

108TH CONGRESS  
2D SESSION

# H. R. 4325

To guarantee for all Americans quality, affordable, and comprehensive health insurance coverage.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 11, 2004

Ms. BALDWIN (for herself, Mr. TIERNEY, Mr. McDERMOTT, Ms. SCHAKOWSKY, Mr. GRIJALVA, Mr. CONYERS, Ms. LEE, Ms. JACKSON-LEE of Texas, and Mr. OBEY) 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 guarantee for all Americans quality, affordable, and comprehensive health insurance coverage.

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 “Health Security for All Americans Act”.

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

Sec. 1. Short title; table of contents.  
Sec. 2. Findings.

TITLE I—HEALTH SECURITY FOR ALL AMERICANS—EXPANSION  
PHASE (PHASE I)

Sec. 101. Expansion phase (phase I) voluntary State universal health insurance coverage plans.

“TITLE XXII—HEALTH SECURITY FOR ALL AMERICANS

“PART A—EXPANSION PHASE (PHASE I) PLANS

“Sec. 2201. Purpose; voluntary State plans.

“Sec. 2202. Plan requirements.

“Sec. 2203. Coverage requirements for expansion phase (phase I) plans.

“Sec. 2204. Allotments.

“Sec. 2205. Administration.

“Sec. 2206. Definitions.”.

TITLE II—HEALTH SECURITY FOR ALL AMERICANS—UNIVERSAL  
PHASE (PHASE II)

Sec. 201. Universal phase (phase II) State universal health insurance coverage plans.

“PART B—UNIVERSAL PHASE (PHASE II) PLANS

“Sec. 2211. Purpose; mandatory State plans.

“Sec. 2212. Plan requirements.

“Sec. 2213. Coverage requirements for universal phase (phase II) plans.

“Sec. 2214. Requirements for employers regarding the provision of benefits.

“Sec. 2215. Allotments.

“Sec. 2216. Administration; definitions.

Sec. 202. Consumer protections.

“PART C—CONSUMER PROTECTIONS

“Sec. 2221. Home care standards.

“Sec. 2222. Consumer protection in the event of termination or suspension of services.

“Sec. 2223. Consumer protection through disclosure of information.

“Sec. 2224. Consumer protection through notice of changes in health care delivery.

TITLE III—PATIENT PROTECTIONS

Sec. 301. Incorporation of certain protections.

TITLE IV—HEALTH CARE QUALITY, PATIENT SAFETY, AND  
WORKFORCE STANDARDS

Sec. 401. Health Care Quality, Patient Safety, and Workforce Standards Institute.

Sec. 402. Health Care Quality, Patient Safety, and Workforce Standards Advisory Committee.

TITLE V—IMPROVING MEDICARE BENEFITS

Sec. 501. Full mental health and substance abuse treatment benefits parity.

## TITLE VI—LONG-TERM AND HOME HEALTH CARE

Sec. 601. Studies and demonstration projects to identify model programs.

## TITLE VII—MISCELLANEOUS

Sec. 701. Nonapplication of ERISA.

Sec. 702. Sense of Congress regarding offsets.

1 **SEC. 2. FINDINGS.**

2 Congress makes the following findings:

3 (1) The health of the American people is the  
4 foundation of American strength, productivity, and  
5 wealth.

6 (2) The guarantee of health care coverage and  
7 access to quality medical care to all Americans is a  
8 fundamental right and is essential to the general  
9 welfare.

10 (3) 43,600,000 Americans, more than  
11 8,500,000 of whom are children, have no health in-  
12 surance.

13 (4) Health insurance coverage is unstable; less  
14 than 1/2 of all adults have been in their current  
15 health plan for 3 years.

16 (5) The average American will hold at least 7  
17 jobs during their life, risking lack of health coverage  
18 every time they change or are between jobs.

19 (6) Annual health care expenditures in the  
20 United States total \$1.55 trillion.

1           (7) In the United States, personal health care  
2           spending grows 2.5 percent faster than the gross do-  
3           mestic product.

4           (8) Although the United States spends consid-  
5           erably more in health care per person than any other  
6           nation, it ranks only fifteenth among countries  
7           worldwide on an overall index designed to measure  
8           a range of health goals according to the World  
9           Health Organization.

10          (9) One of 4 adults, about 40,000,000 people,  
11          say they have gone without needed medical care be-  
12          cause they couldn't afford it.

13          (10) Nearly 31,000,000 Americans face collec-  
14          tion agencies annually because they owe money for  
15          medical bills.

16          (11) The average American worker is paying  
17          twice as much for family coverage than 10 years  
18          ago.

19          (12) Because many individuals do not have  
20          health insurance coverage, they may incur health  
21          care costs which they do not fully reimburse, result-  
22          ing in cost-shifting to others.

23          (13) As a consequence of the piecemeal health  
24          care system in the United States, administrative  
25          overhead costs approximately \$1,059 per person an-

1 nually, while other Western industrialized nations  
 2 with universal health care systems spend approxi-  
 3 mately \$200 per person annually for administrative  
 4 overhead.

5 (14) The United States should adopt national  
 6 goals of universal, affordable, comprehensive health  
 7 insurance coverage and should provide generous  
 8 matching grants to the States to achieve those goals  
 9 within 5 years of the date of enactment of this Act.

10 **TITLE I—HEALTH SECURITY FOR**  
 11 **ALL AMERICANS—EXPANSION**  
 12 **PHASE (PHASE I)**

13 **SEC. 101. EXPANSION PHASE (PHASE I) VOLUNTARY STATE**  
 14 **UNIVERSAL HEALTH INSURANCE COVERAGE**  
 15 **PLANS.**

16 The Social Security Act (42 U.S.C. 301 et seq.) is  
 17 amended by adding at the end the following:

18 **“TITLE XXII—HEALTH SECURITY**  
 19 **FOR ALL AMERICANS**

20 **“PART A—EXPANSION PHASE (PHASE I) PLANS**

21 **“SEC. 2201. PURPOSE; VOLUNTARY STATE PLANS.**

22 “(a) PURPOSE.—The purpose of this part is to pro-  
 23 vide funds to participating States to enable those States  
 24 to ensure universal health insurance coverage by estab-  
 25 lishing State administered systems targeted to State resi-

1 dents with a family income that does not exceed 300 per-  
2 cent of the poverty line.

3 “(b) EXPANSION PHASE (PHASE I) PLAN RE-  
4 QUIRED.—A State is not eligible for a payment under sec-  
5 tion 2205(a) unless the State has submitted to the Sec-  
6 retary a plan that—

7 “(1) sets forth how the State intends to use the  
8 funds provided under this part to ensure universal,  
9 affordable, and comprehensive health insurance cov-  
10 erage to eligible residents of the State consistent  
11 with the provisions of this part; and

12 “(2) has been approved under section 2202(d).

13 **“SEC. 2202. PLAN REQUIREMENTS.**

14 “(a) IN GENERAL.—Every expansion phase (phase I)  
15 plan shall include provisions for the following:

16 “(1) INFORMATION ON THE LEVEL OF HEALTH  
17 INSURANCE COVERAGE.—

18 “(A) The level of health insurance coverage  
19 within the State as determined under sub-  
20 section (b).

21 “(B) The base coverage gap for the year  
22 involved as determined under subsection (b)(4).

23 “(C) State efforts to provide or obtain  
24 health insurance coverage for uncovered resi-  
25 dents of the State, including the steps the State

1 is taking to identify and enroll all uncovered  
2 residents of the State who are eligible to par-  
3 ticipate in public or private health insurance  
4 programs.

5 “(2) DETAILS OF, AND TIMELINES FOR, EXPAN-  
6 SION PHASE (PHASE I) PLAN.—

7 “(A) USE OF FUNDS; COORDINATION.—

8 The activities that the State intends to carry  
9 out using funds received under this part, in-  
10 cluding how the State will coordinate efforts  
11 under this part with existing State efforts to in-  
12 crease the health insurance coverage of individ-  
13 uals.

