

108TH CONGRESS  
1ST SESSION

# H. R. 1568

To amend part B of title XVIII of the Social Security Act to provide for a prescription drug benefit with a high deductible at no additional premium and access to discount prices on drugs and to provide for the operation of such benefit without a deductible for certain low-income Medicare beneficiaries.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 2, 2003

Mr. DOOLEY of California (for himself, Mrs. TAUSCHER, Mr. KIND, Mr. DAVIS of Florida, Mr. SMITH of Washington, Mr. STENHOLM, Mr. EMANUEL, Mr. COOPER, Mr. HILL, Mr. FORD, Mr. PETERSON of Minnesota, Mr. CARDOZA, Mr. CASE, Mr. CRAMER, Mr. MOORE, Ms. HARMAN, Mr. MILLER of North Carolina, Mr. DAVIS of Alabama, Mrs. MCCARTHY of New York, Mr. ISRAEL, Mr. WU, Mr. MARSHALL, Mr. LUCAS of Kentucky, Mr. MATHESON, and Mr. LARSEN of Washington) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend part B of title XVIII of the Social Security Act to provide for a prescription drug benefit with a high deductible at no additional premium and access to discount prices on drugs and to provide for the operation of such benefit without a deductible for certain low-income Medicare beneficiaries.

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 “Medicare Rx Now Act of 2003”.

6 (b) AMENDMENTS TO SOCIAL SECURITY ACT.—Ex-  
 7 cept as otherwise specifically provided, whenever in this  
 8 Act an amendment is expressed in terms of an amendment  
 9 to or repeal of a section or other provision, the reference  
 10 shall be considered to be made to that section or other  
 11 provision of the Social Security Act.

12 (c) TABLE OF CONTENTS.—The table of contents of  
 13 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Purpose.

TITLE I—PART B DRUG BENEFIT WITH HIGH DEDUCTIBLE AND  
 NO PREMIUM

Sec. 101. Inclusion of high-deductible outpatient prescription drug benefit under  
 part B.

Sec. 102. Provision of benefits through medicare approved prescription drug  
 plans.

TITLE II—BENEFITS FOR LOW-INCOME BENEFICIARIES

Sec. 201. Benefits for low-income beneficiaries.

Sec. 202. Improving enrollment process under medicaid.

14 **SEC. 2. PURPOSE.**

15 The purpose of this Act is to provide for outpatient  
 16 prescription drug benefits to medicare beneficiaries in the  
 17 following manner:

18 (1) Medicare beneficiaries enrolled under medi-  
 19 care part B qualify for outpatient prescription drug

1 benefits after an annual deductible (initially set at  
2 \$4,000) has been met. This benefit is available with-  
3 out any additional premium.

4 (2) There are fixed dollar copayments for this  
5 coverage, with the average of such copayments equal  
6 to 20 percent of the benefits and the amount of the  
7 copayments varying depending upon whether the  
8 drugs are generic, preferred brand-name, or non-pre-  
9 ferred brand-name drugs.

10 (3) The benefits are provided through medicare-  
11 approved prescription drug plans. These plans may  
12 be current plans, such as Medicare+Choice plans,  
13 employer-based retiree coverage, medigap plans,  
14 State assistance programs, medicaid, drug discount  
15 card plans, and other qualified plans (as determined  
16 by the Secretary). All of these plans must offer, in  
17 addition to the high-deductible coverage, discounts  
18 for prescription drugs both while the annual deduct-  
19 ible is being satisfied and after it is satisfied.

20 (4) To assure access to medicare-approved pre-  
21 scription drug plans for all medicare beneficiaries,  
22 the Secretary will solicit bids for prescription drug  
23 discount plans that will be available in all geographic  
24 regions to all medicare beneficiaries.

1           (5) All pharmacies that comply with electronic  
2           claims processing standards may provide drugs  
3           under the program.

4           (6) The Act also provides for the availability of  
5           additional benefits in the form of a waiver of the an-  
6           nual deductible, thereby providing immediate entitle-  
7           ment to prescription drug benefits, for medicare  
8           beneficiaries who have incomes under 200 percent of  
9           the poverty line and who are not eligible for med-  
10          icaid prescription drug benefits.

11 **TITLE I—PART B DRUG BENEFIT**  
12 **WITH HIGH DEDUCTIBLE AND**  
13 **NO PREMIUM**

14 **SEC. 101. INCLUSION OF HIGH-DEDUCTIBLE OUTPATIENT**

15 **PRESCRIPTION DRUG BENEFIT UNDER PART**

16 **B.**

17           (a) **COVERAGE.**—Section 1832(a) (42 U.S.C.  
18 1395k(a)) is amended—

19           (1) by striking “and” at the end of paragraph  
20           (1);

21           (2) by striking the period at the end of para-  
22           graph (2) and inserting “; and”; and

23           (3) by adding at the end the following new  
24           paragraph:

1           “(3) entitlement to have payment made on his  
2           behalf (subject to the provisions of this part) for  
3           high-deductible outpatient prescription drug cov-  
4           erage under section 1845.”.

5           (b) DESCRIPTION OF HIGH-DEDUCTIBLE PRESCRIP-  
6           TION DRUG BENEFIT.—Title XVIII is amended by insert-  
7           ing after section 1844 the following new section:

8           “OUTPATIENT PRESCRIPTION DRUG COVERAGE

9           “SEC. 1845. (a) HIGH-DEDUCTIBLE OUTPATIENT  
10          PRESCRIPTION DRUG COVERAGE DEFINED.—

11           “(1) IN GENERAL.—For purposes of this part,  
12           the term ‘high-deductible outpatient prescription  
13           drug coverage’ means payment of—

14           “(A) expenses for covered outpatient pre-  
15           scription drugs incurred in a year after the in-  
16           dividual has incurred expenses for such drugs  
17           in the year of an amount equal to the annual  
18           deductible specified in paragraph (2); reduced  
19           by

20           “(B) cost-sharing described in paragraph  
21           (3).

