

110TH CONGRESS  
1ST SESSION

# S. 1102

To amend title XVIII of the Social Security Act to expedite the application and eligibility process for low-income subsidies under the Medicare prescription drug program and to revise the resource standards used to determine eligibility for an income-related subsidy, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

APRIL 12, 2007

Mr. BINGAMAN (for himself, Mr. SMITH, Mr. KOHL, Ms. SNOWE, Mrs. LINCOLN, and Mr. KERRY) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend title XVIII of the Social Security Act to expedite the application and eligibility process for low-income subsidies under the Medicare prescription drug program and to revise the resource standards used to determine eligibility for an income-related subsidy, 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.**

4 This Act may be cited as the “Part D Equity for  
5 Low-Income Seniors Act of 2007”.

1 **SEC. 2. EXPEDITING LOW-INCOME SUBSIDIES UNDER THE**  
2 **MEDICARE PRESCRIPTION DRUG PROGRAM.**

3 (a) IN GENERAL.—Section 1860D–14 of the Social  
4 Security Act (42 U.S.C. 1395w–114) is amended by add-  
5 ing at the end the following new subsection:

6 “(e) EXPEDITED APPLICATION AND ELIGIBILITY  
7 PROCESS.—

8 “(1) EXPEDITED PROCESS.—

9 “(A) IN GENERAL.—The Commissioner of  
10 Social Security shall provide for an expedited  
11 process under this subsection for the qualifica-  
12 tion for low-income assistance under this sec-  
13 tion through a request to the Secretary of the  
14 Treasury as provided in subparagraph (B) for  
15 information described in section 6103(l)(21) of  
16 the Internal Revenue Code of 1986. Such proc-  
17 ess shall be conducted in cooperation with the  
18 Secretary.

19 “(B) CURRENTLY ELIGIBLE INDIVID-  
20 UALS.—The Commissioner of Social Security  
21 shall, as soon as practicable after implementa-  
22 tion of subparagraph (A), screen such indi-  
23 vidual for eligibility for the low-income subsidy  
24 provided under this section through such a re-  
25 quest to the Secretary of the Treasury.

1           “(2) NOTIFICATION OF POTENTIALLY ELIGIBLE  
2 INDIVIDUALS.—Under such process, in the case of  
3 each individual identified under paragraph (1) who  
4 has not otherwise applied for, or been determined el-  
5 ible for, benefits under this section (or who has ap-  
6 plied for and been determined ineligible for such  
7 benefits based only on excess resources), the Com-  
8 missioner of Social Security shall send a notification  
9 that the individual is likely eligible for low-income  
10 subsidies under this section. Such notification shall  
11 include the following:

12           “(A) APPLICATION INFORMATION.—Infor-  
13 mation on how to apply for such low-income  
14 subsidies.

15           “(B) DESCRIPTION OF THE LIS BEN-  
16 EFIT.—A description of the low-income sub-  
17 sidies available under this section.

18           “(C) INFORMATION ON STATE HEALTH IN-  
19 SURANCE PROGRAMS.—Information on—

20           “(i) the State Health Insurance As-  
21 sistance Program for the State in which  
22 the individual is located; and

23           “(ii) how the individual may contact  
24 such Program in order to obtain assistance

1           regarding enrollment and benefits under  
2           this part.

3           “(D) ATTESTATION.—An application form  
4           that provides for a signed attestation, under  
5           penalty of law, as to the amount of income and  
6           assets of the individual and constitutes an ap-  
7           plication for the low-income subsidies under this  
8           section. Such form—

9                   “(i) shall not require the submittal of  
10                  additional documentation regarding income  
11                  or assets;

12                  “(ii) shall permit the appointment of  
13                  a personal representative described in  
14                  paragraph (4); and

15                  “(iii) shall allow for the specification  
16                  of a language (other than English) that is  
17                  preferred by the individual for subsequent  
18                  communications with respect to the indi-  
19                  vidual under this part.

