

107TH CONGRESS
2^D SESSION

H. R. 3612

To amend title XIX of the Social Security Act to provide individuals with disabilities and older Americans with equal access to community-based attendant services and supports, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 23, 2002

Mr. DAVIS of Illinois (for himself and Mr. SHIMKUS) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To amend title XIX of the Social Security Act to provide individuals with disabilities and older Americans with equal access to community-based attendant services and supports, 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 “Medicaid Community-Based Attendant Services and
6 Supports Act of 2002”.

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

Sec. 1. Short title; table of contents.

Sec. 2. Findings and purposes.

TITLE I—ESTABLISHMENT OF MEDICAID PLAN BENEFIT

Sec. 101. Coverage of community-based attendant services and supports under the Medicaid program.

Sec. 102. Enhanced FMAP for ongoing activities of early coverage States that enhance and promote the use of community-based attendant services and supports.

Sec. 103. Increased Federal financial participation for certain expenditures.

TITLE II—PROMOTION OF SYSTEMS CHANGE AND CAPACITY BUILDING

Sec. 201. Grants to promote systems change and capacity building.

Sec. 202. Demonstration project to enhance coordination of care under the Medicare and Medicaid programs for non-elderly dual eligible individuals.

1 **SEC. 2. FINDINGS AND PURPOSES.**

2 (a) FINDINGS.—Congress makes the following find-
3 ings:

4 (1) Long-term services and supports provided
5 under the Medicaid program established under title
6 XIX of the Social Security Act (42 U.S.C. 1396 et
7 seq.) must meet the ability and life choices of indi-
8 viduals with disabilities and older Americans, includ-
9 ing the choice to live in one's own home or with
10 one's own family and to become a productive mem-
11 ber of the community.

12 (2) Research on the provision of long-term serv-
13 ices and supports under the Medicaid program (con-
14 ducted by and on behalf of the Department of
15 Health and Human Services) has revealed a signifi-
16 cant funding bias toward institutional care. Only
17 about 27 percent of long-term care funds expended

1 under the Medicaid program, and only about 9 per-
2 cent of all funds expended under that program, pay
3 for services and supports in home and community-
4 based settings.

5 (3) In the case of Medicaid beneficiaries who
6 need long term care, the only long-term care service
7 currently guaranteed by Federal law in every State
8 is nursing home care. Only 27 States have adopted
9 the benefit option of providing personal care services
10 under the Medicaid program. Although every State
11 has chosen to provide certain services under home
12 and community-based waivers, these services are un-
13 evenly available within and across States, and reach
14 a small percentage of eligible individuals. In fiscal
15 year 2000, only 3 States spent 50 percent or more
16 of their Medicaid long term care funds under the
17 Medicaid program on home and community-based
18 care.

19 (4) Despite the funding bias and the uneven
20 distribution of home and community-based services,
21 2½ times more people are served in home and com-
22 munity-based settings than in institutional settings.

23 (5) The goals of the Nation properly include
24 providing families of children with disabilities, work-

1 ing-age adults with disabilities, and older Americans
2 with—

3 (A) a meaningful choice of receiving long-
4 term services and supports in the most inte-
5 grated setting appropriate to their needs;

6 (B) the greatest possible control over the
7 services received and, therefore, their own lives
8 and futures; and

9 (C) quality services that maximize inde-
10 pendence in the home and community, including
11 in the workplace.

12 (b) PURPOSES.—The purposes of this Act are the fol-
13 lowing:

14 (1) To reform the Medicaid program estab-
15 lished under title XIX of the Social Security Act (42
16 U.S.C. 1396 et seq.) to provide equal access to com-
17 munity-based attendant services and supports.

18 (2) To provide financial assistance to States as
19 they reform their long-term care systems to provide
20 comprehensive statewide long-term services and sup-
21 ports, including community-based attendant services
22 and supports that provide consumer choice and di-
23 rection, in the most integrated setting appropriate.

1 **TITLE I—ESTABLISHMENT OF**
2 **MEDICAID PLAN BENEFIT**

3 **SEC. 101. COVERAGE OF COMMUNITY-BASED ATTENDANT**
4 **SERVICES AND SUPPORTS UNDER THE MED-**
5 **ICAID PROGRAM.**

6 (a) MANDATORY COVERAGE.—Section
7 1902(a)(10)(D) of the Social Security Act (42 U.S.C.
8 1396a(a)(10)(D)) is amended—

- 9 (1) by inserting “(i)” after “(D)”;
- 10 (2) by adding “and” after the semicolon; and
- 11 (3) by adding at the end the following new
12 clause:

13 “(ii) subject to section 1935, for the inclu-
14 sion of community-based attendant services and
15 supports for any individual who—

16 “(I) is eligible for medical assistance
17 under the State plan;

18 “(II) with respect to whom there has
19 been a determination that the individual
20 requires the level of care provided in a
21 nursing facility or an intermediate care fa-
22 cility for the mentally retarded (whether or
23 not coverage of such intermediate care fa-
24 cility is provided under the State plan);
25 and

1 “(III) who chooses to receive such
2 services and supports;”.

