

111TH CONGRESS  
1ST SESSION

# H. R. 2700

To amend part D of title XVIII of the Social Security Act to assist low-income individuals in obtaining subsidized prescription drug coverage under the Medicare prescription drug program by expediting the application and qualification process and by revising the resource standards used to determine eligibility for such subsidies, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 4, 2009

Mr. DOGGETT (for himself, Mr. ALTMIRE, Mr. ARCURI, Ms. BALDWIN, Mr. BECERRA, Ms. BERKLEY, Mr. BERMAN, Mr. BISHOP of New York, Mr. BLUMENAUER, Ms. BORDALLO, Mr. BOUCHER, Ms. CLARKE, Mr. CLAY, Mr. CLEAVER, Mr. CLYBURN, Mr. COHEN, Mr. CONNOLLY of Virginia, Mr. COSTELLO, Mr. CUMMINGS, Mr. DAVIS of Alabama, Mr. DAVIS of Illinois, Mr. DEFazio, Ms. DEGETTE, Mr. DELAHUNT, Ms. DELAURO, Mr. EDWARDS of Texas, Mr. FATAH, Mr. FILNER, Mr. GENE GREEN of Texas, Mr. GRIJALVA, Mr. HASTINGS of Florida, Mr. HIGGINS, Mr. HINCHEY, Mr. HINOJOSA, Mr. HOLT, Mr. INSLEE, Mr. ISRAEL, Mr. JACKSON of Illinois, Ms. JACKSON-LEE of Texas, Mr. JOHNSON of Georgia, Ms. KAPTUR, Mr. KILDEE, Ms. KILPATRICK of Michigan, Mr. KUCINICH, Mr. LANGEVIN, Ms. LEE of California, Mr. LEVIN, Mr. LEWIS of Georgia, Mr. LIPINSKI, Ms. ZOE LOFGREN of California, Ms. MCCOLLUM, Mr. MCDERMOTT, Mrs. MALONEY, Mr. MEEK of Florida, Mr. MEEKS of New York, Mr. MICHAUD, Mr. MOORE of Kansas, Mr. NADLER of New York, Mrs. NAPOLITANO, Mr. NEAL of Massachusetts, Ms. NORTON, Mr. ORTIZ, Mr. PAYNE, Mr. PASCRELL, Mr. PRICE of North Carolina, Mr. RANGEL, Mr. ROTHMAN of New Jersey, Mr. RUSH, Mr. RYAN of Ohio, Ms. LINDA T. SÁNCHEZ of California, Mr. SARBANES, Ms. SCHAKOWSKY, Ms. SHEA-PORTER, Mr. SIRES, Mr. STARK, Ms. SUTTON, Mr. VAN HOLLEN, Ms. WASSERMAN SCHULTZ, Mr. WEINER, Mr. WELCH, Mr. WEXLER, Ms. WOOLSEY, and Mr. YARMUTH) 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 amend part D of title XVIII of the Social Security Act to assist low-income individuals in obtaining subsidized prescription drug coverage under the Medicare prescription drug program by expediting the application and qualification process and by revising the resource standards used to determine eligibility for such subsidies, and for other purposes.

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 “Prescription Coverage Now Act of 2009”.

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

Sec. 1. Short title; table of contents.

Sec. 2. Expediting low-income subsidies under the Medicare prescription drug program.

Sec. 3. Enhanced oversight and enforcement relating to reimbursements for retroactive LIS enrollment.

Sec. 4. Modification of resource standards for determination of eligibility for low-income subsidy; simplification of income and asset rules.

Sec. 5. Indexing deductible and cost-sharing above annual out-of-pocket threshold for individuals with income below 150 percent of poverty line.

Sec. 6. No impact on eligibility for benefits under other programs.

Sec. 7. Requiring individuals eligible for Medicare savings programs to be deemed to be subsidy eligible individuals.

Sec. 8. Special enrollment period for subsidy eligible individuals.

8 **SEC. 2. EXPEDITING LOW-INCOME SUBSIDIES UNDER THE**  
 9 **MEDICARE PRESCRIPTION DRUG PROGRAM.**

10       (a) TARGETED OUTREACH FOR LOW-INCOME SUB-  
 11 SIDIES.—

1           (1) IN GENERAL.—Section 1860D–14 of the  
2 Social Security Act (42 U.S.C. 1395w–114) is  
3 amended by adding at the end the following new  
4 subsection:

5           “(e) TARGETED OUTREACH FOR LOW-INCOME SUB-  
6 SIDIES.—

7           “(1) TARGETED IDENTIFICATION OF SUBSIDY-  
8 ELIGIBLE INDIVIDUALS.—

9           “(A) IN GENERAL.—The Commissioner of  
10 Social Security shall provide for the identifica-  
11 tion of individuals who are potentially eligible  
12 for low-income assistance under this section  
13 through requests to the Secretary of the Treas-  
14 ury in accordance with the criterion established  
15 under section 6103(l)(21) of the Internal Rev-  
16 enue Code of 1986 for information indicating  
17 whether the individual involved is likely eligible  
18 for such assistance.

