

MOTION TO RECOMMIT H.R. 1424

Mr. Kline of Minnesota moves to recommit the bill, H.R. 1424, to the Committee on Energy and Commerce with instructions to report the same back to the House forthwith with the following amendment:

Strike all after the enacting clause and insert the following:

1 **SEC. 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) SHORT TITLE.—This Act may be cited as the
3 “Mental Health Parity Act of 2008”.

4 (b) TABLE OF CONTENTS.—The table of contents of
5 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Mental health parity.

Sec. 3. Effective date.

Sec. 4. Federal administrative responsibilities.

Sec. 5. Asset verification through access to information held by financial institutions.

6 **SEC. 2. MENTAL HEALTH PARITY.**

7 (a) AMENDMENTS OF ERISA.—Subpart B of part 7
8 of title I of the Employee Retirement Income Security Act
9 of 1974 is amended by inserting after section 712 (29
10 U.S.C. 1185a) the following:

1 **“SEC. 712A. MENTAL HEALTH PARITY.**

2 “(a) IN GENERAL.—In the case of a group health
3 plan (or health insurance coverage offered in connection
4 with such a plan) that provides both medical and surgical
5 benefits and mental health benefits, such plan or coverage
6 shall ensure that—

7 “(1) the financial requirements applicable to
8 such mental health benefits are no more restrictive
9 than the financial requirements applied to substan-
10 tially all medical and surgical benefits covered by the
11 plan (or coverage), including deductibles, copay-
12 ments, coinsurance, out-of-pocket expenses, and an-
13 nual and lifetime limits, except that the plan (or cov-
14 erage) may not establish separate cost sharing re-
15 quirements that are applicable only with respect to
16 mental health benefits; and

17 “(2) the treatment limitations applicable to
18 such mental health benefits are no more restrictive
19 than the treatment limitations applied to substan-
20 tially all medical and surgical benefits covered by the
21 plan (or coverage), including limits on the frequency
22 of treatment, number of visits, days of coverage, or
23 other similar limits on the scope or duration of
24 treatment.

25 “(b) CLARIFICATIONS.—In the case of a group health
26 plan (or health insurance coverage offered in connection

1 with such a plan) that provides both medical and surgical
2 benefits and mental health benefits, and complies with the
3 requirements of subsection (a), such plan or coverage shall
4 not be prohibited from—

5 “(1) negotiating separate reimbursement or
6 provider payment rates and service delivery systems
7 for different benefits consistent with subsection (a);

8 “(2) managing the provision of mental health
9 benefits in order to provide medically necessary serv-
10 ices for covered benefits, including through the use
11 of any utilization review, authorization or manage-
12 ment practices, the application of medical necessity
13 and appropriateness criteria applicable to behavioral
14 health, and the contracting with and use of a net-
15 work of providers; and

16 “(3) applying the provisions of this section in a
17 manner that takes into consideration similar treat-
18 ment settings or similar treatments.

19 “(c) IN- AND OUT-OF-NETWORK.—In the case of a
20 group health plan (or health insurance coverage offered
21 in connection with such a plan) that provides both medical
22 and surgical benefits and mental health benefits, and that
23 provides such benefits on both an in- and out-of-network
24 basis pursuant to the terms of the plan (or coverage), such
25 plan (or coverage) shall ensure that the requirements of

1 this section are applied to both in- and out-of-network
2 services by comparing in-network medical and surgical
3 benefits to in-network mental health benefits and out-of-
4 network medical and surgical benefits to out-of-network
5 mental health benefits.

6 “(d) SMALL EMPLOYER EXEMPTION.—

7 “(1) IN GENERAL.—Except as provided in para-
8 graph (2), this section shall not apply to any group
9 health plan (or group health insurance coverage of-
10 fered in connection with a group health plan) for
11 any plan year of any employer who employed an av-
12 erage of at least 2 (or 1 in the case of an employer
13 residing in a State that permits small groups to in-
14 clude a single individual) but not more than 50 em-
15 ployees on business days during the preceding cal-
16 endar year.

