

[DISCUSSION DRAFT]

115TH CONGRESS
2^D SESSION

H. R. _____

To amend title XVIII of the Social Security Act to establish a long-term care services and supports benefit as part of the Medicare program, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

M____. _____ introduced the following bill; which was referred to the
Committee on _____

A BILL

To amend title XVIII of the Social Security Act to establish a long-term care services and supports benefit as part of the Medicare program, 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; PURPOSE.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Medicare Long-Term Care Services and Supports Act of
6 2018”.

7 (b) PURPOSE.—The purpose of this Act is to estab-
8 lish a long-term care benefit as part of the Medicare pro-

1 gram for the elderly and individuals with disabilities in
2 order to—

3 (1) assist individuals with functional limitations
4 to maintain their personal and financial independ-
5 ence;

6 (2) protect individuals and families from high
7 out-of-pocket costs;

8 (3) alleviate burdens on family caregivers; and

9 (4) address the unmet health care needs of and
10 provide financial security for those with significant
11 long-term care expenditures.

12 **SEC. 2. ESTABLISHMENT OF LONG-TERM CARE SERVICES**
13 **AND SUPPORTS PROGRAM AS PART OF MEDI-**
14 **CARE.**

15 (a) IN GENERAL.—Title XVIII of the Social Security
16 Act is amended—

17 (1) by redesignating part E as part F; and

18 (2) by inserting after part D the following new
19 part:

20 “PART E—LONG-TERM CARE SERVICES AND SUPPORTS
21 PROGRAM

22 “ELIGIBILITY; ENROLLMENT; COVERAGE

23 “SEC. 1860E–1. (a) ELIGIBILITY; ENROLLMENT;
24 COVERAGE.—

1 “(1) INDIVIDUALS DEEMED ENROLLED AND
2 COVERED.—Each individual who is entitled to bene-
3 fits (or enrolled) under part A and covered under
4 such part for a month beginning with January 2023
5 is deemed to be enrolled in and covered under the
6 program under this part for such month.

7 “(2) TREATMENT OF OTHER INDIVIDUALS.—

8 “(A) OTHER ELIGIBILITY.—Each indi-
9 vidual not described in paragraph (1) who
10 meets the requirements described in subpara-
11 graphs (A), (B), and (C) of section 223(a)(1)
12 and who is a individual described in section
13 7702B(c)(2) of the Internal Revenue Code of
14 1986 is eligible to enroll under this part.

15 “(B) CONTINUOUS OPEN ENROLLMENT.—
16 At any time on or after November 1, 2022, an
17 individual described in subparagraph (A) may
18 enroll under this part in such form and manner
19 as the Secretary shall prescribe by regulations.

20 “(C) COVERAGE.—In the case of an indi-
21 vidual who enrolls under subparagraph (B), the
22 coverage of such individual under this part shall
23 be effective beginning with the second month
24 following the month in which the individual so
25 enrolls.

1 “(b) ENTITLEMENT TO BENEFITS FOR QUALIFIED
2 INDIVIDUALS.—Subject to the succeeding provisions of
3 this part, each individual enrolled under this part who is
4 determined to be a qualified individual under the proce-
5 dures established by the Secretary under subsection (d)
6 is entitled to benefits under section 1860E–2. No benefits
7 shall be available under this part for months before Janu-
8 ary 2023.

9 “(c) QUALIFIED INDIVIDUAL DEFINED.—In this
10 part, the term ‘qualified individual’ means an individual
11 described in section 7702B(c)(2) of the Internal Revenue
12 Code of 1986), such as an individual with substantially
13 reduced functional capacity with respect to communica-
14 tion, social interaction, learning, mobility, self-care, or
15 self-management, who is so described in such section.

16 “(d) DETERMINATION PROCESS.—

17 “(1) IN GENERAL.—Not later than July 1,
18 2022, the Secretary shall establish procedures under
19 which an individual may apply for a determination
20 under this part of whether the individual is a quali-
21 fied individual and, in the case of such an individual,
22 for determining the level of functional limitations for
23 purposes of determining the appropriate level of ben-
24 efits under this part. Such procedures shall include
25 an appeals process and a redetermination process.

1 “(2) EFFECTIVE PERIOD OF DETERMINA-
2 TIONS.—

3 “(A) IN GENERAL.—A determination de-
4 scribed in paragraph (1) that an individual is a
5 qualified individual shall last—

6 “(i) in the case of such a determina-
7 tion that is the first such determination
8 under this part that an individual is a
9 qualified individual, for a period of 2 years;
10 and

11 “(ii) in the case of such a determina-
12 tion that is not a determination described
13 in clause (i), for a period of 1 year.

14 “(B) SPECIAL RULE.—Under rules speci-
15 fied by the Secretary, the Secretary may extend
16 the period specified in subparagraph (A)(ii) for
17 such period (including an indefinite period) as
18 the Secretary specifies, for an individual who,
19 because of the nature of the individual’s func-
20 tional limitations, is unlikely to have an im-
21 provement in such functional limitations.