22           “(2) ANNUAL DEDUCTIBLE.—

23           “(A) IN GENERAL.—The annual deductible  
24           under this paragraph—

25           “(i) for 2005 is equal to \$4,000; and

1           “(ii) for a subsequent year is equal to  
2           the amount specified in subparagraph (B)  
3           for that year, except that, if the amount  
4           specified in such subparagraph is not a  
5           multiple of \$10, it shall be rounded to the  
6           nearest multiple of \$10.

7           “(B) INFLATIONARY ADJUSTMENT.—The  
8           amount specified in this subparagraph—

9                   “(i) for 2005, is \$4,000; or

10                   “(ii) the amount specified in this sub-  
11           paragraph for a subsequent year is the  
12           amount specified in this subparagraph for  
13           the previous year increased by the annual  
14           percentage increase in average per capita  
15           aggregate expenditures for covered out-  
16           patient prescription drugs in the United  
17           States for medicare beneficiaries, as deter-  
18           mined by the Secretary for the 12-month  
19           period ending in July of the previous year.

20           “(3) COST-SHARING.—

21                   “(A) THREE-TIERED COPAYMENT STRUC-  
22           TURE.—Subject to the succeeding provisions of  
23           this paragraph, in the case of a covered out-  
24           patient drug that is dispensed in a year to an  
25           eligible individual, the individual shall be re-

1           sponsible for a copayment for the drug in an  
2           amount equal to the following (or, if less, the  
3           price for the drug negotiated pursuant to sub-  
4           section (c)(5)):

5                   “(i) GENERIC DRUGS.—In the case of  
6                   a generic covered outpatient drug, the base  
7                   copayment amount specified in accordance  
8                   with subparagraph (B) for each prescrip-  
9                   tion (as defined by the Secretary) of such  
10                  drug.

11                  “(ii) PREFERRED BRAND NAME  
12                  DRUGS.—In the case of a preferred brand  
13                  name covered outpatient drug, 4 times the  
14                  copayment amount applied under clause (i)  
15                  for each prescription (as so defined) of  
16                  such drug.

17                  “(iii) NONPREFERRED BRAND NAME  
18                  DRUG.—In the case of a nonpreferred  
19                  brand name covered outpatient drug, 150  
20                  percent of the copayment amount applied  
21                  under clause (ii) for each prescription (as  
22                  so defined) of such drug.

23                  “(B) ESTABLISHMENT OF BASE COPAY-  
24                  MENT AMOUNT CONSISTENT WITH 80:20 BEN-  
25                  EFIT RATIO.—For each year beginning with

1           2005 the Secretary shall establish a base copay-  
2           ment amount in a manner consistent with the  
3           principle (subject to reasonable rounding rules)  
4           that the ratio of the aggregate amount of bene-  
5           fits provided under this section to the aggregate  
6           copayments under this paragraph for each year  
7           should be approximately equal to 80 to 20.

8           “(C) DISCOUNTS ALLOWED FOR NETWORK  
9           PHARMACIES.—A medicare-approved prescrip-  
10          tion drug plan may reduce copayments for its  
11          designees below the level otherwise provided  
12          under this paragraph, but in no case shall such  
13          a reduction result in an increase in payments  
14          made by the Secretary under this section to a  
15          plan.

16          “(D) TREATMENT OF MEDICALLY NEC-  
17          CESSARY NONPREFERRED DRUGS.—A nonpre-  
18          ferred brand name drug shall be treated as a  
19          preferred brand name drug under this para-  
20          graph if such nonpreferred drug is determined  
21          (pursuant to procedures established under sub-  
22          section (c)(6)) to be medically necessary.

23          “(E) REQUIREMENT FOR DESIGNATION OF  
24          PREFERRED BRAND NAME DRUGS.—Within  
25          each category of therapeutic-equivalent covered

1 outpatient prescription drugs (as defined by the  
2 Secretary), each medicare-approved prescription  
3 drug plan shall provide for the designation of  
4 at least one preferred brand name covered out-  
5 patient drug.

6 “(4) PAYMENT OF BENEFITS BEYOND DEDUCT-  
7 IBLE.—

8 “(A) IN GENERAL.—There shall be paid  
9 from the Federal Supplementary Medical Insur-  
10 ance Trust Fund, in the case of each individual  
11 who is covered under the insurance program es-  
12 tablished by this part and incurs expenses for  
13 covered outpatient prescription drugs with re-  
14 spect to which benefits are payable under this  
15 section, amounts equal to the amounts provided  
16 under paragraph (1).

17 “(B) COUNTING OF INCURRED EX-  
18 PENSES.—Expenses with respect to covered  
19 outpatient prescription drugs under this section  
20 shall—

21 “(i) be treated as incurred regardless  
22 of whether they are reimbursed by a third-  
23 party payor;

24 “(ii) not be treated as incurred unless  
25 the expenses were incurred during a period

1 in which the individual was covered under  
2 this part; and

3 “(iii) not be treated as incurred unless  
4 information concerning the transaction giv-  
5 ing rise to such expenses has been elec-  
6 tronically transmitted by the pharmacy or  
7 other entity dispensing the covered out-  
8 patient prescription drugs to the medicare-  
9 approved prescription drug plan consistent  
10 with electronic claims standards estab-  
11 lished under subsection (c)(3).”.

12 **SEC. 102. PROVISION OF BENEFITS THROUGH MEDICARE**  
13 **APPROVED PRESCRIPTION DRUG PLANS.**

14 (a) IN GENERAL.—Section 1845 of the Social Secu-  
15 rity Act, as inserted by section 101(a), is further amended  
16 by adding at the end the following:

17 “(b) PROVISION OF BENEFITS THROUGH A MEDI-  
18 CARE APPROVED PRESCRIPTION DRUG PLAN.—

19 “(1) IN GENERAL.—In the case of an individual  
20 entitled to benefits for high-deductible outpatient  
21 prescription drug coverage under this section, the in-  
22 dividual shall obtain such benefits through a medi-  
23 care-approved prescription drug plan that is des-  
24 ignated under this subsection.

