

109TH CONGRESS
1ST SESSION

H. R. 2133

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

IN THE HOUSE OF REPRESENTATIVES

MAY 5, 2005

Ms. BALDWIN (for herself, Mrs. CHRISTENSEN, Ms. SCHAKOWSKY, Mr. CONYERS, Mr. RANGEL, Mr. CUMMINGS, Mr. McDERMOTT, Mr. PAYNE, Ms. JACKSON-LEE of Texas, Ms. LEE, Mr. STARK, Mr. OBEY, Mr. OWENS, and Ms. EDDIE BERNICE JOHNSON of Texas) 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

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) 45,000,000 Americans, more than
11 8,400,000 of whom are children, have no health in-
12 surance.

13 (4) The number of Americans receiving health
14 care through their employers has decreased in recent
15 years.

16 (5) Health insurance coverage is unstable; less
17 than 1/2 of all adults have been in their current
18 health plan for 3 years.

19 (6) The average American will hold at least 7
20 jobs during their life, risking lack of health coverage
21 every time they change or are between jobs.

1 (7) Annual health care expenditures in the
2 United States total \$1.6 trillion.

3 (8) In the United States, personal health care
4 spending grows 2.5 percent faster than the gross do-
5 mestic product.

6 (9) Although the United States spends consid-
7 erably more in health care per person than any other
8 nation at \$5,400 per person, it ranks only fifteenth
9 among countries worldwide on an overall index de-
10 signed to measure a range of health goals according
11 to the World Health Organization.

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

15 (11) Half of all personal bankruptcy cases are
16 due to medical reasons.

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

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

24 (14) As a consequence of the piecemeal health
25 care system in the United States, administrative

1 overhead costs approximately \$1,059 per person an-
2 nually, while other Western industrialized nations
3 with universal health care systems spend approxi-
4 mately \$200 per person annually for administrative
5 overhead.

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

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

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

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

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

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

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

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

1 lishing State administered systems targeted to State resi-
 2 dents with a family income that does not exceed 300 per-
 3 cent of the poverty line.

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

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

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

14 **“SEC. 2202. PLAN REQUIREMENTS.**

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

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

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

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

24 “(C) State efforts to provide or obtain
 25 health insurance coverage for uncovered resi-

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

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

8 “(A) USE OF FUNDS; COORDINATION.—

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

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

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

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

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

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

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

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

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

23 “(A) institute outreach programs; and

1 “(B) ensure that all eligible residents of
2 the State have access to the health insurance
3 coverage provided under this part.

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

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

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

21 “(A) financial arrangements between in-
22 surers and providers and between providers and
23 medical equipment suppliers are disclosed to the
24 public; and

1 “(B) ownership interests and health care
2 worker qualifications and credentials are dis-
3 closed to the public.

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

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

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

16 “(A) coverage in rural and underserved
17 areas; and

18 “(B) that the needs of culturally diverse
19 populations are met.

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

1 “(12) LIMITATION ON ADMINISTRATIVE EX-
2 PENDITURES.—The manner in which the State will
3 ensure that all qualified plans in the State expend
4 at least 90 percent (or, during the first 2 years of
5 the plan, 85 percent) of total income received from
6 premiums on the provision of covered health care
7 benefits (excluding all costs for marketing, adver-
8 tising, health plan administration, profits, or capital
9 accumulation) to individuals.

10 “(13) SELF-EMPLOYED AND MULTI-
11 EMPLOYED.—The manner in which the State will
12 address self-employed individuals and multiwage
13 earner families.

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

24 “(15) COST CONTAINMENT; RISK SELECTION.—
25 What cost containment strategies the State will em-

1 ploy and how the State will reduce adverse risk se-
2 lection.

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

5 “(b) CURRENT LEVEL OF COVERAGE.—

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

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

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

1 “(4) BASE COVERAGE GAP.—For purposes of
2 subsection (a)(1)(A), the base coverage gap for a
3 State shall be equal to 100 percent of the eligible in-
4 dividuals and families in the State for the year in-
5 volved, less the current level of coverage for those in-
6 dividuals and families for such year as determined
7 under paragraph (1) or (3).

8 “(c) REDUCING THE LEVEL OF UNINSURED INDIVID-
9 UALS.—

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

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

1 “(d) PROCESS FOR SUBMISSION, APPROVAL, AND
2 AMENDMENT OF EXPANSION PHASE (PHASE I) PLAN.—
3 The provisions of section 2106 apply to an expansion
4 phase (phase I) plan under this part in the same manner
5 as they apply to a State plan under title XXI, except that
6 no expansion phase (phase I) plan may be effective earlier
7 than January 1, 2005, and all expansion phase (phase I)
8 plans must be submitted for approval by not later than
9 December 31, 2006.

10 **“SEC. 2203. COVERAGE REQUIREMENTS FOR EXPANSION**
11 **PHASE (PHASE I) PLANS.**

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

23 “(b) LIMITATIONS ON PREMIUMS AND COST-SHAR-
24 ING.—

1 “(1) DESCRIPTION; GENERAL CONDITIONS.—An
2 expansion phase (phase I) plan shall include a de-
3 scription, consistent with this subsection, of the
4 amount (if any) of premiums, cost-sharing, or other
5 similar charges imposed. Any such charges shall be
6 imposed pursuant to a public schedule.