22 “BENEFITS

23 “SEC. 1860E–2. (a) LTSS BENEFIT FOR QUALIFIED
24 INDIVIDUALS SUBJECT TO WAITING PERIOD **【OR ALTER-**
25 **NATIVE BENEFIT DEDUCTIBLE】**.—

1 “(1) IN GENERAL.—For each day after the
2 waiting period (as specified in subsection (b)(1))
3 that an individual is entitled to benefits under this
4 part [(or, in the case of an eligible individual (as de-
5 fined in subsection (b)(2)(C)) who elects to apply the
6 alternative benefit deductible specified in subsection
7 (b)(2) in lieu of such waiting period, for each day
8 after an individual is determined to be a qualified in-
9 dividual under procedures established by the Sec-
10 retary under section 1860E–1(d) and pays to the
11 Secretary such deductible, while such individual is
12 enrolled under such part)], there shall be paid a
13 cash benefit that, subject to adjustment under para-
14 graph (2), satisfies the following requirements:

15 “(A) MINIMUM REQUIRED AMOUNT.—The
16 benefit amount provides the individual with not
17 less than an amount equal to the average hour-
18 ly cost of a home health aide for five hours a
19 day.

20 “(B) AMOUNT SCALED TO FUNCTIONAL
21 ABILITY.—The benefit amount is varied based
22 on a scale of functional ability, with not less
23 than 2, and not more than 4, benefit level
24 amounts.

25 “(2) ADJUSTMENTS.—

1 “(A) FOR GEOGRAPHIC VARIATION.—The
2 benefit amount described in paragraph (1) shall
3 be adjusted for geographic variation consistent
4 with the area wage adjustment applied under
5 section 1895(b)(4)(A)(ii).

6 “(B) FOR INFLATION.—The benefit
7 amount described in paragraph (1) shall be ad-
8 justed, for months beginning with January
9 2023, for inflation consistent with the applica-
10 ble increase percentage describe in section
11 1895(b)(3)(B).

12 “(b) DEDUCTIBLE.—

13 “(1) APPLICATION OF WAITING PERIOD AS DE-
14 DUCTIBLE.—In this part, the term ‘waiting period’
15 means, with respect to an individual, a continuous
16 period of 2 years—

17 “(A) beginning on the first day of the first
18 month beginning after the date that the indi-
19 vidual is determined to be a qualified individual
20 under procedures established by the Secretary
21 under section 1860E–1(d) and is enrolled under
22 this part; and

23 “(B) during which the individual is so en-
24 rolled.

25 【“(2) ALTERNATIVE BENEFIT DEDUCTIBLE.—】

1 **【“(A) IN GENERAL.—**In this part, the
2 term ‘alternative benefit deductible’ means, with
3 respect to an eligible individual, a fee paid to
4 the Secretary by such individual in an amount
5 specified under subparagraph (B).**】**

6 **【“(B) FEE AMOUNT.—***【Sponsors propose*
7 *to scale to household income level based on such*
8 *amounts as defined by IRC 36(b) with 12 per-*
9 *cent of household income applicable to such in-*
10 *comes over 400 percent of the federal poverty*
11 *level】】*

12 **【“(C) ELIGIBLE INDIVIDUAL DEFINED.—**
13 In this subsection, the term ‘eligible individual’
14 means a qualified individual who is unable to
15 perform (without substantial assistance from
16 another individual) at least 3 activities of daily
17 living (as defined in section 7702B(c)(2)(B) of
18 the Internal Revenue Code of 1986) for a pe-
19 riod of at least 90 days due to a loss of func-
20 tional capacity or who has a severe cognitive
21 impairment.**】**

22 “(c) PAYMENT OF BENEFITS.—

23 “(1) QUALIFIED INDIVIDUAL LONG-TERM CARE
24 BENEFIT ACCOUNT.—

1 “(A) IN GENERAL.—The Secretary shall
2 establish procedures for administering the pro-
3 vision of cash benefits under this part for an in-
4 dividual through payment of the benefit into a
5 Qualified Individual Long-Term Care Benefit
6 Account established by the Secretary on behalf
7 of the individual.

8 “(B) USE OF AMOUNTS IN ACCOUNT.—

9 “(i) IN GENERAL.—Cash benefits paid
10 into a Qualified Individual Long-Term
11 Care Benefit Account of an individual shall
12 be used to purchase certain self-directed
13 medical and nonmedical services and sup-
14 ports (as defined in clause (iii)) that the
15 individual needs to maintain the individ-
16 ual’s independence at home or in the com-
17 munity of the individual’s choice, which
18 can include expenditures for—

19 “(I) home care aides, nursing
20 support, respite care, and personal
21 care assistance services;

22 “(II) housing, home modifica-
23 tions, assistive technology, accessible
24 transportation, and homemaker and
25 home maintenance services; and

1 “(III) care in a skilled nursing
2 facility or other assisted living facility.

