

105TH CONGRESS
1ST SESSION

S. 720

To amend titles XVIII and XIX of the Social Security Act to expand and make permanent the availability of cost-effective, comprehensive acute and long-term care services to frail elderly persons through Programs of All-inclusive Care for the Elderly (PACE) under the medicare and medicaid programs.

IN THE SENATE OF THE UNITED STATES

MAY 8, 1997

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

A BILL

To amend titles XVIII and XIX of the Social Security Act to expand and make permanent the availability of cost-effective, comprehensive acute and long-term care services to frail elderly persons through Programs of All-inclusive Care for the Elderly (PACE) under the medicare and medicaid programs.

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.**

4 This Act may be cited as the “Programs of All-inclu-
5 sive Care for the Elderly (PACE) Coverage Act of 1997”.

1 **SEC. 2. COVERAGE OF PACE UNDER THE MEDICARE PRO-**
 2 **GRAM.**

3 (a) IN GENERAL.—Title XVIII of the Social Security
 4 Act (42 U.S.C. 1395 et seq.) is amended by adding at
 5 the end the following new section:

6 “PAYMENTS TO, AND COVERAGE OF BENEFITS UNDER,
 7 PROGRAMS OF ALL-INCLUSIVE CARE FOR THE EL-
 8 DERLY (PACE)

9 “SEC. 1894. (a) RECEIPT OF BENEFITS THROUGH
 10 ENROLLMENT IN PACE PROGRAM; DEFINITIONS FOR
 11 PACE PROGRAM RELATED TERMS.—

12 “(1) BENEFITS THROUGH ENROLLMENT IN A
 13 PACE PROGRAM.—In accordance with this section, in
 14 the case of an individual who is entitled to benefits
 15 under part A or enrolled under part B and who is
 16 a PACE program eligible individual (as defined in
 17 paragraph (5)) with respect to a PACE program of-
 18 fered by a PACE provider under a PACE program
 19 agreement—

20 “(A) the individual may enroll in the pro-
 21 gram under this section; and

22 “(B) so long as the individual is so en-
 23 rolled and in accordance with regulations—

24 “(i) the individual shall receive bene-
 25 fits under this title solely through such
 26 program, and

1 “(ii) the PACE provider is entitled to
2 payment under and in accordance with this
3 section and such agreement for provision
4 of such benefits.

5 “(2) PACE PROGRAM DEFINED.—For purposes
6 of this section and section 1932, the term ‘PACE
7 program’ means a program of all-inclusive care for
8 the elderly that meets the following requirements:

9 “(A) OPERATION.—The entity operating
10 the program is a PACE provider (as defined in
11 paragraph (3)).

12 “(B) COMPREHENSIVE BENEFITS.—The
13 program provides comprehensive health care
14 services to PACE program eligible individuals
15 in accordance with the PACE program agree-
16 ment and regulations under this section.

17 “(C) TRANSITION.—In the case of an indi-
18 vidual who is enrolled under the program under
19 this section and whose enrollment ceases for
20 any reason (including the individual no longer
21 qualifies as a PACE program eligible individual,
22 the termination of a PACE program agreement,
23 or otherwise), the program provides assistance
24 to the individual in obtaining necessary transi-
25 tional care through appropriate referrals and

1 making the individual's medical records avail-
2 able to new providers.

3 “(3) PACE PROVIDER DEFINED.—

4 “(A) IN GENERAL.—For purposes of this
5 section, the term ‘PACE provider’ means an en-
6 tity that—

7 “(i) subject to subparagraph (B), is
8 (or is a distinct part of) a public entity or
9 a private, nonprofit entity organized for
10 charitable purposes under section
11 501(c)(3) of the Internal Revenue Code of
12 1986, and

13 “(ii) has entered into a PACE pro-
14 gram agreement with respect to its oper-
15 ation of a PACE program.

16 “(B) TREATMENT OF PRIVATE, FOR-PROF-
17 IT PROVIDERS.—Clause (i) of subparagraph (A)
18 shall not apply—

19 “(i) to entities subject to a dem-
20 onstration project waiver under subsection
21 (h); and

22 “(ii) after the date the report under
23 section 5(b) of the Programs of All-inclu-
24 sive Care for the Elderly (PACE) Coverage
25 Act of 1997 is submitted, unless the Sec-

1 retary determines that any of the findings
2 described in subparagraph (A), (B), (C) or
3 (D) of paragraph (2) of such section are
4 true.

5 “(4) PACE PROGRAM AGREEMENT DEFINED.—
6 For purposes of this section, the term ‘PACE pro-
7 gram agreement’ means, with respect to a PACE
8 provider, an agreement, consistent with this section,
9 section 1932 (if applicable), and regulations promul-
10 gated to carry out such sections, between the PACE
11 provider and the Secretary, or an agreement between
12 the PACE provider and a State administering agen-
13 cy for the operation of a PACE program by the pro-
14 vider under such sections.