7 “(2) LIMITATIONS ON PREMIUMS AND COST-
8 SHARING.—

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

14 “(i) the State plan may not impose a
15 premium; and

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

21 “(B) INDIVIDUALS AND FAMILIES WITH
22 INCOME BETWEEN 150 AND 300 PERCENT OF
23 POVERTY LINE.—In the case of an individual or
24 family whose income exceeds 150 percent but

1 does not exceed 300 percent of the poverty
2 line—

3 “(i) the State plan may not impose a
4 premium that exceeds an amount that is
5 equal to—

6 “(I) 20 percent of the average
7 cost of providing benefits to an indi-
8 vidual (or a family) under this part in
9 the year involved; or

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

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

18 “(C) INDIVIDUALS AND FAMILIES WITH IN-
19 COME ABOVE 300 PERCENT OF POVERTY
20 LINE.—In the case of an individual or family
21 whose income exceeds 300 percent of the pov-
22 erty line—

23 “(i) the State plan may not impose a
24 premium that exceeds 20 percent of the
25 average cost of providing benefits to an in-

1 dividual (or a family of the size involved)
2 under this part in the year involved; and

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

9 “(D) SELF-EMPLOYED INDIVIDUALS.—The
10 State shall establish rules for self-employed in-
11 dividuals based on individual and family in-
12 come.

13 “(3) COLLECTION.—The State shall establish
14 procedures for collecting any premiums, cost-shar-
15 ing, or other similar charges imposed under this
16 part. Such procedures shall provide for annual rec-
17 onciliations and adjustments.

18 “(c) APPLICATION OF CERTAIN REQUIREMENTS.—

19 “(1) RESTRICTION ON APPLICATION OF PRE-
20 EXISTING CONDITION EXCLUSIONS.—The expansion
21 phase (phase I) plan shall not permit the imposition
22 of any preexisting condition exclusion for covered
23 benefits under the plan.

24 “(2) CHOICE OF PLANS.—

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

7 “(B) WAIVER.—The Secretary—

8 “(i) may waive the requirement under
9 subparagraph (A) if determined appro-
10 priate; and

11 “(ii) shall waive such requirement in
12 the case of a State that establishes a single
13 State plan.

14 **“SEC. 2204. ALLOTMENTS.**

15 “(a) STATE ALLOTMENTS.—

16 “(1) IN GENERAL.—With respect to a fiscal
17 year, the Secretary shall allot to each State with an
18 expansion phase (phase I) plan approved under this
19 part the amount determined under paragraph (2) for
20 such State for such fiscal year.

21 “(2) DETERMINATION OF COST OF COV-
22 ERAGE.—The amount determined under this para-
23 graph is the amount equal to—

24 “(A) the product of—

1 “(i) the Federal participation rate for
2 the State as determined under subsection
3 (b) or, if applicable, the enhanced Federal
4 participation rate for the State, as deter-
5 mined under subsection (c);

6 “(ii) the estimated cost for the min-
7 imum benefits package required to comply
8 under section 2203, not to exceed the sum
9 of—

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

22 “(II) the estimated average cost-
23 sharing expense for an individual or
24 family; and

1 “(iii) the estimated number of resi-
2 dents to be enrolled in the expansion phase
3 (phase I) plan; less

4 “(B) the sum of—

5 “(i) the individual or family health in-
6 surance contribution and cost-sharing pay-
7 ments to be made in accordance with sec-
8 tion 2203(b); and

9 “(ii) any applicable employer contribu-
10 tion to such payments.

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

15 “(c) ENHANCED FEDERAL PARTICIPATION RATE.—

16 “(1) IN GENERAL.—For purposes of subsection
17 (a)(2)(A)(i), the enhanced Federal participation rate
18 for a State shall be equal to the Federal participa-
19 tion rate for such State under subsection (b), as ad-
20 justed by the Secretary based on the decrease in the
21 base coverage gap in the State.

22 “(2) AMOUNT OF ADJUSTMENT AND APPLICA-
23 TION.—

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

4 “(i) 1 percentage point if the base
5 coverage gap of the State has decreased by
6 at least 50 percent within 2 years after the
7 date of approval of the expansion phase
8 (phase I) plan, as determined by the Sec-
9 retary; and

10 “(ii) 3 percentage points if the base
11 coverage gap of the State has decreased by
12 100 percent within 4 years after the date
13 of approval of the expansion phase (phase
14 I) plan, as determined by the Secretary.

15 “(B) APPLICATION.—The increase de-
16 scribed in—

17 “(i) subparagraph (A)(i) shall only
18 apply to a State for the period beginning
19 with the month of the determination under
20 such subparagraph and ending with the
21 month preceding the month of the deter-
22 mination under subparagraph (A)(ii) (if
23 any), but in no event for more than 24
24 months; and

1 “(ii) subparagraph (A)(ii) shall apply
2 to a State for any year (or portion thereof)
3 beginning with the month of the deter-
4 mination under such subparagraph.