3 “(ii) SPECIAL RULE.—The Secretary
4 shall provide for such requirements and
5 limitations as the Secretary determines ap-
6 propriate to prevent abuse and promote ac-
7 countability in the case where a relative of
8 an individual described in clause (i) re-
9 ceives payment out of cash benefits paid
10 into the Qualified Individual Long-Term
11 Care Benefit Account of such individual.

12 “(iii) SELF-DIRECTED MEDICAL AND
13 NONMEDICAL SERVICES AND SUPPORTS.—
14 In this subparagraph, the term ‘self-di-
15 rected medical and nonmedical services
16 and supports’ means medical and nonmed-
17 ical services and supports that are chosen
18 by the individual receiving such services
19 and supports.

20 “(C) CLARIFICATION.—Nothing in the
21 subparagraph (B) shall prevent an eligible ben-
22 eficiary from using cash benefits paid into a
23 Qualified Individual Long-Term Care Benefit
24 Account for obtaining end-of-life assistance with
25 respect to decision making concerning medical

1 care, including the right to accept or refuse
2 medical or surgical treatment and the right to
3 formulate advance directives or other written
4 instructions recognized under State law, such
5 as a living will or durable power of attorney for
6 health care, in the case that an injury or illness
7 causes the individual to be unable to make
8 health care decisions.

9 “(D) ELECTRONIC MANAGEMENT OF
10 FUNDS.—The Secretary shall establish proce-
11 dures for—

12 “(i) crediting an account established
13 on behalf of an individual with the individ-
14 ual’s cash benefit;

15 “(ii) allowing the individual to access
16 such account through debit cards;

17 “(iii) accounting for withdrawals by
18 the individual from such account; and

19 “(iv) ensuring such withdrawals are
20 used in accordance with subparagraph (B).

21 “(2) AUTHORIZED REPRESENTATIVES.—

22 “(A) IN GENERAL.—The Secretary shall
23 establish procedures and requirements [similar
24 to those described in section 807(b)] to allow
25 access to an individual’s cash benefits by an au-

1 thorized representative of the individual on
2 whose behalf such benefits are paid in cases de-
3 termined appropriate by the Secretary.

4 “(B) QUALITY ASSURANCE AND PROTEC-
5 TION AGAINST FRAUD AND ABUSE.—The proce-
6 dures established under subparagraph (A) shall
7 ensure that authorized representatives of indi-
8 viduals comply with standards of conduct estab-
9 lished by the Secretary, including standards re-
10 quiring that such representatives provide qual-
11 ity services on behalf of such individuals, do not
12 have conflicts of interest, and do not misuse
13 benefits paid on behalf of such individuals or
14 otherwise engage in fraud or abuse.

15 “(3) ROLLOVER OPTION FOR LUMP-SUM PAY-
16 MENT.—An individual may elect to—

17 “(A) defer payment of the individual’s cash
18 benefits and to rollover any such deferred bene-
19 fits from month-to-month (not to exceed 3
20 months in a year); and

21 “(B) receive a lump-sum payment of such
22 deferred benefits in an amount of the accrued
23 deferred benefits.

24 “(4) PERIOD FOR DETERMINATION OF ANNUAL
25 BENEFITS.—

1 “(A) IN GENERAL.—The applicable period
2 for determining with respect to an individual
3 the applicable annual benefit and the amount of
4 any accrued deferred benefits is the 12-month
5 period that commences with the first month in
6 which the individual began to receive such cash
7 benefits, and each 12-month period thereafter.

8 “(B) INCLUSION OF INCREASED BENE-
9 FITS.—The Secretary shall establish proce-
10 dures, in consultation with relevant stake-
11 holders, the Centers for Medicare & Medicaid
12 Services, and the Administration for Commu-
13 nity Living, under which cash benefits paid to
14 an individual beneficiary that increase or de-
15 crease as a result of a change in the functional
16 status of the individual before the end of a 12-
17 month benefit period shall be included in the
18 determination of the applicable annual benefit
19 paid to the individual.

20 “(C) RECOUPMENT OF UNPAID, ACCRUED
21 BENEFITS.—

22 “(i) IN GENERAL.—The Secretary , in
23 coordination with the Secretary of the
24 Treasury, shall recoup any accrued bene-
25 fits in the event of—

1 “(I) the death of an individual;

2 or

3 “(II) the failure of the individual
4 to elect under **¶**paragraph (4)(B)**¶** to
5 receive such benefits as a lump-sum
6 payment before the end of the 3-
7 month period in which such benefits
8 accrued.

9 “(ii) PAYMENT INTO LTSS AC-
10 COUNT.—Any benefits recouped in accord-
11 ance with clause (i) shall be paid into the
12 LTSS Account and used for outreach ac-
13 tivities such as advice and benefit manage-
14 ment counseling under subsection (e) and
15 advocacy on behalf of individuals enrolled
16 under this part by entities such as Aging
17 and Disability Resource Centers.

18 “(5) ACCOUNTING FOR EXPENDITURES.—An
19 individual shall, not less than quarterly, submit
20 records of expenditures attributable to the aggregate
21 cash benefit received by the individual during the
22 preceding year.

