To amend titles XVIII and XIX of the Social Security Act to reduce cost-sharing, align income and resource eligibility tests, simplify enrollment, and provide for other program improvements for low-income Medicare beneficiaries.

IN THE HOUSE OF REPRESENTATIVES
October 15, 2019

Mr. Kim introduced the following bill; which was referred to the Committee on ____________________________

A BILL
To amend titles XVIII and XIX of the Social Security Act to reduce cost-sharing, align income and resource eligibility tests, simplify enrollment, and provide for other program improvements for low-income Medicare beneficiaries.

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 “Helping Seniors Afford
5 Health Care Act”.

(Original Signature of Member)
SEC. 2. REDUCING COST-SHARING, ALIGNING INCOME AND RESOURCE ELIGIBILITY TESTS, SIMPLIFYING ENROLLMENT, AND OTHER PROGRAM IMPROVEMENTS FOR LOW-INCOME BENEFICIARIES.

(a) INCREASE IN INCOME ELIGIBILITY TO 135 PERCENT OF FPL FOR QUALIFIED MEDICARE BENEFICIARIES.—

(1) IN GENERAL.—Section 1905(p)(2)(A) of the Social Security Act (42 U.S.C. 1396d(p)(2)(A)) is amended by striking “shall be at least the percent provided under subparagraph (B) (but not more than 100 percent) of the official poverty line” and all that follows through the period at the end and inserting the following: “shall be—

“(i) before January 1, 2021, at least the percent provided under subparagraph (B) (but not more than 100 percent) of the official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved; and

“(ii) on or after January 1, 2021, equal to 135 percent of the official poverty
line (as so defined and revised) applicable
to a family of the size involved.”.

(2) NOT COUNTING IN-KIND SUPPORT AND
MAINTENANCE AS INCOME.—Section 1905(p)(2)(D)
of the Social Security Act (42 U.S.C.
1396d(p)(2)(D)) is amended by adding at the end
the following new clause:

“(iii) In determining income under
this subsection, support and maintenance
furnished in kind shall not be counted as
income.”.

(b) INCREASE IN INCOME ELIGIBILITY TO 200 PER-
CENT OF FPL FOR SPECIFIED LOW-INCOME MEDICARE
BENEFICIARIES.—

(1) ELIGIBILITY OF INDIVIDUALS WITH IN-
COMES BELOW 150 PERCENT OF FPL.—Section
1902(a)(10)(E) of the Social Security Act (42
U.S.C. 1396a(a)(10)(E)) is amended—

(A) by adding “and” at the end of clause
(ii);

(B) in clause (iii)—

(i) by striking “and 120 percent in
1995 and years thereafter” and inserting
“120 percent in 1995 and years thereafter
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before 2021, and 200 percent in 2021 and
years thereafter’’; and

(ii) by striking ‘‘and’’ at the end; and

(C) by striking clause (iv).

(2) REFERENCES.—Section 1905(p)(1) of the
Social Security Act (42 U.S.C. 1396d(p)(1)) is
amended by adding at and below subparagraph (C)
the following flush sentence:

‘‘The term ‘specified low-income medicare beneficiary’
means an individual described in section
1902(a)(10)(E)(iii).’’.

(3) CONFORMING AMENDMENTS.—

(A) The first sentence of section 1905(b)
of such Act (42 U.S.C. 1396d(b)) is amended
by striking ‘‘and section 1933(d)’’.

(B) Section 1933 of such Act (42 U.S.C.
1396u–3) is repealed.

(c) 100 PERCENT FMAP.—Section 1905 of the So-
cial Security Act (42 U.S.C. 1396d) is amended by adding
at the end the following new subsection:

‘‘(gg) INCREASED FMAP FOR EXPANDED MEDICARE
COST-SHARING POPULATIONS.—

‘‘(1) IN GENERAL.—Notwithstanding subsection
(b), with respect to expenditures described in para-
(2) EXPENDITURES DESCRIBED.—The expenditures described in this paragraph are expenditures made on or after January 1, 2021, for medical assistance for medicare cost-sharing provided to any individual under clause (i), (ii), or (iii) of section 1902(a)(10)(E) who would not have been eligible for medicare cost-sharing under any such clause under the income or resource eligibility standards in effect on October 1, 2018.”.

(d) CONSOLIDATION OF LOW-INCOME SUBSIDY RESOURCE ELIGIBILITY TESTS.—

(1) IN GENERAL.—Section 1860D–14(a)(3) of the Social Security Act (42 U.S.C. 1395w–114(a)(3)) is amended—

(A) by striking subparagraph (D);

(B) by redesignating subparagraphs (E) through (G) as subparagraphs (D) through (F), respectively; and

(C) in the heading of subparagraph (D), as so redesignated, by striking “ALTERNATIVE”.