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

9 “(A) 98 percent of all eligible residents of
10 the State are provided health insurance cov-
11 erage under the expansion phase (phase I) plan;
12 and

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

16 “(d) GRANTS TO INDIAN TRIBES, NATIVE HAWAIIAN
17 ORGANIZATIONS, AND ALASKA NATIVE ORGANIZA-
18 TIONS.—

19 “(1) IN GENERAL.—Out of funds appropriated
20 under subsection (e), the Secretary shall reserve an
21 amount, not to exceed 1 percent of the total allot-
22 ments determined under subsection (a) for a fiscal
23 year, to make grants to Indian tribes, Native Hawai-
24 ian organizations, and Alaska Native organizations
25 for development and implementation of universal

1 health insurance coverage plans for members of such
2 tribes and organizations.

3 “(2) PLAN.—To be eligible to receive a grant
4 under paragraph (1), an Indian tribe, Native Hawai-
5 ian organization, or Alaska Native organization shall
6 submit a universal health insurance coverage plan to
7 the Secretary at such time, in such manner, and
8 containing such information, as the Secretary may
9 require.

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

15 “(e) APPROPRIATION.—

16 “(1) IN GENERAL.—Out of any funds in the
17 Treasury not otherwise appropriated, there is appro-
18 priated to carry out this title such sums as may be
19 necessary for fiscal year 2005 and each fiscal year
20 thereafter.

21 “(2) BUDGET AUTHORITY.—Paragraph (1) con-
22 stitutes budget authority in advance of appropria-
23 tions Acts and represents the obligation of the Fed-
24 eral Government to provide States, Indian tribes,
25 Native Hawaiian organizations, and Alaska Native

1 organizations with the allotments determined under
2 this section and the grants for administrative and
3 outreach activities under section 2205.

4 **“SEC. 2205. ADMINISTRATION.**

5 “(a) PAYMENTS.—

6 “(1) IN GENERAL.—

7 “(A) QUARTERLY.—Subject to subpara-
8 graph (B) and subsection (b), the Secretary
9 shall make quarterly payments to each State
10 with an expansion phase (phase I) plan ap-
11 proved under this part, from its allotment
12 under section 2204.

13 “(B) FUNDING FOR ADMINISTRATION AND
14 OUTREACH.—

15 “(i) AUTHORITY TO MAKE GRANTS.—

16 In addition to the allotments determined
17 under section 2204, the Secretary may
18 make grants to States, Indian tribes, Na-
19 tive Hawaiian organizations, and Alaska
20 Native organizations for expenditures for
21 administrative and outreach activities.

22 “(ii) AMOUNTS.—

23 “(I) IN GENERAL.—A grant
24 awarded under this subparagraph
25 shall not exceed the applicable per-

1 centage (as determined under sub-
2 clause (II)) of the total amount allot-
3 ted to the State, Indian tribe, Native
4 Hawaiian organization, or Alaska Na-
5 tive organization under section 2204.

6 “(II) APPLICABLE PERCENT-
7 AGE.—For purposes of subclause (I),
8 the applicable percentage is—

9 “(aa) 10 percent for 2006
10 through 2010; and

11 “(bb) 3 percent for 2011
12 and each year thereafter.

13 “(2) ADVANCE PAYMENT; RETROSPECTIVE AD-
14 JUSTMENT.—The Secretary may make payments
15 under this part for each quarter on the basis of ad-
16 vance estimates by the State and such other inves-
17 tigation as the Secretary may find necessary, and
18 may reduce or increase the payments as necessary to
19 adjust for any overpayment or underpayment for
20 prior quarters.

21 “(3) FLEXIBILITY IN SUBMITTAL OF CLAIMS.—
22 Nothing in this subsection shall be construed as pre-
23 venting a State from claiming as expenditures in the
24 quarter expenditures that were incurred in a pre-
25 vious quarter.

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

6 “(1) the State requests such a blended pay-
7 ment; and

8 “(2) the Secretary finds that the State meets
9 maintenance of effort requirements established by
10 the Secretary.

11 “(c) LIMITATIONS ON FEDERAL PAYMENTS BASED
12 ON COST CONTAINMENT.—

13 “(1) DETERMINATION OF BASELINE.—Each
14 year (beginning with 2005), the Secretary shall es-
15 tablish a baseline projection for the national rate of
16 growth in private health insurance premiums for
17 such year.

18 “(2) REQUIREMENT.—Beginning with fiscal
19 year 2006 and each fiscal year thereafter, any pay-
20 ment made to a State under section 2204 shall not
21 exceed the amount paid to the State under such sec-
22 tion for the preceding fiscal year, adjusted for
23 changes in enrollment and a premium inflation ad-
24 justment that is 0.5 percent below the baseline pro-
25 jection determined under paragraph (1) for the year,

1 unless the State adopts (and the Secretary approves)
2 cost containment strategy that will reduce the rate
3 of growth of spending.

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

5 “(1) IN GENERAL.—A State participating under
6 part A, and, effective January 1, 2009, all States
7 under part B, shall ensure that any payments re-
8 ceived by the State under section 2205 or 2116(a)
9 are not used by any individual or entity, including
10 providers or health plans that contract to provide
11 services herein, to finance directly or indirectly, or to
12 otherwise facilitate expenditures to influence health
13 care workers of such individual or entity with re-
14 spect to issues related to unionization.