14 “(B) TIMELINES.—Consistent with sub-  
15 section (c), the manner in which the State will  
16 reduce the base coverage gap for the year in-  
17 volved, including a timetable with specified tar-  
18 gets for reducing the base coverage gap by—

19 “(i) 50 percent within 2 years after  
20 the date of approval of the expansion  
21 phase (phase I) plan; and

22 “(ii) 100 percent within 4 years after  
23 such date.

24 “(3) MAINTENANCE OF EFFORT.—The manner  
25 in which the State will ensure that—

1           “(A) employers within the State will con-  
2           tinue to provide not less than the level of finan-  
3           cial support toward the health insurance pre-  
4           miums required for coverage of their employees  
5           as such employers provided as of the date of en-  
6           actment of this title; and

7           “(B) the State will continue to provide not  
8           less than the level of State expenditures in-  
9           curred for State-funded health programs as of  
10          such date.

11          For purposes of this paragraph, any population or  
12          service that was covered under the medicaid pro-  
13          gram under title XIX under a waiver under section  
14          1115 or section 1902(r)(2) shall be treated as if  
15          such State expenditures had been based on the en-  
16          hanced FMAP formula used under the State chil-  
17          dren’s health insurance program under title XXI.

18          “(4) STATE OUTREACH PROGRAMS; ACCESS.—  
19          The manner in which, and a timetable for when, the  
20          State will—

21                 “(A) institute outreach programs; and

22                 “(B) ensure that all eligible residents of  
23                 the State have access to the health insurance  
24                 coverage provided under this part.

1           “(5) ASSURANCE OF COVERAGE OF ESSENTIAL  
2 SERVICES.—An assurance that the State program  
3 established under this part will comply with the re-  
4 quirements of section 1867 (commonly referred to as  
5 the ‘Emergency Medical Treatment and Active  
6 Labor Act’).

7           “(6) REPRESENTATION ON BOARDS AND COM-  
8 MISSIONS.—The manner in which the State will en-  
9 sure that all Boards and Commissions that the State  
10 establishes to administer the plan will include,  
11 among others, representatives of providers, con-  
12 sumers, employers, and health worker unions.

13           “(7) DISCLOSURE OF INFORMATION TO THE  
14 PUBLIC.—The manner in which the State will ensure  
15 that, with respect to entities and individuals that  
16 provide services for which reimbursement is provided  
17 under this part—

18                   “(A) financial arrangements between in-  
19 surers and providers and between providers and  
20 medical equipment suppliers are disclosed to the  
21 public; and

22                   “(B) ownership interests and health care  
23 worker qualifications and credentials are dis-  
24 closed to the public.

1           “(8) CONSUMER PROTECTIONS.—The manner  
2           in which the State will ensure compliance with sec-  
3           tions 2221, 2222, 2223, and 2224.

4           “(9) PUBLIC REVIEW.—The manner in which  
5           the State will provide for the public review of insti-  
6           tutional changes in services provided, markets and  
7           regions covered, withdrawal or movement of services,  
8           closures or downsizing, and other actions that affect  
9           the provision of health insurance under the plan.

10           “(10) SERVICES IN RURAL AND UNDERSERVED  
11           AREAS; CULTURAL COMPETENCY.—The manner in  
12           which the State will ensure—

13                   “(A) coverage in rural and underserved  
14                   areas; and

15                   “(B) that the needs of culturally diverse  
16                   populations are met.

17           “(11) MECHANISMS TO MINIMIZE ADVERSE  
18           RISK SELECTION.—The manner in which the State  
19           will encourage mechanisms to minimize adverse risk  
20           selection that provide choice of health plans and con-  
21           trol costs.

22           “(12) LIMITATION ON ADMINISTRATIVE EX-  
23           PENDITURES.—The manner in which the State will  
24           ensure that all qualified plans in the State expend  
25           at least 90 percent (or, during the first 2 years of

1 the plan, 85 percent) of total income received from  
2 premiums on the provision of covered health care ben-  
3 efits (excluding all costs for marketing, advertising,  
4 health plan administration, profits, or capital accu-  
5 mulation) to individuals.

6 “(13) SELF-EMPLOYED AND MULTI-  
7 EMPLOYED.—The manner in which the State will  
8 address self-employed individuals and multiwage  
9 earner families.

10 “(14) REQUIREMENT TO MAINTAIN MEDICAID  
11 BENEFITS.—The manner in which the State will en-  
12 sure that individuals who are eligible for medical as-  
13 sistance under title XIX and who receive benefits  
14 under the expansion phase (phase I) plan shall re-  
15 ceive any items or services that are not available  
16 under the expansion phase (phase I) plan but that  
17 are available under the State medicaid program  
18 under title XIX through ‘wraparound coverage’  
19 under such program.

20 “(15) COST CONTAINMENT; RISK SELECTION.—  
21 What cost containment strategies the State will em-  
22 ploy and how the State will reduce adverse risk se-  
23 lection.

24 “(16) OTHER MATTERS.—Any other matter de-  
25 termined appropriate by the Secretary.

1 “(b) CURRENT LEVEL OF COVERAGE.—

2 “(1) IN GENERAL.—The Secretary shall develop  
3 a standardized survey approach that provides timely  
4 and up-to-date data to determine the percentage of  
5 the population of each State that is currently cov-  
6 ered by a health insurance plan or program that  
7 provides coverage that meets the requirements of  
8 section 2203(a).

9 “(2) BIENNIAL SURVEY.—The Secretary shall  
10 provide for the conduct of the survey developed  
11 under paragraph (1) not less than biennially to  
12 make coverage determinations for purposes of para-  
13 graph (1).

14 “(3) USE OF ALTERNATIVE SYSTEM.—The Sec-  
15 retary shall permit a State to utilize an alternative  
16 population-based monitoring system to make deter-  
17 minations with respect to coverage in the State for  
18 purposes of paragraph (1) if the Secretary deter-  
19 mines that such system meets or exceeds the meth-  
20 odological standards utilized in the survey developed  
21 under paragraph (1).

22 “(4) BASE COVERAGE GAP.—For purposes of  
23 subsection (a)(1)(A), the base coverage gap for a  
24 State shall be equal to 100 percent of the eligible in-  
25 dividuals and families in the State for the year in-

1       involved, less the current level of coverage for those in-  
2       dividuals and families for such year as determined  
3       under paragraph (1) or (3).

4       “(c) REDUCING THE LEVEL OF UNINSURED INDIVID-  
5       UALS.—

6               “(1) IN GENERAL.—To be eligible to receive  
7       funds under this part, a State shall agree to admin-  
8       ister an expansion phase (phase I) plan with a goal  
9       of providing health insurance coverage for 100 per-  
10      cent of the eligible residents of the State by not later  
11      than 4 years after the date of approval of the State’s  
12      expansion phase (phase I) plan.

13              “(2) PERMISSIBLE ACTIVITIES.—A State may  
14      use amounts provided under this part for any activi-  
15      ties consistent with this part that are appropriate to  
16      enroll individuals in health plans and health pro-  
17      grams to meet the targets contained in the State  
18      plan under subsection (a)(2)(B), including through  
19      the use of direct payments to health plans or, in the  
20      case of a single State plan, directly to providers of  
21      services.

22              “(d) PROCESS FOR SUBMISSION, APPROVAL, AND  
23      AMENDMENT OF EXPANSION PHASE (PHASE I) PLAN.—  
24      The provisions of section 2106 apply to an expansion  
25      phase (phase I) plan under this part in the same manner

1 as they apply to a State plan under title XXI, except that  
2 no expansion phase (phase I) plan may be effective earlier  
3 than January 1, 2004, and all expansion phase (phase I)  
4 plans must be submitted for approval by not later than  
5 December 31, 2005.