(2) CLARIFICATION OF CERTAIN RULES RELATING TO INCOME AND RESOURCE DETERMINATIONS.—Section 1860D–14(a)(3) of the Social Secu-
rity Act (42 U.S.C. 1395w–114(a)(3)), as amended by paragraph (1), is amended by striking subpara-
graph (F) and inserting the new following new sub-
paragraphs:

“(F) Resource Exclusions.—In deter-
mining the resources of an individual (and the eligible spouse of the individual, if any) under section 1613 for purposes of subparagraph (D)—

“(i) no part of the value of any life ins-
urance policy shall be taken into account;

“(ii) no part of the value of any vehi-

cle shall be taken into account;

“(iii) there shall be excluded an amount equal to $1,500 each with respect to any individual or eligible spouse of an individual who attests that some of the re-
sources of such individual or spouse will be used to meet the burial and related ex-
penses of such individual or spouse; and

“(iv) no balance in, or benefits re-
ceived under, an employee pension benefit plan (as defined in section 3 of the Em-
“(G) FAMILY SIZE.—In determining the size of the family of an individual for purposes of determining the income eligibility of such individual under this section, an individual’s family shall consist of—

“(i) the individual;

“(ii) the individual’s spouse who lives in the same household as the individual (if any); and

“(iii) any other individuals who—

“(I) are related to the individual whose income eligibility is in question or such individual’s spouse who lives in the same household;

“(II) are living in the same household as such individual; and

“(III) are dependent on such individual or such individual’s spouse who is living in the same household for at least one-half of their financial support.”.

(3) CONFORMING AMENDMENTS.—Section 1860D–14(a) of the Social Security Act (42 U.S.C. 1395w–114(a)) is amended—
(A) in paragraph (1), in the matter preceding subparagraph (A), by inserting “(as determined under paragraph (3)(G))” after “family of the size involved”; and

(B) in paragraph (3), as amended by paragraphs (1) and (2)—

(i) in subparagraph (A), in the matter preceding clause (i), by striking “subparagraph (F)” and inserting “subparagraph (E)”;

(ii) in subparagraph (A)(ii), by inserting “(as determined under subparagraph (G))” after “family of the size involved”;

(iii) in subparagraph (A)(iii), by striking “or (E)”;

(iv) in subparagraph (B)(v), in the matter preceding subclause (I), by striking “subparagraph (F)” and inserting “subparagraph (E)”;

(v) in subparagraph (D)(i), in the matter preceding subclause (I), by striking “subject to the life insurance policy exclusion provided under subparagraph (G)” and inserting “subject to the resource ex-
elusions provided under subparagraph (F)”.

(c) ALIGNMENT OF LOW-INCOME SUBSIDY AND MEDICARE SAVINGS PROGRAM INCOME AND RESOURCE ELIGIBILITY TESTS.—

(1) APPLICATION OF MEDICAID SPOUSAL IMPOVERISHMENT RESOURCE ALLOWANCE TO MSP AND LIS RESOURCE ELIGIBILITY.—Section 1905(p)(1)(C) of the Social Security Act (42 U.S.C. 1396d(p)(1)(C)) is amended to read as follows:

“(C) whose resources (as determined under section 1613 for purposes of the supplemental security income program subject to the resource exclusions under subparagraph (G) of section 1860D–14(a)(3)) do not exceed—

“(i) in the case of an individual with a spouse, an amount equal to the sum of the first amount specified in subsection (f)(2)(A)(i) of section 1924 (as adjusted under subsection (g) of such section) and the amount specified in subsection (f)(2)(A)(ii)(II) of such section (as so adjusted); or

“(ii) in the case of an individual who does not have a spouse, an amount equal to ½ of the amount described in clause (i).”.

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(2) APPLICATION TO QDWIS.—Section 1905(s)(3) of the Social Security Act (42 U.S.C. 1396d(s)(3)) is amended to read as follows:

“(3) whose resources (as determined under section 1613 for purposes of the supplemental security income program subject to the resource exclusions under subparagraph (G) of section 1860D–14(a)(3)) do not exceed—

“(A) in the case of an individual with a spouse, the amount in effect for the year under clause (i) of subsection (p)(1)(C); and

“(B) in the case of an individual who does not have a spouse, the amount in effect for the year under clause (ii) of subsection (p)(1)(C); and”.

(3) APPLICATION TO LIS.—Clause (i) of section 1860D–14(a)(3)(D) of the Social Security Act (42 U.S.C. 1395w–114(a)(3)(D)), as redesignated and amended by subsection (d)(1), is amended to read as follows:

“(i) IN GENERAL.—The resources requirement of this subparagraph is that an individual’s resources (as determined under section 1613 for purposes of the supplemental security income program subject to...
the resource exclusions provided under subparagraph (G) do not exceed the amount in effect for the year under section 1905(p)(1)(C)(ii).”.