19           “(B) INITIATION OF IDENTIFICATIONS.—  
20 Not later than 90 days after the date of the en-  
21 actment of this subsection, the Commissioner of  
22 Social Security shall begin the identification of  
23 individuals through the process described in  
24 subparagraph (A) and shall, by such date and  
25 through such process, submit to the Secretary

1 of the Treasury requests for part D eligible in-  
2 dividuals who the Commissioner has identified  
3 as potentially eligible for low-income subsidies  
4 under this section before such date of enact-  
5 ment.

6 “(2) NOTIFICATION OF POTENTIALLY ELIGIBLE  
7 INDIVIDUALS.—In the case of each individual identi-  
8 fied under paragraph (1) who has not otherwise ap-  
9 plied for, or been determined eligible for, benefits  
10 under this section (or who has applied for and been  
11 determined ineligible for such benefits based on ex-  
12 cess income, resources, or both), the Commissioner  
13 shall transmit by mail to the individual a letter in-  
14 cluding the information and application required to  
15 be provided under subparagraphs (A), (B), and (D)  
16 of section 1144(c)(1).

17 “(3) FOLLOW-UP COMMUNICATIONS.—If an in-  
18 dividual to whom a letter is transmitted under para-  
19 graph (2) does not affirmatively respond to such let-  
20 ter either by making an enrollment, completing an  
21 application, or declining either or both, the Commis-  
22 sioner shall make additional attempts to contact the  
23 individual to obtain such an affirmative response.

24 “(4) USE OF PREFERRED LANGUAGE IN SUBSE-  
25 QUENT COMMUNICATIONS.—In the case an applica-

1 tion is completed by an individual pursuant to this  
2 subsection in which a language other than English  
3 is specified, the Commissioner shall provide that  
4 subsequent communications under this part to the  
5 individual shall be in such language as needed.

6 “(5) CONSTRUCTION.—Nothing in this sub-  
7 section shall be construed as precluding the Commis-  
8 sioner from taking additional outreach efforts to en-  
9 roll eligible individuals under this part and to pro-  
10 vide low-income subsidies to eligible individuals.

11 “(6) MAINTENANCE OF EFFORT WITH RESPECT  
12 TO OUTREACH.—In no case shall the level of effort  
13 with respect to outreach to and enrollment of indi-  
14 viduals who are potentially eligible for low-income  
15 assistance under this section after the date of the  
16 enactment of this subsection be less than such level  
17 of effort before such date of enactment until at least  
18 90 percent of such potentially eligible individuals  
19 have affirmatively responded.

20 “(7) GAO REPORT TO CONGRESS.—Not later  
21 than 2 years after the date of the first submission  
22 to the Secretary of the Treasury described in para-  
23 graph (1)(B), the Comptroller General of the United  
24 States shall submit to Congress a report, with re-  
25 spect to the 18-month period following the establish-

1       ment of the process described in paragraph (1)(A),  
2       on—

3               “(A) the extent to which the percentage of  
4       individuals who are eligible for low-income as-  
5       sistance under this section but not enrolled  
6       under this part has decreased during such pe-  
7       riod;

8               “(B) how the Commissioner of Social Se-  
9       curity has used any savings resulting from the  
10      implementation of this section and section  
11      6103(l)(21) of the Internal Revenue Code of  
12      1986 to improve outreach to individual de-  
13      scribed in subparagraph (A) to increase enroll-  
14      ment of such individuals under this part;

15              “(C) the effectiveness of using information  
16      from the Secretary of the Treasury in accord-  
17      ance with section 6103(l)(21) of the Internal  
18      Revenue Code of 1986 for purposes of indi-  
19      cating whether individuals are eligible for low-  
20      income assistance under this section; and

21              “(D) the effectiveness of the outreach con-  
22      ducted by the Commissioner of Social Security  
23      based on the data described in subparagraph  
24      (C).”.

1           (2) CONFORMING AMENDMENT.—Section  
2           1144(c)(1) of the Social Security Act (42 U.S.C.  
3           1320b–14(c)(1)) is amended by inserting “(including  
4           through request to the Secretary of the Treasury  
5           pursuant to section 1860D–14(e))” before “, the  
6           Commissioner shall”.