17 “(2) NO PREEMPTION OF CERTAIN STATE
18 LAWS.—Nothing in paragraph (1) shall be construed
19 to preempt any State insurance law relating to em-
20 ployers in the State who employed an average of at
21 least 2 (or 1 in the case of an employer residing in
22 a State that permits small groups to include a single
23 individual) but not more than 50 employees on busi-
24 ness days during the preceding calendar year.

1 “(3) APPLICATION OF CERTAIN RULES IN DE-
2 TERMINATION OF EMPLOYER SIZE.—For purposes of
3 this subsection:

4 “(A) APPLICATION OF AGGREGATION RULE
5 FOR EMPLOYERS.—Rules similar to the rules
6 under subsections (b), (c), (m), and (o) of sec-
7 tion 414 of the Internal Revenue Code of 1986
8 shall apply for purposes of treating persons as
9 a single employer.

10 “(B) EMPLOYERS NOT IN EXISTENCE IN
11 PRECEDING YEAR.—In the case of an employer
12 which was not in existence throughout the pre-
13 ceding calendar year, the determination of
14 whether such employer is a small employer shall
15 be based on the average number of employees
16 that it is reasonably expected such employer
17 will employ on business days in the current cal-
18 endar year.

19 “(C) PREDECESSORS.—Any reference in
20 this paragraph to an employer shall include a
21 reference to any predecessor of such employer.

22 “(e) COST EXEMPTION.—

23 “(1) IN GENERAL.—With respect to a group
24 health plan (or health insurance coverage offered in
25 connections with such a plan), if the application of

1 this section to such plan (or coverage) results in an
2 increase for the plan year involved of the actual total
3 costs of coverage with respect to medical and sur-
4 gical benefits and mental health benefits under the
5 plan (as determined and certified under paragraph
6 (3)) by an amount that exceeds the applicable per-
7 centage described in paragraph (2) of the actual
8 total plan costs, the provisions of this section shall
9 not apply to such plan (or coverage) during the fol-
10 lowing plan year, and such exemption shall apply to
11 the plan (or coverage) for 1 plan year. An employer
12 may elect to continue to apply mental health parity
13 pursuant to this section with respect to the group
14 health plan (or coverage) involved regardless of any
15 increase in total costs.

16 “(2) APPLICABLE PERCENTAGE.—With respect
17 to a plan (or coverage), the applicable percentage de-
18 scribed in this paragraph shall be—

19 “(A) 2 percent in the case of the first plan
20 year in which this section is applied; and

21 “(B) 1 percent in the case of each subse-
22 quent plan year.

23 “(3) DETERMINATIONS BY ACTUARIES.—Deter-
24 minations as to increases in actual costs under a
25 plan (or coverage) for purposes of this section shall

1 be made and certified by a qualified and licensed ac-
2 tuary who is a member in good standing of the
3 American Academy of Actuaries. All such determina-
4 tions shall be in a written report prepared by the ac-
5 tuary. The report, and all underlying documentation
6 relied upon by the actuary, shall be maintained by
7 the group health plan or health insurance issuer for
8 a period of 6 years following the notification made
9 under paragraph (6).

10 “(4) 6-MONTH DETERMINATIONS.—If a group
11 health plan (or a health insurance issuer offering
12 coverage in connection with a group health plan)
13 seeks an exemption under this subsection, deter-
14 minations under paragraph (1) shall be made after
15 such plan (or coverage) has complied with this sec-
16 tion for the first 6 months of the plan year involved.

17 “(5) NOTIFICATION.—An election to modify
18 coverage of mental health benefits as permitted
19 under this subsection shall be treated as a material
20 modification in the terms of the plan as described in
21 section 102(a) and shall be subject to the applicable
22 notice requirements under section 104(b)(1).