23 “(6) SUPPLEMENT, NOT SUPPLANT OTHER
24 HEALTH CARE BENEFITS.—Subject to the Medicaid
25 payment rules under paragraph (1)(D), benefits re-

1 received by an individual shall supplement, but not
2 supplant, other health care benefits for which the in-
3 dividual is eligible under Medicaid or any other Fed-
4 erally funded program that provides health care ben-
5 efits or assistance.

6 “(d) NO EFFECT ON ELIGIBILITY FOR OTHER BENE-
7 FITS.—Benefits paid to an individual under this part shall
8 be disregarded for purposes of determining or continuing
9 the eligibility of the individual (or, in the case of medical
10 assistance under title XIX of this Act, the spouse of the
11 individual) for receipt of benefits under any other Federal,
12 State, or locally funded assistance program, including ben-
13 efits paid under titles II, XVI, XVIII, XIX, or XXI of
14 this Act, under the laws administered by the Secretary of
15 Veterans Affairs, under low-income housing assistance
16 programs, under the supplemental nutrition assistance
17 program established under the Food and Nutrition Act of
18 2008 (7 U.S.C. 2011 et seq.), or under [programs admin-
19 istered by State vocational rehabilitation agencies].

20 “(e) ADVICE AND BENEFIT MANAGEMENT COUN-
21 SELING.—The Secretary shall assign a counselor using
22 procedures developed in consultation with the Centers for
23 Medicare & Medicaid Services and the Administration for
24 Community Living to each qualified individual enrolled
25 under this part who shall provide such individual with—

1 “(1) information regarding resources for man-
2 aging assistance received under this part;

3 “(2) assistance with respect to the determina-
4 tion process under section 1860E–1(d) and the ap-
5 peals process under such section;

6 “(3) a description of the benefits available after
7 the waiting period under this part;

8 “(4) information on possible eligibility for other
9 benefits and services;

10 “(5) assistance with respect to the development
11 of a service and support plan;

12 “(6) assistance accessing and coordinating long-
13 term services and supports in the most integrated
14 setting; and

15 “(7) information about programs established
16 under the Assistive Technology Act of 1998 and the
17 services offered under such programs.

18 “(f) PROTECTION AGAINST CONFLICT OF INTER-
19 ESTS.—The Secretary shall establish procedures to ensure
20 that counselors under subsections (e) and any other enti-
21 ties that provide services to individuals enrolled under this
22 part minimize conflicts of interest. Such procedures shall
23 ensure that such counselor or such entity—

24 “(1) provides services in a manner that fosters
25 the best interests of such individual;

1 “(2) establishes procedures designed to avoid or
2 minimize conflicts of interest between the counselor
3 or the entity and such individual;

4 “(3) ensuring that such individual is informed
5 of any financial interest that the counselor or entity
6 has in a service provider;

7 “(4) provides to such individual or such author-
8 ized representative information about all services
9 and options available, to the best of the knowledge
10 of the counselor or entity, including services avail-
11 able through other counselors, entities, or providers;

12 “(5) assists such individual in accessing desired
13 services, regardless of the provider; and

14 “(6) reports the number of such individuals
15 provided with assistance by the counselor or entity
16 by age and disability.

17 “(g) RULE OF CONSTRUCTION.—Nothing in this part
18 shall be construed as prohibiting benefits paid under this
19 part from being used to compensate a family caregiver for
20 providing community living assistance services and sup-
21 ports to an individual entitled to benefits under this part.

22 “LTSS ACCOUNT WITHIN THE SMI TRUST FUND

23 “SEC. 1860E–3. (a) ESTABLISHMENT AND OPER-
24 ATION OF ACCOUNT.—

25 “(1) ESTABLISHMENT.—There is created within
26 the Federal Supplementary Medical Insurance Trust

1 Fund established by section 1841 an account to be
2 known as the ‘LTSS Account’.

3 “(2) APPLICATION OF CERTAIN PROVISIONS.—

4 The provisions of paragraphs (2) and (3) of section
5 1860D–16(a) shall apply to the LTSS Account in
6 the same manner as they apply to the Medicare Pre-
7 scription Drug Account.

8 “(b) PAYMENTS FROM LTSS ACCOUNT.—

9 “(1) IN GENERAL.—The Managing Trustee
10 shall pay from time to time from the LTSS Account
11 such amounts as the Secretary certifies are nec-
12 essary to make payments to operate the program
13 under this part, including—

14 “(A) payments of cash benefits under this
15 part; and

16 “(B) payments with respect to administra-
17 tive expenses under this part in accordance with
18 section 201(g).

19 “(2) TREATMENT IN RELATION TO PART B PRE-
20 MIUM.—Amounts payable from the LTSS Account
21 shall not be taken into account in computing actu-
22 arial rates or premium amounts under part B.