15 “(5) PACE PROGRAM ELIGIBLE INDIVIDUAL
16 DEFINED.—For purposes of this section, the term
17 ‘PACE program eligible individual’ means, with re-
18 spect to a PACE program, an individual who—

19 “(A) is 55 years of age or older;

20 “(B) subject to subsection (c)(4), is deter-
21 mined under subsection (c) to require the level
22 of care required under the State medicaid plan
23 for coverage of nursing facility services;

24 “(C) resides in the service area of the
25 PACE program; and

1 “(D) meets such other eligibility conditions
2 as may be imposed under the PACE program
3 agreement for the program under subsection
4 (e)(2)(A)(ii).

5 “(6) PACE PROTOCOL.—For purposes of this
6 section, the term ‘PACE protocol’ means the Proto-
7 col for the Program of All-inclusive Care for the El-
8 derly (PACE), as published by On Lok, Inc., as of
9 April 14, 1995.

10 “(7) PACE DEMONSTRATION WAIVER PROGRAM
11 DEFINED.—For purposes of this section, the term
12 ‘PACE demonstration waiver program’ means a
13 demonstration program under either of the following
14 sections (as in effect before the date of their repeal):

15 “(A) Section 603(c) of the Social Security
16 Amendments of 1983 (Public Law 98–21), as
17 extended by section 9220 of the Consolidated
18 Omnibus Budget Reconciliation Act of 1985
19 (Public Law 99–272).

20 “(B) Section 9412(b) of the Omnibus
21 Budget Reconciliation Act of 1986 (Public Law
22 99–509).

23 “(8) STATE ADMINISTERING AGENCY DE-
24 FINED.—For purposes of this section, the term
25 ‘State administering agency’ means, with respect to

1 the operation of a PACE program in a State, the
 2 agency of that State (which may be the single agen-
 3 cy responsible for administration of the State plan
 4 under title XIX in the State) responsible for admin-
 5 istering PACE program agreements under this sec-
 6 tion and section 1932 in the State.

7 “(9) TRIAL PERIOD DEFINED.—

8 “(A) IN GENERAL.—For purposes of this
 9 section, the term ‘trial period’ means, with re-
 10 spect to a PACE program operated by a PACE
 11 provider under a PACE program agreement,
 12 the first 3 contract years under such agreement
 13 with respect to such program.

14 “(B) TREATMENT OF ENTITIES PRE-
 15 VIOUSLY OPERATING PACE DEMONSTRATION
 16 WAIVER PROGRAMS.—Each contract year (in-
 17 cluding a year occurring before the effective
 18 date of this section) during which an entity has
 19 operated a PACE demonstration waiver pro-
 20 gram shall be counted under subparagraph (A)
 21 as a contract year during which the entity oper-
 22 ated a PACE program as a PACE provider
 23 under a PACE program agreement.

24 “(10) REGULATIONS.—For purposes of this
 25 section, the term ‘regulations’ refers to interim final

1 or final regulations promulgated under subsection (f)
2 to carry out this section and section 1932.

3 “(b) SCOPE OF BENEFITS; BENEFICIARY SAFE-
4 GUARDS.—

5 “(1) IN GENERAL.—Under a PACE program
6 agreement, a PACE provider shall—

7 “(A) provide to PACE program eligible in-
8 dividuals, regardless of source of payment and
9 directly or under contracts with other entities,
10 at a minimum—

11 “(i) all items and services covered
12 under this title (for individuals enrolled
13 under this section) and all items and serv-
14 ices covered under title XIX, but without
15 any limitation or condition as to amount,
16 duration, or scope and without application
17 of deductibles, copayments, coinsurance, or
18 other cost-sharing that would otherwise
19 apply under this title or such title, respec-
20 tively; and

21 “(ii) all additional items and services
22 specified in regulations, based upon those
23 required under the PACE protocol;

1 “(B) provide such enrollees access to nec-
2 essary covered items and services 24 hours per
3 day, every day of the year;

4 “(C) provide services to such enrollees
5 through a comprehensive, multidisciplinary
6 health and social services delivery system which
7 integrates acute and long-term care services
8 pursuant to regulations; and

9 “(D) specify the covered items and services
10 that will not be provided directly by the entity,
11 and to arrange for delivery of those items and
12 services through contracts meeting the require-
13 ments of regulations.

14 “(2) QUALITY ASSURANCE; PATIENT SAFE-
15 GUARDS.—The PACE program agreement shall re-
16 quire the PACE provider to have in effect at a mini-
17 mum—

18 “(A) a written plan of quality assurance
19 and improvement, and procedures implementing
20 such plan, in accordance with regulations, and

21 “(B) written safeguards of the rights of
22 enrolled participants (including a patient bill of
23 rights and procedures for grievances and ap-
24 peals) in accordance with regulations and with
25 other requirements of this title and Federal and

1 State law designed for the protection of pa-
2 tients.

3 “(c) ELIGIBILITY DETERMINATIONS.—

4 “(1) IN GENERAL.—The determination of
5 whether an individual is a PACE program eligible
6 individual—

7 “(A) shall be made under and in accord-
8 ance with the PACE program agreement, and

9 “(B) who is entitled to medical assistance
10 under title XIX, shall be made (or who is not
11 so entitled, may be made) by the State admin-
12 istering agency.