23 “(6) NOTIFICATION TO APPROPRIATE AGEN-
24 CY.—

1 “(A) IN GENERAL.—A group health plan
2 (or a health insurance issuer offering coverage
3 in connection with a group health plan) that,
4 based upon a certification described under para-
5 graph (3), qualifies for an exemption under this
6 subsection, and elects to implement the exemp-
7 tion, shall notify the Department of Labor or
8 the Department of Health and Human Services,
9 as appropriate, of such election.

10 “(B) REQUIREMENT.—A notification
11 under subparagraph (A) shall include—

12 “(i) a description of the number of
13 covered lives under the plan (or coverage)
14 involved at the time of the notification, and
15 as applicable, at the time of any prior elec-
16 tion of the cost-exemption under this sub-
17 section by such plan (or coverage);

18 “(ii) for both the plan year upon
19 which a cost exemption is sought and the
20 year prior, a description of the actual total
21 costs of coverage with respect to medical
22 and surgical benefits and mental health
23 benefits under the plan; and

24 “(iii) for both the plan year upon
25 which a cost exemption is sought and the

1 year prior, the actual total costs of cov-
2 erage with respect to mental health bene-
3 fits under the plan.

4 “(C) CONFIDENTIALITY.—A notification
5 under subparagraph (A) shall be confidential.
6 The Department of Labor and the Department
7 of Health and Human Services shall make
8 available, upon request and on not more than
9 an annual basis, an anonymous itemization of
10 such notifications, that includes—

11 “(i) a breakdown of States by the size
12 and type of employers submitting such no-
13 tification; and

14 “(ii) a summary of the data received
15 under subparagraph (B).

16 “(7) AUDITS BY APPROPRIATE AGENCIES.—To
17 determine compliance with this subsection, the De-
18 partment of Labor and the Department of Health
19 and Human Services, as appropriate, may audit the
20 books and records of a group health plan or health
21 insurance issuer relating to an exemption, including
22 any actuarial reports prepared pursuant to para-
23 graph (3), during the 6 year period following the no-
24 tification of such exemption under paragraph (6). A
25 State agency receiving a notification under para-

1 graph (6) may also conduct such an audit with re-
2 spect to an exemption covered by such notification.

3 “(f) MENTAL HEALTH BENEFITS.—In this section,
4 the term ‘mental health benefits’ means benefits with re-
5 spect to mental health services (including substance use
6 disorder treatment) as defined under the terms of the
7 group health plan or coverage, and when applicable as may
8 be defined under State law when applicable to health in-
9 surance coverage offered in connection with a group health
10 plan.

11 “(g) ABORTION CLARIFICATION.—Nothing in this
12 section shall require a group health plan (or health insur-
13 ance coverage offered in connection with such a plan) to
14 cover abortion as a treatment.”.

15 (b) PUBLIC HEALTH SERVICE ACT.—Subpart 2 of
16 part A of title XXVII of the Public Health Service Act
17 is amended by inserting after section 2705 (42 U.S.C.
18 300gg-5) the following:

19 **“SEC. 2705A. MENTAL HEALTH PARITY.**

20 “(a) IN GENERAL.—In the case of a group health
21 plan (or health insurance coverage offered in connection
22 with such a plan) that provides both medical and surgical
23 benefits and mental health benefits, such plan or coverage
24 shall ensure that—

1 “(1) the financial requirements applicable to
2 such mental health benefits are no more restrictive
3 than the financial requirements applied to substan-
4 tially all medical and surgical benefits covered by the
5 plan (or coverage), including deductibles, copay-
6 ments, coinsurance, out-of-pocket expenses, and an-
7 nual and lifetime limits, except that the plan (or cov-
8 erage) may not establish separate cost sharing re-
9 quirements that are applicable only with respect to
10 mental health benefits; and

11 “(2) the treatment limitations applicable to
12 such mental health benefits are no more restrictive
13 than the treatment limitations applied to substan-
14 tially all medical and surgical benefits covered by the
15 plan (or coverage), including limits on the frequency
16 of treatment, number of visits, days of coverage, or
17 other similar limits on the scope or duration of
18 treatment.