23 “(c) DEPOSITS INTO LTSS ACCOUNT.—

24 [“(1) PAYMENT OF CERTAIN EARMARKED
25 TAXES.—There are hereby appropriated to the Trust

1 Fund established by section 1841 to the credit of
2 the LTSS Account, out of any moneys in the Treas-
3 ury not otherwise appropriated, amounts equivalent
4 to 100 per percent of the following:】

5 【“(A) 【conform to financing section; to be
6 provided】】

7 【The amounts appropriated by the preceding provi-
8 sions of this paragraph shall be transferred from
9 time to time from the general fund in the Treasury
10 to the Trust Fund, such amounts to be determined
11 on the basis of estimates by the Secretary of the
12 Treasury of the taxes, specified in such provisions,
13 paid to or deposited into the Treasury; and proper
14 adjustments shall be made in amounts subsequently
15 transferred to the extent prior estimates were in ex-
16 cess of or were less than the taxes specified in such
17 provisions.】

18 “(2) APPROPRIATIONS TO COVER BALANCE
19 THROUGH GOVERNMENT CONTRIBUTIONS.—There
20 are authorized to be appropriated from time to time,
21 out of any moneys in the Treasury not otherwise ap-
22 propriated, to the LTSS Account, an amount equiv-
23 alent to the amount of payments made from the
24 LTSS Account under subsection (b) plus such
25 amounts as the Managing Trustee certifies are nec-

1 essary to maintain an appropriate contingency mar-
2 gin, reduced by the amounts deposited under the
3 previous paragraphs of this subsection.

4 **“(d) TRANSITIONAL FUNDING.—**In order to assure
5 prompt payment of benefits provided under this part and
6 the administrative expenses thereunder during the early
7 months of the program established by this part, and to
8 provide a contingency reserve, there is authorized to be
9 appropriated, out of any monies in the Treasury not other-
10 wise appropriated, to remain available through the cal-
11 endar year 2023 for repayable advances (without interest)
12 to the LTSS Account, an amount equal to \$____ multi-
13 plied by the sum of the number of individuals (as esti-
14 mated by the Secretary) eligible for or entitled to benefits
15 under part A and the number of individuals (as estimated
16 by the Secretary) described in section 1860E–1(a)(2)(A)
17 as of **[July 2018].**”

18 **“(e) OUTREACH, EDUCATION, AND ENROLLMENT**
19 **ACTIVITIES FUNDING.—**There are appropriated to the
20 LTSS Account, out of any monies in the Treasury not
21 otherwise appropriated, **[\$1,000,000,000]** for purposes of
22 conducting outreach, education, and enrollment activities
23 with respect to individuals enrolled or eligible to enroll
24 under this part, to remain available until expended.

1 “(f) ADDITIONAL REPORTS BY BOARD OF TRUSTEES
2 OF SMI TRUST FUND.—

3 “LTSS ADVISORY COUNCIL

4 “SEC. 1860E-4. (a) ESTABLISHMENT.—There is
5 hereby created an Advisory Committee to be known as the
6 ‘LTSS Advisory Council’.

7 “(b) MEMBERSHIP.—

8 “(1) IN GENERAL.—The LTSS Advisory Coun-
9 cil shall be composed of not more than 15 individ-
10 uals, not otherwise in the employ of the United
11 States—

12 “(A) who shall be appointed by the Presi-
13 dent without regard to the civil service laws and
14 regulations; and

15 “(B) shall include representatives of Medi-
16 care and Medicaid beneficiaries, older and
17 younger workers, individuals with disabilities,
18 family caregivers of individuals who require
19 services and supports to maintain their inde-
20 pendence at home or in another residential or
21 community setting of their choice in the com-
22 munity, individuals with expertise in long-term
23 care or disability insurance, actuarial science,
24 economics, and other relevant disciplines, as de-
25 termined by the Secretary.

26 “(2) TERMS.—

1 “(A) IN GENERAL.—The members of the
2 LTSS Advisory Council shall serve overlapping
3 terms of 3 years (unless appointed to fill a va-
4 cancy occurring prior to the expiration of a
5 term, in which case the individual shall serve
6 for the remainder of the term).

7 “(B) LIMITATION.—A member shall not be
8 eligible to serve for more than 2 consecutive
9 terms.

10 “(3) CHAIR.—The President shall, from time to
11 time, appoint one of the members of the LTSS Advi-
12 sory Council to serve as the Chair.

13 “(c) DUTIES.—The LTSS Advisory Council shall ad-
14 vise the Secretary on matters of general policy in the ad-
15 ministration of the LTSS program established under this
16 part and in the formulation of regulations under this part.

17 “(d) APPLICATION OF FACA.—The Federal Advisory
18 Committee Act (5 U.S.C. App.), other than section 14 of
19 that Act, shall apply to the LTSS Advisory Council.

20 “(e) AUTHORIZATION OF APPROPRIATIONS.—

21 “(1) IN GENERAL.—There are authorized to be
22 appropriated to the LTSS Advisory Council to carry
23 out its duties under this section, such sums as may
24 be necessary for fiscal year 2023 and for each fiscal
25 year thereafter.

1 “(2) AVAILABILITY.—Any sums appropriated
2 under the authorization contained in this section
3 shall remain available, without fiscal year limitation,
4 until expended.