1           “(2) DESIGNATION PROCESS.—The Secretary  
2 shall provide for a process for designation of medi-  
3 care-approved prescription drug plans consistent  
4 with the following:

5           “(A) FREQUENCY OF DESIGNATIONS.—

6           The Secretary shall permit individuals, on an  
7 annual basis and at such other times during a  
8 year as the Secretary may specify, to change  
9 the plan designated.

10          “(B) DISSEMINATION OF INFORMATION.—

11          The Secretary shall provide for the dissemina-  
12 tion of information on designation of plans  
13 under this subsection. Such dissemination may  
14 be coordinated with the dissemination of infor-  
15 mation on Medicare+Choice plan selection  
16 under part C.

17          “(C) DEFAULT ASSIGNMENT.—In the case

18 of an individual who is enrolled under this part  
19 who has not otherwise designated a medicare-  
20 approved prescription drug plan, the Secretary  
21 shall assign the individual to an appropriate  
22 prescription drug discount card plan serving the  
23 area in which the individual resides.

24          “(D) DEEMED DESIGNATION.—The Sec-

25 retary may deem an individual who is enrolled

1 in a medicare-approved prescription drug plan  
2 described in subparagraph (A) through (E) of  
3 subsection (c)(2) as having designated such  
4 plan, but shall permit the individual to des-  
5 ignate a prescription drug discount card plan  
6 instead. The Secretary shall establish rules in  
7 cases where an individual is enrolled in more  
8 than one such plan.

9 “(3) DESIGNEE DEFINED.—In this section, the  
10 term ‘designee’ means such an individual who makes  
11 such a designation and, with respect to a plan, an  
12 individual who has designated that plan under this  
13 subsection.

14 “(c) MEDICARE-APPROVED PRESCRIPTION DRUG  
15 PLANS.—

16 “(1) IN GENERAL.—For purposes of this part,  
17 the term ‘medicare-approved prescription drug plan’  
18 means a health plan or program described in para-  
19 graph (2) that—

20 “(A) provides at least high-deductible out-  
21 patient prescription drug coverage to designees  
22 of that plan or program;

23 “(B) meets the applicable requirements of  
24 paragraph (3) and succeeding paragraphs of  
25 this subsection with respect to such designees;

1           “(C) has entered into an agreement with  
2           the Secretary to provide and exchange electroni-  
3           cally such information as the Secretary may re-  
4           quire for the administration of the program of  
5           benefits under this section; and

6           “(D) meets such additional requirements  
7           as the Secretary may specify, including requir-  
8           ing the provision of appropriate periodic audits.

9           “(2) TYPES OF PLANS AND PROGRAMS THAT  
10          MAY QUALIFY.—The types of plans and programs  
11          that may qualify as a medicare-approved prescrip-  
12          tion drug plan are the following:

13                 “(A) A Medicare+Choice plan.

14                 “(B) A group health plan, including a re-  
15                 tirement health benefits plan, that provides pre-  
16                 scription drug coverage.

17                 “(C) A State plan under title XIX.

18                 “(D) A health benefits plan under the Fed-  
19                 eral employees’ health benefits program under  
20                 chapter 89 of title 5, United States Code.

21                 “(E) A medicare supplemental policy.

22                 “(F) State pharmaceutical assistance pro-  
23                 gram.

24                 “(G) A prescription drug discount card  
25                 plan (described in subsection (d)).

1           “(H) Any other prescription drug plan  
2           that is determined to meet such requirements  
3           as the Secretary establishes.

4           “(3) ADMINISTRATION THROUGH CARD-BASED  
5           ELECTRONIC MECHANISM.—

6           “(A) USE OF MEDICARE PRESCRIPTION  
7           DRUG CARD.—Claims for benefits under this  
8           section under a medicare-approved prescription  
9           drug plan may only be made electronically  
10          through the use of an electronic prescription  
11          card system (in this paragraph referred to as  
12          the ‘system’).

13          “(B) STANDARDS FOR ELECTRONIC PRE-  
14          SCRIPTION CARD SYSTEM.—The Secretary shall  
15          establish standards for the system, including  
16          the following:

17                  “(i) CARDS.—Standards for claims  
18                  cards to be used by designees under the  
19                  system.

20                  “(ii) COORDINATION OF ELECTRONIC  
21                  INFORMATION.—Standards for the real-  
22                  time transmittal among pharmacies, medi-  
23                  care-approved prescription drug plans, and  
24                  the Secretary (including an appropriate  
25                  data clearinghouse operated by or under

1 contract with the Secretary) of information  
2 on expenses incurred for covered out-  
3 patient prescription drugs by designees.

4 “(iii) CONFIDENTIALITY.—Standards  
5 that assure the confidentiality of individ-  
6 ually identifiable information of designees  
7 and that are consistent with the regula-  
8 tions promulgated under section 264(e) of  
9 the Health Insurance Portability and Ac-  
10 countability Act of 1996.

11 “(4) ACCEPTANCE OF CLAIMS THROUGH ALL  
12 QUALIFYING PHARMACIES.—A medicare-approved  
13 prescription drug plan shall provide for acceptance  
14 and process of claims for designees from any phar-  
15 macy that meets standards the Secretary has estab-  
16 lished under paragraph (3) to carry out real-time  
17 transmittal of claims to such plans and that provides  
18 for disclosure, in the case of dispensing of a brand  
19 name drug to a designee, of information on the  
20 availability of generic equivalents at reduced cost to  
21 the designee.

22 “(5) REQUIREMENT TO NEGOTIATE DISCOUNTS  
23 AND GENERIC EQUIVALENTS.—A medicare-approved  
24 prescription drug plan shall provide designees of the  
25 plan with the following:

1           “(A) NEGOTIATED PRICES.—Access to ne-  
2           gotiated prices (including applicable discounts)  
3           used for payment for covered outpatient drugs,  
4           regardless of the fact that no benefits or only  
5           partial benefits may be payable with respect to  
6           such drugs because of the application of the de-  
7           ductible under subsection (a)(2) or copayment  
8           under subsection (a)(3).

9           “(B) GENERIC EQUIVALENTS.—Informa-  
10          tion on the availability of generic equivalents at  
11          reduced cost to such designees.