19 “(b) CLARIFICATIONS.—In the case of a group health
20 plan (or health insurance coverage offered in connection
21 with such a plan) that provides both medical and surgical
22 benefits and mental health benefits, and complies with the
23 requirements of subsection (a), such plan or coverage shall
24 not be prohibited from—

1 “(1) negotiating separate reimbursement or
2 provider payment rates and service delivery systems
3 for different benefits consistent with subsection (a);

4 “(2) managing the provision of mental health
5 benefits in order to provide medically necessary serv-
6 ices for covered benefits, including through the use
7 of any utilization review, authorization or manage-
8 ment practices, the application of medical necessity
9 and appropriateness criteria applicable to behavioral
10 health, and the contracting with and use of a net-
11 work of providers; and

12 “(3) applying the provisions of this section in a
13 manner that takes into consideration similar treat-
14 ment settings or similar treatments.

15 “(c) IN- AND OUT-OF-NETWORK.—In the case of a
16 group health plan (or health insurance coverage offered
17 in connection with such a plan) that provides both medical
18 and surgical benefits and mental health benefits, and that
19 provides such benefits on both an in- and out-of-network
20 basis pursuant to the terms of the plan (or coverage), such
21 plan (or coverage) shall ensure that the requirements of
22 this section are applied to both in- and out-of-network
23 services by comparing in-network medical and surgical
24 benefits to in-network mental health benefits and out-of-

1 network medical and surgical benefits to out-of-network
2 mental health benefits.

3 “(d) SMALL EMPLOYER EXEMPTION.—

4 “(1) IN GENERAL.—Except as provided in para-
5 graph (2), this section shall not apply to any group
6 health plan (or group health insurance coverage of-
7 fered in connection with a group health plan) for
8 any plan year of any employer who employed an av-
9 erage of at least 2 (or 1 in the case of an employer
10 residing in a State that permits small groups to in-
11 clude a single individual) but not more than 50 em-
12 ployees on business days during the preceding cal-
13 endar year.

14 “(2) NO PREEMPTION OF CERTAIN STATE
15 LAWS.—Nothing in paragraph (1) shall be construed
16 to preempt any State insurance law relating to em-
17 ployers in the State who employed an average of at
18 least 2 (or 1 in the case of an employer residing in
19 a State that permits small groups to include a single
20 individual) but not more than 50 employees on busi-
21 ness days during the preceding calendar year.

22 “(3) APPLICATION OF CERTAIN RULES IN DE-
23 TERMINATION OF EMPLOYER SIZE.—For purposes of
24 this subsection:

1 “(A) APPLICATION OF AGGREGATION RULE
2 FOR EMPLOYERS.—Rules similar to the rules
3 under subsections (b), (c), (m), and (o) of sec-
4 tion 414 of the Internal Revenue Code of 1986
5 shall apply for purposes of treating persons as
6 a single employer.

7 “(B) EMPLOYERS NOT IN EXISTENCE IN
8 PRECEDING YEAR.—In the case of an employer
9 which was not in existence throughout the pre-
10 ceding calendar year, the determination of
11 whether such employer is a small employer shall
12 be based on the average number of employees
13 that it is reasonably expected such employer
14 will employ on business days in the current cal-
15 endar year.

16 “(C) PREDECESSORS.—Any reference in
17 this paragraph to an employer shall include a
18 reference to any predecessor of such employer.