5 “ANNUAL REPORT

6 “SEC. 1860E–5. For fiscal year 2025, and each fiscal
7 year thereafter, the Secretary shall submit a report to
8 Congress on the LTSS program. Each report shall include
9 the following:

10 “(1) The total number of enrollees in the pro-
11 gram during the fiscal year.

12 “(2) The total number of individuals eligible for
13 benefits during the fiscal year.

14 “(3) The total amount of cash benefits provided
15 during the fiscal year.

16 “(4) A description of instances of fraud or
17 abuse identified during the fiscal year.

18 “(5) Recommendations for such administrative
19 or legislative action as the Secretary determines is
20 necessary to improve the program, ensure the sol-
21 vency of the program, or to prevent the occurrence
22 of fraud or abuse.”.

23 (b) ALIGNING MEDICARE PART E WITH MED-
24 ICAID.—

25 (1) IN GENERAL.—Section 1902 of the Social
26 Security Act (42 U.S.C. 1396a) is amended—

1 (A) in subsection (a), by striking para-
2 graph (50) and inserting the following:

3 “(50) provide—

4 “(A) in accordance with paragraphs (1)
5 and (2) of subsection (q), for a monthly per-
6 sonal needs allowance for certain institutional-
7 ized individuals and couples; and

8 “(B) in accordance with paragraph (3) of
9 subsection (q), with respect to individuals en-
10 rolled in the State plan under this title or under
11 a waiver of such plan who are entitled to bene-
12 fits under part E of title XVIII, that the State
13 will comply with the requirements specified in
14 that paragraph regarding the retention of cash
15 benefits paid to such individuals;”; and

16 (B) in subsection (q)—

17 (i) in paragraph (1)(A), in the matter
18 preceding clause (i), by striking “sub-
19 section (a)(50)” and inserting “subsection
20 (a)(50)(A)”; and

21 (ii) by adding at the end the fol-
22 lowing:

23 “(3) In order to meet the requirement of subsection
24 (a)(50)(B), the State plan must provide that, in the case
25 of an individual enrolled in the State plan under this title

1 or under a waiver of such plan who is entitled to benefits
2 under part E of title XVIII, the State shall comply with
3 the following with respect to cash benefits paid to the indi-
4 vidual under that part:

5 “(A) If the individual is a patient in a hospital,
6 nursing facility, intermediate care facility for the
7 mentally retarded, or an institution for mental dis-
8 eases, the individual shall retain an amount equal to
9 5 percent of the individual’s daily or weekly LTSS
10 program cash benefit (as applicable) (which shall be
11 in addition to the amount of the individual’s per-
12 sonal needs allowance provided under the State plan
13 under this title), and the remainder of the LTSS
14 program cash benefit shall be applied toward the fa-
15 cility’s cost of providing the individual’s care.

16 “(B)(i) If the individual is receiving medical as-
17 sistance under the State plan under this title or
18 under a waiver of the plan for home and community
19 based services, the individual shall contribute an
20 amount equal to 75 percent of the individual’s daily
21 or weekly LTSS program cash benefit (as applica-
22 ble), to be applied toward the cost to the State of
23 providing such assistance (and shall not be used to
24 claim Federal matching funds under this title).

1 “(ii) In this subparagraph, the term ‘home and
2 community-based services’ means, with respect to a
3 State, any of the following services that the State
4 has elected to provide under the State plan or under
5 a waiver of the plan outside of an institution:

6 “(I) Services provided under subsection
7 (c), (d), (i), (j), or (k) of section 1915 of the
8 Social Security Act (42 U.S.C. 1396n) or under
9 a waiver under section 1115 of such Act (42
10 U.S.C. 1315).

11 “(II) Home health care services.

12 “(III) Personal care services.

13 “(C)(i) Subject to clause (ii), if an individual is re-
14 ceiving medical assistance under the State plan for PACE
15 program services under section 1934, the individual shall
16 retain an amount equal to 95 percent of the individual’s
17 daily or weekly LTSS program cash benefit (as applica-
18 ble), and the remainder of the daily or weekly LTSS pro-
19 gram cash benefit shall be applied toward the cost to the
20 State of providing such assistance (and shall not be used
21 to claim Federal matching funds under this title).

22 “(ii) If an individual receiving assistance under the
23 State plan for PACE program services is a patient in a
24 hospital, nursing facility, intermediate care facility for the
25 mentally retarded, or an institution for mental diseases,

1 the individual shall be treated in the same manner as an
2 individual described as in subparagraph (A).

3 “(4) The Secretary shall by regulation specify the
4 manner in which a State shall administer paragraph (3)
5 in the case of individuals who are entitled to benefits
6 under part E of title XVIII and who are receiving institu-
7 tional care or home and community-based services through
8 a Medicaid managed care organization described in section
9 1903(m)(1)(A).”.

