a State-operated men-
17 tal hospital and including residential or other 24-
18 hour therapeutically planned structured services.

19 “(11) Outpatient mental health services, other
20 than services described in paragraph (19) but in-
21 cluding services furnished in a State-operated men-
22 tal hospital and including community-based services.

23 “(12) Durable medical equipment and other
24 medically-related or remedial devices (such as pros-

1 thetic devices, implants, eyeglasses, hearing aids,
2 dental devices, and adaptive devices).

3 “(13) Disposable medical supplies.

4 “(14) Home and community-based health care
5 services and related supportive services (such as
6 home health nursing services, home health aide serv-
7 ices, personal care, assistance with activities of daily
8 living, chore services, day care services, respite care
9 services, training for family members, and minor
10 modifications to the home).

11 “(15) Nursing care services (such as nurse
12 practitioner services, nurse midwife services, ad-
13 vanced practice nurse services, private duty nursing
14 care, pediatric nurse services, and respiratory care
15 services) in a home, school, or other setting.

16 “(16) Dental services.

17 “(17) Inpatient substance abuse treatment
18 services and residential substance abuse treatment
19 services.

20 “(18) Outpatient substance abuse treatment
21 services.

22 “(19) Case management services.

23 “(20) Care coordination services.

1 “(21) Physical therapy, occupational therapy,
2 and services for individuals with speech, hearing,
3 and language disorders.

4 “(22) Hospice care.

5 “(23) Any other medical, diagnostic, screening,
6 preventive, restorative, remedial, therapeutic, or re-
7 habilitative services (whether in a facility, home,
8 school, or other setting) if recognized by State law
9 and only if the service is—

10 “(A) prescribed by or furnished by a physi-
11 cian or other licensed or registered practitioner
12 within the scope of practice as defined by State
13 law,

14 “(B) performed under the general super-
15 vision or at the direction of a physician, or

16 “(C) furnished by a health care facility
17 that is operated by a State or local government
18 or is licensed under State law and operating
19 within the scope of the license.

20 “(24) Premiums for private health care insur-
21 ance coverage.

22 “(25) Medical transportation.

23 “(26) Enabling services (such as transpor-
24 tation, translation, and outreach services) only if de-
25 signed to increase the accessibility of primary and

1 preventive health care services for eligible low-in-
2 come individuals.

3 “(27) Any other health care services or items
4 specified by the Secretary and not excluded under
5 this section.

6 “(b) ELIGIBLE CAREGIVER DEFINED.—For purposes
7 of this title, the term ‘eligible caregiver’ means an indi-
8 vidual—

9 “(1) who has been determined eligible by the
10 State under this title for assistance under the State
11 plan;

12 “(2) who—

13 “(A) subject to section 2809(c)—

14 “(i) is employed as a child care pro-
15 vider, an adult day care provider, a per-
16 sonal attendant for disabled individuals, a
17 nursing home aide, a home health aide, or
18 in any other caregiving position determined
19 appropriate by the State, with an entity
20 that is licensed or certified under State
21 law, or is otherwise providing services
22 under a State license or certification; and

23 “(ii) is certified by, or enrolled in, an
24 accredited program recognized by the State
25 as having received training necessary in

1 order to be employed in a position de-
2 scribed in subparagraph (A); or

3 “(B)(i) is providing caregiver services on a
4 full-time basis for a relative; and

5 “(ii) does not otherwise have access to em-
6 ployer-sponsored health insurance coverage;

7 “(3) who is not found to be eligible for medical
8 assistance under title XIX of the Social Security Act
9 or covered under a group health plan or under
10 health insurance coverage (as such terms are defined
11 in section 2791 of this Act); and

12 “(4) who meets any other criteria determined
13 appropriate by the State.

14 “(c) ADDITIONAL DEFINITIONS.—For purposes of
15 this title:

16 “(1) CREDITABLE HEALTH COVERAGE.—The
17 term ‘creditable health coverage’ has the meaning
18 given the term ‘creditable coverage’ under section
19 2701(e) of this Act and includes coverage that meets
20 the requirements of section 2803 provided to an eli-
21 gible caregiver under this title.

22 “(2) GROUP HEALTH PLAN; HEALTH INSUR-
23 ANCE COVERAGE; ETC.—The terms ‘group health
24 plan’, ‘group health insurance coverage’, and ‘health

1 insurance coverage’ have the meanings given such
2 terms in section 2791 of this Act.

3 “(3) POVERTY LINE DEFINED.—The term
4 ‘poverty line’ has the meaning given such term in
5 section 673(2) of the Community Services Block
6 Grant Act (42 U.S.C. 9902(2)), including any revi-
7 sion required by such section.

8 “(4) PREEXISTING CONDITION EXCLUSION.—
9 The term ‘preexisting condition exclusion’ has the
10 meaning given such term in section 2701(b)(1)(A) of
11 this Act.

12 “(5) STATE PLAN; PLAN.—Unless the context
13 otherwise requires, the terms ‘State plan’ and ‘plan’
14 mean a State plan approved under section 2806.”.

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