3 (b) COMMUNITY-BASED ATTENDANT SERVICES AND
4 SUPPORTS.—

5 (1) IN GENERAL.—Title XIX of the Social Se-
6 curity Act (42 U.S.C. 1396 et seq.) is amended—

7 (A) by redesignating section 1935 as sec-
8 tion 1936; and

9 (B) by inserting after section 1934 the fol-
10 lowing:

11 “COMMUNITY-BASED ATTENDANT SERVICES AND
12 SUPPORTS

13 “SEC. 1935. (a) REQUIRED COVERAGE.—

14 “(1) IN GENERAL.—Not later than October 1,
15 2006, a State shall provide through a plan amend-
16 ment for the inclusion of community-based attendant
17 services and supports (as defined in subsection
18 (g)(1)) for individuals described in section
19 1902(a)(10)(D)(ii) in accordance with this section.

20 “(2) ENHANCED FMAP AND ADDITIONAL FED-
21 ERAL FINANCIAL SUPPORT FOR EARLIER COV-
22 ERAGE.—Notwithstanding section 1905(b), during
23 the period that begins on or after October 1, 2002,
24 and ends on September 30, 2006, in the case of a
25 State with an approved plan amendment under this
26 section during that period that also satisfies the re-

1 requirements of subsection (c) the Federal medical as-
2 sistance percentage shall be equal to the enhanced
3 FMAP described in section 2105(b) with respect to
4 medical assistance in the form of community-based
5 attendant services and supports provided to individ-
6 uals described in section 1902(a)(10)(D)(ii) in ac-
7 cordance with this section.

8 “(b) DEVELOPMENT AND IMPLEMENTATION OF BEN-
9 EFIT.—In order for a State plan amendment to be ap-
10 proved under this section, a State shall provide the Sec-
11 retary with the following assurances:

12 “(1) ASSURANCE OF DEVELOPMENT AND IM-
13 PLEMENTATION COLLABORATION.—That the State
14 has developed and shall implement the provision of
15 community-based attendant services and supports
16 under the State plan through active collaboration
17 with—

18 “(A) individuals with disabilities;

19 “(B) elderly individuals;

20 “(C) representatives of such individuals;

21 and

22 “(D) providers of, and advocates for, serv-
23 ices and supports for such individuals.

24 “(2) ASSURANCE OF PROVISION ON A STATE-
25 WIDE BASIS AND IN MOST INTEGRATED SETTING.—

1 That community-based attendant services and sup-
2 ports will be provided under the State plan to indi-
3 viduals described in section 1902(a)(10)(D)(ii) on a
4 statewide basis and in a manner that provides such
5 services and supports in the most integrated setting
6 appropriate for each individual eligible for such serv-
7 ices and supports.

8 “(3) ASSURANCE OF NONDISCRIMINATION.—
9 That the State will provide community-based attend-
10 ant services and supports to an individual described
11 in section 1902(a)(10)(D)(ii) without regard to the
12 individual’s age, type of disability, or the form of
13 community-based attendant services and supports
14 that the individual requires in order to lead an inde-
15 pendent life.

16 “(4) ASSURANCE OF MAINTENANCE OF EF-
17 FORT.—That the level of State expenditures for op-
18 tional medical assistance that—

19 “(A) is described in a paragraph other
20 than paragraphs (1) through (5), (17) and (21)
21 of section 1905(a) or that is provided under a
22 waiver under section 1915, section 1115, or
23 otherwise; and

24 “(B) is provided to individuals with disabili-
25 ties or elderly individuals for a fiscal year,

1 shall not be less than the level of such expenditures
2 for the fiscal year preceding the fiscal year in which
3 the State plan amendment to provide community-
4 based attendant services and supports in accordance
5 with this section is approved.

6 “(c) REQUIREMENTS FOR ENHANCED FMAP FOR
7 EARLY COVERAGE.—In addition to satisfying the other re-
8 quirements for an approved plan amendment under this
9 section, in order for a State to be eligible under subsection
10 (a)(2) during the period described in that subsection for
11 the enhanced FMAP for early coverage under subsection
12 (a)(2), the State shall satisfy the following requirements:

13 “(1) SPECIFICATIONS.—With respect to a fiscal
14 year, the State shall provide the Secretary with the
15 following specifications regarding the provision of
16 community-based attendant services and supports
17 under the plan for that fiscal year:

18 “(A)(i) The number of individuals who are
19 estimated to receive community-based attendant
20 services and supports under the plan during the
21 fiscal year.

22 “(ii) The number of individuals that re-
23 ceived such services and supports during the
24 preceding fiscal year.