12          “(6) TREATMENT OF NONPREFERRED BRAND  
13          NAME DRUGS.—

14               “(A) PROCEDURES REGARDING THE DE-  
15               TERMINATION OF DRUGS THAT ARE MEDICALLY  
16               NECESSARY.—

17                   “(i) IN GENERAL.—A medicare-ap-  
18                   proved prescription drug plan shall have in  
19                   place procedures on a case-by-case basis to  
20                   treat a nonpreferred brand name drug as  
21                   a preferred brand name drug for purposes  
22                   of subsection (a) if the nonpreferred brand  
23                   name drug is determined—

24                               “(I) to be not as effective for the  
25                               designee in preventing or slowing the

1 deterioration of, or improving or  
2 maintaining, the health of the indi-  
3 vidual; or

4 “(II) to have a significant ad-  
5 verse effect on the individual.

6 “(ii) REQUIREMENT.—The procedures  
7 under clause (i) shall require that deter-  
8 minations under such clause are based on  
9 professional medical judgment, the medical  
10 condition of the enrollee, and other medical  
11 evidence.

12 “(B) PROCEDURES REGARDING APPEAL  
13 RIGHTS WITH RESPECT TO DENIALS OF  
14 CARE.—Such a plan shall have in place proce-  
15 dures to ensure a timely internal review (and  
16 timely independent external review) for resolu-  
17 tion of denials of coverage in accordance with  
18 the medical exigencies of the case in accordance  
19 with requirements established by the Secretary  
20 that are comparable to such requirements for  
21 Medicare+Choice organizations under part C  
22 and to ensure notice to designees regarding  
23 such procedures. A designee shall have the fur-  
24 ther right to an appeal of such a denial of cov-  
25 erage in the same manner as is provided under

1 section 1852(g)(5) in the case of a failure to re-  
2 ceive health services under a Medicare+Choice  
3 plan.

4 “(7) PROMPT PAYMENT OF PHARMACIES FOR  
5 COVERED BENEFITS.—Medicare-approved prescrip-  
6 tion drug plans shall provide for payment to quali-  
7 fying pharmacies of benefits under subsection (a)(4)  
8 promptly in accordance with rules no less generous  
9 than the rules applicable under section  
10 1842(e)(2)(B).

11 “(8) EDUCATION.—Medicare-approved prescrip-  
12 tion drug plans shall apply methods to identify and  
13 educate providers, pharmacists, and designees re-  
14 garding—

15 “(A) instances or patterns concerning the  
16 unnecessary or inappropriate prescribing or dis-  
17 pensing of covered outpatient prescription  
18 drugs;

19 “(B) instances or patterns of substandard  
20 care;

21 “(C) potential adverse reactions to covered  
22 outpatient prescription drugs;

23 “(D) inappropriate use of antibiotics;

24 “(E) appropriate use of generic products;

25 and

1           “(F) the importance of using covered out-  
2           patient prescription drugs in accordance with  
3           the instruction of prescribing providers.

4           “(9) NOT AT FINANCIAL RISK.—The entity of-  
5           fering a medicare-approved prescription drug plan  
6           shall not be at financial risk for the provision of  
7           high-deductible prescription drug coverage under the  
8           plan to designees, but there shall be performance in-  
9           centives (based on risk corridors negotiated between  
10          the entity and the Secretary and subject to audit) in  
11          relation to the administration of the contract and  
12          the entity’s ability to reduce costs through appro-  
13          priate incentive mechanisms.

14          “(10) PROVISION OF DATA.—The entity offer-  
15          ing such a plan shall provide the Secretary with such  
16          information as is required to make payments to the  
17          entity under this section.

18          “(d) PRESCRIPTION DRUG DISCOUNT CARD  
19          PLANS.—

20          “(1) SOLICITATION OF BIDS.—The Secretary  
21          shall solicit bids from entities to offer prescription  
22          drug discount card plans to individuals enrolled  
23          under this part either nationwide or in large geo-  
24          graphic areas. The Secretary shall award bids in a  
25          manner so that such plans are offered in all areas

1 of the United States. The Secretary may not award  
2 a contract based on such a bid to an entity with re-  
3 spect to a plan unless the entity and plan meet the  
4 applicable requirements to be a medicare-approved  
5 prescription drug plan under this section.

6 “(2) LIMITATION ON BENEFITS.—The entity of-  
7 fering a prescription drug discount card plan shall  
8 not offer (or charge for) benefits to designees of the  
9 plan in addition to high-deductible prescription drug  
10 coverage, access to negotiated prices, and other ben-  
11 efits required under this section and, in the case of  
12 subsidy eligible individuals, benefits under subsection  
13 (h).

14 “(e) PAYMENT OF PLANS.—

15 “(1) IN GENERAL.—The Secretary shall pro-  
16 vide, in the contract entered into between the Sec-  
17 retary and entities that offer medicare-approved pre-  
18 scription drug plans, for payment to the plans for  
19 high-deductible prescription drug coverage offered  
20 through the plan, including expanded coverage for  
21 low-income individuals under subsection (g) and tak-  
22 ing into account performance incentives described in  
23 paragraph (2). In addition, in the case of prescrip-  
24 tion drug discount card plans, the Secretary shall  
25 provide for payment of administrative costs in car-

1       rying out the contract (taking into account the per-  
2       formance incentives described in paragraph (2)),  
3       based on rates negotiated between the Secretary and  
4       the entity in the solicitation process under sub-  
5       section (d).

6               “(2) INCENTIVES FOR COST AND UTILIZATION  
7       MANAGEMENT AND QUALITY IMPROVEMENT.—The  
8       Secretary shall include in the contract such financial  
9       or other performance incentives for cost and utiliza-  
10      tion management and quality improvement as the  
11      Secretary may deem appropriate.