6 **“SEC. 2203. COVERAGE REQUIREMENTS FOR EXPANSION**  
7 **PHASE (PHASE I) PLANS.**

8 “(a) **REQUIRED SCOPE OF HEALTH INSURANCE COV-**  
9 **ERAGE.**—Health insurance coverage provided under this  
10 part shall consist of at least the benefits provided under  
11 the Federal Employees Health Benefits Program standard  
12 Blue Cross/Blue Shield preferred provider option service  
13 benefit plan, described in and offered under section  
14 8903(1) of part 5, United States Code, plus mental health  
15 and substance abuse treatment benefits parity for all indi-  
16 viduals, and benefits for early and periodic screening and  
17 diagnosis services (EPSDT) under section 1905(a)(4)(B)  
18 for all individuals under 21 years of age.

19 “(b) **LIMITATIONS ON PREMIUMS AND COST-SHAR-**  
20 **ING.**—

21 “(1) **DESCRIPTION; GENERAL CONDITIONS.**—An  
22 expansion phase (phase I) plan shall include a de-  
23 scription, consistent with this subsection, of the  
24 amount (if any) of premiums, cost-sharing, or other

1 similar charges imposed. Any such charges shall be  
2 imposed pursuant to a public schedule.

3 “(2) LIMITATIONS ON PREMIUMS AND COST-  
4 SHARING.—

5 “(A) INDIVIDUALS AND FAMILIES WITH IN-  
6 COME BELOW 150 PERCENT OF POVERTY  
7 LINE.—In the case of an individual or family  
8 whose income is at or below 150 percent of the  
9 poverty line—

10 “(i) the State plan may not impose a  
11 premium; and

12 “(ii) the total annual aggregate  
13 amount of cost-sharing imposed by a State  
14 with respect to all individuals in a family  
15 may not exceed 0.5 percent of the family’s  
16 income for the year involved.

17 “(B) INDIVIDUALS AND FAMILIES WITH  
18 INCOME BETWEEN 150 AND 300 PERCENT OF  
19 POVERTY LINE.—In the case of an individual or  
20 family whose income exceeds 150 percent but  
21 does not exceed 300 percent of the poverty  
22 line—

23 “(i) the State plan may not impose a  
24 premium that exceeds an amount that is  
25 equal to—

1                   “(I) 20 percent of the average  
2                   cost of providing benefits to an indi-  
3                   vidual (or a family) under this part in  
4                   the year involved; or

5                   “(II) 3 percent of the family’s in-  
6                   come for the year involved; and

7                   “(ii) the total annual aggregate  
8                   amount of premiums and cost-sharing  
9                   (combined) imposed by a State with re-  
10                  spect to all individuals in a family may not  
11                  exceed 5 percent of the family’s income for  
12                  the year involved.

13                  “(C) INDIVIDUALS AND FAMILIES WITH IN-  
14                  COME ABOVE 300 PERCENT OF POVERTY  
15                  LINE.—In the case of an individual or family  
16                  whose income exceeds 300 percent of the pov-  
17                  erty line—

18                  “(i) the State plan may not impose a  
19                  premium that exceeds 20 percent of the  
20                  average cost of providing benefits to an in-  
21                  dividual (or a family of the size involved)  
22                  under this part in the year involved; and

23                  “(ii) the total annual aggregate  
24                  amount of premiums and cost-sharing  
25                  (combined) imposed by a State with re-

1           spect to all individuals in a family may not  
2           exceed 7 percent of the family’s income for  
3           the year involved.

4           “(D) SELF-EMPLOYED INDIVIDUALS.—The  
5           State shall establish rules for self-employed in-  
6           dividuals based on individual and family in-  
7           come.

8           “(3) COLLECTION.—The State shall establish  
9           procedures for collecting any premiums, cost-shar-  
10          ing, or other similar charges imposed under this  
11          part. Such procedures shall provide for annual rec-  
12          onciliations and adjustments.

13          “(c) APPLICATION OF CERTAIN REQUIREMENTS.—

14                 “(1) RESTRICTION ON APPLICATION OF PRE-  
15                 EXISTING CONDITION EXCLUSIONS.—The expansion  
16                 phase (phase I) plan shall not permit the imposition  
17                 of any preexisting condition exclusion for covered  
18                 benefits under the plan.

19                 “(2) CHOICE OF PLANS.—

20                         “(A) IN GENERAL.—Except as provided in  
21                         subparagraph (B), the expansion phase (phase  
22                         I) plan shall offer eligible individuals and fami-  
23                         lies a choice of qualified plans from which to re-  
24                         ceive benefits under this part. At least 1 plan  
25                         shall be a preferred provider option plan.

1 “(B) WAIVER.—The Secretary—

2 “(i) may waive the requirement under  
3 subparagraph (A) if determined appro-  
4 priate; and

5 “(ii) shall waive such requirement in  
6 the case of a State that establishes a single  
7 State plan.

8 **“SEC. 2204. ALLOTMENTS.**

9 “(a) STATE ALLOTMENTS.—

10 “(1) IN GENERAL.—With respect to a fiscal  
11 year, the Secretary shall allot to each State with an  
12 expansion phase (phase I) plan approved under this  
13 part the amount determined under paragraph (2) for  
14 such State for such fiscal year.

15 “(2) DETERMINATION OF COST OF COV-  
16 ERAGE.—The amount determined under this para-  
17 graph is the amount equal to—

18 “(A) the product of—

19 “(i) the Federal participation rate for  
20 the State as determined under subsection  
21 (b) or, if applicable, the enhanced Federal  
22 participation rate for the State, as deter-  
23 mined under subsection (c);

24 “(ii) the estimated cost for the min-  
25 imum benefits package required to comply

1 under section 2203, not to exceed the sum  
2 of—

3 “(I) the total annual Government  
4 and employee contributions required  
5 for individual or self and family health  
6 benefits coverage under the Federal  
7 Employees Health Benefits Program  
8 standard Blue Cross/Blue Shield pre-  
9 ferred provider option service benefit  
10 plan, described in and offered under  
11 section 8903(1) of title 5, United  
12 States Code (adjusted for age and  
13 other factors, as the Secretary deter-  
14 mines appropriate); and

15 “(II) the estimated average cost-  
16 sharing expense for an individual or  
17 family; and

18 “(iii) the estimated number of resi-  
19 dents to be enrolled in the expansion phase  
20 (phase I) plan; less

21 “(B) the sum of—

22 “(i) the individual or family health in-  
23 surance contribution and cost-sharing pay-  
24 ments to be made in accordance with sec-  
25 tion 2203(b); and

1                   “(ii) any applicable employer contribu-  
2                   tion to such payments.

3           “(b) FEDERAL PARTICIPATION RATE.—For purposes  
4 of subsection (a)(2)(A)(i), the Federal participation rate  
5 for a State shall be equal to the enhanced FMAP deter-  
6 mined for the State under section 2105(b).

7           “(c) ENHANCED FEDERAL PARTICIPATION RATE.—

8                   “(1) IN GENERAL.—For purposes of subsection  
9                   (a)(2)(A)(i), the enhanced Federal participation rate  
10                  for a State shall be equal to the Federal participa-  
11                  tion rate for such State under subsection (b), as ad-  
12                  justed by the Secretary based on the decrease in the  
13                  base coverage gap in the State.

14                  “(2) AMOUNT OF ADJUSTMENT AND APPLICA-  
15                  TION.—

16                   “(A) AMOUNT OF ADJUSTMENT.—The  
17                   Federal participation rate under subsection (b)  
18                   with respect to a State shall be increased by—

19                           “(i) 1 percentage point if the base  
20                           coverage gap of the State has decreased by  
21                           at least 50 percent within 2 years after the  
22                           date of approval of the expansion phase  
23                           (phase I) plan, as determined by the Sec-  
24                           retary; and

1           “(ii) 3 percentage points if the base  
2 coverage gap of the State has decreased by  
3 100 percent within 4 years after the date  
4 of approval of the expansion phase (phase  
5 I) plan, as determined by the Secretary.