1 “(B) The maximum number of individuals
2 who will receive such services and supports
3 under the plan during that fiscal year.

4 “(C) The procedures the State will imple-
5 ment to ensure that the models for delivery of
6 such services and supports are consumer con-
7 trolled (as defined in subsection (g)(2)(B)).

8 “(D) The procedures the State will imple-
9 ment to inform all potentially eligible individ-
10 uals and relevant other individuals of the avail-
11 ability of such services and supports under the
12 this title, and of other items and services that
13 may be provided to the individual under this
14 title or title XVIII.

15 “(E) The procedures the State will imple-
16 ment to ensure that such services and supports
17 are provided in accordance with the require-
18 ments of subsection (b)(1).

19 “(F) The procedures the State will imple-
20 ment to actively involve individuals with disabil-
21 ities, elderly individuals, and representatives of
22 such individuals in the design, delivery, admin-
23 istration, and evaluation of the provision of
24 such services and supports under this title.

1 “(2) PARTICIPATION IN EVALUATIONS.—The
2 State shall provide the Secretary with such sub-
3 stantive input into, and participation in, the design
4 and conduct of data collection, analyses, and other
5 qualitative or quantitative evaluations of the provi-
6 sion of community-based attendant services and sup-
7 ports under this section as the Secretary deems nec-
8 essary in order to determine the effectiveness of the
9 provision of such services and supports in allowing
10 the individuals receiving such services and supports
11 to lead an independent life to the maximum extent
12 possible.

13 “(d) QUALITY ASSURANCE PROGRAM.—

14 “(1) STATE RESPONSIBILITIES.—In order for a
15 State plan amendment to be approved under this
16 section, a State shall establish and maintain a qual-
17 ity assurance program with respect to community-
18 based attendant services and supports that provides
19 for the following:

20 “(A) The State shall establish require-
21 ments, as appropriate, for agency-based and
22 other delivery models that include—

23 “(i) minimum qualifications and train-
24 ing requirements for agency-based and
25 other models;

1 “(ii) financial operating standards;
2 and

3 “(iii) an appeals procedure for eligi-
4 bility denials and a procedure for resolving
5 disagreements over the terms of an individ-
6 ualized plan.

7 “(B) The State shall modify the quality as-
8 surance program, as appropriate, to maximize
9 consumer independence and consumer control
10 in both agency-provided and other delivery mod-
11 els.

12 “(C) The State shall provide a system that
13 allows for the external monitoring of the quality
14 of services and supports by entities consisting
15 of consumers and their representatives, dis-
16 ability organizations, providers, families of dis-
17 abled or elderly individuals, members of the
18 community, and others.

19 “(D) The State shall provide for ongoing
20 monitoring of the health and well-being of each
21 individual who receives community-based at-
22 tendant services and supports.

23 “(E) The State shall require that quality
24 assurance mechanisms appropriate for the indi-

1 individual be included in the individual’s written
2 plan.

3 “(F) The State shall establish a process
4 for the mandatory reporting, investigation, and
5 resolution of allegations of neglect, abuse, or ex-
6 ploitation in connection with the provision of
7 such services and supports.

8 “(G) The State shall obtain meaningful
9 consumer input, including consumer surveys,
10 that measure the extent to which an individual
11 receives the services and supports described in
12 the individual’s plan and the individual’s satis-
13 faction with such services and supports.

14 “(H) The State shall make available to the
15 public the findings of the quality assurance pro-
16 gram.

17 “(I) The State shall establish an ongoing
18 public process for the development, implementa-
19 tion, and review of the State’s quality assurance
20 program.

21 “(J) The State shall develop and imple-
22 ment a program of sanctions for providers of
23 community-based services and supports that
24 violate the terms or conditions for the provision
25 of such services and supports.

1 “(2) FEDERAL RESPONSIBILITIES.—

2 “(A) PERIODIC EVALUATIONS.—The Sec-
3 retary shall conduct a periodic sample review of
4 outcomes for individuals who receive commu-
5 nity-based attendant services and supports
6 under this title.

7 “(B) INVESTIGATIONS.—The Secretary
8 may conduct targeted reviews and investiga-
9 tions upon receipt of an allegation of neglect,
10 abuse, or exploitation of an individual receiving
11 community-based attendant services and sup-
12 ports under this section.

13 “(C) DEVELOPMENT OF PROVIDER SANC-
14 TION GUIDELINES.—The Secretary shall de-
15 velop guidelines for States to use in developing
16 the sanctions required under paragraph (1)(J).

17 “(e) REPORTS.—The Secretary shall submit to Con-
18 gress periodic reports on the provision of community-based
19 attendant services and supports under this section, par-
20 ticularly with respect to the impact of the provision of
21 such services and supports on—

22 “(1) individuals eligible for medical assistance
23 under this title;

24 “(2) States; and

25 “(3) the Federal Government.