7           (b) IMPROVEMENTS TO THE LOW-INCOME SUBSIDY  
8           APPLICATIONS.—Section 1860D–14(a)(3) of the Social  
9           Security Act (42 U.S.C. 1395w–114(a)(3)) is amended—

10           (1) in subparagraph (E), by striking clauses (ii)  
11           and (iii) and redesignating clause (iv) as clause (ii);

12           (2) by redesignating subparagraphs (F) and  
13           (G) as subparagraphs (G) and (H), respectively; and

14           (3) by inserting after subparagraph (E) the fol-  
15           lowing new subparagraph:

16                   “(F) SIMPLIFIED LOW-INCOME SUBSIDY  
17                   APPLICATION AND PROCESS.—

18                           “(i) IN GENERAL.—The Secretary,  
19                           jointly with the Commissioner of Social Se-  
20                           curity, shall—

21                                   “(I) develop a model, simplified  
22                                   application form and process con-  
23                                   sistent with clause (ii) for the deter-  
24                                   mination and verification of a part D

1 eligible individual's assets or resources  
2 under this paragraph; and

3 “(II) provide such form to  
4 States.

5 “(ii) DOCUMENTATION AND SAFE-  
6 GUARDS.—Under such process—

7 “(I) the application form shall  
8 consist of an attestation under penalty  
9 of perjury regarding the level of assets  
10 or resources (or combined assets and  
11 resources in the case of a married  
12 part D eligible individual) and valu-  
13 ations of general classes of assets or  
14 resources;

15 “(II) such form shall not require  
16 the submittal of additional docu-  
17 mentation regarding income or assets;

18 “(III) matters attested to in the  
19 application shall be subject to appro-  
20 priate methods of administrative  
21 verification;

22 “(IV) the applicant shall be per-  
23 mitted to authorize another individual  
24 to act as the applicant's personal rep-  
25 resentative with respect to commu-



1                    communications under this part and the en-  
2                    rollment of the applicant into a pre-  
3                    scription drug plan (or MA–PD plan)  
4                    and for low-income subsidies under  
5                    this section; and

6                    “(V) the application form shall  
7                    allow for the specification of a lan-  
8                    guage (other than English) that is  
9                    preferred by the individual for subse-  
10                  quent communications with respect to  
11                  the individual under this part.

12                  “(iii) NO RECOVERY FOR CERTAIN  
13                  SUBSIDIES IMPROPERLY PAID.—If an indi-  
14                  vidual in good faith and in the absence of  
15                  fraud is provided low-income subsidies  
16                  under this section, and if the individual is  
17                  subsequently found not eligible for such  
18                  subsidies, there shall be no recovery made  
19                  against the individual because of such sub-  
20                  sidies improperly paid.”.

21                  (c) DISCLOSURES TO FACILITATE IDENTIFICATION  
22                  OF INDIVIDUALS LIKELY TO BE ELIGIBLE FOR THE LOW-  
23                  INCOME ASSISTANCE UNDER THE MEDICARE PRESCRIP-  
24                  TION DRUG PROGRAM.—

25                  (1) IN GENERAL.—

1           Subsection (l) of section 6103 of the Inter-  
2           nal Revenue Code of 1986 is amended by add-  
3           ing at the end the following new paragraph:

4           “(21) DISCLOSURE OF RETURN INFORMATION  
5           TO FACILITATE IDENTIFICATION OF INDIVIDUALS  
6           LIKELY TO BE ELIGIBLE FOR LOW-INCOME SUB-  
7           SIDIES UNDER MEDICARE PRESCRIPTION DRUG PRO-  
8           GRAM.—

9           “(A) IN GENERAL.—The Secretary, upon  
10          written request from the Commissioner of So-  
11          cial Security, shall disclose to officers and em-  
12          ployees of the Social Security Administration,  
13          with respect to any individual identified by the  
14          Commissioner—

15                 “(i) whether, based on the criterion  
16                 determined under subparagraph (B), such  
17                 individual is likely to be eligible for low-in-  
18                 come assistance under section 1860D–14  
19                 of the Social Security Act, or

20                 “(ii) that, based on such criterion,  
21                 there is insufficient information available  
22                 to the Secretary to make the determination  
23                 described in clause (i).

24           “(B) CRITERION.—Not later than 90 days  
25          after the date of the enactment of this para-

1 graph, the Secretary, in consultation with the  
2 Commissioner of Social Security, shall develop  
3 the criterion by which the determination under  
4 subparagraph (A)(i) shall be made (and the cri-  
5 terion for determining that insufficient informa-  
6 tion is available to make such determination).  
7 Such criterion may include analysis of informa-  
8 tion available on such individual's return, the  
9 return of such individual's spouse, and any in-  
10 formation related to such individual or such in-  
11 dividual's spouse which is available on any in-  
12 formation return.”.

13 (2) PROCEDURES AND RECORDKEEPING RE-  
14 LATED TO DISCLOSURES.—Paragraph (4) of section  
15 6103(p) of such Code is amended by striking “or  
16 (17)” each place it appears and inserting “(17), or  
17 (21)”.

18 (3) EFFECTIVE DATE.—The amendments made  
19 by this subsection shall apply to disclosures made  
20 after the date of the enactment of this Act.