6           “(B) APPLICATION.—The increase de-  
7 scribed in—

8           “(i) subparagraph (A)(i) shall only  
9 apply to a State for the period beginning  
10 with the month of the determination under  
11 such subparagraph and ending with the  
12 month preceding the month of the deter-  
13 mination under subparagraph (A)(ii) (if  
14 any), but in no event for more than 24  
15 months; and

16           “(ii) subparagraph (A)(ii) shall apply  
17 to a State for any year (or portion thereof)  
18 beginning with the month of the deter-  
19 mination under such subparagraph.

20           “(3) FULL COVERAGE.—For purposes of this  
21 part, a State shall be deemed to have decreased its  
22 base coverage gap by 100 percent if the Secretary  
23 determines that—

24           “(A) 98 percent of all eligible residents of  
25 the State are provided health insurance cov-

1 erage under the expansion phase (phase I) plan;  
2 and

3 “(B) the remaining 2 percent of such resi-  
4 dents are served by alternative health care de-  
5 livery systems as demonstrated by the State.

6 “(d) GRANTS TO INDIAN TRIBES, NATIVE HAWAIIAN  
7 ORGANIZATIONS, AND ALASKA NATIVE ORGANIZA-  
8 TIONS.—

9 “(1) IN GENERAL.—Out of funds appropriated  
10 under subsection (e), the Secretary shall reserve an  
11 amount, not to exceed 1 percent of the total allot-  
12 ments determined under subsection (a) for a fiscal  
13 year, to make grants to Indian tribes, Native Hawai-  
14 ian organizations, and Alaska Native organizations  
15 for development and implementation of universal  
16 health insurance coverage plans for members of such  
17 tribes and organizations.

18 “(2) PLAN.—To be eligible to receive a grant  
19 under paragraph (1), an Indian tribe, Native Hawai-  
20 ian organization, or Alaska Native organization shall  
21 submit a universal health insurance coverage plan to  
22 the Secretary at such time, in such manner, and  
23 containing such information, as the Secretary may  
24 require.

1           “(3) REGULATIONS.—The Secretary shall issue  
2 regulations specifying the requirements of this part  
3 that apply to Indian tribes, Native Hawaiian organi-  
4 zations, and Alaska Native organizations receiving  
5 grants under paragraph (1).

6           “(e) APPROPRIATION.—

7           “(1) IN GENERAL.—Out of any funds in the  
8 Treasury not otherwise appropriated, there is appro-  
9 priated to carry out this title such sums as may be  
10 necessary for fiscal year 2004 and each fiscal year  
11 thereafter.

12           “(2) BUDGET AUTHORITY.—Paragraph (1) con-  
13 stitutes budget authority in advance of appropria-  
14 tions Acts and represents the obligation of the Fed-  
15 eral Government to provide States, Indian tribes,  
16 Native Hawaiian organizations, and Alaska Native  
17 organizations with the allotments determined under  
18 this section and the grants for administrative and  
19 outreach activities under section 2205.

20 **“SEC. 2205. ADMINISTRATION.**

21           “(a) PAYMENTS.—

22           “(1) IN GENERAL.—

23           “(A) QUARTERLY.—Subject to subpara-  
24 graph (B) and subsection (b), the Secretary  
25 shall make quarterly payments to each State

1 with an expansion phase (phase I) plan ap-  
2 proved under this part, from its allotment  
3 under section 2204.

4 “(B) FUNDING FOR ADMINISTRATION AND  
5 OUTREACH.—

6 “(i) AUTHORITY TO MAKE GRANTS.—

7 In addition to the allotments determined  
8 under section 2204, the Secretary may  
9 make grants to States, Indian tribes, Na-  
10 tive Hawaiian organizations, and Alaska  
11 Native organizations for expenditures for  
12 administrative and outreach activities.

13 “(ii) AMOUNTS.—

14 “(I) IN GENERAL.—A grant  
15 awarded under this subparagraph  
16 shall not exceed the applicable per-  
17 centage (as determined under sub-  
18 clause (II)) of the total amount allot-  
19 ted to the State, Indian tribe, Native  
20 Hawaiian organization, or Alaska Na-  
21 tive organization under section 2204.

22 “(II) APPLICABLE PERCENT-  
23 AGE.—For purposes of subclause (I),  
24 the applicable percentage is—

1                   “(aa) 10 percent for 2005  
2                   through 2009; and

3                   “(bb) 3 percent for 2010  
4                   and each year thereafter.

5                   “(2) ADVANCE PAYMENT; RETROSPECTIVE AD-  
6                   JUSTMENT.—The Secretary may make payments  
7                   under this part for each quarter on the basis of ad-  
8                   vance estimates by the State and such other inves-  
9                   tigation as the Secretary may find necessary, and  
10                  may reduce or increase the payments as necessary to  
11                  adjust for any overpayment or underpayment for  
12                  prior quarters.

13                  “(3) FLEXIBILITY IN SUBMITTAL OF CLAIMS.—  
14                  Nothing in this subsection shall be construed as pre-  
15                  venting a State from claiming as expenditures in the  
16                  quarter expenditures that were incurred in a pre-  
17                  vious quarter.

18                  “(b) AUTHORITY FOR BLENDED RATE FOR HEALTH  
19                  SECURITY, MEDICAID, AND SCHIP FUNDS.—The Sec-  
20                  retary shall establish procedures for blending the pay-  
21                  ments that a State is entitled to receive under this title,  
22                  title XIX, and title XXI into 1 payment rate if—

23                  “(1) the State requests such a blended pay-  
24                  ment; and

1           “(2) the Secretary finds that the State meets  
2 maintenance of effort requirements established by  
3 the Secretary.

4           “(c) LIMITATIONS ON FEDERAL PAYMENTS BASED  
5 ON COST CONTAINMENT.—

6           “(1) DETERMINATION OF BASELINE.—Each  
7 year (beginning with 2004), the Secretary shall es-  
8 tablish a baseline projection for the national rate of  
9 growth in private health insurance premiums for  
10 such year.

11           “(2) REQUIREMENT.—Beginning with fiscal  
12 year 2005 and each fiscal year thereafter, any pay-  
13 ment made to a State under section 2204 shall not  
14 exceed the amount paid to the State under such sec-  
15 tion for the preceding fiscal year, adjusted for  
16 changes in enrollment and a premium inflation ad-  
17 justment that is 0.5 percent below the baseline pro-  
18 jection determined under paragraph (1) for the year,  
19 unless the State adopts (and the Secretary approves)  
20 cost containment strategy that will reduce the rate  
21 of growth of spending.

22           “(d) OTHER LIMITATIONS ON USE OF FUNDS.—

23           “(1) IN GENERAL.—A State participating under  
24 part A, and, effective January 1, 2008, all States  
25 under part B, shall ensure that any payments re-

1       ceived by the State under section 2205 or 2116(a)  
2       are not used by any individual or entity, including  
3       providers or health plans that contract to provide  
4       services herein, to finance directly or indirectly, or to  
5       otherwise facilitate expenditures to influence health  
6       care workers of such individual or entity with re-  
7       spect to issues related to unionization.

8               “(2) CONSTRUCTION.—Nothing in this sub-  
9       section shall be construed to limit expenditures made  
10      for the purpose of good faith collective bargaining or  
11      pursuant to the terms of a bona fide collective bar-  
12      gaining agreement.

13              “(e) WAIVER OF FEDERAL REQUIREMENTS.—A  
14      State may request (and the Secretary may grant) a waiver  
15      of any provision of Federal law that the State determines  
16      is necessary in order to carry out an approved expansion  
17      phase (phase I) plan under this part.

18              “(f) REPORT.—Not later than January 1, 2005, and  
19      each January 1 thereafter, the Secretary, in consultation  
20      with the General Accounting Office and the Congressional  
21      Budget Office, shall prepare and submit to the appro-  
22      priate committees of Congress a report on the number of  
23      States receiving payments under this part for the year for  
24      which the report is being prepared as well as the level of  
25      insurance coverage attained by each such State.