1 “(f) NO EFFECT ON ABILITY TO PROVIDE COV-
2 ERAGE UNDER A WAIVER.—

3 “(1) IN GENERAL.—Nothing in this section
4 shall be construed as affecting the ability of a State
5 to provide coverage under the State plan for commu-
6 nity-based attendant services and supports (or simi-
7 lar coverage) under a waiver approved under section
8 1915, section 1115, or otherwise.

9 “(2) ELIGIBILITY FOR ENHANCED MATCH.—In
10 the case of a State that provides coverage for such
11 services and supports under a waiver, the State shall
12 not be eligible under subsection (a)(2) for the en-
13 hanced FMAP for the early provision of such cov-
14 erage unless the State submits a plan amendment to
15 the Secretary that meets the requirements of this
16 section.

17 “(g) DEFINITIONS.—In this title:

18 “(1) COMMUNITY-BASED ATTENDANT SERVICES
19 AND SUPPORTS.—

20 “(A) IN GENERAL.—The term ‘community-
21 based attendant services and supports’ means
22 attendant services and supports furnished to an
23 individual, as needed, to assist in accomplishing
24 activities of daily living, instrumental activities
25 of daily living, and health-related functions

1 through hands-on assistance, supervision, or
2 cueing—

3 “(i) under a plan of services and sup-
4 ports that is based on an assessment of
5 functional need and that is agreed to by
6 the individual or, as appropriate, the indi-
7 vidual’s representative;

8 “(ii) in a home or community setting,
9 which may include a school, workplace, or
10 recreation or religious facility, but does not
11 include a nursing facility or an inter-
12 mediate care facility for the mentally re-
13 tarded;

14 “(iii) under an agency-provider model
15 or other model (as defined in paragraph
16 (2)(C)); and

17 “(iv) the furnishing of which is se-
18 lected, managed, and dismissed by the in-
19 dividual, or, as appropriate, with assistance
20 from the individual’s representative.

21 “(B) INCLUDED SERVICES AND SUP-
22 PORTS.—Such term includes—

23 “(i) tasks necessary to assist an indi-
24 vidual in accomplishing activities of daily

1 living, instrumental activities of daily liv-
2 ing, and health-related functions;

3 “(ii) the acquisition, maintenance, and
4 enhancement of skills necessary for the in-
5 dividual to accomplish activities of daily
6 living, instrumental activities of daily liv-
7 ing, and health-related functions;

8 “(iii) backup systems or mechanisms
9 (such as the use of beepers) to ensure con-
10 tinuity of services and supports; and

11 “(iv) voluntary training on how to se-
12 lect, manage, and dismiss attendants.

13 “(C) EXCLUDED SERVICES AND SUP-
14 PORTS.—Subject to subparagraph (D), such
15 term does not include—

16 “(i) the provision of room and board
17 for the individual;

18 “(ii) special education and related
19 services provided under the Individuals
20 with Disabilities Education Act and voca-
21 tional rehabilitation services provided
22 under the Rehabilitation Act of 1973;

23 “(iii) assistive technology devices and
24 assistive technology services;

25 “(iv) durable medical equipment; or

1 “(v) home modifications.

2 “(D) FLEXIBILITY IN TRANSITION TO
3 COMMUNITY-BASED HOME SETTING.—Such
4 term may include expenditures for transitional
5 costs, such as rent and utility deposits, first
6 month’s rent and utilities, bedding, basic kitch-
7 en supplies, and other necessities required for
8 an individual to make the transition from a
9 nursing facility or intermediate care facility for
10 the mentally retarded to a community-based
11 home setting where the individual resides.

12 “(2) ADDITIONAL DEFINITIONS.—

13 “(A) ACTIVITIES OF DAILY LIVING.—The
14 term ‘activities of daily living’ includes eating,
15 toileting, grooming, dressing, bathing, and
16 transferring.

17 “(B) CONSUMER CONTROLLED.—The term
18 ‘consumer controlled’ means a method of pro-
19 viding services and supports that allow the indi-
20 vidual, or where appropriate, the individual’s
21 representative, maximum control of the commu-
22 nity-based attendant services and supports, re-
23 gardless of who acts as the employer of record.

24 “(C) DELIVERY MODELS.—

1 “(i) AGENCY-PROVIDER MODEL.—The
2 term ‘agency-provider model’ means, with
3 respect to the provision of community-
4 based attendant services and supports for
5 an individual, a method of providing con-
6 sumer controlled services and supports
7 under which entities contract for the provi-
8 sion of such services and supports.

9 “(ii) OTHER MODELS.—The term
10 ‘other models’ means methods, other than
11 an agency-provider model, for the provision
12 of consumer controlled services and sup-
13 ports. Such models may include the provi-
14 sion of vouchers, direct cash payments, or
15 use of a fiscal agent to assist in obtaining
16 services.