(f) ENROLLMENT SIMPLIFICATIONS.—

(1) APPLICATION OF 3-MONTH RETROACTIVE ELIGIBILITY TO QMBS.—

(A) IN GENERAL.—Section 1902(e)(8) of the Social Security Act (42 U.S.C. 1396a(e)(8)) is amended by striking “after the end of the month in which the determination first occurs” and inserting “in or after the third month before the month in which the individual makes application for assistance”.

(B) PROCESS FOR SUBMITTING CLAIMS DURING RETROACTIVE ELIGIBILITY PERIOD.—

Section 1902(e)(8) of the Social Security Act (42 U.S.C. 1396a(e)(8)) is further amended by adding at the end the following: “The Secretary shall provide for a process under which claims for medical assistance under the State plan may be submitted for services furnished to such an individual during such 3-month period before the month in which the individual made application for assistance.”.
(C) CONFORMING AMENDMENT.—Section 1905(a) of the Social Security Act (42 U.S.C. 1396d(a)) is amended, in the matter preceding paragraph (1), by striking “or, in the case of medicare cost-sharing with respect to a qualified medicare beneficiary described in subsection (p)(1), if provided after the month in which the individual becomes such a beneficiary”.

(2) STATE OPTION FOR 12-MONTH CONTINUOUS ELIGIBILITY FOR SLMBS AND QWDIS.—Section 1902(e)(12) of the Social Security Act (42 U.S.C. 1396a(e)(12)) is amended—

(A) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(B) by inserting “(A)” after “(12)”;

and

(C) by adding at the end the following:

“(B) At the option of the State, the plan may provide that an individual who is determined to be eligible for benefits under a State plan approved under this title under any of the following eligibility categories, or who is reetermined to be eligible for such benefits under any of such categories, shall be considered to meet the eligibility requirements met on the date of application and shall remain eligible for those benefits until the end of the 12-
month period following the date of the determination or
redetermination of eligibility, except that a State may pro-
vide for such determinations more frequently, but not
more frequently than once every 6 months for an indi-
vidual:

“(i) A specified low-income medicare beneficiary
described in subsection (a)(10)(E)(iii)
of this section who is determined eligible for medi-
care cost sharing described in section

“(ii) A qualified disabled and working indi-
vidual described in section 1905(s) who is deter-
mined eligible for medicare cost-sharing described in
section 1905(p)(3)(A)(i).”.

(3) STATE OPTION TO USE EXPRESS LANE ELI-
GIBILITY FOR THE MEDICARE SAVINGS PROGRAM.—
Section 1902(e)(13)(A) of the Social Security Act
(42 U.S.C. 1396a(e)(13)(A)) is amended by adding
at the end the following new clause:

“(iii) State option to extend ex-
press lane eligibility to other popu-
lations.—

“(I) In general.—At the option
of the State, the State may apply the
provisions of this paragraph with re-
spect to determining eligibility under this title for an eligible individual (as defined in subclause (II)). In applying this paragraph in the case of a State making such an option, any reference in this paragraph to a child with respect to this title (other than a reference to child health assistance) shall be deemed to be a reference to an eligible individual.

“(II) Eligible individual defined.—In this clause, the term ‘eligible individual’ means any of the following:

“(aa) A qualified medicare beneficiary described in section 1905(p)(1) for purposes of determining eligibility for medicare cost-sharing (as defined in section 1905(p)(3)).

“(bb) A specified low-income medicare beneficiary described in subsection (a)(10)(E)(iii) of this section for purposes of determining eligibility for medicare
cost-sharing described in section 1905(p)(3)(A)(ii).

“(cc) A qualified disabled and working individual described in section 1905(s) for purposes of determining eligibility for medicare cost-sharing described in section 1905(p)(3)(A)(i).”.

(g) Medicaid Treatment of Certain Medicare Providers.—Section 1902(n) of the Social Security Act (42 U.S.C. 1396a(n)) is amended by adding at the end the following new paragraph:

“(4) A State plan shall not deny a claim from a provider or supplier with respect to medicare cost-sharing described in subparagraph (B), (C), or (D) of section 1905(p)(3) for an item or service which is eligible for payment under title XVIII on the basis that the provider or supplier does not have a provider agreement in effect under this title or does not otherwise serve all individuals entitled to medical assistance under this title. The State shall create a mechanism through which provider or suppliers that do not otherwise have provider agreements with the State can bill the State for medicare cost-sharing for qualified medicare beneficiaries.”.
(h) Eligibility for Other Programs.—Section 1905(p) of the Social Security Act (42 U.S.C. 1396d(p)) is amended by adding at the end the following new paragraph:

“(7) Notwithstanding any other provision of law, any medical assistance for some or all medicare cost-sharing under this title shall not be considered income or resources in determining eligibility for, or the amount of assistance or benefits provided under, any other public benefit provided under Federal law or the law of any State or political subdivision thereof.”.

