

103<sup>D</sup> CONGRESS  
1<sup>ST</sup> SESSION

# S. 552

To amend title XIX of the Social Security Act to improve programs related to home and community based care and community supported living arrangements, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MARCH 10 (legislative day, MARCH 3), 1993

Mr. GRAHAM (for himself and Mr. PRYOR) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend title XIX of the Social Security Act to improve programs related to home and community based care and community supported living arrangements, 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. REFERENCES TO SOCIAL SECURITY ACT.**

4 Except as otherwise specifically provided, whenever in  
5 this Act an amendment is expressed in terms of an amend-  
6 ment to or repeal of a section or other provision, the ref-  
7 erence shall be considered to be made to that section or  
8 other provision of the Social Security Act.

1 **SEC. 2. HOME AND COMMUNITY CARE FOR THE FRAIL**  
2 **ELDERLY.**

3 (a) DEFINITION OF FUNCTIONALLY DISABLED EL-  
4 DERLY INDIVIDUAL.—Section 1929(b)(1)(C) (42 U.S.C.  
5 1396t(b)(1)(C)) is amended to read as follows:

6 “(C) subject to section 1902(f) (as applied  
7 consistent with section 1902(r)(2))—

8 “(i) is receiving supplemental security  
9 income benefits under title XVI (or under  
10 a State plan approved under title XVI), or

11 “(ii) at the option of the State—

12 “(I) is described in section  
13 1902(a)(10)(C), or

14 “(II) has income (as determined  
15 under section 1612 for purposes of  
16 the supplementary security income  
17 program) that does not exceed three  
18 times the maximum amount of income  
19 that an individual may have and ob-  
20 tain benefits under such program.”.

21 (b) DETERMINATIONS OF FUNCTIONAL DISABIL-  
22 ITY.—Section 1929(c)(1) (42 U.S.C. 1396t(c)(1)) is  
23 amended—

24 (1) in subparagraph (A)—

25 (A) by striking “3” and inserting “5”, and

1 (B) by striking “toileting, transferring,  
2 and eating; or” and inserting “bathing, dress-  
3 ing, toileting, transferring, and eating;”,

4 (2) in subparagraph (B)—

5 (A) by striking “of the following 5 activi-  
6 ties of daily living: bathing, dressing, toileting,  
7 transferring, and eating” and inserting “of the  
8 5 activities of daily living described in subpara-  
9 graph (A)”, and

10 (B) by striking the period at the end and  
11 inserting a semicolon, and

12 (3) by adding at the end the following new sub-  
13 paragraphs:

14 “(C) needs substantial supervision due to  
15 cognitive or other mental impairment and needs  
16 substantial assistance or supervision from an-  
17 other individual with at least 1 of the 5 activi-  
18 ties of daily living described in subparagraph  
19 (A) or in complying with a daily drug regimen;  
20 or

21 “(D) needs substantial supervision from  
22 another individual because such individual en-  
23 gages in inappropriate behaviors that pose seri-  
24 ous health or safety hazards to such individual  
25 or others.”.

1 (c) SURVEY AND CERTIFICATION FOR CERTAIN COM-  
2 MUNITY CARE SETTINGS.—

3 (1) IN GENERAL.—Section 1929(i) (42  
4 U.S.C.1395t(i)) is amended—

5 (A) in paragraph (1), by adding at the end  
6 the following new subparagraph:

7 “(D) SPECIAL RULE FOR CERTAIN SMALL  
8 COMMUNITY CARE SETTINGS.—For purposes of  
9 this paragraph, the terms ‘community care set-  
10 ting’ and ‘setting’ shall not include a small  
11 community care setting that is not a provider of  
12 home and community care.”, and

13 (B) in paragraph (3), by adding at the end  
14 the following new subparagraph:

15 “(F) SPECIAL RULE FOR CERTAIN SMALL  
16 COMMUNITY CARE SETTINGS.—For purposes of  
17 this paragraph, the terms ‘community care set-  
18 ting’ and ‘setting’ shall not include a small  
19 community care setting that is not a provider of  
20 home and community care.”.