21 **SEC. 3. ENHANCED OVERSIGHT AND ENFORCEMENT RE-**  
22 **LATING TO REIMBURSEMENTS FOR RETRO-**  
23 **ACTIVE LIS ENROLLMENT.**

24 (a) IN GENERAL.—In the case of a retroactive LIS  
25 enrollment beneficiary (as defined in subsection (e)(4))

1 who is enrolled under a prescription drug plan under part  
2 D of title XVIII of the Social Security Act (or an MA-  
3 PD plan under part C of such title)—

4           (1) the beneficiary (or any eligible third party)  
5 is entitled to reimbursement by the plan for covered  
6 drug costs (as defined in subsection (e)(1)) incurred  
7 by the beneficiary during the retroactive coverage  
8 period of the beneficiary in accordance with sub-  
9 section (b) and in the case of such a beneficiary de-  
10 scribed in subsection (e)(4)(A)(i), such reimburse-  
11 ment shall be made automatically by the plan upon  
12 receipt of appropriate notice the beneficiary is eligi-  
13 ble for assistance described in such subsection  
14 (e)(4)(A)(i) without further information required to  
15 be filed with the plan by the beneficiary;

16           (2) the Secretary of Health and Human Serv-  
17 ices (in this section referred to as the “Secretary”)  
18 shall not make payment to the plan—

19           (A) in the case that the beneficiary is de-  
20 scribed in subsection (e)(4)(A)(i), for premium  
21 subsidies and cost sharing subsidies under sec-  
22 tion 1860D–14 of the Social Security Act (42  
23 U.S.C. 1395w–114) with respect to the provi-  
24 sion of prescription drug coverage to the bene-  
25 ficiary during such retroactive period; and

1           (B) in the case that the beneficiary is de-  
2           scribed in subsection (e)(4)(A)(ii), for direct  
3           subsidies under section 1860D–15(a)(1) of such  
4           Act and premium subsidies and cost-sharing  
5           subsidies under section 1860D–14 of such Act  
6           with respect to the provision of prescription  
7           drug coverage to the beneficiary during such  
8           retroactive period;

9           unless the plan demonstrates to the Secretary that  
10          the plan has provided timely and accurate reim-  
11          bursement to the beneficiary (or eligible third party)  
12          in accordance with paragraph (1);

13          (3) the Secretary shall not make any payment  
14          described in paragraph (2) to the plan with respect  
15          to such beneficiary for any month of the retroactive  
16          enrollment period during which no expenses for cov-  
17          ered part D drugs (as defined in section 1860D–2(e)  
18          of the Social Security Act (42 U.S.C. 1395w–  
19          102(e)) were incurred by such beneficiary (or eligible  
20          third party on behalf of such beneficiary); and

21          (4) any payment owed the plan pursuant to this  
22          section, taking into account paragraphs (2) and (3),  
23          shall be made at the time the Centers for Medicare  
24          & Medicaid Services reconciles payments for the en-

1       tire plan year following the end of the plan year, and  
2       not before such time.

3       (b) ADMINISTRATIVE REQUIREMENTS RELATING TO  
4 REIMBURSEMENTS.—

5           (1) LINE-ITEM DESCRIPTION.—Each reimburse-  
6       ment made by a prescription drug plan or MA–PD  
7       plan under subsection (a)(1) shall include a line-item  
8       description of the items for which the reimbursement  
9       is made.

10          (2) TIMING OF REIMBURSEMENTS.—A prescrip-  
11       tion drug plan or MA–PD plan must make a reim-  
12       bursement under subsection (a)(1) to a retroactive  
13       LIS enrollment beneficiary, with respect to a claim,  
14       not later than 30 days after—

15           (A) in the case of a beneficiary described  
16       in subsection (e)(4)(A)(i), the date on which the  
17       plan receives notice from the Secretary that the  
18       beneficiary is eligible for assistance described in  
19       such subsection; or

20           (B) in the case of a beneficiary described  
21       in subsection (e)(4)(A)(ii), the date on which  
22       the beneficiary files the claim with the plan.

23       (c) NOTICE REQUIREMENTS.—

24           (1) BY SECRETARY OF HHS AND COMMISSION  
25       OF THE SOCIAL SECURITY ADMINISTRATION.—The

1 Secretary, jointly with the Commissioner of the So-  
2 cial Security Administration, shall ensure that each  
3 retroactive LIS enrollment beneficiary receives, with  
4 any letter or notification of eligibility for a low-in-  
5 come subsidy under section 1860D–14 of the Social  
6 Security Act, a notice of their right to reimburse-  
7 ment described in subsection (a)(1) for covered drug  
8 costs incurred during the retroactive coverage period  
9 of the beneficiary. Such notice shall—

10 (A) with respect to a beneficiary described  
11 in subsection (e)(4)(A)(i), inform the bene-  
12 ficiary of the beneficiary’s right to automatic  
13 reimbursement as described in subsection  
14 (a)(1); and

15 (B) with respect to a beneficiary described  
16 in subsection (e)(4)(A)(ii), include a description  
17 of a clear process that the beneficiary should  
18 follow to seek such reimbursement.