13 “(2) CONDITION.—An individual is not a PACE
14 program eligible individual (with respect to payment
15 under this section) unless the individual’s health sta-
16 tus has been determined, in accordance with regula-
17 tions, to be comparable to the health status of indi-
18 viduals who have participated in the PACE dem-
19 onstration waiver programs. Such determination
20 shall be based upon information on health status
21 and related indicators (such as medical diagnoses
22 and measures of activities of daily living, instrumen-
23 tal activities of daily living, and cognitive impair-
24 ment) that are part of a uniform minimum data set

1 collected by PACE providers on potential eligible in-
2 dividuals.

3 “(3) ANNUAL ELIGIBILITY RECERTIFI-
4 CATIONS.—

5 “(A) IN GENERAL.—Subject to subpara-
6 graph (B), the determination described in sub-
7 section (a)(5)(B) for an individual shall be re-
8 evaluated not more frequently than annually.

9 “(B) EXCEPTION.—The requirement of
10 annual reevaluation under subparagraph (A)
11 may be waived during a period in accordance
12 with regulations in those cases where the State
13 administering agency determines that there is
14 no reasonable expectation of improvement or
15 significant change in an individual’s condition
16 during the period because of the advanced age,
17 severity of the advanced age, severity of chronic
18 condition, or degree of impairment of functional
19 capacity of the individual involved.

20 “(4) CONTINUATION OF ELIGIBILITY.—An indi-
21 vidual who is a PACE program eligible individual
22 may be deemed to continue to be such an individual
23 notwithstanding a determination that the individual
24 no longer meets the requirement of subsection
25 (a)(5)(B) if, in accordance with regulations, in the

1 absence of continued coverage under a PACE pro-
2 gram the individual reasonably would be expected to
3 meet such requirement within the succeeding 6-
4 month period.

5 “(5) ENROLLMENT; DISENROLLMENT.—The en-
6 rollment and disenrollment of PACE program eligi-
7 ble individuals in a PACE program shall be pursu-
8 ant to regulations and the PACE program agree-
9 ment and shall permit enrollees to voluntarily
10 disenroll without cause at any time.

11 “(d) PAYMENTS TO PACE PROVIDERS ON A
12 CAPITATED BASIS.—

13 “(1) IN GENERAL.—In the case of a PACE pro-
14 vider with a PACE program agreement under this
15 section, except as provided in this subsection or by
16 regulations, the Secretary shall make prospective
17 monthly payments of a capitation amount for each
18 PACE program eligible individual enrolled under the
19 agreement under this section in the same manner
20 and from the same sources as payments are made
21 to an eligible organization under a risk-sharing con-
22 tract under section 1876. Such payments shall be
23 subject to adjustment in the manner described in
24 section 1876(a)(1)(E).

1 “(2) CAPITATION AMOUNT.—The capitation
2 amount to be applied under this subsection for a
3 provider for a contract year shall be an amount
4 specified in the PACE program agreement for the
5 year. Such amount shall be based upon payment
6 rates established under section 1876 for risk-sharing
7 contracts and shall be adjusted to take into account
8 the comparative frailty of PACE enrollees and such
9 other factors as the Secretary determines to be ap-
10 propriate. Such amount under such an agreement
11 shall be computed in a manner so that the total pay-
12 ment level for all PACE program eligible individuals
13 enrolled under a program is less than the projected
14 payment under this title for a comparable population
15 not enrolled under a PACE program.

16 “(e) PACE PROGRAM AGREEMENT.—

17 “(1) REQUIREMENT.—

18 “(A) IN GENERAL.—The Secretary, in
19 close cooperation with the State administering
20 agency, shall establish procedures for entering
21 into, extending, and terminating PACE pro-
22 gram agreements for the operation of PACE
23 programs by entities that meet the require-
24 ments for a PACE provider under this section,
25 section 1932, and regulations.

1 “(B) NUMERICAL LIMITATION.—

2 “(i) IN GENERAL.—The Secretary
3 shall not permit the number of PACE pro-
4 viders with which agreements are in effect
5 under this section or under section 9412(b)
6 of the Omnibus Budget Reconciliation Act
7 of 1986 to exceed—

8 “(I) 40 as of the date of the en-
9 actment of this section, or

10 “(II) as of each succeeding anni-
11 versary of such date, the numerical
12 limitation under this subparagraph for
13 the preceding year plus 20.

14 Subclause (II) shall apply without regard
15 to the actual number of agreements in ef-
16 fect as of a previous anniversary date.