1 **“SEC. 2206. DEFINITIONS.**

2 “In this title:

3 “(1) COST-SHARING.—The term ‘cost-sharing’  
4 has the meaning given such term under the Federal  
5 Employees Health Benefits Program standard Blue  
6 Cross/Blue Shield preferred provider option service  
7 benefit plan described in and offered under section  
8 8903(1) of part 5, United States Code, and includes  
9 deductibles, copayments, coinsurance, as such terms  
10 are defined for purposes of such plan.

11 “(2) ELIGIBLE RESIDENTS OF A STATE.—

12 “(A) IN GENERAL.—The term ‘eligible  
13 residents of a State’ means an individual or  
14 family who—

15 “(i) is (or consists of) a resident of  
16 the State involved;

17 “(ii) except as provided in subpara-  
18 graph (B), has a family income that does  
19 not exceed 300 percent of the poverty line;

20 “(iii) is (or consists of) a citizen of  
21 the United States, a legal resident alien, or  
22 an individual otherwise residing in the  
23 United States under the authority of Fed-  
24 eral law; and

25 “(iv) in the case of an individual, is  
26 not eligible for benefits under the medicare

1 program under title XVIII or for medical  
2 assistance under the medicaid program  
3 under title XIX (other than under the ap-  
4 plication of section  
5 1902(a)(10)(A)(ii)(XIV)).

6 “(B) OPTION TO PROVIDE COVERAGE FOR  
7 INDIVIDUALS AND FAMILIES WITH HIGHER IN-  
8 COME.—If approved by the Secretary, a State  
9 may increase the percentage described in sub-  
10 paragraph (A)(ii), or eliminate all income eligi-  
11 bility criteria in order to provide coverage under  
12 this part to more individuals and families.

13 “(3) EXPANSION PHASE (PHASE I) PLAN.—The  
14 term ‘expansion phase (phase I) plan’ means the  
15 State universal health insurance coverage plan sub-  
16 mitted under section 2201(b).

17 “(4) HEALTH CARE SERVICES.—The term  
18 ‘health care services’ includes medical, surgical,  
19 mental health, and substance abuse services, wheth-  
20 er provided on an inpatient or outpatient basis.

21 “(5) HEALTH CARE WORKER.—The term  
22 ‘health care worker’ means an individual employed  
23 by an employer that provides—

24 “(A) health care services; or

1           “(B) necessary related services, including  
2           administrative, food service, janitorial, or main-  
3           tenance service to an entity that provides such  
4           health care services.

5           “(6) HEALTH PLAN.—The term ‘health plan’  
6           includes health insurance coverage, as defined in sec-  
7           tion 2791(b)(1) of the Public Health Service Act (42  
8           U.S.C. 300gg–91(b)(1)) and group health plans, as  
9           defined in section 2791(a) of such Act (42 U.S.C.  
10          300gg91(b)(1)).

11          “(7) MENTAL HEALTH AND SUBSTANCE ABUSE  
12          TREATMENT BENEFITS PARITY.—

13           “(A) IN GENERAL.—The term ‘mental  
14           health and substance abuse treatment benefits  
15           parity’ means, with respect to health coverage,  
16           that the coverage does not impose treatment  
17           limitations or financial requirements on the cov-  
18           erage of mental health benefits if similar re-  
19           quirements are not imposed on coverage of  
20           medical and surgical benefits in comparable set-  
21           tings (including inpatient and outpatient set-  
22           tings).

23           “(B) TREATMENT LIMITATIONS.—The  
24           term ‘treatment limitations’ means limits on the  
25           frequency of treatment, number of visits, or

1 other limits on the scope and duration of treat-  
2 ment, as covered by a group health plan (or  
3 health insurance coverage offered in connection  
4 with such a plan). Such term does not include  
5 limits on benefits or coverage based solely on  
6 medical necessity.

7 “(C) FINANCIAL REQUIREMENTS.—The  
8 term ‘financial requirements’ means copay-  
9 ments, deductibles, out-of-network charges, out-  
10 of-pocket contributions or fees, annual limits,  
11 and lifetime aggregate limits imposed on cov-  
12 ered individuals.

13 “(8) POVERTY LINE.—The term ‘poverty line’  
14 has the meaning given such term in section 673(2)  
15 of the Community Services Block Grant Act (42  
16 U.S.C. 9902(2)), including any revision required by  
17 such section.

18 “(9) PREMIUM.—The term ‘premium’ includes  
19 any enrollment fees and other similar charges.

20 “(10) QUALIFIED PLAN.—The term ‘qualified  
21 plan’ means a health plan that satisfies the coverage  
22 requirements described under section 2203 and par-  
23 ticipates in an expansion phase (phase I) plan.”.

1 **TITLE II—HEALTH SECURITY**  
 2 **FOR ALL AMERICANS—UNI-**  
 3 **VERSAL PHASE (PHASE II)**

4 **SEC. 201. UNIVERSAL PHASE (PHASE II) STATE UNIVERSAL**  
 5 **HEALTH INSURANCE COVERAGE PLANS.**

6 Title XXII of the Social Security Act, as added by  
 7 section 101, is amended by adding at the end the fol-  
 8 lowing:

9 **“PART B—UNIVERSAL PHASE (PHASE II) PLANS**

10 **“SEC. 2211. PURPOSE; MANDATORY STATE PLANS.**

11 “(a) PURPOSE.—The purposes of this part are to—

12 “(1) require States to establish and implement  
 13 State-administered systems to ensure universal  
 14 health insurance coverage; and

15 “(2) provide funds to States for the establish-  
 16 ment and implementation of such systems.

17 “(b) UNIVERSAL PHASE (PHASE II) PLAN RE-  
 18 QUIRED.—

19 “(1) IN GENERAL.—Except as provided in para-  
 20 graph (2), not later than January 1, 2007, a State  
 21 shall submit to the Secretary a plan that sets forth  
 22 how the State intends to use the funds provided  
 23 under this part to ensure universal, affordable, and  
 24 comprehensive health insurance coverage to eligible

1 residents of the State consistent with the provisions  
2 of this part.

3 “(2) STATES WITH PHASE I PLANS.—

4 “(A) IN GENERAL.—Not later than Janu-  
5 ary 1, 2007, a State with a phase I State plan  
6 shall submit an addendum to such plan that  
7 provides assurances to the Secretary that such  
8 plan conforms to the requirements of this part.

9 “(B) CONVERSION TO UNIVERSAL PHASE  
10 (PHASE II) PLAN.—If an addendum to an ex-  
11 pansion phase (phase I) plan is approved by the  
12 Secretary—

13 “(i) the plan shall be automatically  
14 converted to a universal phase (phase II)  
15 plan; and

16 “(ii) section 2214 and any provision  
17 of part A that is inconsistent with this  
18 part shall not apply to the plan.

19 “(3) FAILURE TO SUBMIT PLAN OR ADDEN-  
20 DUM.—If a State fails to submit a plan as required  
21 in paragraph (1) (or an addendum as required in  
22 paragraph (2)), or fails to have such plan or adden-  
23 dum approved by the Secretary, such State shall be  
24 in violation of this part; and any residents of such  
25 a State may bring a cause of action against the

1 State in Federal district court to require the State  
2 to comply with the provisions of this part.

3 **“SEC. 2212. PLAN REQUIREMENTS.**

4 “(a) IN GENERAL.—A universal phase (phase II)  
5 plan shall include a description, consistent with the re-  
6 quirements of this part, of the following:

7 “(1) DETAILS OF THE UNIVERSAL PHASE  
8 (PHASE II) PLAN.—The activities that the State in-  
9 tends to carry out using funds received under this  
10 part to ensure that all eligible residents of the State  
11 have access to the coverage provided under this part,  
12 including how the State will coordinate efforts under  
13 the program under this part with existing State ef-  
14 forts to increase to 100 percent the health insurance  
15 coverage of eligible residents of the State by Janu-  
16 ary 1, 2009.