17 “(D) HEALTH-RELATED FUNCTIONS.—The
18 term ‘health-related functions’ means functions
19 that can be delegated or assigned by licensed
20 health-care professionals under State law to be
21 performed by an attendant.

22 “(E) INSTRUMENTAL ACTIVITIES OF DAILY
23 LIVING.—The term ‘instrumental activities of
24 daily living’ includes meal planning and prepa-
25 ration, managing finances, shopping for food,

1 clothing, and other essential items, performing
2 essential household chores, communicating by
3 phone and other media, and traveling around
4 and participating in the community.

5 “(F) INDIVIDUAL’S REPRESENTATIVE.—

6 The term ‘individual’s representative’ means a
7 parent, a family member, a guardian, an advo-
8 cate, or an authorized representative of an indi-
9 vidual.”.

10 (c) CONFORMING AMENDMENTS.—

11 (1) MANDATORY BENEFIT.—Section

12 1902(a)(10)(A) of the Social Security Act (42
13 U.S.C. 1396a(a)(10)(A)) is amended, in the matter
14 preceding clause (i), by striking “(17) and (21)” and
15 inserting “(17), (21), and (27)”.

16 (2) DEFINITION OF MEDICAL ASSISTANCE.—

17 Section 1905(a) of the Social Security Act (42
18 U.S.C. 1396d) is amended—

19 (A) by striking “and” at the end of para-
20 graph (26);

21 (B) by redesignating paragraph (27) as
22 paragraph (28); and

23 (C) by inserting after paragraph (26) the
24 following:

1 “(27) community-based attendant services and
2 supports (to the extent allowed and as defined in
3 section 1935); and”.

4 (3) IMD/ICFMR REQUIREMENTS.—Section
5 1902(a)(10)(C)(iv) of the Social Security Act (42
6 U.S.C. 1396a(a)(10)(C)(iv)) is amended by inserting
7 “and (27)” after “(24)”.

8 (d) EFFECTIVE DATES.—

9 (1) IN GENERAL.—Except as provided in para-
10 graph (2), the amendments made by this section
11 (other than the amendment made by subsection
12 (c)(1)) take effect on October 1, 2002, and apply to
13 medical assistance provided for community-based at-
14 tendant services and supports described in section
15 1935 of the Social Security Act furnished on or
16 after that date.

17 (2) MANDATORY BENEFIT.—The amendment
18 made by subsection (c)(1) takes effect on October 1,
19 2006.

1 **SEC. 102. ENHANCED FMAP FOR ONGOING ACTIVITIES OF**
 2 **EARLY COVERAGE STATES THAT ENHANCE**
 3 **AND PROMOTE THE USE OF COMMUNITY-**
 4 **BASED ATTENDANT SERVICES AND SUP-**
 5 **PORTS.**

6 (a) IN GENERAL.—Section 1935 of the Social Secu-
 7 rity Act, as added by section 101(b), is amended—

8 (1) by redesignating subsections (d) through (g)
 9 as subsections (f) through (i), respectively;

10 (2) in subsection (a)(1), by striking “subsection
 11 (g)(1)” and inserting “subsection (i)(1)”;

12 (3) in subsection (a)(2), by inserting “, and
 13 with respect to expenditures described in subsection
 14 (d), the Secretary shall pay the State the amount
 15 described in subsection (d)(1)” before the period;

16 (4) in subsection (c)(1)(C), by striking “sub-
 17 section (g)(2)(B)” and inserting “subsection
 18 (i)(2)(B)”; and

19 (5) by inserting after subsection (c), the fol-
 20 lowing:

21 “(d) INCREASED FEDERAL FINANCIAL PARTICIPA-
 22 TION FOR EARLY COVERAGE STATES THAT MEET CER-
 23 TAIN BENCHMARKS.—

24 “(1) IN GENERAL.—Subject to paragraph (2),
 25 for purposes of subsection (a)(2), the amount and
 26 expenditures described in this subsection are an

1 amount equal to the Federal medical assistance per-
2 centage, increased by 10 percentage points, of the
3 expenditures incurred by the State for the provision
4 or conduct of the services or activities described in
5 paragraph (3).

6 “(2) EXPENDITURE CRITERIA.—A State shall—

7 “(A) develop criteria for determining the
8 expenditures described in paragraph (1) in col-
9 laboration with the individuals and representa-
10 tives described in subsection (b)(1); and

11 “(B) submit such criteria for approval by
12 the Secretary.

13 “(3) SERVICES AND ACTIVITIES DESCRIBED.—

14 For purposes of paragraph (1), the services and ac-
15 tivities described in this subparagraph are the fol-
16 lowing:

17 “(A) One-stop intake, referral, and institu-
18 tional diversion services.

19 “(B) Identifying and remedying gaps and
20 inequities in the State’s current provision of
21 long-term services, particularly those services
22 that are provided based on such factors as age,
23 disability type, ethnicity, income, institutional
24 bias, or other similar factors.