17 “(ii) TREATMENT OF CERTAIN PRI-
18 VATE, FOR-PROFIT PROVIDERS.—The nu-
19 merical limitation in clause (i) shall not
20 apply to a PACE provider that—

21 “(I) is operating under a dem-
22 onstration project waiver under sub-
23 section (h), or

24 “(II) was operating under such a
25 waiver and subsequently qualifies for

1 PACE provider status pursuant to
2 subsection (a)(3)(B)(ii).

3 “(2) SERVICE AREA AND ELIGIBILITY.—

4 “(A) IN GENERAL.—A PACE program
5 agreement for a PACE program—

6 “(i) shall designate the service area of
7 the program;

8 “(ii) may provide additional require-
9 ments for individuals to qualify as PACE
10 program eligible individuals with respect to
11 the program;

12 “(iii) shall be effective for a contract
13 year, but may be extended for additional
14 contract years in the absence of a notice by
15 a party to terminate and is subject to ter-
16 mination by the Secretary and the State
17 administering agency at any time for cause
18 (as provided under the agreement);

19 “(iv) shall require a PACE provider to
20 meet all applicable State and local laws
21 and requirements; and

22 “(v) shall have such additional terms
23 and conditions as the parties may agree to
24 consistent with this section and regula-
25 tions.

1 “(B) SERVICE AREA OVERLAP.—In des-
2 ignating a service area under a PACE program
3 agreement under subparagraph (A)(i), the Sec-
4 retary (in consultation with the State admin-
5 istering agency) may exclude from designation
6 an area that is already covered under another
7 PACE program agreement, in order to avoid
8 unnecessary duplication of services and avoid
9 impairing the financial and service viability of
10 an existing program.

11 “(3) DATA COLLECTION.—

12 “(A) IN GENERAL.—Under a PACE pro-
13 gram agreement, the PACE provider shall—

14 “(i) collect data,

15 “(ii) maintain, and afford the Sec-
16 retary and the State administering agency
17 access to, the records relating to the pro-
18 gram, including pertinent financial, medi-
19 cal, and personnel records, and

20 “(iii) make to the Secretary and the
21 State administering agency reports that
22 the Secretary finds (in consultation with
23 State administering agencies) necessary to
24 monitor the operation, cost, and effective-
25 ness of the PACE program under this Act.

1 “(B) REQUIREMENTS DURING TRIAL PE-
2 RIOD.—During the first three years of oper-
3 ation of a PACE program (either under this
4 section or under a PACE demonstration waiver
5 program), the PACE provider shall provide
6 such additional data as the Secretary specifies
7 in regulations in order to perform the oversight
8 required under paragraph (4)(A).

9 “(4) OVERSIGHT.—

10 “(A) ANNUAL, CLOSE OVERSIGHT DURING
11 TRIAL PERIOD.—During the trial period (as de-
12 fined in subsection (a)(9)) with respect to a
13 PACE program operated by a PACE provider,
14 the Secretary (in cooperation with the State ad-
15 ministering agency) shall conduct a comprehen-
16 sive annual review of the operation of the
17 PACE program by the provider in order to as-
18 sure compliance with the requirements of this
19 section and regulations. Such a review shall in-
20 clude—

21 “(i) an on-site visit to the program
22 site;

23 “(ii) comprehensive assessment of a
24 provider’s fiscal soundness;

1 “(iii) comprehensive assessment of the
2 provider’s capacity to provide all PACE
3 services to all enrolled participants;

4 “(iv) detailed analysis of the entity’s
5 substantial compliance with all significant
6 requirements of this section and regula-
7 tions; and

8 “(v) any other elements the Secretary
9 or State agency considers necessary or ap-
10 propriate.

11 “(B) CONTINUING OVERSIGHT.—After the
12 trial period, the Secretary (in cooperation with
13 the State administering agency) shall continue
14 to conduct such review of the operation of
15 PACE providers and PACE programs as may
16 be appropriate, taking into account the per-
17 formance level of a provider and compliance of
18 a provider with all significant requirements of
19 this section and regulations.

20 “(C) DISCLOSURE.—The results of reviews
21 under this paragraph shall be reported prompt-
22 ly to the PACE provider, along with any rec-
23 ommendations for changes to the provider’s
24 program, and shall be made available to the
25 public upon request.

1 “(5) TERMINATION OF PACE PROVIDER AGREE-
2 MENTS.—

3 “(A) IN GENERAL.—Under regulations—

4 “(i) the Secretary or a State admin-
5 istering agency may terminate a PACE
6 program agreement for cause, and

7 “(ii) a PACE provider may terminate
8 an agreement after appropriate notice to
9 the Secretary, the State agency, and en-
10 rollees.

11 “(B) CAUSES FOR TERMINATION.—In ac-
12 cordance with regulations establishing proce-
13 dures for termination of PACE program agree-
14 ments, the Secretary or a State administering
15 agency may terminate a PACE program agree-
16 ment with a PACE provider for, among other
17 reasons, the fact that—

18 “(i) the Secretary or State admin-
19 istering agency determines that—

20 “(I) there are significant defi-
21 ciencies in the quality of care provided
22 to enrolled participants; or

23 “(II) the provider has failed to
24 comply substantially with conditions

1 for a program or provider under this
2 section or section 1932; and

3 “(ii) the entity has failed to develop
4 and successfully initiate, within 30 days of
5 the receipt of written notice of such a de-
6 termination, and continue implementation
7 of a plan to correct the deficiencies.

8 “(C) TERMINATION AND TRANSITION PRO-
9 CEDURES.—An entity whose PACE provider
10 agreement is terminated under this paragraph
11 shall implement the transition procedures re-
12 quired under subsection (a)(2)(C).