17 “(2) REQUIREMENTS FOR EMPLOYERS.—The  
18 manner in which the State will ensure that employ-  
19 ers within the State will comply with the require-  
20 ments of section 2214.

21 “(3) PART A PROVISIONS.—The following provi-  
22 sions apply to a universal phase (phase II) plan  
23 under this part in the same manner as such provi-  
24 sions apply to an expansion phase (phase I) plan  
25 under part A:

1           “(A) STATE OUTREACH PROGRAMS; AC-  
2           CESS.—Section 2202(a)(4).

3           “(B) ASSURANCE OF COVERAGE OF ESSEN-  
4           TIAL SERVICES.—Section 2202(a)(5).

5           “(C) REPRESENTATION ON BOARDS AND  
6           COMMISSIONS.—Section 2202(a)(6).

7           “(D) DISCLOSURE OF INFORMATION TO  
8           THE PUBLIC.—Section 2202(a)(7).

9           “(E) CONSUMER PROTECTIONS AND WORK-  
10          FORCE STANDARDS.—Section 2202(a)(8).

11          “(F)       PUBLIC       REVIEW.—Section  
12          2202(a)(9).

13          “(G) SERVICES IN RURAL AND UNDER-  
14          SERVED AREAS; CULTURAL COMPETENCY.—Sec-  
15          tion 2202(a)(10).

16          “(H)       PURCHASING       POOLS.—Section  
17          2202(a)(11).

18          “(I) LIMITATION ON ADMINISTRATIVE EX-  
19          PENDITURES.—Section 2202(a)(12).

20          “(J)       SELF-EMPLOYED       AND       MULTI-  
21          EMPLOYED.—Section 2202(a)(13).

22          “(K)       MEDICAID       WRAPAROUND       COV-  
23          ERAGE.—Section 2202(a)(14).

24          “(4) OTHER MATTERS.—Any other matter de-  
25          termined appropriate by the Secretary.



1 of the State have health insurance coverage that meets  
2 the requirements of section 2203(a).

3 “(c) LIMITATIONS ON PREMIUMS AND COST-SHAR-  
4 ING.—Section 2203(b) applies to a universal phase (phase  
5 II) plan under this part.

6 “(d) APPLICATION OF CERTAIN REQUIREMENTS.—  
7 Section 2203(c) applies to a universal phase (phase II)  
8 plan under this part.

9 **“SEC. 2214. REQUIREMENTS FOR EMPLOYERS REGARDING**  
10 **THE PROVISION OF BENEFITS.**

11 “(a) REQUIREMENTS.—Subject to subsection  
12 (c)(2)(B), an employer in a State shall comply with the  
13 following requirements:

14 “(1) EMPLOYERS WITH LESS THAN 500 EM-  
15 PLOYEES.—

16 “(A) IN GENERAL.—An employer with less  
17 than 500 employees shall enroll each employee  
18 in a State-designated purchasing pool.

19 “(B) CONTRIBUTIONS.—

20 “(i) IN GENERAL.—Notwithstanding  
21 subparagraph (A) and subject to clause  
22 (ii), the employer shall make a contribution  
23 on behalf of each employee for health in-  
24 surance coverage that is equal to at least  
25 80 percent of the total premiums for such

1 coverage for employees and their families if  
2 the employee elects dependent coverage.

3 “(ii) LIMITATION.—An employer shall  
4 not be liable under subparagraph (B) for  
5 more than 10 percent of each employee’s  
6 annual wages.

7 “(2) EMPLOYERS WITH AT LEAST 500 EMPLOY-  
8 EES.—

9 “(A) IN GENERAL.—An employer with at  
10 least 500 employees, a majority of whose wages  
11 fall below an amount equal to 300 percent of  
12 the poverty line applicable to a family of the  
13 size involved, shall comply with the require-  
14 ments applicable to an employer under para-  
15 graph (1).

16 “(B) OTHER EMPLOYERS.—

17 “(i) IN GENERAL.—An employer with  
18 at least 500 employees that is not de-  
19 scribed in subparagraph (A) shall, at the  
20 option of the employer, either—

21 “(I) comply with the require-  
22 ments applicable to an employer  
23 under paragraph (1); or

24 “(II) provide health insurance  
25 coverage to all employees and their

1 families (if the employee elects de-  
2 pendent coverage) that meets the re-  
3 quirements of section 2213 and the  
4 employer contribution required under  
5 paragraph (1)(B).

6 “(ii) ADDITIONAL EMPLOYER CON-  
7 TRIBUTION.—An employer that elects to  
8 comply with clause (i)(I) shall contribute  
9 an additional 1 percent of payroll into the  
10 State-designated purchasing pool in which  
11 it participates.

12 “(3) RULE OF CONSTRUCTION.—Nothing in  
13 this title shall be construed as prohibiting a labor or-  
14 ganization from collectively bargaining for an em-  
15 ployer contribution that is greater than the contribu-  
16 tion that is required under paragraph (1)(B) or, as  
17 applicable, for health insurance benefits that are  
18 greater than the coverage required under paragraph  
19 section 2203(a).

20 “(4) PART-TIME EMPLOYEES.—An employer  
21 shall be responsible for meeting the requirements  
22 under this subsection for all employees of the em-  
23 ployer.

24 “(5) MULTIEMPLOYER FAMILIES.—In the case  
25 of a family with more than 1 employer, the employ-

1       ers of individuals within the family shall apportion  
2       their contributions in accordance with rules estab-  
3       lished by the State.

4       “(b) NONAPPLICABILITY.—This section shall not  
5       apply—

6               “(1) to any State that establishes a single  
7       payor system; or

8               “(2) to any State that established a universal  
9       phase (phase II) plan through an approved adden-  
10      dum to an expansion phase (phase I) plan.

11      “(c) PRIVATE CAUSE OF ACTION.—

12              “(1) LIABILITY.—An employer that fails to  
13      comply with the requirements of subsection (a) or  
14      otherwise takes adverse action against an employee  
15      for the purpose of interfering with the attainment of  
16      any right to which the employee may be entitled to  
17      under this title, shall be liable to the employee af-  
18      fected.

19              “(2) AMOUNT.—The amount of the liability de-  
20      scribed in paragraph (1) shall be an amount equal  
21      to—

22                      “(A) the contributions that otherwise  
23                      would have been made by the employer on be-  
24                      half of the employee under this section;

1           “(B) an additional amount as liquidated  
2 damages; and

3           “(C) consequential damages for reasonably  
4 foreseeable injuries resulting from such action.

5           “(3) JURISDICTION; EQUITABLE RELIEF.—

6           “(A) JURISDICTION.—An action under this  
7 subsection may be maintained against any em-  
8 ployer in any Federal or State court of com-  
9 petent jurisdiction by any 1 or more employees.

10           “(B) EQUITABLE RELIEF.—In addition to  
11 the damages described in paragraph (2), a  
12 court may enjoin any act or practice that vio-  
13 lates this title.

14           “(4) ATTORNEY’S FEES.—If a plaintiff or plain-  
15 tiffs prevail in an action brought under this sub-  
16 section, the court shall, in addition to any judgment  
17 awarded to the plaintiff or plaintiffs, award the rea-  
18 sonable attorney’s fees and costs associated with the  
19 bringing of the action.

20 **“SEC. 2215. ALLOTMENTS.**

21           “(a) STATE ALLOTMENTS.—Subsections (a) and (b)  
22 of section 2204 apply to a universal phase (phase II) plan  
23 under this part in the same manner as such subsections  
24 apply to an expansion phase (phase I) plan under part  
25 A.

1       “(b) SPECIAL RULE FOR EXPANSION PHASE (PHASE  
2 I) PLANS.—A State that operated an expansion phase  
3 (phase I) plan and converted such plan to a universal  
4 phase (phase II) plan pursuant to section 2211(b)(2)(B)  
5 shall continue to be eligible for the enhanced Federal par-  
6 ticipation rate determined under section 2204(c).