12              “(f) COVERED OUTPATIENT PRESCRIPTION DRUGS  
13      DEFINED.—

14              “(1) IN GENERAL.—Except as provided in this  
15      subsection, for purposes of this section, the term  
16      ‘covered outpatient prescription drug’ means—

17                      “(A) a drug that may be dispensed only  
18                      upon a prescription and that is described in  
19                      subparagraph (A)(i) or (A)(ii) of section  
20                      1927(k)(2); or

21                      “(B) a biological product described in  
22                      clauses (i) through (iii) of subparagraph (B) of  
23                      such section or insulin described in subpara-  
24                      graph (C) of such section,

1 and such term includes a vaccine licensed under sec-  
2 tion 351 of the Public Health Service Act and any  
3 use of a covered outpatient drug for a medically ac-  
4 cepted indication (as defined in section 1927(k)(6)).

5 “(2) EXCLUSIONS.—

6 “(A) IN GENERAL.—Such term does not  
7 include drugs or classes of drugs, or their med-  
8 ical uses, which may be excluded from coverage  
9 or otherwise restricted under section  
10 1927(d)(2), other than subparagraph (E) there-  
11 of (relating to smoking cessation agents), or  
12 under section 1927(d)(3), as the Secretary may  
13 specify and does not include such other medi-  
14 cines, classes, and uses as the Secretary may  
15 specify consistent with the goals of providing  
16 quality care and containing costs under this  
17 section.

18 “(B) AVOIDANCE OF DUPLICATE COV-  
19 ERAGE.—A drug prescribed for an individual  
20 that would otherwise be a covered outpatient  
21 prescription drug under this section shall not be  
22 so considered if payment for such drug is avail-  
23 able under part A or under this part (other  
24 than under this section).”.

25 (b) NO EFFECT ON PART B PREMIUM.—

1           (1) IN GENERAL.—Section 1839(a) (42 U.S.C.  
2           1395r(a)) is amended by adding at the end the fol-  
3           lowing new paragraph:

4           “(5) Notwithstanding the previous provisions of this  
5           subsection, in computing actuarial rates there shall not be  
6           taken into account benefits and administrative costs that  
7           are attributable to the prescription drug coverage provided  
8           under section 1845.”.

9           (2) GOVERNMENT CONTRIBUTION.—Section  
10          1844(a)(1) (42 U.S.C. 1395w(a)(1)) is amended—

11                   (A) by striking “plus” at the end of sub-  
12                   paragraph (A);

13                   (B) by striking “; plus” at the end of sub-  
14                   paragraph (B) and inserting “, plus”; and

15                   (C) by adding at the end the following new  
16                   subparagraph:

17                   “(C) a Government contribution equal to the  
18                   aggregate amounts expended from the Trust Fund  
19                   for benefits and administrative expenses attributable  
20                   to the prescription drug coverage provided under  
21                   section 1845; plus”.

22          (c) MEDICARE AS PRIMARY PAYOR.—Section  
23          1862(b) (42 U.S.C. 1395y(b)) is amended by adding at  
24          the end the following new paragraph:

1           “(7) EXCEPTION FOR OUTPATIENT PRESCRIP-  
2           TION DRUG BENEFIT.—The previous provisions of  
3           this subsection shall not apply to benefits provided  
4           under section 1845.”.

5           **TITLE II—BENEFITS FOR LOW-**  
6           **INCOME BENEFICIARIES**

7           **SEC. 201. BENEFITS FOR LOW-INCOME BENEFICIARIES.**

8           (a) IN GENERAL.—Section 1845, as inserted by sec-  
9           tion 101(b), is amended by adding at the end the following  
10          new subsection:

11          “(g) FIRST DOLLAR COVERAGE FOR CERTAIN LOW-  
12          INCOME INDIVIDUALS.—

13                 “(1) IN GENERAL.—In the case of a subsidy eli-  
14                 gible individual (as defined in paragraph (2)), this  
15                 section shall be applied as if the annual deductible  
16                 were equal to zero but, with respect to costs incurred  
17                 before the amount of the annual deductible other-  
18                 wise applicable, the following copayment amounts  
19                 shall apply:

20                         “(A) 20 PERCENT COPAYMENT FOR INDI-  
21                         VIDUALS WITH INCOMES UP TO 135 PERCENT  
22                         OF POVERTY.—For subsidy eligible individuals  
23                         with income that does not exceed 135 percent  
24                         of the poverty line, the copayment amounts  
25                         shall be the copayments amounts specified in

1 subsection (a)(3), which reflects an average  
2 benefit percentage of 80 percent.

3 “(B) 30 PERCENT COPAYMENT FOR INDI-  
4 VIDUALS WITH INCOMES BETWEEN 135 AND 150  
5 PERCENT OF POVERTY.—For subsidy eligible  
6 individuals with income that exceeds 135 per-  
7 cent (but does not exceed 150 percent) of the  
8 poverty line, the copayment amounts shall be  
9 the copayments amounts specified in subsection  
10 (a)(3) increased by 50 percent, which reflects  
11 an average benefit percentage of 70 percent.

12 “(C) 50 PERCENT COPAYMENT FOR INDI-  
13 VIDUALS WITH INCOMES ABOVE 150 PERCENT  
14 OF POVERTY.—For subsidy eligible individuals  
15 with income that exceeds 150 percent of the  
16 poverty line, the copayment amounts shall be  
17 the copayments amounts specified in subsection  
18 (a)(3) increased by 150 percent, which reflects  
19 an average benefit percentage of 50 percent.

20 “(2) DETERMINATION OF ELIGIBILITY.—

21 “(A) SUBSIDY ELIGIBLE INDIVIDUAL DE-  
22 FINED.—For purposes of this subsection, sub-  
23 ject to subparagraph (D), the term ‘subsidy eli-  
24 gible individual’ means an individual who—

25 “(i) is enrolled under this part;

1           “(ii) has income below 150 percent  
2           (or such higher percent, not to exceed 200  
3           percent, as a State may specify under sub-  
4           paragraph (B)) of the Federal poverty line;  
5           and

6           “(iii) is not eligible for medical assist-  
7           ance with respect to prescription drugs  
8           under title XIX.