1 “(C) Establishment of consumer participa-
2 tion and consumer governance mechanisms,
3 such as cooperatives and regional service au-
4 thorities, that are managed and controlled by
5 individuals with significant disabilities who use
6 community-based services and supports or their
7 representatives.

8 “(D) Activities designed to enhance the
9 skills, earnings, benefits, supply, career, and fu-
10 ture prospects of workers who provide commu-
11 nity-based attendant services and supports.

12 “(E) Continuous improvement activities
13 that are designed to ensure and enhance the
14 health and well-being of individuals who rely on
15 community-based attendant services and sup-
16 ports, particularly activities involving or initi-
17 ated by consumers of such services and sup-
18 ports or their representatives.

19 “(F) Family support services to augment
20 the efforts of families and friends to enable in-
21 dividuals with disabilities of all ages to live in
22 their own homes and communities.

23 “(G) Health promotion and wellness serv-
24 ices and activities.

1 “(H) Provider recruitment and enhance-
2 ment activities, particularly such activities that
3 encourage the development and maintenance of
4 consumer controlled cooperatives or other small
5 businesses or microenterprises that provide
6 community-based attendant services and sup-
7 ports or related services.

8 “(I) Activities designed to ensure service
9 and systems coordination.

10 “(J) Any other services or activities that
11 the Secretary deems appropriate.”.

12 (b) **EFFECTIVE DATE.**—The amendments made by
13 subsection (a) take effect on October 1, 2002.

14 **SEC. 103. INCREASED FEDERAL FINANCIAL PARTICIPATION**
15 **FOR CERTAIN EXPENDITURES.**

16 (a) **IN GENERAL.**—Section 1935 of the Social Secu-
17 rity Act, as added by section 101(b) and amended by sec-
18 tion 102, is amended by inserting after subsection (d) the
19 following:

20 “(e) **INCREASED FEDERAL FINANCIAL PARTICIPA-**
21 **TION FOR CERTAIN EXPENDITURES.**—

22 “(1) **ELIGIBILITY FOR PAYMENT.**—

23 “(A) **IN GENERAL.**—In the case of a State
24 that the Secretary determines satisfies the re-
25 quirements of subparagraph (B), the Secretary

1 shall pay the State the amounts described in
2 paragraph (2) in addition to any other pay-
3 ments provided for under section 1903 or this
4 section for the provision of community-based at-
5 tendant services and supports.

6 “(B) REQUIREMENTS.—The requirements
7 of this subparagraph are the following:

8 “(i) The State has an approved plan
9 amendment under this section.

10 “(ii) The State has incurred expendi-
11 tures described in paragraph (2).

12 “(iii) The State develops and submits
13 to the Secretary criteria to identify and se-
14 lect such expenditures in accordance with
15 the requirements of paragraph (3).

16 “(iv) The Secretary determines that
17 payment of the applicable percentage of
18 such expenditures (as determined under
19 paragraph (2)(B)) would enable the State
20 to provide a meaningful choice of receiving
21 community-based services and supports to
22 individuals with disabilities and elderly in-
23 dividuals who would otherwise only have
24 the option of receiving institutional care.

1 “(2) AMOUNTS AND EXPENDITURES DE-
2 SCRIBED.—

3 “(A) EXPENDITURES IN EXCESS OF 150
4 PERCENT OF BASELINE AMOUNT.—The
5 amounts and expenditures described in this
6 paragraph are an amount equal to the applica-
7 ble percentage, as determined by the Secretary
8 in accordance with subparagraph (B), of the ex-
9 penditures incurred by the State for the provi-
10 sion of community-based attendant services and
11 supports to an individual that exceed 150 per-
12 cent of the average cost of providing nursing fa-
13 cility services to an individual who resides in
14 the State and is eligible for such services under
15 this title, as determined in accordance with cri-
16 teria established by the Secretary.

17 “(B) APPLICABLE PERCENTAGE.—The
18 Secretary shall establish a payment scale for
19 the expenditures described in subparagraph (A)
20 so that the Federal financial participation for
21 such expenditures gradually increases from 70
22 percent to 90 percent as such expenditures in-
23 crease.

1 “(3) SPECIFICATION OF ORDER OF SELECTION
2 FOR EXPENDITURES.—In order to receive the
3 amounts described in paragraph (2), a State shall—

4 “(A) develop, in collaboration with the in-
5 dividuals and representatives described in sub-
6 section (b)(1) and pursuant to guidelines estab-
7 lished by the Secretary, criteria to identify and
8 select the expenditures submitted under that
9 paragraph; and

10 “(B) submit such criteria to the Sec-
11 retary.”.

12 (b) EFFECTIVE DATE.—The amendment made by
13 subsection (a) takes effect on October 1, 2002.