19 (2) BY PRESCRIPTION DRUG PLANS.—

20 (A) IN GENERAL.—Each prescription drug  
21 plan under part D of title XVIII of the Social  
22 Security Act (and MA–PD plan under part C of  
23 such title) shall include in a notice from the  
24 plan to a retroactive LIS enrollment beneficiary  
25 described in subsection (e)(4)(A)(ii) a model no-

1           tice developed under subparagraph (B) describ-  
2           ing the process the beneficiary must follow to  
3           seek retroactive reimbursement. Such notice  
4           shall include any form required by the plan to  
5           complete such reimbursement and shall indicate  
6           the period of retroactive coverage for which the  
7           beneficiary is eligible for such reimbursement.

8           (B) MODEL NOTICE.—The Secretary,  
9           jointly with the Commissioner of Social Secu-  
10          rity, shall develop a model notice for purposes  
11          of subparagraph (A) and shall make such model  
12          notice available to all prescription drug plans  
13          under part D of title XVIII of the Social Secu-  
14          rity Act (and MA–PD plans under part C of  
15          such title).

16       (d) PUBLIC POSTING TO TRACK PAYMENTS.—

17           (1) IN GENERAL.—Not later than one year  
18          after the date of the enactment of this Act, the Sec-  
19          retary shall post (and annually update) on the public  
20          Internet website of the Department of Health and  
21          Human Services information on the total amount of  
22          payments made by the Secretary under subsection  
23          (a)(2) to prescription drug plans during the most re-  
24          cent plan year for which plan data is available.



1           (2) SPECIFIC INFORMATION.—Such information  
2 posted—

3           (A) in 2010 or in a subsequent year before  
4 2016, shall include information on payments  
5 made for years beginning with 2006 and ending  
6 with the year for which the most current infor-  
7 mation is available; and

8           (B) in 2016 or a subsequent year, shall in-  
9 clude information on payments made for at  
10 least the 10 previous years.

11 (e) DEFINITIONS.—In this section:

12           (1) COVERED DRUG COSTS.—The term “cov-  
13 ered drug costs” means, with respect to a retroactive  
14 LIS enrollment beneficiary enrolled under a pre-  
15 scription drug plan under part D of title XVIII of  
16 the Social Security Act (or an MA–PD plan under  
17 part C of such title), the amount by which—

18           (A) the costs incurred by such beneficiary  
19 during the retroactive coverage period of the  
20 beneficiary for covered part D drugs, premiums,  
21 and cost-sharing under such title; exceeds

22           (B) such costs that would have been in-  
23 curred by such beneficiary during such period if  
24 the beneficiary had been both enrolled in the  
25 plan and recognized by such plan as qualified

1           during such period for the low income subsidy  
2           under section 1860D–14 of the Social Security  
3           Act to which the individual is entitled.

4           (2) ELIGIBLE THIRD PARTY.—The term “eligi-  
5           ble third party” means, with respect to a retroactive  
6           LIS enrollment beneficiary, an organization or other  
7           third party that paid on behalf of such beneficiary  
8           for covered drug costs incurred by such beneficiary  
9           during the retroactive coverage period of such bene-  
10          ficiary.

11          (3) RETROACTIVE COVERAGE PERIOD.—The  
12          term “retroactive coverage period” means—

13                (A) with respect to a retroactive LIS en-  
14                rollment beneficiary described in paragraph

15                (4)(A)(i), the period—

16                    (i) beginning on the effective date of  
17                    the assistance described in such paragraph  
18                    for which the individual is eligible; and

19                    (ii) ending on the date the plan effec-  
20                    tuates the status of such individual as so  
21                    eligible; and

22                (B) with respect to a retroactive LIS en-  
23                rollment beneficiary described in paragraph

24                (4)(A)(ii), the period—

1 (i) beginning on the date the indi-  
2 vidual is both entitled to benefits under  
3 part A, or enrolled under part B, of title  
4 XVIII of the Social Security Act and eligi-  
5 ble for medical assistance under a State  
6 plan under title XIX of such Act; and

7 (ii) ending on the date the plan effec-  
8 tuates the status of such individual as a  
9 full-benefit dual eligible individual (as de-  
10 fined in section 1935(c)(6) of such Act).

11 (4) RETROACTIVE LIS ENROLLMENT BENE-  
12 FICIARY.—

13 (A) IN GENERAL.—The term “retroactive  
14 LIS enrollment beneficiary” means an indi-  
15 vidual who—

16 (i) is enrolled in a prescription drug  
17 plan under part D of title XVIII of the So-  
18 cial Security Act (or an MA–PD plan  
19 under part C of such title) and subse-  
20 quently becomes eligible as a full-benefit  
21 dual eligible individual (as defined in sec-  
22 tion 1935(c)(6) of such Act), an individual  
23 receiving a low-income subsidy under sec-  
24 tion 1860D–14 of such Act, an individual  
25 receiving assistance under the Medicare

1 Savings Program implemented under  
2 clauses (i), (ii), (iii), and (iv) of section  
3 1902(a)(10)(E) of such Act, or an indi-  
4 vidual receiving assistance under the sup-  
5 plemental security income program under  
6 section 1611 of such Act; or

7 (ii) subject to subparagraph (B)(i), is  
8 a full-benefit dual eligible individual (as  
9 defined in section 1935(c)(6) of such Act)  
10 who is automatically enrolled in such a  
11 plan under section 1860D–1(b)(1)(C) of  
12 such Act.