9           For purposes of this section, an individual shall not  
10          be treated as eligible for medical assistance with re-  
11          spect to prescription drugs under title XIX (includ-  
12          ing under a waiver under section 1115) only if, with  
13          respect to such assistance, the individual is charged  
14          a copayment greater than a nominal amount (as de-  
15          scribed in section 1916(a)(3)) and there is no  
16          monthly or similar dollar limit established for the  
17          amount of such assistance over any period of time.

18          “(B) COVERAGE OF INDIVIDUALS WITH IN-  
19          COME UP TO 200 PERCENT OF POVERTY AT  
20          STATE OPTION.—One of the 50 States or the  
21          District of Columbia may, at its option and  
22          subject to section 1935(c), specify a percent of  
23          income, that exceeds 150 percent but does not  
24          exceed 200 percent, that will apply for purposes

1 of this subsection to individuals residing in the  
2 State.

3 “(C) DETERMINATIONS.—The determina-  
4 tion of whether an individual residing in a State  
5 is a subsidy eligible individual shall be deter-  
6 mined under the State medicaid plan for the  
7 State under section 1935(a) or by the Social  
8 Security Administration. There are authorized  
9 to be appropriated to the Social Security Ad-  
10 ministration such sums as may be necessary for  
11 the determination of eligibility under this sub-  
12 paragraph.

13 “(D) INCOME DETERMINATIONS.—For  
14 purposes of applying this subsection—

15 “(i) income shall be determined in the  
16 manner no less restrictive than the manner  
17 described in section 1905(p)(1)(B); and

18 “(ii) the term ‘Federal poverty line’  
19 means the official poverty line (as defined  
20 by the Office of Management and Budget,  
21 and revised annually in accordance with  
22 section 673(2) of the Omnibus Budget  
23 Reconciliation Act of 1981) applicable to a  
24 family of the size involved.

1           “(E) TREATMENT OF TERRITORIAL RESI-  
2           DENTS.—In the case of an individual who is not  
3           a resident of the 50 States or the District of  
4           Columbia, the individual is not eligible to be a  
5           subsidy eligible individual but may be eligible  
6           for financial assistance with prescription drug  
7           expenses under section 1935(f).

8           “(3) ADMINISTRATION OF SUBSIDY PRO-  
9           GRAM.—The Secretary shall provide a process  
10          whereby, in the case of an individual who is deter-  
11          mined to be a subsidy eligible individual and who is  
12          enrolled in a medicare-approved prescription drug  
13          plan—

14                 “(A) the Secretary provides for a notifica-  
15                 tion of the entity offering the plan that the in-  
16                 dividual is eligible for a subsidy under para-  
17                 graph (1);

18                 “(B) such entity adjusts the benefits for  
19                 prescription drug coverage accordingly and sub-  
20                 mits to the Secretary information on the  
21                 amount of such benefits provided; and

22                 “(C) the Secretary periodically and on a  
23                 timely basis reimburses the entity for the  
24                 amount of such benefits (including reasonable  
25                 related administrative costs) that are provided

1           only because of the application of this sub-  
2           section.

3           “(4) RELATION TO MEDICAID PROGRAM.—

4                   “(A) IN GENERAL.—For provisions pro-  
5           viding for eligibility determinations, and addi-  
6           tional financing, under the medicaid program,  
7           see section 1935.

8                   “(B) COORDINATION.—The Secretary shall  
9           develop and implement a plan for the coordina-  
10          tion of prescription drug benefits under this  
11          part with the benefits provided under the med-  
12          icaid program under title XIX, with particular  
13          attention to insuring coordination of payments  
14          and prevention of fraud and abuse. In devel-  
15          oping and implementing such plan, the Sec-  
16          retary shall involve the States, the data proc-  
17          essing industry, pharmacists, and pharm-  
18          aceutical manufacturers, and other experts and  
19          representatives of low-income medicare bene-  
20          ficiaries.

21                  “(C) EXEMPTION.—Section 1902(n) shall  
22          not apply with respect to coverage of cost-shar-  
23          ing imposed under paragraph (1) or under sub-  
24          section (a)(3).”.

25          (b) MEDICAID AMENDMENTS.—

1           (1) DETERMINATIONS OF ELIGIBILITY FOR  
2           LOW-INCOME SUBSIDIES.—

3           (A) REQUIREMENT.—Section 1902(a) (42  
4           U.S.C. 1396a(a)) is amended—

5                   (i) by striking “and” at the end of  
6                   paragraph (64);

7                   (ii) by striking the period at the end  
8                   of paragraph (65) and inserting “; and”;  
9                   and

10                   (iii) by inserting after paragraph (65)  
11                   the following new paragraph:

12                   “(66) provide for making eligibility determina-  
13                   tions under sections 1845(g) and 1935(a).”.

14           (2) NEW SECTION.—Title XIX of such Act is  
15           further amended—

16                   (A) by redesignating section 1935 as sec-  
17                   tion 1936; and

18                   (B) by inserting after section 1934 the fol-  
19                   lowing new section:

20                   “SPECIAL PROVISIONS RELATING TO MEDICARE  
21                   PRESCRIPTION DRUG BENEFIT

22                   “SEC. 1935. (a) REQUIREMENT FOR MAKING ELIGI-  
23                   BILITY DETERMINATIONS FOR LOW-INCOME SUBSIDY.—

24                   “(1) IN GENERAL.—As a condition of its State  
25                   plan under this title under section 1902(a)(66) and

1 receipt of any Federal financial assistance under sec-  
2 tion 1903(a), a State shall—

3 “(A) make determinations of eligibility for  
4 subsidies under (and in accordance with) sec-  
5 tion 1845(g);

6 “(B) inform the Secretary of such deter-  
7 minations in cases in which such eligibility is  
8 established; and

9 “(C) otherwise provide the Secretary with  
10 such information as may be required to carry  
11 out section 1845.

12 “(2) STATE OPTION FOR COVERAGE OF ADDI-  
13 TIONAL LOW-INCOME INDIVIDUALS.—A State may  
14 elect under paragraph (2)(B) of section 1845(g) to  
15 cover additional low-income medicare beneficiaries  
16 under the prescription drug subsidy program pro-  
17 vided under such subsection, subject to contribution  
18 under subsection (c).