13 “(6) SECRETARY’S OVERSIGHT; ENFORCEMENT
14 AUTHORITY.—

15 “(A) IN GENERAL.—Under regulations, if
16 the Secretary determines (after consultation
17 with the State administering agency) that a
18 PACE provider is failing substantially to com-
19 ply with the requirements of this section and
20 regulations, the Secretary (and the State ad-
21 ministering agency) may take any or all of the
22 following actions:

23 “(i) Condition the continuation of the
24 PACE program agreement upon timely
25 execution of a corrective action plan.

1 “(ii) Withhold some or all further
2 payments under the PACE program agree-
3 ment under this section or section 1932
4 with respect to PACE program services
5 furnished by such provider until the defi-
6 ciencies have been corrected.

7 “(iii) Terminate such agreement.

8 “(B) APPLICATION OF INTERMEDIATE
9 SANCTIONS.—Under regulations, the Secretary
10 may provide for the application against a
11 PACE provider of remedies described in section
12 1876(i)(6)(B) or 1903(m)(5)(B) in the case of
13 violations by the provider of the type described
14 in section 1876(i)(6)(A) or 1903(m)(5)(A), re-
15 spectively (in relation to agreements, enrollees,
16 and requirements under this section or section
17 1932, respectively).

18 “(7) PROCEDURES FOR TERMINATION OR IMPO-
19 SITION OF SANCTIONS.—Under regulations, the pro-
20 visions of section 1876(i)(9) shall apply to termi-
21 nation and sanctions respecting a PACE program
22 agreement and PACE provider under this subsection
23 in the same manner as they apply to a termination
24 and sanctions with respect to a contract and an eli-
25 gible organization under section 1876.

1 “(8) TIMELY CONSIDERATION OF APPLICATIONS
2 FOR PACE PROGRAM PROVIDER STATUS.—In consid-
3 ering an application for PACE provider program
4 status, the application shall be deemed approved un-
5 less the Secretary, within 90 days after the date of
6 the submission of the application to the Secretary,
7 either denies such request in writing or informs the
8 applicant in writing with respect to any additional
9 information that is needed in order to make a final
10 determination with respect to the application. After
11 the date the Secretary receives such additional infor-
12 mation, the application shall be deemed approved
13 unless the Secretary, within 90 days of such date,
14 denies such request.

15 “(f) REGULATIONS.—

16 “(1) IN GENERAL.—The Secretary shall issue
17 interim final or final regulations to carry out this
18 section and section 1932.

19 “(2) USE OF PACE PROTOCOL.—

20 “(A) IN GENERAL.—In issuing such regu-
21 lations, the Secretary shall, to the extent con-
22 sistent with the provisions of this section, incor-
23 porate the requirements applied to PACE dem-
24 onstration waiver programs under the PACE
25 protocol.

1 “(B) FLEXIBILITY.—The Secretary (in
2 close consultation with State administering
3 agencies) may modify or waive such provisions
4 of the PACE protocol in order to provide for
5 reasonable flexibility in adapting the PACE
6 service delivery model to the needs of particular
7 organizations (such as those in rural areas or
8 those that may determine it appropriate to use
9 non-staff physicians accordingly to State licens-
10 ing law requirements) under this section and
11 section 1932 where such flexibility is not incon-
12 sistent with and would not impair the essential
13 elements, objectives, and requirements of the
14 this section, including—

15 “(i) the focus on frail elderly qualify-
16 ing individuals who require the level of
17 care provided in a nursing facility;

18 “(ii) the delivery of comprehensive, in-
19 tegrated acute and long-term care services;

20 “(iii) the interdisciplinary team ap-
21 proach to care management and service de-
22 livery;

23 “(iv) capitated, integrated financing
24 that allows the provider to pool payments

1 received from public and private programs
2 and individuals; and

3 “(v) the assumption by the provider
4 over time of full financial risk.

5 “(3) APPLICATION OF CERTAIN ADDITIONAL
6 BENEFICIARY AND PROGRAM PROTECTIONS.—

7 “(A) IN GENERAL.—In issuing such regu-
8 lations and subject to subparagraph (B), the
9 Secretary may apply with respect to PACE pro-
10 grams, providers, and agreements such require-
11 ments of sections 1876 and 1903(m) relating to
12 protection of beneficiaries and program integ-
13 rity as would apply to eligible organizations
14 under risk-sharing contracts under section 1876
15 and to health maintenance organizations under
16 prepaid capitation agreements under section
17 1903(m).

18 “(B) CONSIDERATIONS.—In issuing such
19 regulations, the Secretary shall—

20 “(i) take into account the differences
21 between populations served and benefits
22 provided under this section and under sec-
23 tions 1876 and 1903(m);

1 “(ii) not include any requirement that
2 conflicts with carrying out PACE pro-
3 grams under this section; and

4 “(iii) not include any requirement re-
5 stricting the proportion of enrollees who
6 are eligible for benefits under this title or
7 title XIX

8 “(g) WAIVERS OF REQUIREMENTS.—With respect to
9 carrying out a PACE program under this section, the fol-
10 lowing requirements of this title (and regulations relating
11 to such requirements) are waived and shall not apply:

12 “(1) Section 1812, insofar as it limits coverage
13 of institutional services.