13 (B) EXCEPTION FOR BENEFICIARIES EN-  
14 ROLLED IN RFP PLAN.—

15 (i) IN GENERAL.—In no case shall an  
16 individual described in subparagraph  
17 (A)(ii) include an individual who is en-  
18 rolled, pursuant to a RFP contract de-  
19 scribed in clause (ii), in a prescription  
20 drug plan offered by the sponsor of such  
21 plan awarded such contract.

22 (ii) RFP CONTRACT DESCRIBED.—  
23 The RFP contract described in this section  
24 is a contract entered into between the Sec-  
25 retary and a sponsor of a prescription drug

1                   plan pursuant to the Centers for Medicare  
2                   & Medicaid Services' request for proposals  
3                   issued on February 17, 2009, relating to  
4                   Medicare part D retroactive coverage for  
5                   certain low income beneficiaries, or a simi-  
6                   lar subsequent request for proposals.

7           (f) GAO REPORT.—Not later than 24 months after  
8 the date of the enactment of this Act, the Comptroller  
9 General of the United States shall submit to Congress a  
10 report on the extent to which the provisions of this section  
11 improve reimbursement for covered drug costs to retro-  
12 active LIS enrollment beneficiaries and lower the amounts  
13 of payments made by the Secretary, with respect to such  
14 beneficiaries, to prescription drug plans under part D of  
15 title XVIII of the Social Security Act (and MA–PD plans  
16 under part C of such title).

17           (g) REPORT TO CONGRESS.—In the case that an  
18 RFP contract described in subsection (e)(4)(B)(ii) is  
19 awarded, not later than two years after the effective date  
20 of such contract, the Secretary of Health and Human  
21 Services shall submit to Congress a report evaluating the  
22 program carried out through such contract.

23           (h) EFFECTIVE DATE.—Paragraphs (2) and (3) of  
24 subsection (a) and subsections (b) and (c) shall apply to

1 subsidy determinations made on or after the date that is  
2 3 months after the date of the enactment of this Act.

3 **SEC. 4. MODIFICATION OF RESOURCE STANDARDS FOR DE-**  
4 **TERMINATION OF ELIGIBILITY FOR LOW-IN-**  
5 **COME SUBSIDY; SIMPLIFICATION OF INCOME**  
6 **AND ASSET RULES.**

7 (a) SINGLE AND INCREASED RESOURCE STANDARD  
8 FOR LOW-INCOME SUBSIDIES.—Section 1860D–14(a) of  
9 the Social Security Act (42 U.S.C. 1395w–114(a)) is  
10 amended—

11 (1) in paragraph (1), by inserting “(or, for  
12 years after 2010, paragraph (3)(E))” after “para-  
13 graph (3)(D)”;

14 (2) in paragraph (3)—

15 (A) in subparagraph (A)(iii), by inserting  
16 “(or for a year after 2010, subparagraph (E))”  
17 before the period;

18 (B) in subparagraph (D)(ii), by inserting  
19 “before 2011” after “subsequent year”; and

20 (C) in subparagraph (E)(i)—

21 (i) by striking “and” at the end of  
22 subclause (I);

23 (ii) in subclause (II)—

1 (I) by striking “a subsequent  
2 year” and inserting “each of 2007  
3 through 2010”;

4 (II) by striking the period at the  
5 end and inserting a semicolon;

6 (iii) by inserting after subclause (II)  
7 the following new subclauses:

8 “(III) for 2011, \$27,500 (or  
9 \$55,000 in the case of the combined  
10 value of the individual’s assets or re-  
11 sources and the assets or resources of  
12 the individual’s spouse); and

13 “(IV) for a subsequent year the  
14 dollar amounts specified in this clause  
15 for the previous year increased by the  
16 annual percentage increase in the con-  
17 sumer price index (all items; U.S. city  
18 average) as of September of such pre-  
19 vious year.”; and

20 (iv) in the last sentence, by inserting  
21 “or (IV)” after “subclause (II)”.