19 “(b) PAYMENTS FOR ADDITIONAL ADMINISTRATIVE  
20 COSTS.—

21 “(1) IN GENERAL.—The amounts expended by  
22 a State in carrying out subsection (a) are, subject to  
23 paragraph (2), expenditures reimbursable under the  
24 appropriate paragraph of section 1903(a); except  
25 that, notwithstanding any other provision of such

1 section, the applicable Federal matching rates with  
2 respect to such expenditures under such section shall  
3 be increased as follows (but in no case shall the rate  
4 as so increased exceed 100 percent):

5 “(A) For expenditures attributable to costs  
6 incurred during 2005, the otherwise applicable  
7 Federal matching rate shall be increased by 10  
8 percent of the percentage otherwise payable  
9 (but for this subsection) by the State.

10 “(B)(i) For expenditures attributable to  
11 costs incurred during 2006 and each subse-  
12 quent year through 2013, the otherwise applica-  
13 ble Federal matching rate shall be increased by  
14 the applicable percent (as defined in clause (ii))  
15 of the percentage otherwise payable (but for  
16 this subsection) by the State.

17 “(ii) For purposes of clause (i), the ‘appli-  
18 cable percent’ for—

19 “(I) 2006 is 20 percent; or

20 “(II) a subsequent year is the applica-  
21 ble percent under this clause for the pre-  
22 vious year increased by 10 percentage  
23 points.

24 “(C) For expenditures attributable to costs  
25 incurred after 2013, the otherwise applicable

1 Federal matching rate shall be increased to 100  
2 percent.

3 “(2) COORDINATION.—The State shall provide  
4 the Secretary with such information as may be nec-  
5 essary to properly allocate administrative expendi-  
6 tures described in paragraph (1) that may otherwise  
7 be made for similar eligibility determinations.

8 “(c) STATE CONTRIBUTION AT SCHIP MATCHING  
9 RATE TOWARDS ADDITIONAL LOW-INCOME SUBSIDIES  
10 FOR OPTIONAL SUBSIDY ELIGIBLE INDIVIDUALS COV-  
11 ERED UNDER STATE OPTION.—In the case of a State that  
12 specifies a percent of income under section 1845(g)(2)(B)  
13 for a quarter, the amount of payment made to the State  
14 under section 1903(a)(1) for the quarter shall be reduced  
15 by the product of—

16 “(1) 100 percent less the enhanced FMAP de-  
17 scribed in section 2105(b) for that State and quar-  
18 ter; and

19 “(2) the additional amount of payment made  
20 under section 1845 because of the application of  
21 such specification.”.

22 (b) PHASED-IN FEDERAL ASSUMPTION OF MEDICAID  
23 RESPONSIBILITY FOR COST-SHARING SUBSIDIES FOR DU-  
24 ALLY ELIGIBLE INDIVIDUALS.—

1           (1) IN GENERAL.—Section 1903(a)(1) (42  
2 U.S.C. 1396b(a)(1)) is amended by inserting before  
3 the semicolon the following: “, reduced by the  
4 amount computed under section 1935(d)(1) for the  
5 State and the quarter”.

6           (2) AMOUNT DESCRIBED.—Section 1935, as in-  
7 serted by subsection (a)(2), is amended by adding at  
8 the end the following new subsection:

9           “(d) FEDERAL ASSUMPTION OF MEDICAID PRE-  
10 SCRIPTION DRUG COSTS FOR DUALY-ELIGIBLE BENE-  
11 FICIARIES.—

12           “(1) IN GENERAL.—For purposes of section  
13 1903(a)(1), for a State that is one of the 50 States  
14 or the District of Columbia for a calendar quarter  
15 in a year (beginning with 2005) the amount com-  
16 puted under this subsection is equal to the product  
17 of the following:

18           “(A) MEDICARE BENEFITS FOR MEDICAID  
19 ELIGIBLES.—The total amount of payments  
20 made in the quarter because of the operation of  
21 section 1845 that are attributable to individuals  
22 who are residents of the State and are eligible  
23 for medical assistance with respect to prescrip-  
24 tion drugs under this title.

1           “(B) STATE MATCHING RATE.—A propor-  
2           tion computed by subtracting from 100 percent  
3           the Federal medical assistance percentage (as  
4           defined in section 1905(b)) applicable to the  
5           State and the quarter.

6           “(C) PHASE-OUT PROPORTION.—The  
7           phase-out proportion (as defined in paragraph  
8           (2)) for the quarter.

9           “(2) PHASE-OUT PROPORTION.—For purposes  
10          of paragraph (1)(C), the ‘phase-out proportion’ for  
11          a calendar quarter in—

12                 “(A) 2005 is 90 percent;

13                 “(B) a subsequent year before 2014, is the  
14                 phase-out proportion for calendar quarters in  
15                 the previous year decreased by 10 percentage  
16                 points; or

17                 “(C) a year after 2013 is 0 percent.”.

18          (3) MEDICAID PROVIDING WRAP-AROUND BENE-  
19          FITS.—Section 1935, as so inserted and amended, is  
20          further amended by adding at the end the following  
21          new subsection:

22                 “(e) MEDICAID AS SECONDARY PAYOR.—In the case  
23          of an individual who is entitled to benefits under part B  
24          of title XVIII and is eligible for medical assistance with  
25          respect to prescribed drugs under this title, medical assist-

1   ance shall continue to be provided under this title for pre-  
 2   scribed drugs to the extent payment is not made under  
 3   such part B, without regard to section 1902(n)(2).”.