15 “(2) CONSTRUCTION.—Nothing in this sub-
16 section shall be construed to limit expenditures made
17 for the purpose of good faith collective bargaining or
18 pursuant to the terms of a bona fide collective bar-
19 gaining agreement.

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

1 “(f) REPORT.—Not later than January 1, 2006, and
2 each January 1 thereafter, the Secretary, in consultation
3 with the General Accounting Office and the Congressional
4 Budget Office, shall prepare and submit to the appro-
5 priate committees of Congress a report on the number of
6 States receiving payments under this part for the year for
7 which the report is being prepared as well as the level of
8 insurance coverage attained by each such State.

9 **“SEC. 2206. DEFINITIONS.**

10 “In this title:

11 “(1) COST-SHARING.—The term ‘cost-sharing’
12 has the meaning given such term under the Federal
13 Employees Health Benefits Program standard Blue
14 Cross/Blue Shield preferred provider option service
15 benefit plan described in and offered under section
16 8903(1) of part 5, United States Code, and includes
17 deductibles, copayments, coinsurance, as such terms
18 are defined for purposes of such plan.

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

20 “(A) IN GENERAL.—The term ‘eligible
21 residents of a State’ means an individual or
22 family who—

23 “(i) is (or consists of) a resident of
24 the State involved;

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

4 “(iii) is (or consists of) a citizen of
5 the United States, a legal resident alien, or
6 an individual otherwise residing in the
7 United States under the authority of Fed-
8 eral law; and

9 “(iv) in the case of an individual, is
10 not eligible for benefits under the medicare
11 program under title XVIII or for medical
12 assistance under the medicaid program
13 under title XIX (other than under the ap-
14 plication of section
15 1902(a)(10)(A)(ii)(XIV)).

16 “(B) OPTION TO PROVIDE COVERAGE FOR
17 INDIVIDUALS AND FAMILIES WITH HIGHER IN-
18 COME.—If approved by the Secretary, a State
19 may increase the percentage described in sub-
20 paragraph (A)(ii), or eliminate all income eligi-
21 bility criteria in order to provide coverage under
22 this part to more individuals and families.

23 “(3) EXPANSION PHASE (PHASE I) PLAN.—The
24 term ‘expansion phase (phase I) plan’ means the

1 State universal health insurance coverage plan sub-
2 mitted under section 2201(b).

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

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

10 “(A) health care services; or

11 “(B) necessary related services, including
12 administrative, food service, janitorial, or main-
13 tenance service to an entity that provides such
14 health care services.

15 “(6) HEALTH PLAN.—The term ‘health plan’
16 includes health insurance coverage, as defined in sec-
17 tion 2791(b)(1) of the Public Health Service Act (42
18 U.S.C. 300gg–91(b)(1)) and group health plans, as
19 defined in section 2791(a) of such Act (42 U.S.C.
20 300gg91(b)(1)).

21 “(7) MENTAL HEALTH AND SUBSTANCE ABUSE
22 TREATMENT BENEFITS PARITY.—

23 “(A) IN GENERAL.—The term ‘mental
24 health and substance abuse treatment benefits
25 parity’ means, with respect to health coverage,

1 that the coverage does not impose treatment
2 limitations or financial requirements on the cov-
3 erage of mental health benefits if similar re-
4 quirements are not imposed on coverage of
5 medical and surgical benefits in comparable set-
6 tings (including inpatient and outpatient set-
7 tings).

8 “(B) TREATMENT LIMITATIONS.—The
9 term ‘treatment limitations’ means limits on the
10 frequency of treatment, number of visits, or
11 other limits on the scope and duration of treat-
12 ment, as covered by a group health plan (or
13 health insurance coverage offered in connection
14 with such a plan). Such term does not include
15 limits on benefits or coverage based solely on
16 medical necessity.

17 “(C) FINANCIAL REQUIREMENTS.—The
18 term ‘financial requirements’ means copay-
19 ments, deductibles, out-of-network charges, out-
20 of-pocket contributions or fees, annual limits,
21 and lifetime aggregate limits imposed on cov-
22 ered individuals.

23 “(8) POVERTY LINE.—The term ‘poverty line’
24 has the meaning given such term in section 673(2)
25 of the Community Services Block Grant Act (42

1 U.S.C. 9902(2)), including any revision required by
2 such section.

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

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

9 **TITLE II—HEALTH SECURITY**
10 **FOR ALL AMERICANS—UNI-**
11 **VERSAL PHASE (PHASE II)**

12 **SEC. 201. UNIVERSAL PHASE (PHASE II) STATE UNIVERSAL**
13 **HEALTH INSURANCE COVERAGE PLANS.**

14 Title XXII of the Social Security Act, as added by
15 section 101, is amended by adding at the end the fol-
16 lowing:

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

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

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

20 “(1) require States to establish and implement
21 State-administered systems to ensure universal
22 health insurance coverage; and

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

1 “(b) UNIVERSAL PHASE (PHASE II) PLAN RE-
2 QUIRED.—

3 “(1) IN GENERAL.—Except as provided in para-
4 graph (2), not later than January 1, 2008, a State
5 shall submit to the Secretary a plan that sets forth
6 how the State intends to use the funds provided
7 under this part to ensure universal, affordable, and
8 comprehensive health insurance coverage to eligible
9 residents of the State consistent with the provisions
10 of this part.