7       “(c) GRANTS TO INDIAN TRIBES, NATIVE HAWAIIAN  
8 ORGANIZATIONS, AND ALASKA NATIVE ORGANIZA-  
9 TIONS.—Section 2204(d) applies to a universal phase  
10 (phase II) plan under this part.

11       “(d) APPROPRIATION.—

12               “(1) IN GENERAL.—Out of any funds in the  
13 Treasury not otherwise appropriated, there is appro-  
14 priated to carry out this title such sums as may be  
15 necessary for fiscal year 2008 and each fiscal year  
16 thereafter.

17               “(2) BUDGET AUTHORITY.—Paragraph (1) con-  
18 stitutes budget authority in advance of appropria-  
19 tions Acts and represents the obligation of the Fed-  
20 eral Government to provide States, Indian tribes,  
21 Native Hawaiian organizations, and Alaska Native  
22 organizations with the allotments determined under  
23 this section and the grants for administrative and  
24 outreach activities under section 2205(a)(1)(B) (as  
25 applied to this part under section 2216(a)).

1 **“SEC. 2216. ADMINISTRATION; DEFINITIONS.**

2 “(a) ADMINISTRATION.—The provisions of section  
3 2205 (other than subsection (c) of such section) apply to  
4 a universal phase (phase II) plan under this part in the  
5 same manner as such provisions apply to an expansion  
6 phase (phase I) plan under part A.

7 “(b) DEFINITIONS.—

8 “(1) APPLICATION OF SECTION 2206.—The defi-  
9 nitions set forth in section 2206 apply to a universal  
10 phase (phase II) plan under this part in the same  
11 manner as such provisions apply to an expansion  
12 phase (phase I) plan under part A except that for  
13 purposes of this part, the definition of ‘eligible resi-  
14 dents of a State’ set forth in section 2206(2) shall  
15 be applied without regard to subparagraphs (A)(ii)  
16 and (B).

17 “(2) UNIVERSAL PHASE (PHASE II) PLAN.—In  
18 this title, the term ‘universal phase (phase II) plan’  
19 means the State universal health insurance coverage  
20 plan submitted under section 2211(b).”.

21 **SEC. 202. CONSUMER PROTECTIONS.**

22 Title XXII of the Social Security Act, as amended  
23 by section 201, is amended by adding at the end the fol-  
24 lowing:

1           **“PART C—CONSUMER PROTECTIONS**

2   **“SEC. 2221. HOME CARE STANDARDS.**

3           “In order to ensure that home care services are pro-  
4   vided in a consumer-directed manner, a State partici-  
5   pating under part A, and, effective January 1, 2008, all  
6   States under part B, shall satisfy the Secretary that any  
7   health plan that provides home care services under this  
8   title creates, or contracts with, a viable entity other than  
9   the consumer or individual provider to provide effective  
10  billing, payments for services, tax withholding, unemploy-  
11  ment insurance, and workers compensation coverage, and  
12  to serve as the statutory employer of the home care pro-  
13  vider. Recipients of such services shall retain the right to  
14  independently select, hire, terminate, and direct the work  
15  of the home care provider.

16   **“SEC. 2222. CONSUMER PROTECTION IN THE EVENT OF**  
17                           **TERMINATION OR SUSPENSION OF SERVICES.**

18           “A State participating under part A, and, effective  
19  January 1, 2008, all States under part B, shall satisfy  
20  the Secretary that any health plan providing services  
21  under this title shall ensure that enrollees will receive con-  
22  tinued health services in the event that the plan’s health  
23  care services are terminated or suspended, including as  
24  the result of the plan filing for bankruptcy relief under  
25  title 11, United States Code, or the failure of the plan

1 to provide payments to providers, lockouts, work stop-  
2 pages, or other labor management problems.

3 **“SEC. 2223. CONSUMER PROTECTION THROUGH DISCLO-**  
4 **SURE OF INFORMATION.**

5 “(a) IN GENERAL.—A State participating under part  
6 A, and, effective January 1, 2008, all States under part  
7 B, shall satisfy the Secretary that any health care provider  
8 that provides services to individuals under this title shall  
9 provide to the State information regarding the identity,  
10 employment location, and qualifications of health care  
11 workers providing services under—

12 “(1) the licensure of the provider; or

13 “(2) a contract between the provider and a  
14 health plan or the State.

15 “(b) AVAILABILITY TO PUBLIC.—A health care pro-  
16 vider shall make the information described in subsection  
17 (a) available to the public.

18 **“SEC. 2224. CONSUMER PROTECTION THROUGH NOTICE OF**  
19 **CHANGES IN HEALTH CARE DELIVERY.**

20 “A State participating under part A, and, effective  
21 January 1, 2008, all States under part B, shall describe  
22 how the State will provide, at a minimum, the following  
23 protections:

1           “(1) Adequate advance notice to the public, the  
2 affected health care workers, and labor organizations  
3 representing such workers, of a pending—

4                   “(A) facility or operating unit closure;

5                   “(B) sale, merger, or consolidation of a fa-  
6 cility or operating unit;

7                   “(C) transfer of work from 1 facility or en-  
8 tity to another facility or entity; or

9                   “(D) reduction of services.

10           “(2) A right of first refusal for similar vacant  
11 positions with—

12                   “(A) the resulting entity, in the case of a  
13 health care worker whose position was elimi-  
14 nated following a merger of the worker’s origi-  
15 nal employer with a new entity; or

16                   “(B) the contractor, in the case of a health  
17 care worker whose position was eliminated fol-  
18 lowing the contracting out of the work the  
19 worker formerly performed.”.

## 20                   **TITLE III—PATIENT** 21                   **PROTECTIONS**

### 22           **SEC. 301. INCORPORATION OF CERTAIN PROTECTIONS.**

23           (a) INCORPORATION.—The provisions of the following  
24 bills are hereby enacted into law:

1 (1) S. 1052 of the 107th Congress, as passed  
2 by the Senate on June 29, 2001.

3 (2) H.R. 2340 of the 107th Congress, as intro-  
4 duced on June 27, 2001.

5 (b) PUBLICATION.—In publishing this Act in slip  
6 form and in the United States Statutes at Large pursuant  
7 to section 112, of title 1, United States Code, the Archivist  
8 of the United States shall include after the date of ap-  
9 proval at the end appendixes setting forth the texts of the  
10 bills referred to in subsection (a) of this section.

11 **TITLE IV—HEALTH CARE QUAL-**  
12 **ITY, PATIENT SAFETY, AND**  
13 **WORKFORCE STANDARDS**

14 **SEC. 401. HEALTH CARE QUALITY, PATIENT SAFETY, AND**  
15 **WORKFORCE STANDARDS INSTITUTE.**

16 (a) ESTABLISHMENT.—

17 (1) INSTITUTE.—There is established within  
18 the Agency for Healthcare Research and Quality, an  
19 institute to be known as the Health Care Quality,  
20 Patient Safety, and Workforce Standards Institute  
21 (in this section referred to as the “Institute”).

22 (2) DIRECTOR.—The Secretary of Health and  
23 Human Services shall appoint a director of the Insti-  
24 tute. The director shall administer the Institute and  
25 carry out the duties of the director under this sec-

1       tion subject to the authority, direction, and control  
2       of the Secretary.

3       (b) MISSION.—The mission of the Institute is to—

4             (1) demonstrate how patient safety issues and  
5       workplace conditions are linked to quality patient  
6       care and the reduction of the incidence of medical  
7       errors; and

8             (2) reduce the incidence of medical errors and  
9       improve patient safety and quality of care.