20           If a State is doing its own outreach to low-income  
21           seniors regarding enrollment and low-income sub-  
22           sidies under this part, such process shall be coordi-  
23           nated with the State’s outreach effort.

24           “(3) HOLD-HARMLESS.—Under such process, if  
25           an individual in good faith and in the absence of

1 fraud executes an attestation described in paragraph  
2 (2)(D) and is provided low-income subsidies under  
3 this section on the basis of such attestation, if the  
4 individual is subsequently found not eligible for such  
5 subsidies, there shall be no recovery made against  
6 the individual because of such subsidies improperly  
7 paid.

8 “(4) USE OF AUTHORIZED REPRESENTATIVE.—  
9 Under such process, with proper authorization  
10 (which may be part of the attestation form described  
11 in paragraph (2)(D)), an individual may authorize  
12 another individual to act as the individual’s personal  
13 representative with respect to communications under  
14 this part and the enrollment of the individual under  
15 a prescription drug plan (or MA–PD plan) and for  
16 low-income subsidies under this section.

17 “(5) USE OF PREFERRED LANGUAGE IN SUBSE-  
18 QUENT COMMUNICATIONS.—In the case an attesta-  
19 tion described in paragraph (2)(D) is completed and  
20 in which a language other than English is specified  
21 under clause (iii) of such paragraph, the Commis-  
22 sioner of Social Security shall provide that subse-  
23 quent communications to the individual under this  
24 part shall be in such language.

1           “(6) CONSTRUCTION.—Nothing in this sub-  
2           section shall be construed as precluding the Commis-  
3           sioner of Social Security or the Secretary from tak-  
4           ing additional outreach efforts to enroll eligible indi-  
5           viduals under this part and to provide low-income  
6           subsidies to eligible individuals.”.

7           (b) DISCLOSURE OF RETURN INFORMATION FOR  
8           PURPOSES OF DETERMINING INDIVIDUALS ELIGIBLE FOR  
9           SUBSIDIES UNDER MEDICARE PART D.—

10           (1) IN GENERAL.—Subsection (1) of section  
11           6103 of the Internal Revenue Code of 1986 is  
12           amended by adding at the end the following new  
13           paragraph:

14           “(21) DISCLOSURE OF RETURN INFORMATION  
15           TO CARRY OUT MEDICARE PART D SUBSIDIES.—

16           “(A) IN GENERAL.—The Secretary shall,  
17           upon written request from the Commissioner of  
18           Social Security under section 1860D–14(e)(1)  
19           of the Social Security Act, disclose to officers  
20           and employees of the Social Security Adminis-  
21           tration return information of a taxpayer who  
22           (according to the records of the Secretary) may  
23           be eligible for a subsidy under section 1860D–  
24           14 of the Social Security Act. Such return in-  
25           formation shall be limited to—

1           “(i) taxpayer identity information  
2           with respect to such taxpayer,

3           “(ii) the filing status of such tax-  
4           payer,

5           “(iii) the gross income of such tax-  
6           payer,

7           “(iv) such other information relating  
8           to the liability of the taxpayer as is pre-  
9           scribed by the Secretary by regulation as  
10          might indicate the eligibility of such tax-  
11          payer for a subsidy under section 1860D-  
12          14 of the Social Security Act, and

13          “(v) the taxable year with respect to  
14          which the preceding information relates.

15          “(B) RESTRICTION ON USE OF DISCLOSED  
16          INFORMATION.—Return information disclosed  
17          under this paragraph may be used by officers  
18          and employees of the Social Security Adminis-  
19          tration only for the purposes of identifying eli-  
20          gible individuals for, and, if applicable, admin-  
21          istering—

22                 “(i) low-income subsidies under sec-  
23                 tion 1860D-14 of the Social Security Act,  
24                 and

1           “(ii) the Medicare Savings Program  
2           implemented under clauses (i), (iii), and  
3           (iv) of section 1902(a)(10)(E) of such Act.