22 (b) EXEMPTIONS FROM RESOURCES.—

23 (1) IN GENERAL.—Section 1860D–14(a)(3) of  
24 the Social Security Act (42 U.S.C. 1395w–114(a)(3))  
25 is further amended—

1 (A) in subparagraphs (D) and (E), by in-  
2 serting “and the retirement plan exclusion  
3 under subparagraph (H)” after “subparagraph  
4 (G)” each place it appears; and

5 (B) by adding at the end the following new  
6 subparagraph:

7 “(H) RETIREMENT BENEFIT EXCLU-  
8 SION.—In determining the resources of an indi-  
9 vidual (and their eligible spouse, if any) under  
10 section 1613 for purposes of subparagraphs (D)  
11 and (E), no retirement benefit, such as an indi-  
12 vidual retirement account or plan under section  
13 401(k) of the Internal Revenue Code of 1986,  
14 shall be taken into account.”.

15 (2) EFFECTIVE DATE.—The amendments made  
16 by paragraph (1) shall apply for months beginning  
17 after 2011.

18 (c) CLARIFICATION RELATING TO INCLUDING RE-  
19 TIREMENT BENEFITS AS INCOME.—Nothing in subpara-  
20 graph (H) of section 1860D–14(a)(3) of the Social Secu-  
21 rity Act (42 U.S.C. 1395w–114(a)(3)), as added by sub-  
22 section (b), shall be construed as affecting the inclusion  
23 of retirement benefits as income under section  
24 1612(a)(2)(B) of such Act (42 U.S.C. 1382a(a)(2)(B)).



1 (d) CLARIFICATION RELATING TO MIPPA EFFEC-  
2 TIVE DATE FOR IN KIND EXCLUSIONS FROM INCOME.—  
3 Section 116(b) of the Medicare Improvements for Patients  
4 and Providers Act of 2008 is amended—

5 (1) by inserting “(other than subsection  
6 (a)(1))” after “this section”; and

7 (2) by adding at the end the following new sen-  
8 tence: “The amendment made by subsection (a)(1)  
9 shall take effect with respect to benefits provided  
10 after such date.”.

11 (e) INCREASING INCOME LIMITS FOR PARTIAL LIS  
12 ELIGIBILITY TO 200 PERCENT FPL AND FOR FULL LIS  
13 TO 150 PERCENT FPL.—

14 (1) IN GENERAL.—Section 1860D–14(a) of the  
15 Social Security Act (42 U.S.C. 1395w–114(a)) is  
16 amended—

17 (A) in the heading, by striking “150” and  
18 inserting “200”;

19 (B) in paragraph (1)—

20 (i) in the heading, by striking “135”  
21 and inserting “150”; and

22 (ii) by striking “135” and inserting  
23 “150”;

24 (C) in paragraph (2)—

1 (i) in the heading, by striking “150”  
2 and inserting “200”; and

3 (ii) in subparagraph (A), by striking  
4 “135” and “150” and inserting “150” and  
5 “200”, respectively; and

6 (D) in paragraph (3)(A)(ii), by striking  
7 “150” and inserting “200”.

8 (2) EFFECTIVE DATE.—The amendments made  
9 by paragraph (1) shall apply to determinations made  
10 on or after January 1, 2011.

11 **SEC. 5. INDEXING DEDUCTIBLE AND COST-SHARING ABOVE**  
12 **ANNUAL OUT-OF-POCKET THRESHOLD FOR**  
13 **INDIVIDUALS WITH INCOME BELOW 200 PER-**  
14 **CENT OF POVERTY LINE.**

15 (a) INDEXING DEDUCTIBLE.—Section 1860D–  
16 14(a)(4)(B) of the Social Security Act (42 U.S.C. 1395w–  
17 114(a)(4)(B)) is amended—

18 (1) in clause (i), by striking “or”;

19 (2) in clause (ii)—

20 (A) by striking “a subsequent year” and  
21 inserting “2008, 2009, and 2010”; and

22 (B) by striking the period at the end and  
23 inserting “; and”;

24 (3) by inserting after clause (ii) the following  
25 new clause:

1           “(iii) for 2011 and each succeeding  
2           year, the amount determined under this  
3           clause (or clause (ii)) for the previous year  
4           increased by the annual percentage in-  
5           crease in the consumer price index (all  
6           items; U.S. city average) as of September  
7           of such previous year.”; and

8           (4) in the last sentence, by striking “clause (i)  
9           or (ii)” and inserting “clause (i), (ii), or (iii)”.

10          (b) INDEXING COST-SHARING.—Section 1860D–  
11 14(a) of the Social Security Act (42 U.S.C. 1395w–  
12 114(a)) is amended—

13           (1) in paragraph (1)(D)(iii), by striking “exceed  
14           the copayment amount” and all that follows through  
15           the period at the end and inserting “exceed—

16                   “(I) for each of 2006 through  
17                   2010, the copayment amount specified  
18                   under section 1860D–2(b)(4)(A)(i)(I)  
19                   for the drug and year involved; and

20                   “(II) for 2011 and each suc-  
21                   ceeding year, the amount determined  
22                   under this subparagraph for the pre-  
23                   vious year increased by the annual  
24                   percentage increase in the consumer  
25                   price index (all items; U.S. city aver-

1                   age) as of September of such previous  
2                   year.”; and

3                   (2) in paragraph (2)(E), by striking “exceed  
4                   the copayment or coinsurance amount” and all that  
5                   follows through the period at the end and inserting  
6                   “exceed—

7                   “ (i) for each of 2006 through 2010,  
8                   the copayment or coinsurance amount  
9                   specified under section 1860D–  
10                  2(b)(4)(A)(i)(I) for the drug and year in-  
11                  volved; and

12                  “ (ii) for 2011 and each succeeding  
13                  year, the amount determined under this  
14                  clause for the previous year increased by  
15                  the annual percentage increase in the con-  
16                  sumer price index (all items; U.S. city av-  
17                  erage) as of September of such previous  
18                  year.”.