14 **TITLE II—PROMOTION OF SYS-**
15 **TEMS CHANGE AND CAPACITY**
16 **BUILDING**

17 **SEC. 201. GRANTS TO PROMOTE SYSTEMS CHANGE AND CA-**
18 **PACITY BUILDING.**

19 (a) AUTHORITY TO AWARD GRANTS.—

20 (1) IN GENERAL.—The Secretary of Health and
21 Human Services (in this section referred to as the
22 “Secretary”) shall award grants to eligible States to
23 carry out the activities described in subsection (b).

24 (2) APPLICATION.—In order to be eligible for a
25 grant under this section, a State shall submit to the

1 Secretary an application in such form and manner,
2 and that contains such information, as the Secretary
3 may require.

4 (b) PERMISSIBLE ACTIVITIES.—A State that receives
5 a grant under this section may use funds provided under
6 the grant for any of the following activities, focusing on
7 areas of need identified by the State and the Consumer
8 Task Force established under subsection (c):

9 (1) The development and implementation of the
10 provision of community-based attendant services and
11 supports under section 1935 of the Social Security
12 Act (as added by section 101(b) and amended by
13 sections 102 and 103) through active collaboration
14 with—

15 (A) individuals with disabilities;

16 (B) elderly individuals;

17 (C) representatives of such individuals; and

18 (D) providers of, and advocates for, serv-
19 ices and supports for such individuals.

20 (2) Substantially involving individuals with sig-
21 nificant disabilities and representatives of such indi-
22 viduals in jointly developing, implementing, and con-
23 tinually improving a mutually acceptable comprehen-
24 sive, effectively working statewide plan for pre-

1 venting and alleviating unnecessary institutionaliza-
2 tion of such individuals.

3 (3) Engaging in system change and other ac-
4 tivities deemed necessary to achieve any or all of the
5 goals of such statewide plan.

6 (4) Identifying and remedying disparities and
7 gaps in services to classes of individuals with disabil-
8 ities and elderly individuals who are currently expe-
9 riencing or who face substantial risk of unnecessary
10 institutionalization.

11 (5) Building and expanding system capacity to
12 offer quality consumer controlled community-based
13 services and supports to individuals with disabilities
14 and elderly individuals, including by—

15 (A) seeding the development and effective
16 use of community-based attendant services and
17 supports cooperatives, independent living cen-
18 ters, small businesses, microenterprises and
19 similar joint ventures owned and controlled by
20 individuals with disabilities or representatives of
21 such individuals and community-based attend-
22 ant services and supports workers;

23 (B) enhancing the choice and control indi-
24 viduals with disabilities and elderly individuals
25 exercise, including through their representa-

1 tives, with respect to the personal assistance
2 and supports they rely upon to lead inde-
3 pendent, self-directed lives;

4 (C) enhancing the skills, earnings, benefits,
5 supply, career, and future prospects of workers
6 who provide community-based attendant serv-
7 ices and supports;

8 (D) engaging in a variety of needs assess-
9 ment and data gathering;

10 (E) developing strategies for modifying
11 policies, practices, and procedures that result in
12 unnecessary institutional bias or the
13 overmedicalization of long-term services and
14 supports;

15 (F) engaging in interagency coordination
16 and single point of entry activities;

17 (G) providing training and technical assist-
18 ance with respect to the provision of commu-
19 nity-based attendant services and supports;

20 (H) engaging in—

21 (i) public awareness campaigns;

22 (ii) facility-to-community transitional
23 activities; and

24 (iii) demonstrations of new ap-
25 proaches; and

1 (I) engaging in other systems change ac-
2 tivities necessary for developing, implementing,
3 or evaluating a comprehensive statewide system
4 of community-based attendant services and sup-
5 ports.

6 (6) Ensuring that the activities funded by the
7 grant are coordinated with other efforts to increase
8 personal attendant services and supports,
9 including—

10 (A) programs funded under or amended by
11 the Ticket to Work and Work Incentives Im-
12 provement Act of 1999 (Public Law 106–170;
13 113 Stat. 1860);

14 (B) grants funded under the Families of
15 Children With Disabilities Support Act of 2000
16 (42 U.S.C. 15091 et seq.); and

17 (C) other initiatives designed to enhance
18 the delivery of community-based services and
19 supports to individuals with disabilities and el-
20 derly individuals.

21 (7) Engaging in transition partnership activities
22 with nursing facilities and intermediate care facili-
23 ties for the mentally retarded that utilize and build
24 upon items and services provided to individuals with
25 disabilities or elderly individuals under the Medicaid

1 program under title XIX of the Social Security Act,
2 or by Federal, State, or local housing agencies, inde-
3 pendent living centers, and other organizations con-
4 trolled by consumers or their representatives.