(i) Treatment of Qualified Medicare Beneficiaries, Specified Low-Income Medicare Beneficiaries, and Other Dual Eligibles as Medicare Beneficiaries.—Section 1862 of the Social Security Act (42 U.S.C. 1395y) is amended by adding at the end the following new subsection:

“(p) Treatment of Qualified Medicare Beneficiaries (QMBs), Specified Low-Income Medicare Beneficiaries (SLMBs), and Other Dual Eligibles.—Nothing in this title shall be construed as authorizing a provider of services or supplier to discriminate (through a private contractual arrangement or otherwise) against an individual who is otherwise entitled to services
under this title on the basis that the individual is a qualified medicare beneficiary (as defined in section 1905(p)(1)), a specified low-income medicare beneficiary, or is otherwise eligible for medical assistance for medicare cost-sharing or other benefits under title XIX.”.

(j) ADDITIONAL FUNDING FOR STATE HEALTH INSURANCE ASSISTANCE PROGRAMS.—

(1) GRANTS.—

(A) IN GENERAL.—The Secretary of Health and Human Services (in this subsection referred to as the “Secretary”) shall use amounts made available under subparagraph (B) to make grants to States for State health insurance assistance programs receiving assistance under section 4360 of the Omnibus Budget Reconciliation Act of 1990.

(B) FUNDING.—For purposes of making grants under this subsection, the Secretary shall provide for the transfer, from the Federal Hospital Insurance Trust Fund under section 1817 of the Social Security Act (42 U.S.C. 1395i) and the Federal Supplementary Medical Insurance Trust Fund under section 1841 of such Act (42 U.S.C. 1395t), in the same proportion as the Secretary determines under sec-
tion 1853(f) of such Act (42 U.S.C. 1395w–23(f)), of $50,000,000 to the Centers for Medicare & Medicaid Services Program Management Account for each of the fiscal years 2021 through 2025, to remain available until expended.

(2) AMOUNT OF GRANTS.—The amount of a grant to a State under this subsection from the total amount made available under paragraph (1) shall be equal to the sum of the amount allocated to the State under paragraph (3)(A) and the amount allocated to the State under subparagraph (3)(B).

(3) ALLOCATION TO STATES.—

(A) ALLOCATION BASED ON PERCENTAGE OF LOW-INCOME BENEFICIARIES.—The amount allocated to a State under this subparagraph from \( \frac{2}{3} \) of the total amount made available under paragraph (1) shall be based on the number of individuals who meet the requirement under subsection (a)(3)(A)(ii) of section 1860D–14 of the Social Security Act (42 U.S.C. 1395w–114) but who have not enrolled to receive a subsidy under such section 1860D–14 relative to the total number of individuals who meet the requirement under such sub-
section (a)(3)(A)(ii) in each State, as estimated
by the Secretary.

(B) Allocation based on percentage
of rural beneficiaries.—The amount allo-
cated to a State under this subparagraph from
$\frac{1}{3}$ of the total amount made available under
paragraph (1) shall be based on the number of
part D eligible individuals (as defined in section
1860D–1(a)(3)(A) of such Act (42 U.S.C.
1395w–101(a)(3)(A))) residing in a rural area
relative to the total number of such individuals
in each State, as estimated by the Secretary.

(4) Portion of grant based on percent-
age of low-income beneficiaries to be used
to provide outreach to individuals who may
be subsidy eligible individuals or eligible
for the Medicare Savings Program.—Each
grant awarded under this subsection with respect to
amounts allocated under paragraph (3)(A) shall be
used to provide outreach to individuals who may be
subsidy eligible individuals (as defined in section
1860D–14(a)(3)(A) of the Social Security Act (42
U.S.C. 1395w–114(a)(3)(A)) or eligible for the pro-
gram of medical assistance for payment of the cost
of medicare cost-sharing under the Medicaid pro-
gram pursuant to sections 1902(a)(10)(E) and 1933 of such Act (42 U.S.C. 1396a(a)(10)(E), 1396u–3).

(k) **Effective Date.**—

(1) **In general.**—Except as provided in paragraph (2), the amendments and repeal made by this section take effect on January 1, 2021, and, with respect to title XIX of the Social Security Act, apply to calendar quarters beginning on or after January 1, 2021.

(2) **Exception for state legislation.**—In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments and repeal made by this section, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year
legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.