19 “(e) COST EXEMPTION.—

20 “(1) IN GENERAL.—With respect to a group
21 health plan (or health insurance coverage offered in
22 connection with such a plan), if the application of
23 this section to such plan (or coverage) results in an
24 increase for the plan year involved of the actual total
25 costs of coverage with respect to medical and sur-

1 gical benefits and mental health benefits under the
2 plan (as determined and certified under paragraph
3 (3)) by an amount that exceeds the applicable per-
4 centage described in paragraph (2) of the actual
5 total plan costs, the provisions of this section shall
6 not apply to such plan (or coverage) during the fol-
7 lowing plan year, and such exemption shall apply to
8 the plan (or coverage) for 1 plan year. An employer
9 may elect to continue to apply mental health parity
10 pursuant to this section with respect to the group
11 health plan (or coverage) involved regardless of any
12 increase in total costs.

13 “(2) APPLICABLE PERCENTAGE.—With respect
14 to a plan (or coverage), the applicable percentage de-
15 scribed in this paragraph shall be—

16 “(A) 2 percent in the case of the first plan
17 year in which this section is applied; and

18 “(B) 1 percent in the case of each subse-
19 quent plan year.

20 “(3) DETERMINATIONS BY ACTUARIES.—Deter-
21 minations as to increases in actual costs under a
22 plan (or coverage) for purposes of this section shall
23 be made and certified by a qualified and licensed ac-
24 tuary who is a member in good standing of the
25 American Academy of Actuaries. All such determina-

1 tions shall be in a written report prepared by the ac-
2 tuary. The report, and all underlying documentation
3 relied upon by the actuary, shall be maintained by
4 the group health plan or health insurance issuer for
5 a period of 6 years following the notification made
6 under paragraph (6).

7 “(4) 6-MONTH DETERMINATIONS.—If a group
8 health plan (or a health insurance issuer offering
9 coverage in connection with a group health plan)
10 seeks an exemption under this subsection, deter-
11 minations under paragraph (1) shall be made after
12 such plan (or coverage) has complied with this sec-
13 tion for the first 6 months of the plan year involved.

14 “(5) NOTIFICATION.—An election to modify
15 coverage of mental health benefits as permitted
16 under this subsection shall be treated as a material
17 modification in the terms of the plan as described in
18 section 102(a) of the Employee Retirement Income
19 Security Act of 1974 and shall be subject to the ap-
20 plicable notice requirements under section 104(b)(1)
21 of such Act.

22 “(6) NOTIFICATION TO APPROPRIATE AGEN-
23 CY.—

24 “(A) IN GENERAL.—A group health plan
25 (or a health insurance issuer offering coverage

1 in connection with a group health plan) that,
2 based upon a certification described under para-
3 graph (3), qualifies for an exemption under this
4 subsection, and elects to implement the exemp-
5 tion, shall notify the Department of Labor or
6 the Department of Health and Human Services,
7 as appropriate, of such election. A health insur-
8 ance issuer providing health insurance coverage
9 in connection with a group health plan shall
10 provide a copy of such notice to the State insur-
11 ance department or other State agency respon-
12 sible for regulating the terms of such coverage.

13 “(B) REQUIREMENT.—A notification
14 under subparagraph (A) shall include—

15 “(i) a description of the number of
16 covered lives under the plan (or coverage)
17 involved at the time of the notification, and
18 as applicable, at the time of any prior elec-
19 tion of the cost-exemption under this sub-
20 section by such plan (or coverage);

21 “(ii) for both the plan year upon
22 which a cost exemption is sought and the
23 year prior, a description of the actual total
24 costs of coverage with respect to medical

1 and surgical benefits and mental health
2 benefits under the plan; and

3 “(iii) for both the plan year upon
4 which a cost exemption is sought and the
5 year prior, the actual total costs of cov-
6 erage with respect to mental health bene-
7 fits under the plan.

8 “(C) CONFIDENTIALITY.—A notification
9 under subparagraph (A) shall be confidential.
10 The Department of Labor and the Department
11 of Health and Human Services shall make
12 available, upon request and on not more than
13 an annual basis, an anonymous itemization of
14 such notifications, that includes—

15 “(i) a breakdown of States by the size
16 and type of employers submitting such no-
17 tification; and

18 “(ii) a summary of the data received
19 under subparagraph (B).