14 “(2) Sections 1813, 1814, 1833, and 1886, in-
15 sofar as such sections relate to rules for payment for
16 benefits.

17 “(3) Sections 1814(a)(2)(B), 1814(a)(2)(C),
18 and 1835(a)(2)(A), insofar as they limit coverage of
19 extended care services or home health services.

20 “(4) Section 1861(i), insofar as it imposes a 3-
21 day prior hospitalization requirement for coverage of
22 extended care services.

23 “(5) Sections 1862(a)(1) and 1862(a)(9), inso-
24 far as they may prevent payment for PACE program

1 services to individuals enrolled under PACE pro-
2 grams.

3 “(h) DEMONSTRATION PROJECT FOR FOR-PROFIT
4 ENTITIES.—

5 “(1) IN GENERAL.—In order to demonstrate
6 the operation of a PACE program by a private, for-
7 profit entity, the Secretary (in close consultation
8 with State administering agencies) shall grant waiv-
9 ers from the requirement under subsection (a)(3)
10 that a PACE provider may not be a for-profit, pri-
11 vate entity.

12 “(2) SIMILAR TERMS AND CONDITIONS.—

13 “(A) IN GENERAL.—Except as provided
14 under subparagraph (B), and paragraph (1),
15 the terms and conditions for operation of a
16 PACE program by a provider under this sub-
17 section shall be the same as those for PACE
18 providers that are nonprofit, private organiza-
19 tions.

20 “(B) NUMERICAL LIMITATION.—The num-
21 ber of programs for which waivers are granted
22 under this subsection shall not exceed 10. Pro-
23 grams with waivers granted under this sub-
24 section shall not be counted against the numeri-
25 cal limitation specified in subsection (e)(1)(B).

1 “(i) MISCELLANEOUS PROVISIONS.—Nothing in this
2 section or section 1932 shall be construed as preventing
3 a PACE provider from entering into contracts with other
4 governmental or nongovernmental payers for the care of
5 PACE program eligible individuals who are not eligible for
6 benefits under part A, or enrolled under part B, or eligible
7 for medical assistance under title XIX.”.

8 **SEC. 3. ESTABLISHMENT OF PACE PROGRAM AS MEDICAID**
9 **STATE OPTION.**

10 (a) IN GENERAL.—Title XIX of the Social Security
11 Act is amended—

12 (1) in section 1905(a) (42 U.S.C. 1396d(a))—

13 (A) by striking “and” at the end of para-
14 graph (24);

15 (B) by redesignating paragraph (25) as
16 paragraph (26); and

17 (C) by inserting after paragraph (24) the
18 following new paragraph:

19 “(25) services furnished under a PACE pro-
20 gram under section 1932 to PACE program eligible
21 individuals enrolled under the program under such
22 section; and”;

23 (2) by redesignating section 1932 as section
24 1933, and

1 (3) by inserting after section 1931 the following
2 new section:

3 **“SEC. 1932. PROGRAM OF ALL-INCLUSIVE CARE FOR THE**
4 **ELDERLY (PACE).**

5 “(a) OPTION.—

6 “(1) IN GENERAL.—A State may elect to pro-
7 vide medical assistance under this section with re-
8 spect to PACE program services to PACE program
9 eligible individuals who are eligible for medical as-
10 sistance under the State plan and who are enrolled
11 in a PACE program under a PACE program agree-
12 ment. Such individuals need not be eligible for bene-
13 fits under part A, or enrolled under part B, of title
14 XVIII to be eligible to enroll under this section.

15 “(2) BENEFITS THROUGH ENROLLMENT IN
16 PACE PROGRAM.—In the case of an individual en-
17 rolled with a PACE program pursuant to such an
18 election—

19 “(A) the individual shall receive benefits
20 under the plan solely through such program,
21 and

22 “(B) the PACE provider shall receive pay-
23 ment in accordance with the PACE program
24 agreement for provision of such benefits.

1 “(3) APPLICATION OF DEFINITIONS.—The defi-
2 nitions of terms under section 1894(a) shall apply
3 under this section in the same manner as they apply
4 under section 1894.

5 “(b) APPLICATION OF MEDICARE TERMS AND CON-
6 DITIONS.—Except as provided in this section, the terms
7 and conditions for the operation and participation of
8 PACE program eligible individuals in PACE programs of-
9 fered by PACE providers under PACE program agree-
10 ments under section 1894 shall apply for purposes of this
11 section.

12 “(c) ADJUSTMENT IN PAYMENT AMOUNTS.—In the
13 case of individuals enrolled in a PACE program under this
14 section, the amount of payment under this section shall
15 not be the amount calculated under section 1894(d), but
16 shall be an amount, specified under the PACE agreement,
17 which is less than the amount that would otherwise have
18 been made under the State plan if the individuals were
19 not so enrolled. The payment under this section shall be
20 in addition to any payment made under section 1894 for
21 individuals who are enrolled in a PACE program under
22 such section.