10       (c) DUTIES.—In carrying out the mission of the In-  
11       stitute, the director of the Institute shall—

12             (1) work closely with the director of the Agency  
13       for Healthcare Research and Quality to ensure that  
14       issues related to workplace conditions are reflected  
15       in the activities conducted by such agency in order  
16       to reduce the incidence of medical errors and im-  
17       prove patient safety and quality of care, including—

18                     (A) the establishment of national goals;

19                     (B) the development and implementation  
20       of a research agenda;

21                     (C) the development and promotion of best  
22       practices;

23                     (D) the development of performance and  
24       staffing standards in consultation with the

1 Health Care Financing Administration and  
2 other Federal agencies, as appropriate; and

3 (E) the development and dissemination of  
4 information, educational and training materials,  
5 and other criteria as it relates to the delivery of  
6 quality care;

7 (2) provide recommendations to the Secretary  
8 of Health and Human Services and other Federal  
9 agencies with responsibility for health care quality  
10 and the development of standards that impact on  
11 the delivery of quality patient care on standards re-  
12 lated to workplace conditions and patient safety;

13 (3) support the activities of the Health Care Fi-  
14 nancing Administration related to the development  
15 of new or revised conditions of participation under  
16 the medicare and medicaid programs and subsequent  
17 rulemaking on issues related to workplace condi-  
18 tions, medical errors, and patient safety and quality  
19 of care; and

20 (4) conduct other activities determined appro-  
21 priate by the director of the Institute.

22 (d) WORKPLACE CONDITIONS.—For purposes of this  
23 section, the term “workplace conditions” shall include  
24 issues related to—

25 (1) health care worker staffing;

1 (2) hours of work;

2 (3) confidentiality and whistleblower protec-  
3 tions;

4 (4) employee participation in decisionmaking  
5 roles that contribute to improved quality of care and  
6 the reduction of the incidence of medical errors;

7 (5) workforce training; and

8 (6) the impact of health care delivery restruc-  
9 turing on communities and health care workers.

10 (e) DEFINITION OF HEALTH CARE WORKER.—

11 (1) IN GENERAL.—In this section, the term  
12 “health care worker” means an individual employed  
13 by an employer that provides—

14 (A) health care services; or

15 (B) necessary related services, including  
16 administrative, food service, janitorial, or main-  
17 tenance service to an entity that provides such  
18 health care services.

19 (2) HEALTH CARE SERVICES.—In paragraph  
20 (1), the term “health care services” includes med-  
21 ical, surgical, mental health, and substance abuse  
22 services, whether provided on an in-patient or out-  
23 patient basis.

24 (f) AUTHORIZATION OF APPROPRIATIONS.—There  
25 are authorized to be appropriated to the Institute such

1 sums as may be necessary to carry out the purposes of  
2 this section.

3 **SEC. 402. HEALTH CARE QUALITY, PATIENT SAFETY, AND**  
4 **WORKFORCE STANDARDS ADVISORY COM-**  
5 **MITTEE.**

6 (a) ESTABLISHMENT OF COMMITTEE.—There is es-  
7 tablished a Health Care Quality, Patient Safety, and  
8 Workforce Standards Committee (in this section referred  
9 to as the “Committee”).

10 (b) FUNCTIONS OF COMMITTEE.—

11 (1) ADVICE TO INSTITUTE.—The Committee  
12 shall provide advice to the Director of the Health  
13 Care Quality, Patient Safety, and Workforce Stand-  
14 ards Institute established under section 401 on  
15 issues related to the duties of the Director.

16 (2) INITIAL REPORT.—Not later than December  
17 31, 2004, the Committee shall submit an initial re-  
18 port to the Secretary that contains—

19 (A) recommendations regarding minimal  
20 workforce standards that are critical for im-  
21 proved health care quality and patient safety;  
22 and

23 (B) recommendations regarding additional  
24 ways to reduce the incidence of medical errors

1           and to improve patient safety and quality of  
2           care.

3           (3) FINAL REPORT.—Not later than December  
4           31, 2005, the Committee shall submit a final report  
5           to the Secretary of Health and Human Services re-  
6           garding the recommendations contained in the initial  
7           report required under paragraph (2), including any  
8           modifications of such recommendations.

9           (c) STRUCTURE AND MEMBERSHIP OF THE COM-  
10          MITTEE.—

11           (1) STRUCTURE.—The Committee shall be com-  
12           posed of the Director of the Health Care Quality,  
13           Patient Safety, and Workforce Standards Institute  
14           established under section 401 and 15 additional  
15           members who shall be appointed by the Secretary of  
16           Health and Human Services.

17           (2) MEMBERSHIP.—

18           (A) IN GENERAL.—The members of the  
19           Committee shall be chosen on the basis of their  
20           integrity, impartiality, and good judgment, and  
21           shall be individuals who are, by reason of their  
22           education, experience, and attainments, excep-  
23           tionally qualified to perform the duties of mem-  
24           bers of the Committee.

1 (B) SPECIFIC MEMBERS.—In making ap-  
2 pointments under paragraph (1), the Secretary  
3 of Health and Human Services shall ensure  
4 that the following groups are represented:

5 (i) Health care providers and health  
6 care workers, including labor unions rep-  
7 resenting health care workers.

8 (ii) Consumer organizations.

9 (iii) Health care institutions.

10 (iv) Health education organizations.

11 (d) CHAIRMAN.—The Director of the Health Care  
12 Quality, Patient Safety, and Workforce Standards Insti-  
13 tute established under section 401 shall chair the Com-  
14 mittee.

## 15 **TITLE V—IMPROVING MEDICARE** 16 **BENEFITS**

### 17 **SEC. 501. FULL MENTAL HEALTH AND SUBSTANCE ABUSE** 18 **TREATMENT BENEFITS PARITY.**

19 Notwithstanding any provision of title XVIII of the  
20 Social Security Act (42 U.S.C. 1395 et seq.), beginning  
21 January 1, 2004, each individual who is entitled to bene-  
22 fits under part A or enrolled under part B of the medicare  
23 program, including an individual enrolled in a  
24 Medicare+Choice plan offered by a Medicare+Choice or-  
25 ganization under part C of such program, shall be pro-

1 vided full mental health and substance abuse treatment  
 2 parity under the medicare program established under such  
 3 title of such Act consistent with title XXII of the Social  
 4 Security Act (as added by this Act).

5 **TITLE VI—LONG-TERM AND**  
 6 **HOME HEALTH CARE**

7 **SEC. 601. STUDIES AND DEMONSTRATION PROJECTS TO**  
 8 **IDENTIFY MODEL PROGRAMS.**

9 The Secretary of Health and Human Services shall—

10 (1) conduct studies and demonstration projects,  
 11 through grant, contract, or interagency agreement,  
 12 that are designed to identify model programs for the  
 13 provision of long-term and home health care serv-  
 14 ices;

15 (2) report regularly to Congress on the results  
 16 of such studies and demonstration projects; and

17 (3) include in such report any recommendations  
 18 for legislation to expand or continue such studies  
 19 and projects.

20 **TITLE VII—MISCELLANEOUS**

21 **SEC. 701. NONAPPLICATION OF ERISA.**

22 The provisions of section 514 of the Employee Retire-  
 23 ment Income Security Act of 1974 (29 U.S.C. 1144) shall  
 24 not apply with respect to health benefits provided under  
 25 a group health plan (as defined in section 733(a) of that

1 Act (29 U.S.C. 1191b(a))) qualified to offer such benefits  
2 under an expansion phase (phase I) plan under title XXII  
3 of the Social Security Act (as added by this Act) or under  
4 a universal phase (phase II) plan under such title.

5 **SEC. 702. SENSE OF CONGRESS REGARDING OFFSETS.**

6 It is the sense of Congress that any sums necessary  
7 for the implementation of this Act, and the amendments  
8 made by this Act, should be offset by—

9 (1) general revenues available as a result of an  
10 on-budget surplus for a fiscal year;

11 (2) direct savings in health care expenditures  
12 resulting from the implementation of this Act; and

13 (3) reductions in unnecessary Federal tax bene-  
14 fits available only to individuals and large corpora-  
15 tions that are in the maximum tax brackets.

○