19 **SEC. 6. NO IMPACT ON ELIGIBILITY FOR BENEFITS UNDER**  
20 **OTHER PROGRAMS.**

21                  (a) **IN GENERAL.**—Section 1860D–14(a)(3) of the  
22 Social Security Act (42 U.S.C. 1395w–114(a)(3)), as  
23 amended by section 4(b)(1)(B), is further amended—

1 (1) in subparagraph (A), in the matter pre-  
2 ceding clause (i), by striking “subparagraph (F)”  
3 and inserting “subparagraphs (F) and (I)”; and

4 (2) by adding at the end the following new sub-  
5 paragraph:

6 “(I) NO IMPACT ON ELIGIBILITY FOR BEN-  
7 EFITS UNDER OTHER PROGRAMS.—The avail-  
8 ability of premium and cost-sharing subsidies  
9 under this section shall not be treated as bene-  
10 fits or otherwise taken into account in deter-  
11 mining an individual’s eligibility for, or the  
12 amount of benefits under, any other Federal  
13 program.”.

14 (b) EFFECTIVE DATE.—The amendments made by  
15 subsection (a) shall apply to premium and cost-sharing  
16 subsidies for months beginning after the date of the enact-  
17 ment of this Act.

18 **SEC. 7. REQUIRING INDIVIDUALS ELIGIBLE FOR MEDICARE**  
19 **SAVINGS PROGRAMS TO BE DEEMED TO BE**  
20 **SUBSIDY ELIGIBLE INDIVIDUALS.**

21 (a) IN GENERAL.—Section 1860D–14(a)(3)(B)(v) of  
22 the Social Security Act (42 U.S.C. 1395w–  
23 114(a)(3)(B)(v)) is amended—

24 (1) in subclause (II)—

1 (A) by striking “may” and inserting  
2 “shall”; and

3 (B) by inserting “(ii),” after “clause (i),”;  
4 and

5 (2) by striking the second sentence.

6 (b) **EFFECTIVE DATE.**—The amendment made by  
7 subsection (a) shall take effect as of the date of the enact-  
8 ment of this Act and apply to determinations made for  
9 purposes of title XIX on or after the first date of the first  
10 plan year beginning after the date of the enactment of  
11 this Act.

12 **SEC. 8. SPECIAL ENROLLMENT PERIOD FOR SUBSIDY ELI-**  
13 **GIBLE INDIVIDUALS.**

14 (a) **IN GENERAL.**—Section 1860D–1(b)(3) of the So-  
15 cial Security Act (42 U.S.C. 1395w–101(b)(3)) is amend-  
16 ed by adding at the end the following new subparagraph:

17 “(F) **ELIGIBILITY FOR LOW-INCOME SUB-**  
18 **SIDY.**—

19 “(i) **IN GENERAL.**—In the case of an  
20 applicable subsidy eligible individual (as  
21 defined in clause (ii)), the special enroll-  
22 ment period described in clause (iii).

23 “(ii) **APPLICABLE SUBSIDY ELIGIBLE**  
24 **INDIVIDUAL DEFINED.**—For purposes of  
25 this subparagraph, the term ‘applicable

1           subsidy eligible individual’ means a part D  
2           eligible individual who is not described in  
3           subparagraph (D) and who is determined  
4           under subparagraph (B) of section  
5           1860D–14(a)(3) to be a subsidy eligible in-  
6           dividual (as defined in subparagraph (A) of  
7           such section), including such an individual  
8           who was enrolled in a prescription drug  
9           plan or an MA–PD plan on the date of  
10          such determination.

11           “(iii) SPECIAL ENROLLMENT PERIOD  
12          DESCRIBED.—The special enrollment pe-  
13          riod described in this clause, with respect  
14          to an applicable subsidy eligible individual,  
15          is the period beginning on the date the in-  
16          dividual receives notification that such in-  
17          dividual has been determined under section  
18          1860D–14(a)(3)(B) to be a subsidy eligible  
19          individual (as so defined) and ending on  
20          the date the individual is no longer so eligi-  
21          ble.”.

22          (b) EFFECTIVE DATE.—The amendments made by  
23          this section shall apply to subsidy determinations made  
24          for months beginning with January 2010.

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