11 “(2) STATES WITH PHASE I PLANS.—

12 “(A) IN GENERAL.—Not later than Janu-
13 ary 1, 2008, a State with a phase I State plan
14 shall submit an addendum to such plan that
15 provides assurances to the Secretary that such
16 plan conforms to the requirements of this part.

17 “(B) CONVERSION TO UNIVERSAL PHASE
18 (PHASE II) PLAN.—If an addendum to an ex-
19 pansion phase (phase I) plan is approved by the
20 Secretary—

21 “(i) the plan shall be automatically
22 converted to a universal phase (phase II)
23 plan; and

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

4 “(3) FAILURE TO SUBMIT PLAN OR ADDEN-
5 DUM.—If a State fails to submit a plan as required
6 in paragraph (1) (or an addendum as required in
7 paragraph (2)), or fails to have such plan or adden-
8 dum approved by the Secretary, such State shall be
9 in violation of this part; and any residents of such
10 a State may bring a cause of action against the
11 State in Federal district court to require the State
12 to comply with the provisions of this part.

13 **“SEC. 2212. PLAN REQUIREMENTS.**

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

17 “(1) DETAILS OF THE UNIVERSAL PHASE
18 (PHASE II) PLAN.—The activities that the State in-
19 tends to carry out using funds received under this
20 part to ensure that all eligible residents of the State
21 have access to the coverage provided under this part,
22 including how the State will coordinate efforts under
23 the program under this part with existing State ef-
24 forts to increase to 100 percent the health insurance

1 coverage of eligible residents of the State by Janu-
2 ary 1, 2010.

3 “(2) REQUIREMENTS FOR EMPLOYERS.—The
4 manner in which the State will ensure that employ-
5 ers within the State will comply with the require-
6 ments of section 2214.

7 “(3) PART A PROVISIONS.—The following pro-
8 visions apply to a universal phase (phase II) plan
9 under this part in the same manner as such provi-
10 sions apply to an expansion phase (phase I) plan
11 under part A:

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

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

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

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

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

22 “(F) PUBLIC REVIEW.—Section
23 2202(a)(9).

1 “(G) SERVICES IN RURAL AND UNDER-
2 SERVED AREAS; CULTURAL COMPETENCY.—Sec-
3 tion 2202(a)(10).

4 “(H) PURCHASING POOLS.—Section
5 2202(a)(11).

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

8 “(J) SELF-EMPLOYED AND MULTI-
9 EMPLOYED.—Section 2202(a)(13).

10 “(K) MEDICAID WRAPAROUND COV-
11 ERAGE.—Section 2202(a)(14).

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

14 “(b) PERMISSIBLE ACTIVITIES.—A State may use
15 amounts provided under this part for any activities con-
16 sistent with this part that are appropriate to enroll indi-
17 viduals in health plans to ensure that all eligible residents
18 of the State are provided coverage under this part, includ-
19 ing through the use of direct payments to health plans
20 or providers of services.

21 “(c) COST CONTAINMENT; COMPETITIVE BIDDING.—
22 Notwithstanding subsection (b), State purchasing pools
23 shall solicit bids from health plans at least annually.

24 “(d) PROCESS FOR SUBMISSION, APPROVAL, AND
25 AMENDMENT OF UNIVERSAL PHASE (PHASE II) PLAN.—

1 Section 2106 applies to a universal phase (phase II) plan
2 under this part in the same manner as such section applies
3 to a State plan under title XXI, except that no universal
4 phase (phase II) plan may be effective earlier than Janu-
5 ary 1, 2009, and all such plans must be submitted for
6 approval by not later than January 1, 2008.

7 **“SEC. 2213. COVERAGE REQUIREMENTS FOR UNIVERSAL**
8 **PHASE (PHASE II) PLANS.**

9 “(a) **REQUIRED SCOPE OF HEALTH INSURANCE COV-**
10 **ERAGE.**—Section 2203(a) applies to a universal phase
11 (phase II) plan under this part.

12 “(b) **UNIVERSAL COVERAGE.**—All States shall ensure
13 that by January 1, 2010, 100 percent of eligible residents
14 of the State have health insurance coverage that meets
15 the requirements of section 2203(a).

16 “(c) **LIMITATIONS ON PREMIUMS AND COST-SHAR-**
17 **ING.**—Section 2203(b) applies to a universal phase (phase
18 II) plan under this part.

19 “(d) **APPLICATION OF CERTAIN REQUIREMENTS.**—
20 Section 2203(c) applies to a universal phase (phase II)
21 plan under this part.