21 (2) ADDITIONAL RESPONSIBILITIES FOR CASE  
22 MANAGERS.—Section 1929(d)(2) (42 U.S.C.  
23 1396t(d)(2)) is amended—

24 (A) by amending subparagraph (A) to read  
25 as follows:

1 “(A) has experience or has been trained—

2 “(i) in establishing, and in periodically  
3 reviewing and revising, individual commu-  
4 nity care plans;

5 “(ii) in the provision of case manage-  
6 ment services to the elderly; and

7 “(iii) with respect to case managers  
8 for individuals residing in small community  
9 care settings that are not providers of  
10 home and community care, in reviewing  
11 the compliance of such settings with the  
12 requirements set forth in subsection  
13 (g)(2);”, and

14 (B) in subparagraph (B)—

15 (i) by striking “and (iii)” and insert-  
16 ing “(iii)”, and

17 (ii) by striking “occur;” and inserting  
18 “occur; and (iv) reviewing the compliance  
19 of small community care settings that are  
20 not providers of home and community care  
21 with the requirements set forth in sub-  
22 section (g)(2) in coordination with Om-  
23 budsmen selected under the State Long-  
24 Term Care Ombudsman program (de-  
25 scribed in section 712 of the Older Ameri-

1           cans Act of 1965) and reporting any non-  
 2           compliance of such settings with such sub-  
 3           section to the State;”.

4           (d) LIMITATION ON AMOUNT OF EXPENDITURES AS  
 5 MEDICAL ASSISTANCE.—Section 1929(m) (42 U.S.C.  
 6 1396t(m)) is amended—

7           (1) in paragraph (1), by striking “The amount  
 8           of funds” and inserting “Except as provided in  
 9           paragraph (5), the amount of funds”,

10          (2) in paragraph (2)—

11           (A) by striking “Individual Community  
 12           Care Plan” and inserting “individual commu-  
 13           nity care plan”, and

14           (B) by striking “an election period is the  
 15           period of 4 or more calendar quarters” and in-  
 16           serting “an election period is a Federal fiscal  
 17           year”,

18          (3) by amending paragraph (4) to read as fol-  
 19          lows:

20           “(4) ALLOCATION OF MEDICAL ASSISTANCE.—

21           “(A) IN GENERAL.—All of the funds avail-  
 22           able to be expended under paragraph (1) during  
 23           a fiscal year shall be available as Federal medi-  
 24           cal assistance to the States electing to provide

1 services under this section during such fiscal  
2 year.

3 “(B) GENERAL ALLOCATION FORMULA.—  
4 For each fiscal year, beginning with fiscal year  
5 1994, a State which has provided a notice to  
6 the Secretary under paragraph (6)(A) shall be  
7 allocated an amount of the funds that may be  
8 expended under paragraph (1) for such fiscal  
9 year equal to the product of—

10 “(i) the total amount of funds that  
11 may be expended under paragraph (1) for  
12 such fiscal year; and

13 “(ii) the amount determined by divid-  
14 ing—

15 “(I) the number of individuals  
16 age 65 or older residing in such State  
17 during such fiscal year, by

18 “(II) the total number of individ-  
19 uals age 65 or older residing in all  
20 States which have submitted notices  
21 to the Secretary under such para-  
22 graph during such fiscal year.

23 “(C) REALLOCATION OF FUNDS.—

24 “(i) FORMULA FOR REALLOCATION.—

1           “(I) GENERAL RULE.—Except as  
2 provided in subclause (II), within 60  
3 days after the end of each fiscal year,  
4 beginning with fiscal year 1993, the  
5 Secretary shall pay to each State  
6 which provided services under this  
7 section during such fiscal year an  
8 amount equal to the product of—

9           “(aa) the total amount of  
10 funds that may be expended  
11 under paragraph (1) for such fis-  
12 cal year which remain available  
13 at the end of such fiscal year;  
14 and

15           “(bb) the amount deter-  
16 mined by dividing the unavailable  
17 Federal amount (as defined in  
18 clause (ii)) for such State by the  
19 total unavailable Federal amount  
20 for all the States which provided  
21 services under this section during  
22 such fiscal year.

23           “(II) SPECIAL RULE.—The  
24 amount determined for payment to a  
25 State under subclause (I) shall not ex-

1                   ceed the unavailable Federal amount  
2                   for such State.

3                   “(ii) DEFINITION.—For purposes of  
4                   this subparagraph, the term ‘unavailable  
5                   Federal amount’ means the excess of—

6                                   “(I) the amount a State would  
7                                   have received in Federal medical as-  
8                                   sistance based on such State’s expend-  
9                                   itures for services provided under this  
10                                  section but for the allocation under  
11                                  subparagraph (B), over

12                                  “(II) the amount of Federal med-  
13                                  ical assistance allocated to such State  
14                                  under subparagraph (B).”, and

15                   (4) by adding at the end the following new  
16                   paragraphs:

17                                  “(5) CARRYOVER OF FUNDS TO NEXT FISCAL  
18                                  YEAR.—Beginning with fiscal year 1993, any funds  
19                                  available under the limitations set forth in para-  
20                                  graph (1) for a fiscal year which remain available at  
21                                  the end of such fiscal year shall be available to be  
22                                  expended in the following fiscal year.