5 (c) CONSUMER TASK FORCE.—

6 (1) ESTABLISHMENT AND DUTIES.—To be eli-
7 gible to receive a grant under this section, each
8 State shall establish a Consumer Task Force (re-
9 ferred to in this subsection as the “Task Force”) to
10 assist the State in the development, implementation,
11 and evaluation of real choice systems change initia-
12 tives.

13 (2) APPOINTMENT.—Members of the Task
14 Force shall be appointed by the Chief Executive Of-
15 ficer of the State in accordance with the require-
16 ments of paragraph (3), after the solicitation of rec-
17 ommendations from representatives of organizations
18 representing a broad range of individuals with dis-
19 abilities, elderly individuals, representatives of such
20 individuals, and organizations interested in individ-
21 uals with disabilities and elderly individuals.

22 (3) COMPOSITION.—

23 (A) IN GENERAL.—The Task Force shall
24 represent a broad range of individuals with dis-
25 abilities from diverse backgrounds and shall in-

1 include representatives from Developmental Dis-
2 abilities Councils, Mental Health Councils,
3 State Independent Living Centers and Councils,
4 Commissions on Aging, organizations that pro-
5 vide services to individuals with disabilities and
6 consumers of long-term services and supports.

7 (B) INDIVIDUALS WITH DISABILITIES.—A
8 majority of the members of the Task Force
9 shall be individuals with disabilities or rep-
10 resentatives of such individuals.

11 (C) LIMITATION.—The Task Force shall
12 not include employees of any State agency pro-
13 viding services to individuals with disabilities
14 other than employees of entities described in
15 the Developmental Disabilities Assistance and
16 Bill of Rights Act of 2000 (42 U.S.C. 15001 et
17 seq.).

18 (d) ANNUAL REPORT.—

19 (1) STATES.—A State that receives a grant
20 under this section shall submit an annual report to
21 the Secretary on the use of funds provided under the
22 grant in such form and manner as the Secretary
23 may require.

1 (2) SECRETARY.—The Secretary shall submit
2 to Congress an annual report on the grants made
3 under this section.

4 (e) AUTHORIZATION OF APPROPRIATIONS.—

5 (1) IN GENERAL.—There is authorized to be
6 appropriated to carry out this section, \$50,000,000
7 for each of fiscal years 2003 through 2005.

8 (2) AVAILABILITY.—Amounts appropriated to
9 carry out this section shall remain available without
10 fiscal year limitation.

11 **SEC. 202. DEMONSTRATION PROJECT TO ENHANCE CO-**
12 **ORDINATION OF CARE UNDER THE MEDI-**
13 **CARE AND MEDICAID PROGRAMS FOR NON-**
14 **ELDERLY DUAL ELIGIBLE INDIVIDUALS.**

15 (a) DEFINITIONS.—In this section:

16 (1) NON-ELDERLY DUALY ELIGIBLE INDI-
17 VIDUAL.—The term “non-elderly dually eligible indi-
18 vidual” means an individual who—

19 (A) has not attained age 65; and

20 (B) is enrolled in the Medicare and Med-
21 icaid programs established under titles XVIII
22 and XIX, respectively, of the Social Security
23 Act (42 U.S.C. 1395 et seq., 1396 et seq.).

1 (2) PROJECT.—The term “project” means the
2 demonstration project authorized to be conducted
3 under this section.

4 (3) SECRETARY.—The term “Secretary” means
5 the Secretary of Health and Human Services.

6 (b) AUTHORITY TO CONDUCT PROJECT.—The Sec-
7 retary shall conduct a project under this section for the
8 purpose of evaluating service coordination and cost-shar-
9 ing approaches with respect to the provision of commu-
10 nity-based services and supports to non-elderly dually eli-
11 gible individuals.

12 (c) REQUIREMENTS.—

13 (1) NUMBER OF PARTICIPANTS.—Not more
14 than 5 States may participate in the project.

15 (2) APPLICATION.—A State that desires to par-
16 ticipate in the project shall submit an application to
17 the Secretary, at such time and in such form and
18 manner as the Secretary shall specify.

19 (3) DURATION.—The project shall be conducted
20 for at least 5, but not more than 10 years.

21 (d) EVALUATION AND REPORT.—

22 (1) EVALUATION.—Not later than 1 year prior
23 to the termination date of the project, the Secretary,
24 in consultation with States participating in the
25 project, representatives of non-elderly dually eligible

1 individuals, and others, shall evaluate the impact
2 and effectiveness of the project.

3 (2) REPORT.—The Secretary shall submit a re-
4 port to Congress that contains the findings of the
5 evaluation conducted under paragraph (1) along
6 with recommendations regarding whether the project
7 should be extended or expanded, and any other legis-
8 lative or administrative actions that the Secretary
9 considers appropriate as a result of the project.

10 (e) AUTHORIZATION OF APPROPRIATIONS.—There
11 are authorized to be appropriated such sums as are nec-
12 essary to carry out this section.

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