4       (d) TREATMENT OF TERRITORIES.—

5           (1) IN GENERAL.—Section 1935 of such Act, as  
 6       so inserted and amended, is further amended—

7           (A) in subsection (a) in the matter pre-  
 8       ceding paragraph (1), by inserting “subject to  
 9       subsection (f)” after “section 1903(a)”;

10          (B) in subsection (e)(1), by inserting “sub-  
 11       ject to subsection (f)” after “1903(a)(1)”; and

12          (C) by adding at the end the following new  
 13       subsection:

14       “(f) TREATMENT OF TERRITORIES.—

15           “(1) IN GENERAL.—In the case of a State,  
 16       other than the 50 States and the District of Colum-  
 17       bia—

18           “(A) the previous provisions of this section  
 19       shall not apply to residents of such State; and

20           “(B) if the State establishes a plan de-  
 21       scribed in paragraph (2) (for providing medical  
 22       assistance with respect to the provision of pre-  
 23       scription drugs to medicare beneficiaries under  
 24       section 1845(g)), the amount otherwise deter-  
 25       mined under section 1108(f) (as increased

1 under section 1108(g) for the State shall be in-  
2 creased by the amount specified in paragraph  
3 (3).

4 “(2) PLAN.—The plan described in this para-  
5 graph is a plan that—

6 “(A) provides medical assistance under  
7 section 1845(g) with respect to the provision of  
8 covered outpatient drugs to low-income medi-  
9 care beneficiaries whose income does not exceed  
10 an income level specified under the plan; and

11 “(B) assures that additional amounts re-  
12 ceived by the State that are attributable to the  
13 operation of this subsection are used only for  
14 such assistance.

15 “(3) INCREASED AMOUNT.—

16 “(A) IN GENERAL.—The amount specified  
17 in this paragraph for a State for a year is equal  
18 to the product of—

19 “(i) the aggregate amount specified in  
20 subparagraph (B); and

21 “(ii) the amount specified in section  
22 1108(g)(1) for that State, divided by the  
23 sum of the amounts specified in such sec-  
24 tion for all such States.

1           “(B) AGGREGATE AMOUNT.—The aggre-  
2           gate amount specified in this subparagraph  
3           for—

4                   “(i) 2005, is equal to \$25,000,000; or

5                   “(ii) a subsequent year, is equal to the  
6           aggregate amount specified in this sub-  
7           paragraph for the previous year increased  
8           by annual percentage increase specified in  
9           section 1845(a)(2)(B) for the year in-  
10          volved.

11          “(4) REPORT.—The Secretary shall submit to  
12          Congress a report on the application of this sub-  
13          section and may include in the report such rec-  
14          ommendations as the Secretary deems appropriate.”.

15          (2) CONFORMING AMENDMENT.—Section  
16          1108(f) (42 U.S.C. 1308(f)) is amended by inserting  
17          “and section 1935(f)(1)(B)” after “Subject to sub-  
18          section (g)”.

19   **SEC. 202. IMPROVING ENROLLMENT PROCESS UNDER MED-**  
20                   **ICAID.**

21          (a) AUTOMATIC REENROLLMENT WITHOUT NEED  
22          TO REAPPLY.—

23                  (1) IN GENERAL.—Section 1905(p) (42 U.S.C.  
24          1396d(p)) is amended—

1 (A) by redesignating paragraph (6) as  
2 paragraph (9); and

3 (B) by inserting after paragraph (5), the  
4 following new paragraph:

5 “(6) In the case of an individual who has been deter-  
6 mined to qualify as a qualified medicare beneficiary or to  
7 be eligible for benefits under section 1902(a)(10)(E)(iii),  
8 the individual shall be deemed to continue to be so quali-  
9 fied or eligible without the need for any annual or periodic  
10 application unless and until the individual notifies the  
11 State that the individual’s eligibility conditions have  
12 changed so that the individual is no longer so qualified  
13 or eligible.”.

14 (2) CONFORMING AMENDMENT.—Section  
15 1902(e)(8) (42 U.S.C. 1396a(e)(8)) is amended by  
16 striking the second sentence.

17 (b) USE OF SIMPLIFIED APPLICATION PROCESS.—  
18 Such section 1905(p) is further amended by adding at the  
19 end the following new paragraph:

20 “(7) A State shall permit individuals to apply to qual-  
21 ify as a qualified medicare beneficiary or for benefits  
22 under section 1902(a)(10)(E)(iii) through the use of the  
23 simplified application form developed under section  
24 1905(p)(5)(A) and shall permit such an application to be  
25 made over the telephone, the Internet, or by mail, without

1 the need for an interview in person by the applicant or  
2 a representative of the applicant.”.

3 (c) ROLE OF SOCIAL SECURITY OFFICES.—

4 (1) ENROLLMENT AND PROVISION OF INFORMA-  
5 TION AT SOCIAL SECURITY OFFICES.—Such section  
6 is further amended by adding at the end the fol-  
7 lowing new paragraph:

8 “(8) The Commissioner of Social Security shall pro-  
9 vide, through local offices of the Social Security Adminis-  
10 tration—

11 “(A) for the enrollment under State plans  
12 under this title for appropriate medicare cost-shar-  
13 ing benefits for individuals who qualify as a qualified  
14 medicare beneficiary or for benefits under section  
15 1902(a)(10)(E)(iii); and

16 “(B) for providing oral and written notice of  
17 the availability of such benefits.”.

18 (2) CLARIFYING AMENDMENT.—Section  
19 1902(a)(5) (42 U.S.C. 1396a(a)(5)) is amended by  
20 inserting “as provided in section 1905(p)(10)” be-  
21 fore “except”.

22 (d) OUTSTATIONING OF STATE ELIGIBILITY WORK-  
23 ERS AT SSA FIELD OFFICES.—Section 1902(a)(55) (42  
24 U.S.C. 1396a(a)(55)) is amended—

1           (1) by striking “subsection (a)(10)(A)(i)(IV),  
2           (a)(10)(A)(i)(VI),           (a)(10)(A)(i)(VII),           or  
3           (a)(10)(A)(ii)(IX)” and inserting “paragraph  
4           (10)(A)(i)(IV),   (10)(A)(i)(VI),   (10)(A)(i)(VII),  
5           (10)(A)(ii)(IX), or (10)(E)”;

6           (2) in subparagraph (A), by inserting “and in  
7           the case of applications of individuals for medical as-  
8           sistance under paragraph (10)(E), at locations that  
9           include field offices of the Social Security Adminis-  
10          tration”.

○