23 “(d) WAIVERS OF REQUIREMENTS.—With respect to
24 carrying out a PACE program under this section, the fol-

1 lowing requirements of this title (and regulations relating
2 to such requirements) shall not apply:

3 “(1) Section 1902(a)(1), relating to any re-
4 quirement that PACE programs or PACE program
5 services be provided in all areas of a State.

6 “(2) Section 1902(a)(10), insofar as such sec-
7 tion relates to comparability of services among dif-
8 ferent population groups.

9 “(3) Sections 1902(a)(23) and 1915(b)(4), re-
10 lating to freedom of choice of providers under a
11 PACE program.

12 “(4) Section 1903(m)(2)(A), insofar as it re-
13 stricts a PACE provider from receiving prepaid capi-
14 tation payments.

15 “(e) POST-ELIGIBILITY TREATMENT OF INCOME.—
16 A State may provide for post-eligibility treatment of in-
17 come for individuals enrolled in PACE programs under
18 this section in the same manner as a State treats post-
19 eligibility income for individuals receiving services under
20 a waiver under section 1915(c).”.

21 (b) CONFORMING AMENDMENTS.—

22 (1) Section 1902(j) of such Act (42 U.S.C.
23 1396a(j)) is amended by striking “(25)” and insert-
24 ing “(26)”.

1 (2) Section 1924(a)(5) of such Act (42 U.S.C.
2 1396r-5(a)(5)) is amended—

3 (A) in the heading, by striking “FROM OR-
4 GANIZATIONS RECEIVING CERTAIN WAIVERS”
5 and inserting “UNDER PACE PROGRAMS”, and

6 (B) by striking “from any organization”
7 and all that follows and inserting “under a
8 PACE demonstration waiver program (as de-
9 fined in subsection (a)(7) of section 1894) or
10 under a PACE program under section 1932.”.

11 (3) Section 1903(f)(4)(C) of such Act (42
12 U.S.C. 1396b(f)(4)(C)) is amended by inserting “or
13 who is a PACE program eligible individual enrolled
14 in a PACE program under section 1932,” after
15 “section 1902(a)(10)(A),”.

16 **SEC. 4. EFFECTIVE DATE; TRANSITION.**

17 (a) **TIMELY ISSUANCE OF REGULATIONS; EFFECTIVE**
18 **DATE.**—The Secretary of Health and Human Services
19 shall promulgate regulations to carry out this Act in a
20 timely manner. Such regulations shall be designed so that
21 entities may establish and operate PACE programs under
22 sections 1894 and 1932 for periods beginning not later
23 than 1 year after the date of the enactment of this Act.

24 (b) **EXPANSION AND TRANSITION FOR PACE DEM-**
25 **ONSTRATION PROJECT WAIVERS.**—

1 (1) EXPANSION IN CURRENT NUMBER OF DEM-
2 ONSTRATION PROJECTS.—Section 9412(b) of the
3 Omnibus Budget Reconciliation Act of 1986, as
4 amended by section 4118(g) of the Omnibus Budget
5 Reconciliation Act of 1987, is amended—

6 (A) in paragraph (1), by inserting before
7 the period at the end the following: “, except
8 that the Secretary shall grant waivers of such
9 requirements to up to the applicable numerical
10 limitation specified in section 1894(e)(1)(B) of
11 the Social Security Act”; and

12 (B) in paragraph (2)—

13 (i) in subparagraph (A), by striking “,
14 including permitting the organization to
15 assume progressively (over the initial 3-
16 year period of the waiver) the full financial
17 risk”; and

18 (ii) in subparagraph (C), by adding at
19 the end the following: “In granting further
20 extensions, an organization shall not be re-
21 quired to provide for reporting of informa-
22 tion which is only required because of the
23 demonstration nature of the project.”.

24 (3) ELIMINATION OF REPLICATION REQUIRE-
25 MENT.—Subparagraph (B) of paragraph (2) of such

1 section shall not apply to waivers granted under
2 such section after the date of the enactment of this
3 Act.

4 (4) TIMELY CONSIDERATION OF APPLICA-
5 TIONS.—In considering an application for waivers
6 under such section before the effective date of re-
7 peals under subsection (c), subject to the numerical
8 limitation under the amendment made by paragraph
9 (1), the application shall be deemed approved unless
10 the Secretary of Health and Human Services, within
11 90 days after the date of its submission to the Sec-
12 retary, either denies such request in writing or in-
13 forms the applicant in writing with respect to any
14 additional information which is needed in order to
15 make a final determination with respect to the appli-
16 cation. After the date the Secretary receives such
17 additional information, the application shall be
18 deemed approved unless the Secretary, within 90
19 days of such date, denies such request.

20 (c) PRIORITY AND SPECIAL CONSIDERATION IN AP-
21 PPLICATION.—During the 3-year period beginning on the
22 date of enactment of this Act:

23 (1) PROVIDER STATUS.—The Secretary of
24 Health and Human Services shall give priority, in
25 processing applications of entities to qualify as

1 PACE programs under section 1894 or 1932 of the
2 Social Security Act—

3 (A) first, to entities that are operating a
4 PACE demonstration waiver program (as de-
5 fined in section 1894(a)(7) of such Act), and

6 (B) then entities that have applied to oper-
7 ate such a program as of May 1, 1997.