4           “(C) TERMINATION.—Return information  
5           may not be disclosed under this paragraph after  
6           the date that is one year after the date of the  
7           enactment of this paragraph.”.

8           (2) CONFORMING AMENDMENTS.—Paragraph  
9           (4) of section 6103(p) of the Internal Revenue Code  
10          of 1986 is amended—

11           (A) by striking “(14) or (17)” in the mat-  
12           ter preceding subparagraph (A) and inserting  
13           “(14), (17), or (21)”; and

14           (B) by striking “(15) or (17)” in subpara-  
15           graph (F)(ii) and inserting “(15), (17), or  
16           (21)”.

17 **SEC. 3. MODIFICATION OF RESOURCE STANDARDS FOR DE-**  
18 **TERMINATION OF ELIGIBILITY FOR LOW-IN-**  
19 **COME SUBSIDY.**

20          (a) INCREASING THE ALTERNATIVE RESOURCE  
21 STANDARD.—Section 1860D–14(a)(3)(E)(i) of the Social  
22 Security Act (42 U.S.C. 1395w–114(a)(3)(E)(i)) is  
23 amended—

24           (1) in subclause (I), by striking “and” at the  
25          end;

1 (2) in subclause (II)—

2 (A) by striking “a subsequent year” and  
3 inserting “2007”;

4 (B) by striking “in this subclause (or sub-  
5 clause (I)) for the previous year” and inserting  
6 “in subclause (I) for 2006”;

7 (C) by striking the period at the end and  
8 inserting a semicolon; and

9 (D) by inserting before the flush sentence  
10 at the end the following new subclauses:

11 “(III) for 2008, \$27,500 (or  
12 \$55,000 in the case of the combined  
13 value of the individual’s assets or re-  
14 sources and the assets or resources of  
15 the individual’s spouse); and

16 “(IV) for a subsequent year the  
17 dollar amounts specified in this sub-  
18 clause (or subclause (III)) for the pre-  
19 vious year increased by the annual  
20 percentage increase in the consumer  
21 price index (all items; U.S. city aver-  
22 age) as of September of such previous  
23 year.”; and

24 (3) in the flush sentence at the end, by insert-  
25 ing “or (IV)” after “subclause (II)”.

1 (b) EXEMPTIONS FROM RESOURCES.—Section  
2 1860D–14(a)(3) of the Social Security Act (42 U.S.C.  
3 1395w–114(a)(3)) is amended—

4 (1) in subparagraph (D), in the matter pre-  
5 ceding clause (i), by inserting “subject to the addi-  
6 tional exclusions provided under subparagraph (G)”  
7 before “);”;

8 (2) in subparagraph (E)(i), in the matter pre-  
9 ceding subclause (I), by inserting “subject to the ad-  
10 ditional exclusions provided under subparagraph  
11 (G)” before “);” and

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

14 “(G) ADDITIONAL EXCLUSIONS.—In deter-  
15 mining the resources of an individual (and their  
16 eligible spouse, if any) under section 1613 for  
17 purposes of subparagraphs (D) and (E) the fol-  
18 lowing additional exclusions shall apply:

19 “(i) LIFE INSURANCE POLICY.—No  
20 part of the value of any life insurance pol-  
21 icy shall be taken into account.

22 “(ii) IN-KIND CONTRIBUTIONS.—No  
23 in-kind contribution shall be taken into ac-  
24 count.

1                   “(iii) PENSION OR RETIREMENT  
 2                   PLAN.—No balance in any pension or re-  
 3                   tirement plan shall be taken into ac-  
 4                   count.”.

5           (c) EFFECTIVE DATE.—The amendments made by  
 6 this section shall take effect on the date of enactment of  
 7 this Act.