20 “(7) AUDITS BY APPROPRIATE AGENCIES.—To
21 determine compliance with this subsection, the De-
22 partment of Labor and the Department of Health
23 and Human Services, as appropriate, may audit the
24 books and records of a group health plan or health
25 insurance issuer relating to an exemption, including

1 any actuarial reports prepared pursuant to para-
2 graph (3), during the 6 year period following the no-
3 tification of such exemption under paragraph (6). A
4 State agency receiving a notification under para-
5 graph (6) may also conduct such an audit with re-
6 spect to an exemption covered by such notification.

7 “(f) MENTAL HEALTH BENEFITS.—In this section,
8 the term ‘mental health benefits’ means benefits with re-
9 spect to mental health services (including substance use
10 disorder treatment) as defined under the terms of the
11 group health plan or coverage, and when applicable as may
12 be defined under State law when applicable to health in-
13 surance coverage offered in connection with a group health
14 plan.

15 “(g) ABORTION CLARIFICATION.—Nothing in this
16 section shall require a group health plan (or health insur-
17 ance coverage offered in connection with such a plan) to
18 cover abortion as a treatment.”.

19 **SEC. 3. EFFECTIVE DATE.**

20 (a) IN GENERAL.—The provisions of this Act shall
21 apply to group health plans (or health insurance coverage
22 offered in connection with such plans) beginning in the
23 first plan year that begins on or after January 1 of the
24 first calendar year that begins more than 1 year after the
25 date of the enactment of this Act.

1 (b) TERMINATION OF CERTAIN PROVISIONS.—

2 (1) ERISA.—Section 712 of the Employee Re-
3 tirement Income Security Act of 1974 (29 U.S.C.
4 1185a) is amended by striking subsection (f) and in-
5 serting the following:

6 “(f) Sunset- This section shall not apply to benefits
7 for services furnished after the effective date described in
8 section 3(a) of the Mental Health Parity Act of 2008.”.

9 (2) PHSA.—Section 2705 of the Public Health
10 Service Act (42 U.S.C. 300gg-5) is amended by
11 striking subsection (f) and inserting the following:

12 “(f) Sunset- This section shall not apply to benefits
13 for services furnished after the effective date described in
14 section 3(a) of the Mental Health Parity Act of 2008.”.

15 **SEC. 4. FEDERAL ADMINISTRATIVE RESPONSIBILITIES.**

16 (a) GROUP HEALTH PLAN OMBUDSMAN.—

17 (1) DEPARTMENT OF LABOR.—The Secretary
18 of Labor shall designate an individual within the De-
19 partment of Labor to serve as the group health plan
20 ombudsman for the Department. Such ombudsman
21 shall serve as an initial point of contact to permit
22 individuals to obtain information and provide assist-
23 ance concerning coverage of mental health services
24 under group health plans in accordance with this
25 Act.

1 (2) DEPARTMENT OF HEALTH AND HUMAN
2 SERVICES.—The Secretary of Health and Human
3 Services shall designate an individual within the De-
4 partment of Health and Human Services to serve as
5 the group health plan ombudsman for the Depart-
6 ment. Such ombudsman shall serve as an initial
7 point of contact to permit individuals to obtain in-
8 formation and provide assistance concerning cov-
9 erage of mental health services under health insur-
10 ance coverage issued in connection with group health
11 plans in accordance with this Act.

12 (b) AUDITS.—The Secretary of Labor and the Sec-
13 retary of Health and Human Services shall each provide
14 for the conduct of random audits of group health plans
15 (and health insurance coverage offered in connection with
16 such plans) to ensure that such plans are in compliance
17 with this Act (and the amendments made by this Act).