23                                  “(6) NOTICE TO STATES OF AMOUNTS AVAIL-  
24                                  ABLE FOR ASSISTANCE.—

25                                          “(A) IN GENERAL.—

1           “(i) NOTICE TO SECRETARY.—In  
2           order to receive Federal medical assistance  
3           for expenditures for home and community  
4           care under this section for any fiscal year  
5           (beginning with fiscal year 1994), a State  
6           shall submit not later than 3 months be-  
7           fore the beginning of such fiscal year a no-  
8           tice to the Secretary of its intention to pro-  
9           vide such care.

10           “(ii) NOTICE TO STATES.—Not later  
11           than 2 months before the beginning of  
12           each fiscal year (beginning with fiscal year  
13           1994), the Secretary shall notify each  
14           State that has submitted a notice to the  
15           Secretary under clause (i) for the fiscal  
16           year of the amount of Federal medical as-  
17           sistance that will be available to the State  
18           for such fiscal year (as established under  
19           paragraph (4)(B)).”.

20           (e) EVALUATIONS AND REPORTS.—Section 1929 (42  
21           U.S.C. 1396t) is amended by adding at the end the follow-  
22           ing new subsection:

23           “(n) EVALUATIONS AND REPORTS.—The Secretary  
24           shall evaluate the provision of home and community care  
25           by States under this section and shall submit to the Com-

1 mittees on Energy and Commerce and Ways and Means  
2 of the House of Representatives and the Committee on  
3 Finance of the Senate an annual report on the effective-  
4 ness of such care, including the cost effectiveness of pro-  
5 viding such care, and any recommendations for appro-  
6 priate legislative action.”.

7 (f) EFFECTIVE DATE.—The amendments made by  
8 this section shall be effective on the date of the enactment  
9 of this Act.

10 **SEC. 3. AMENDMENTS RELATED TO COMMUNITY SUP-**  
11 **PORTED LIVING ARRANGEMENTS SERVICES.**

12 (a) DEVELOPMENTALLY DISABLED INDIVIDUAL DE-  
13 FINED.—Section 1930(b) (42 U.S.C. 1396u(b)), is  
14 amended—

15 (1) by striking “guardian” and inserting  
16 “guardian or”, and

17 (2) by striking “3 other” and inserting “3”.

18 (b) CARRYOVER OF AVAILABLE FUNDS.—Section  
19 1930(j) (42 U.S.C. 1396u(j)) is amended by adding at the  
20 end the following new sentence: “Beginning with fiscal  
21 year 1993, any funds available under the limitations set  
22 forth in this subsection for a fiscal year which remain  
23 available at the end of such fiscal year shall be available  
24 to be expended in the following fiscal year.”.

1 (c) EVALUATIONS AND REPORTS.—Section 1930 (42  
2 U.S.C. 1396u) is amended by adding at the end the follow-  
3 ing new subsection:

4 “(k) EVALUATIONS AND REPORTS.—The Secretary  
5 shall evaluate the provision of community supported living  
6 arrangements services by States under this section and  
7 shall submit to the Committees on Energy and Commerce  
8 and Ways and Means of the House of Representatives and  
9 the Committee on Finance of the Senate an annual report  
10 on the effectiveness of such services, including the cost ef-  
11 fectiveness of providing such services, and any rec-  
12 ommendations for appropriate legislative action.”.

13 (d) EFFECTIVE DATE.—

14 (1) IN GENERAL.—Except as provided in para-  
15 graph (2), the amendments made by this section  
16 shall be effective on the date of the enactment of  
17 this Act.

18 (2) SPECIAL RULE.—In the case of any State  
19 which, on the date of enactment of this Act, provides  
20 services under section 1930 of the Social Security  
21 Act to 4 individuals residing together for purposes  
22 of subsection (b) of such section, the amendment  
23 made by subsection (a)(2) shall be effective on Octo-  
24 ber 1, 1994.

1 **SEC. 4. ALZHEIMER'S DISEASE DEMONSTRATION**  
2 **PROJECTS.**

3 (a) **IN GENERAL.**—Section 9342 of the Omnibus  
4 Budget Reconciliation Act of 1986, as amended by section  
5 4164(a)(2) of the Omnibus Budget Reconciliation Act of  
6 1990, is amended—

7 (1) in subsection (c)(1), by striking “4 years”  
8 and inserting “6 years”,

9 (2) in subsection (d)(1), by striking “fourth  
10 year” and inserting “sixth year”, and

11 (3) in subsection (f)—

12 (A) by striking “\$55,000,000” and insert-  
13 ing “\$70,000,000”; and

14 (B) by striking “\$3,000,000” and insert-  
15 ing “\$4,000,000”.

16 (b) **EFFECTIVE DATE.**—The amendments made by  
17 this section shall be effective on the date of the enactment  
18 of this Act.

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