8 **SEC. 4. INDEXING DEDUCTIBLE AND COST-SHARING ABOVE**  
 9                   **ANNUAL OUT-OF-POCKET THRESHOLD FOR**  
 10                   **INDIVIDUALS WITH INCOME BELOW 150 PER-**  
 11                   **CENT OF POVERTY LINE.**

12           (a) INDEXING DEDUCTIBLE.—Section 1860D-  
 13 14(a)(4)(B) of the Social Security Act (42 U.S.C. 1395w-  
 14 114(a)(4)(B)) is amended—

15                   (1) in clause (i), by striking “or”;

16                   (2) in clause (ii)—

17                           (A) by striking “a subsequent year” and  
 18                   inserting “2008”;

19                           (B) by striking “this clause (or clause (i))  
 20                   for the previous year” and inserting “clause (i)  
 21                   for 2007”; and

22                           (C) by striking “involved.” and inserting  
 23                   “involved; and”;

24                   (3) by adding after clause (ii) the following new  
 25                   clause:

1           “(iii) for 2008 and each succeeding  
2           year, the amount determined under this  
3           subparagraph for the previous year in-  
4           creased by the annual percentage increase  
5           in the consumer price index (all items;  
6           U.S. city average) as of September of such  
7           previous year.”; and

8           (4) in the flush sentence at the end, by striking  
9           “clause (i) or (ii)” and inserting “clause (i), (ii), or  
10          (iii)”.

11          (b) INDEXING COST-SHARING.—Section 1860D-  
12 14(a) of the Social Security Act (42 U.S.C. 1395w-  
13 114(a)) is amended—

14           (1) in paragraph (1)(D)(iii), by striking “exceed  
15           the copayment amount” and all that follows through  
16           the period at the end and inserting “exceed—

17                           “(I) for 2006 and 2007, the co-  
18                           payment amount specified under sec-  
19                           tion 1860D-2(b)(4)(A)(i)(I) for the  
20                           drug and year involved; and

21                           “(II) for 2008 and each suc-  
22                           ceeding year, the amount determined  
23                           under this subparagraph for the pre-  
24                           vious year increased by the annual  
25                           percentage increase in the consumer

1 price index (all items; U.S. city aver-  
2 age) as of September of such previous  
3 year.”; and

4 (2) in paragraph (2)(E), by striking “exceed  
5 the copayment or coinsurance amount” and all that  
6 follows through the period at the end and inserting  
7 “exceed—

8 “(i) for 2006 and 2007, the copay-  
9 ment or coinsurance amount specified  
10 under section 1860D–2(b)(4)(A)(i)(I) for  
11 the drug and year involved; and

12 “(ii) for 2008 and each succeeding  
13 year, the amount determined under this  
14 clause for the previous year increased by  
15 the annual percentage increase in the con-  
16 sumer price index (all items; U.S. city av-  
17 erage) as of September of such previous  
18 year.”.

19 **SEC. 5. NO IMPACT ON ELIGIBILITY FOR BENEFITS UNDER**  
20 **OTHER PROGRAMS.**

21 (a) IN GENERAL.—Section 1860D–14(a)(3) of the  
22 Social Security Act (42 U.S.C. 1395w–114(a)(3)), as  
23 amended by section 3(c)(3), is amended—

1           (1) in subparagraph (A), in the matter pre-  
2           ceding clause (i), by striking “subparagraph (F)”  
3           and inserting “subparagraphs (F) and (H)”; and

4           (2) by adding at the end the following new sub-  
5           paragraph:

6                   “(H) NO IMPACT ON ELIGIBILITY FOR  
7                   BENEFITS UNDER OTHER PROGRAMS.—The  
8                   availability of premium and cost-sharing sub-  
9                   sidies under this section shall not be treated as  
10                  benefits or otherwise taken into account in de-  
11                  termining an individual’s eligibility for, or the  
12                  amount of benefits under, any other Federal  
13                  program.”.

14          (b) EFFECTIVE DATE.—The amendments made by  
15          this section shall take effect on the date of enactment of  
16          this Act.

○