10 (2) CONFORMING AMENDMENTS.—

11 (A) Section 1902(e)(14) of the Social Se-
12 curity Act (42 U.S.C. 1396a(e)(14)) is amend-
13 ed by adding at the end the following new sub-
14 paragraph:

15 “(L) TREATMENT OF LTSS BENEFIT.—
16 Any amount received by an individual under
17 part E of title XVIII shall be disregarded for
18 purposes of determining the income eligibility of
19 such individual for medical assistance under the
20 State plan or any waiver of such plan.”.

21 (B) Section 1902(r)(1)(A) of the Social
22 Security Act (42 U.S.C. 1396a(r)(1)(A)) is
23 amended by inserting “and there shall be dis-
24 regarded any amount received by the individual

1 (or spouse of the individual) under part E of
2 title XVIII” after “Germany”.

3 (C) Section 1924(d)(1) of the Social Secu-
4 rity Act is amended by inserting (42 U.S.C.
5 1396r-5(d)(1)) after subparagraph (D), the fol-
6 lowing new subparagraph:

7 “(E) Amounts received by the institu-
8 tionalized spouse under part E of title XVIII.”.

9 (D) Section 1934(i) of the Social Security
10 Act (42 U.S.C. 1396u-4(i)) is amended by add-
11 ing at the end the following new sentence:
12 “Amounts received by the individual (or spouse
13 of the individual) under part E of title XVIII
14 of the Social Security Act shall be disregarded
15 for purposes of such post-eligibility treatment.”.

16 (c) MEDICARE CONFORMING AMENDMENTS.—

17 (1) CONFORMING AMENDMENTS TO SMI TRUST
18 FUND.—Section 1841 of the Social Security Act (42
19 U.S.C. 1395t) is amended—

20 (A) in subsection (a)—

21 (i) by striking “or the Transitional”
22 and inserting “, the Transitional”; and

23 (ii) by inserting before the period at
24 the end the following: “, or the LTSS Ac-
25 count established by section 1860E-4”;

1 (B) in subsection (g), by adding at the end
2 the following: “The payments provided for
3 under part E shall be made from the LTSS Ac-
4 count in the Trust Fund.”; and

5 (C) in subsection (i), in the first sentence,
6 by inserting before the period at the end the
7 following: “and pursuant to section 1860E-2
8 (in which case payments shall be made in ap-
9 propriate part from the LTSS Account in the
10 Trust Fund)”.

11 **[(2) ADDITIONAL CONFORMING AMEND-**
12 **MENTS.—]**

13 (d) INCLUSION OF LTSS PROGRAM INFORMATION IN
14 THE NATIONAL CLEARINGHOUSE FOR LONG-TERM CARE
15 INFORMATION; EXTENSION OF FUNDING.—Section
16 6021(d) of the Deficit Reduction Act of 2005 (42 U.S.C.
17 1396p note) is amended—

18 (1) in paragraph (2)(A)—

19 (A) in clause (ii), by striking “and” at the
20 end;

21 (B) in clause (iii), by striking the period at
22 the end and inserting “; and”; and

23 (C) by adding at the end the following:

24 “(iv) include information regarding
25 the LTSS program established under part

1 E of title XVIII of the Social Security Act
2 and information regarding how benefits
3 provided under such part differ from dis-
4 ability insurance benefits.”; and

5 (2) in paragraph (3), by striking “2010” and
6 inserting “2022”.

7 (e) RULE OF CONSTRUCTION.—Nothing in part E of
8 title XVIII of the Social Security Act or the amendments
9 made by this Act are intended to replace or displace public
10 or private disability insurance benefits, including such
11 benefits that are for income replacement.

12 **[SEC. 3. FINANCING.**

13 **[to be provided]]**

14 **SEC. 4. OUTREACH, EDUCATION, AND ENROLLMENT AC-**
15 **TIVITIES ADDITIONAL FUNDING.**

16 Section 119 of the Medicare Improvements for Pa-
17 tients and Providers Act of 2008 (42 U.S.C. 1395b–3
18 note) is amended—

19 (1) in subsection (a)(1)(B)—

20 (A) in clause (vii), by striking “and”;

21 (B) in clause (viii), by striking “and”;

22 (C) in clause (ix), by striking the period at
23 the end and inserting “; and”; and

24 (D) by inserting after clause (ix) the fol-
25 lowing new clause:

1 “(x) for each of fiscal years 2020
2 through 2024, of \$15,000,000.”;

3 (2) in subsection (b)(1)(B)—

4 (A) in clause (vii), by striking “and”;

5 (B) in clause (viii), by striking “and”;

6 (C) in clause (ix), by striking the period at
7 the end and inserting “; and”; and

8 (D) by inserting after clause (ix) following
9 new clause:

10 “(x) for each of fiscal years 2020
11 through 2024, of \$15,000,000.”; and

12 (3) in subsection (c)(1)(B)—

13 (A) in clause (vii), by striking “and”;

14 (B) in clause (viii), by striking “and”;

15 (C) in clause (ix), by striking the period at
16 the end and inserting “; and”; and

17 (D) by inserting after clause (ix) the fol-
18 lowing new clause:

19 “(x) for each of fiscal years 2020
20 through 2024, of \$15,000,000.”.