1 **“SEC. 2214. REQUIREMENTS FOR EMPLOYERS REGARDING**
2 **THE PROVISION OF BENEFITS.**

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

6 “(1) EMPLOYERS WITH LESS THAN 500 EM-
7 PLOYEES.—

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

11 “(B) CONTRIBUTIONS.—

12 “(i) IN GENERAL.—Notwithstanding
13 subparagraph (A) and subject to clause
14 (ii), the employer shall make a contribution
15 on behalf of each employee for health in-
16 surance coverage that is equal to at least
17 80 percent of the total premiums for such
18 coverage for employees and their families if
19 the employee elects dependent coverage.

20 “(ii) LIMITATION.—An employer shall
21 not be liable under subparagraph (B) for
22 more than 10 percent of each employee’s
23 annual wages.

24 “(2) EMPLOYERS WITH AT LEAST 500 EMPLOY-
25 EES.—

1 “(A) IN GENERAL.—An employer with at
2 least 500 employees, a majority of whose wages
3 fall below an amount equal to 300 percent of
4 the poverty line applicable to a family of the
5 size involved, shall comply with the require-
6 ments applicable to an employer under para-
7 graph (1).

8 “(B) OTHER EMPLOYERS.—

9 “(i) IN GENERAL.—An employer with
10 at least 500 employees that is not de-
11 scribed in subparagraph (A) shall, at the
12 option of the employer, either—

13 “(I) comply with the require-
14 ments applicable to an employer
15 under paragraph (1); or

16 “(II) provide health insurance
17 coverage to all employees and their
18 families (if the employee elects de-
19 pendent coverage) that meets the re-
20 quirements of section 2213 and the
21 employer contribution required under
22 paragraph (1)(B).

23 “(ii) ADDITIONAL EMPLOYER CON-
24 TRIBUTION.—An employer that elects to
25 comply with clause (i)(I) shall contribute

1 an additional 1 percent of payroll into the
2 State-designated purchasing pool in which
3 it participates.

4 “(3) RULE OF CONSTRUCTION.—Nothing in
5 this title shall be construed as prohibiting a labor or-
6 ganization from collectively bargaining for an em-
7 ployer contribution that is greater than the contribu-
8 tion that is required under paragraph (1)(B) or, as
9 applicable, for health insurance benefits that are
10 greater than the coverage required under paragraph
11 section 2203(a).

12 “(4) PART-TIME EMPLOYEES.—An employer
13 shall be responsible for meeting the requirements
14 under this subsection for all employees of the em-
15 ployer.

16 “(5) MULTIEMPLOYER FAMILIES.—In the case
17 of a family with more than 1 employer, the employ-
18 ers of individuals within the family shall apportion
19 their contributions in accordance with rules estab-
20 lished by the State.

21 “(b) NONAPPLICABILITY.—This section shall not
22 apply—

23 “(1) to any State that establishes a single
24 payor system; or

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

4 “(c) PRIVATE CAUSE OF ACTION.—

5 “(1) LIABILITY.—An employer that fails to
6 comply with the requirements of subsection (a) or
7 otherwise takes adverse action against an employee
8 for the purpose of interfering with the attainment of
9 any right to which the employee may be entitled to
10 under this title, shall be liable to the employee af-
11 fected.

12 “(2) AMOUNT.—The amount of the liability de-
13 scribed in paragraph (1) shall be an amount equal
14 to—

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

18 “(B) an additional amount as liquidated
19 damages; and

20 “(C) consequential damages for reasonably
21 foreseeable injuries resulting from such action.

22 “(3) JURISDICTION; EQUITABLE RELIEF.—

23 “(A) JURISDICTION.—An action under this
24 subsection may be maintained against any em-

1 employer in any Federal or State court of com-
2 petent jurisdiction by any 1 or more employees.

3 “(B) **EQUITABLE RELIEF.**—In addition to
4 the damages described in paragraph (2), a
5 court may enjoin any act or practice that vio-
6 lates this title.

7 “(4) **ATTORNEY’S FEES.**—If a plaintiff or plain-
8 tiffs prevail in an action brought under this sub-
9 section, the court shall, in addition to any judgment
10 awarded to the plaintiff or plaintiffs, award the rea-
11 sonable attorney’s fees and costs associated with the
12 bringing of the action.

13 **“SEC. 2215. ALLOTMENTS.**

14 “(a) **STATE ALLOTMENTS.**—Subsections (a) and (b)
15 of section 2204 apply to a universal phase (phase II) plan
16 under this part in the same manner as such subsections
17 apply to an expansion phase (phase I) plan under part
18 A.

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

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

5 “(d) APPROPRIATION.—

6 “(1) IN GENERAL.—Out of any funds in the
7 Treasury not otherwise appropriated, there is appro-
8 priated to carry out this title such sums as may be
9 necessary for fiscal year 2009 and each fiscal year
10 thereafter.

11 “(2) BUDGET AUTHORITY.—Paragraph (1) con-
12 stitutes budget authority in advance of appropri-
13 ations Acts and represents the obligation of the Fed-
14 eral Government to provide States, Indian tribes,
15 Native Hawaiian organizations, and Alaska Native
16 organizations with the allotments determined under
17 this section and the grants for administrative and
18 outreach activities under section 2205(a)(1)(B) (as
19 applied to this part under section 2216(a)).