18 (c) GOVERNMENT ACCOUNTABILITY OFFICE
19 STUDY.—

20 (1) STUDY.—The Comptroller General shall
21 conduct a study that evaluates the effect of the im-
22 plementation of the amendments made by this Act
23 on the cost of health insurance coverage, access to
24 health insurance coverage (including the availability
25 of in-network providers), the quality of health care,

1 the impact on benefits and coverage for mental
2 health and substance use disorders, the impact of
3 any additional cost or savings to the plan, the im-
4 pact on out-of-network coverage for mental health
5 benefits (including substance use disorder treat-
6 ment), the impact on State mental health benefit
7 mandate laws, other impact on the business commu-
8 nity and the Federal Government, and other issues
9 as determined appropriate by the Comptroller Gen-
10 eral.

11 (2) REPORT.—Not later than 2 years after the
12 date of enactment of this Act, the Comptroller Gen-
13 eral shall prepare and submit to the appropriate
14 committees of Congress a report containing the re-
15 sults of the study conducted under paragraph (1).

16 (d) REGULATIONS.—Not later than 1 year after the
17 date of enactment of this Act, the Secretary of Labor and
18 the Secretary of Health and Human Services shall jointly
19 promulgate final regulations to carry out this Act.

20 **SEC. 5. ASSET VERIFICATION THROUGH ACCESS TO INFOR-**
21 **MATION HELD BY FINANCIAL INSTITUTIONS.**

22 (a) ADDITION OF AUTHORITY.—Title XIX of the So-
23 cial Security Act is amended by inserting after section
24 1939 the following new section:

1 “ASSET VERIFICATION THROUGH ACCESS TO
2 INFORMATION HELD BY FINANCIAL INSTITUTIONS

3 “SEC. 1940. (a) IN GENERAL.—Subject to the provi-
4 sions of this section, each State shall implement an asset
5 verification program described in subsection (b), for pur-
6 poses of determining or redetermining the eligibility of an
7 individual for medical assistance under the State plan
8 under this title.

9 “(b) ASSET VERIFICATION PROGRAM.—

10 “(1) IN GENERAL.—For purposes of this sec-
11 tion, an asset verification program means a program
12 described in paragraph (2) under which—

13 “(A) a State requires each applicant for,
14 or recipient of, medical assistance under the
15 State plan under this title to provide authoriza-
16 tion by such applicant or recipient (and any
17 other person whose income or resources are ma-
18 terial to the determination of the eligibility of
19 the applicant or recipient for such assistance)
20 for the State to obtain (subject to the cost re-
21 imbursement requirements of section 1115(a) of
22 the Right to Financial Privacy Act) from any
23 financial institution (within the meaning of sec-
24 tion 1101(1) of such Act) any financial record
25 (within the meaning of section 1101(2) of such

1 Act) held by the institution with respect to the
2 applicant or recipient (and such other person,
3 as applicable), whenever the State determines
4 the record is needed in connection with a deter-
5 mination with respect to such eligibility for (or
6 the amount or extent of) such medical assist-
7 ance;

8 “(B) each such applicant or recipient (or
9 other person) shall provide such authorization
10 directly to the financial institution involved as
11 a condition of eligibility for such medical assist-
12 ance; and

13 “(C) the State uses such authorization to
14 verify the financial resources of such applicant
15 or recipient (and such other person, as applica-
16 ble), in order to determine or redetermine the
17 eligibility of such applicant or recipient for
18 medical assistance under the State plan.

19 “(2) PROGRAM DESCRIBED.—A program de-
20 scribed in this paragraph is a program for verifying
21 individual assets in a manner consistent with the ap-
22 proach used by the Commissioner of Social Security
23 under section 1631(e)(1)(B)(ii).

1 “(c) DURATION OF AUTHORIZATION.—An authoriza-
2 tion provided to a State under subsection (b)(1) shall re-
3 main effective until the earliest of—

4 “(1) the rendering of a final adverse decision on
5 the applicant’s application for medical assistance
6 under the State’s plan under this title;

7 “(2) the cessation of the recipient’s eligibility
8 for such medical assistance; or

9 “(3) the express revocation by the applicant or
10 recipient (or such other person described in sub-
11 section (b)(1), as applicable) of the authorization, in
12 a written notification to the State.