21 **SEC. 5. REAUTHORIZATION OF LIFESPAN RESPITE CARE**
22 **PROGRAM.**

23 (a) DATA COLLECTION AND REPORTING.—Section
24 2904 of the Public Health Service Act (42 U.S.C. 290ii–
25 3) is amended to read as follows:

1 **“SEC. 2904. DATA COLLECTION AND REPORTING.**

2 “Each eligible State agency awarded a grant or coop-
3 erative agreement under section 2902 shall collect, main-
4 tain, and report such data and records at such times, in
5 such form, and in such manner as the Secretary may re-
6 quire to enable the Secretary—

7 “(1) to monitor State administration of pro-
8 grams and activities funded pursuant to such grant
9 or cooperative agreement; and

10 “(2) to evaluate, and to compare effectiveness
11 on a State-by-State basis, of programs and activities
12 funded pursuant to section 2902.”.

13 (b) **FUNDING.**—Section 2905 of the Public Health
14 Service Act (42 U.S.C. 300ii–4) is amended by striking
15 “to carry out this title” and all that follows and inserting
16 “to carry out this title \$15,000,000 for each of fiscal years
17 2019 through 2023.”.

18 **SEC. 6. MISCELLANEOUS PROVISIONS.**

19 **[(a) LTSS PROGRAM TREATED IN SAME MANNER**
20 **AS LONG-TERM CARE INSURANCE.—]**

21 **[(1) IN GENERAL.—[review policy here. Cur-**
22 **rent subsection (f) is aimed at providing for favor-**
23 **able tax treatment for State plans providing for**
24 **State employees and dependents]] Subsection (f) of**
25 **section 7702B of the Internal Revenue Code of 1986**
26 **is amended—]**

1 **[(A) in paragraph (1)(A), by striking**
2 **“State long-term care plan” and inserting “gov-**
3 **ernment long-term care plan”];]**

4 **[(B) by redesignating paragraph (2) as**
5 **paragraph (3); and]**

6 **[(C) by inserting after paragraph (2) the**
7 **following new paragraph:]**

8 **[“(2) GOVERNMENT LONG-TERM CARE PLAN.—**
9 **For purposes of this subsection, the term ‘govern-**
10 **ment long-term care plan’ means—]**

11 **[“(A) the LTSS program established**
12 **under part E of title XVIII of the Social Secu-**
13 **rity Act, and]**

14 **[“(B) any State long-term care plan.”.]**

15 **[(2) CONFORMING AMENDMENTS.—**

16 **[(A) Paragraph (3) of section 7702B(f) of**
17 **such Code, as redesignated by subsection (a), is**
18 **amended by striking “paragraph (1)” and in-**
19 **serting “this subsection”.]**

20 **[(B) Subsection (f) of section 7702(B) of**
21 **such Code is amended by striking “STATE-**
22 **MAINTAINED” in the heading thereof and in-**
23 **serting “GOVERNMENT”.]**

1 **[(3) EFFECTIVE DATE.—**The amendments
2 made by this subsection shall apply to taxable years
3 ending after December 31, 2018.]

4 **(b) EXCLUSION FROM GROSS INCOME OF CASH BEN-**
5 **EFIT FOR QUALIFIED INDIVIDUALS SUBJECT TO WAITING**
6 **PERIOD OR ALTERNATIVE BENEFIT DEDUCTIBLE.—**

7 **(1) IN GENERAL.—**Part III of subchapter B of
8 chapter 1 of the Internal Revenue Code of 1986 is
9 amended by inserting after section 139F the fol-
10 lowing new section:

11 **“SEC. 139G. CASH BENEFIT FOR QUALIFIED INDIVIDUALS**
12 **SUBJECT TO WAITING PERIOD.**

13 “Gross income shall not include amounts paid under
14 section 1860E-2(a) of the Social Security Act.”.

15 **(2) CLERICAL AMENDMENT.—**The table of sec-
16 tions for part III of subchapter B of chapter 1 of
17 such Code is amended by inserting after the item re-
18 lating to section 139F the following new item:

“Sec. 139G. Cash benefit for qualified individuals subject to waiting period.”.

19 **(3) EFFECTIVE DATE.—**The amendments made
20 by this subsection shall apply to taxable years begin-
21 ning after the date of the enactment of this Act.

22 **(c) ADVOCACY SERVICES FOR INDIVIDUALS WITH**
23 **DEVELOPMENTAL DISABILITIES.—**Section 143(a)(2) of
24 the Developmental Disabilities Assistance and Bill of
25 Rights Act of 2000 (42 U.S.C. 15043(a)(2)) is amended—

1 (1) in subparagraph (L), by striking “and” at
2 the end;

3 (2) in subsection (M), by striking the semicolon
4 at the end and inserting “; and”; and

5 (3) by adding at the end the following new sub-
6 paragraph:

7 “(N) provide resources and advocacy serv-
8 ices as appropriate to such individuals who are
9 enrolled under part E of title XVIII of the So-
10 cial Security Act with respect to benefits paid
11 under such part;”.