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

21 “(a) ADMINISTRATION.—The provisions of section
22 2205 (other than subsection (c) of such section) apply to
23 a universal phase (phase II) plan under this part in the
24 same manner as such provisions apply to an expansion
25 phase (phase I) plan under part A.

1 “(b) DEFINITIONS.—

2 “(1) APPLICATION OF SECTION 2206.—The
3 definitions set forth in section 2206 apply to a uni-
4 versal phase (phase II) plan under this part in the
5 same manner as such provisions apply to an expan-
6 sion phase (phase I) plan under part A except that
7 for purposes of this part, the definition of ‘eligible
8 residents of a State’ set forth in section 2206(2)
9 shall be applied without regard to subparagraphs
10 (A)(ii) and (B).

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

15 **SEC. 202. CONSUMER PROTECTIONS.**

16 Title XXII of the Social Security Act, as amended
17 by section 201, is amended by adding at the end the fol-
18 lowing:

19 **“PART C—CONSUMER PROTECTIONS**

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

21 “In order to ensure that home care services are pro-
22 vided in a consumer-directed manner, a State partici-
23 pating under part A, and, effective January 1, 2009, all
24 States under part B, shall satisfy the Secretary that any
25 health plan that provides home care services under this

1 title creates, or contracts with, a viable entity other than
2 the consumer or individual provider to provide effective
3 billing, payments for services, tax withholding, unemploy-
4 ment insurance, and workers compensation coverage, and
5 to serve as the statutory employer of the home care pro-
6 vider. Recipients of such services shall retain the right to
7 independently select, hire, terminate, and direct the work
8 of the home care provider.

9 **“SEC. 2222. CONSUMER PROTECTION IN THE EVENT OF**
10 **TERMINATION OR SUSPENSION OF SERVICES.**

11 “A State participating under part A, and, effective
12 January 1, 2009, all States under part B, shall satisfy
13 the Secretary that any health plan providing services
14 under this title shall ensure that enrollees will receive con-
15 tinued health services in the event that the plan’s health
16 care services are terminated or suspended, including as
17 the result of the plan filing for bankruptcy relief under
18 title 11, United States Code, or the failure of the plan
19 to provide payments to providers, lockouts, work stop-
20 pages, or other labor management problems.

21 **“SEC. 2223. CONSUMER PROTECTION THROUGH DISCLO-**
22 **SURE OF INFORMATION.**

23 “(a) IN GENERAL.—A State participating under part
24 A, and, effective January 1, 2009, all States under part
25 B, shall satisfy the Secretary that any health care provider

1 that provides services to individuals under this title shall
 2 provide to the State information regarding the identity,
 3 employment location, and qualifications of health care
 4 workers providing services under—

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

6 “(2) a contract between the provider and a
 7 health plan or the State.

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

11 **“SEC. 2224. CONSUMER PROTECTION THROUGH NOTICE OF**
 12 **CHANGES IN HEALTH CARE DELIVERY.**

13 “A State participating under part A, and, effective
 14 January 1, 2009, all States under part B, shall describe
 15 how the State will provide, at a minimum, the following
 16 protections:

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

20 “(A) facility or operating unit closure;

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

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

25 “(D) reduction of services.

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

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

7 “(B) the contractor, in the case of a health
8 care worker whose position was eliminated fol-
9 lowing the contracting out of the work the
10 worker formerly performed.”.

11 **TITLE III—PATIENT** 12 **PROTECTIONS**

13 **SEC. 301. INCORPORATION OF CERTAIN PROTECTIONS.**

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

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

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

20 (b) PUBLICATION.—In publishing this Act in slip
21 form and in the United States Statutes at Large pursuant
22 to section 112, of title 1, United States Code, the Archivist
23 of the United States shall include after the date of ap-
24 proval at the end appendixes setting forth the texts of the
25 bills referred to in subsection (a) of this section.

1 **TITLE IV—HEALTH CARE QUAL-**
2 **ITY, PATIENT SAFETY, AND**
3 **WORKFORCE STANDARDS**

4 **SEC. 401. HEALTH CARE QUALITY, PATIENT SAFETY, AND**
5 **WORKFORCE STANDARDS INSTITUTE.**

6 (a) ESTABLISHMENT.—

7 (1) INSTITUTE.—There is established within
8 the Agency for Healthcare Research and Quality, an
9 institute to be known as the Health Care Quality,
10 Patient Safety, and Workforce Standards Institute
11 (in this section referred to as the “Institute”).

12 (2) DIRECTOR.—The Secretary of Health and
13 Human Services shall appoint a director of the Insti-
14 tute. The director shall administer the Institute and
15 carry out the duties of the director under this sec-
16 tion subject to the authority, direction, and control
17 of the Secretary.