8 (2) NEW WAIVERS.—The Secretary shall give
9 priority, in the awarding of additional waivers under
10 section 9412(b) of the Omnibus Budget Reconcili-
11 ation Act of 1986—

12 (A) to any entities that have applied for
13 such waivers under such section as of May 1,
14 1997; and

15 (B) to any entity that, as of May 1, 1997,
16 has formally contracted with a State to provide
17 services for which payment is made on a
18 capitated basis with an understanding that the
19 entity was seeking to become a PACE provider.

20 (3) SPECIAL CONSIDERATION.—The Secretary
21 shall give special consideration, in the processing of
22 applications described in paragraph (1) and the
23 awarding of waivers described in paragraph (2), to
24 an entity which as of May 1, 1997 through formal
25 activities (such as entering into contracts for fea-

1 sibility studies) has indicated a specific intent to be-
2 come a PACE provider.

3 (d) REPEAL OF CURRENT PACE DEMONSTRATION
4 PROJECT WAIVER AUTHORITY.—

5 (1) IN GENERAL.—Subject to paragraph (2),
6 the following provisions of law are repealed:

7 (A) Section 603(c) of the Social Security
8 Amendments of 1983 (Public Law 98–21).

9 (B) Section 9220 of the Consolidated Om-
10 nibus Budget Reconciliation Act of 1985 (Pub-
11 lic Law 99–272).

12 (C) Section 9412(b) of the Omnibus Budg-
13 et Reconciliation Act of 1986 (Public Law 99–
14 509).

15 (2) DELAY IN APPLICATION.—

16 (A) IN GENERAL.—Subject to subpara-
17 graph (B), the repeals made by paragraph (1)
18 shall not apply to waivers granted before the
19 initial effective date of regulations described in
20 subsection (a).

21 (B) APPLICATION TO APPROVED WAIV-
22 ERS.—Such repeals shall apply to waivers
23 granted before such date only after allowing
24 such organizations a transition period (of up to
25 24 months) in order to permit sufficient time

1 for an orderly transition from demonstration
2 project authority to general authority provided
3 under the amendments made by this Act.

4 **SEC. 5. STUDY AND REPORTS.**

5 (a) STUDY.—

6 (1) IN GENERAL.—The Secretary of Health and
7 Human Services (in close consultation with State
8 administering agencies, as defined in section
9 1894(a)(8) of the Social Security Act) shall conduct
10 a study of the quality and cost of providing PACE
11 program services under the medicare and medicaid
12 programs under the amendments made by this Act

13 (2) STUDY OF PRIVATE, FOR-PROFIT PROVID-
14 ERS.—Such study shall specifically compare the
15 costs, quality, and access to services by entities that
16 are private, for-profit entities operating under dem-
17 onstration projects waivers granted under section
18 1894(h) of the Social Security Act with the costs,
19 quality, and access to services of other PACE pro-
20 viders.

21 (b) REPORT.—

22 (1) IN GENERAL.—Not later than 4 years after
23 the date of enactment of this Act, the Secretary
24 shall provide for a report to Congress on the impact
25 of such amendments on quality and cost of services.

1 The Secretary shall include in such report such rec-
2 ommendations for changes in the operation of such
3 amendments as the Secretary deems appropriate.

4 (2) TREATMENT OF PRIVATE, FOR-PROFIT PRO-
5 VIDERS.—The report shall include specific findings
6 on whether any of the following findings is true:

7 (A) The number of covered lives enrolled
8 with entities operating under demonstration
9 project waivers under section 1894(h) of the
10 Social Security Act is fewer than 800 (or such
11 lesser number as the Secretary may find statis-
12 tically sufficient to make determinations re-
13 specting findings described in the succeeding
14 subparagraphs).

15 (B) The population enrolled with such en-
16 tities is less frail than the population enrolled
17 with other PACE providers.

18 (C) Access to or quality of care for individ-
19 uals enrolled with such entities is lower than
20 such access or quality for individuals enrolled
21 with other PACE providers.

22 (D) The application of such section has re-
23 sulted in an increase in expenditures under the
24 medicare or medicaid programs above the ex-

1 penditures that would have been made if such
2 section did not apply.

3 (c) INFORMATION INCLUDED IN ANNUAL REC-
4 OMMENDATIONS.—The Physician Payment Review Com-
5 mission shall include in its annual recommendations under
6 section 1845(b) of the Social Security Act (42 U.S.C.
7 1395w–1), and the Prospective Payment Review Commis-
8 sion shall include in its annual recommendations reported
9 under section 1886(e)(3)(A) of such Act (42 U.S.C.
10 1395ww(e)(3)(A)), recommendations on the methodology
11 and level of payments made to PACE providers under sec-
12 tion 1894(d) of such Act and on the treatment of private,
13 for-profit entities as PACE providers.

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