13 “(d) REQUIRED DISCLOSURE.—The State shall in-
14 form any person who provides authorization pursuant to
15 subsection (b)(1) of the duration and scope of the author-
16 ization.

17 “(e) REFUSAL OR REVOCATION OF AUTHORIZA-
18 TION.—If an applicant for, or recipient of, medical assist-
19 ance under the State plan under this title (or such other
20 person described in subsection (b)(1), as applicable) re-
21 fuses to provide, or revokes, any authorization made by
22 the applicant or recipient (or such other person, as appli-
23 cable) under subsection (a)(1)(B) for the State to obtain
24 from any financial institution any financial record, the

1 State may, on that basis, determine that the applicant or
2 recipient is ineligible for medical assistance.

3 “(f) USE OF CONTRACTOR.—For purposes of imple-
4 menting an asset verification program under this section,
5 a State may select and enter into a contract with a public
6 or private entity meeting such criteria and qualifications
7 as the State determines appropriate.

8 “(g) TECHNICAL ASSISTANCE.—The Secretary shall
9 provide States with technical assistance to aid in imple-
10 mentation of an asset verification program under this sec-
11 tion.

12 “(h) REPORTS.—A State implementing an asset
13 verification program under this section shall furnish to the
14 Secretary such reports concerning the program, at such
15 times, in such format, and containing such information
16 as the Secretary determines appropriate.”.

17 (b) STATE PLAN REQUIREMENTS.—Section 1902(a)
18 of the Social Security Act (42 U.S.C. 1396a(a)) is amend-
19 ed—

20 (1) in paragraph (69) by striking “and” at the
21 end;

22 (2) in paragraph (70) by striking the period at
23 the end and inserting “; and”; and

24 (3) by inserting after paragraph (70), as so
25 amended, the following new paragraph:

1 “(71) provide that the State will implement an
2 asset verification program under such section.”.

3 (c) WITHHOLDING OF FEDERAL MATCHING PAY-
4 MENTS FOR NONCOMPLIANT STATES.—Section 1903(i)
5 (42 U.S.C. 1396b(i)) is amended—

6 (1) in paragraph (21) by striking “or” at the
7 end;

8 (2) in paragraph (22) by striking the period at
9 the end and inserting “; or”; and

10 (3) by adding after paragraph (22) the fol-
11 lowing new paragraph:

12 “(23) if a State is required to implement an
13 asset verification program under section 1940 and
14 fails to comply with the requirements of such sec-
15 tion, with respect to amounts expended by such
16 State for medical assistance for individuals subject
17 to asset verification under such section.”.

18 (d) REPEAL.—Section 4 of Public Law 110–90 is re-
19 pealed.

20 (e) ADJUSTMENT TO PAQI FUND.—Section
21 1848(l)(2) of the Social Security Act (42 U.S.C. 1395w-
22 4(l)(2)), as amended by section 101(a)(2) of the Medicare,
23 Medicaid, and SCHIP Extension Act of 2007 (Public Law
24 110-173), is amended—

25 (1) in subparagraph (A)(i)—

1 (A) in subclause (III), by striking
2 “\$4,960,000,000” and inserting
3 “\$4,360,000,000”; and

4 (B) by adding at the end the following new
5 subclause:

6 “(IV) For expenditures during
7 2014, an amount equal to
8 \$1,000,000,000.”;

9 (2) in subparagraph (A)(ii), by adding at the
10 end the following new subclause:

11 “(IV) 2014.—The amount avail-
12 able for expenditures during 2014
13 shall only be available for an adjust-
14 ment to the update of the conversion
15 factor under subsection (d) for that
16 year.”; and

17 (3) in subparagraph (B)—

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

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

22 (C) by adding at the end the following new
23 clause:

1 “(iv) 2014 for payment with respect
2 to physicians’ services furnished during
3 2014.”.