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

19 (1) demonstrate how patient safety issues and
20 workplace conditions are linked to quality patient
21 care and the reduction of the incidence of medical
22 errors; and

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

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

3 (1) work closely with the director of the Agency
4 for Healthcare Research and Quality to ensure that
5 issues related to workplace conditions are reflected
6 in the activities conducted by such agency in order
7 to reduce the incidence of medical errors and im-
8 prove patient safety and quality of care, including—

9 (A) the establishment of national goals;

10 (B) the development and implementation
11 of a research agenda;

12 (C) the development and promotion of best
13 practices;

14 (D) the development of performance and
15 staffing standards in consultation with the
16 Health Care Financing Administration and
17 other Federal agencies, as appropriate; and

18 (E) the development and dissemination of
19 information, educational and training materials,
20 and other criteria as it relates to the delivery of
21 quality care;

22 (2) provide recommendations to the Secretary
23 of Health and Human Services and other Federal
24 agencies with responsibility for health care quality
25 and the development of standards that impact on

1 the delivery of quality patient care on standards re-
2 lated to workplace conditions and patient safety;

3 (3) support the activities of the Health Care Fi-
4 nancing Administration related to the development
5 of new or revised conditions of participation under
6 the medicare and medicaid programs and subsequent
7 rulemaking on issues related to workplace condi-
8 tions, medical errors, and patient safety and quality
9 of care; and

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

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

15 (1) health care worker staffing;

16 (2) hours of work;

17 (3) confidentiality and whistleblower protec-
18 tions;

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

22 (5) workforce training; and

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

25 (e) DEFINITION OF HEALTH CARE WORKER.—

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

6 (2) INITIAL REPORT.—Not later than December
7 31, 2005, the Committee shall submit an initial re-
8 port to the Secretary that contains—

9 (A) recommendations regarding minimal
10 workforce standards that are critical for im-
11 proved health care quality and patient safety;
12 and

13 (B) recommendations regarding additional
14 ways to reduce the incidence of medical errors
15 and to improve patient safety and quality of
16 care.

17 (3) FINAL REPORT.—Not later than December
18 31, 2006, the Committee shall submit a final report
19 to the Secretary of Health and Human Services re-
20 garding the recommendations contained in the initial
21 report required under paragraph (2), including any
22 modifications of such recommendations.

23 (c) STRUCTURE AND MEMBERSHIP OF THE COM-
24 MITTEE.—

1 (1) STRUCTURE.—The Committee shall be com-
2 posed of the Director of the Health Care Quality,
3 Patient Safety, and Workforce Standards Institute
4 established under section 401 and 15 additional
5 members who shall be appointed by the Secretary of
6 Health and Human Services.

7 (2) MEMBERSHIP.—

8 (A) IN GENERAL.—The members of the
9 Committee shall be chosen on the basis of their
10 integrity, impartiality, and good judgment, and
11 shall be individuals who are, by reason of their
12 education, experience, and attainments, excep-
13 tionally qualified to perform the duties of mem-
14 bers of the Committee.

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

19 (i) Health care providers and health
20 care workers, including labor unions rep-
21 resenting health care workers.

22 (ii) Consumer organizations.

23 (iii) Health care institutions.

24 (iv) Health education organizations.

1 (d) CHAIRMAN.—The Director of the Health Care
2 Quality, Patient Safety, and Workforce Standards Insti-
3 tute established under section 401 shall chair the Com-
4 mittee.

5 **TITLE V—IMPROVING MEDICARE**
6 **BENEFITS**

7 **SEC. 501. FULL MENTAL HEALTH AND SUBSTANCE ABUSE**
8 **TREATMENT BENEFITS PARITY.**

9 Notwithstanding any provision of title XVIII of the
10 Social Security Act (42 U.S.C. 1395 et seq.), beginning
11 January 1, 2006, each individual who is entitled to bene-
12 fits under part A or enrolled under part B of the medicare
13 program, including an individual enrolled in a
14 MedicareAdvantae plan offered by a MedicareAdvantage
15 organization under part C of such program, shall be pro-
16 vided full mental health and substance abuse treatment
17 parity under the medicare program established under such
18 title of such Act consistent with title XXII of the Social
19 Security Act (as added by this Act).

20 **TITLE VI—LONG-TERM AND**
21 **HOME HEALTH CARE**

22 **SEC. 601. STUDIES AND DEMONSTRATION PROJECTS TO**
23 **IDENTIFY MODEL PROGRAMS.**

24 The Secretary of Health and Human Services shall—

1 (1) conduct studies and demonstration projects,
2 through grant, contract, or interagency agreement,
3 that are designed to identify model programs for the
4 provision of long-term and home health care serv-
5 ices;

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

8 (3) include in such report any recommendations
9 for legislation to expand or continue such studies
10 and projects.

11 **TITLE VII—MISCELLANEOUS**

12 **SEC. 701. NONAPPLICATION OF ERISA.**

13 The provisions of section 514 of the Employee Retire-
14 ment Income Security Act of 1974 (29 U.S.C. 1144) shall
15 not apply with respect to health benefits provided under
16 a group health plan (as defined in section 733(a) of that
17 Act (29 U.S.C. 1191b(a))) qualified to offer such benefits
18 under an expansion phase (phase I) plan under title XXII
19 of the Social Security Act (as added by this Act) or under
20 a universal phase (phase II) plan under such title.

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

22 It is the sense of Congress that any sums necessary
23 for the implementation of this Act, and the amendments
24 made by this Act, should be offset by—

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

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

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

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