

114TH CONGRESS
1ST SESSION

S. 1961

To amend titles XVIII and XIX of the Social Security Act to make improvements to the treatment of the United States territories under the Medicare and Medicaid programs, and for other purposes.

IN THE SENATE OF THE UNITED STATES

AUGUST 5, 2015

Mr. SCHUMER (for himself, Mrs. GILLIBRAND, Mr. BLUMENTHAL, and Mr. MENENDEZ) 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 make improvements to the treatment of the United States territories under the Medicare and Medicaid programs, 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; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Improving the Treatment of the U.S. Territories Under
6 Federal Health Programs Act of 2015”.

7 (b) **TABLE OF CONTENTS.**—The table of contents of
8 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—MEDICAID

- Sec. 101. Elimination of general Medicaid funding limitations (“cap”) for territories.
- Sec. 102. Elimination of specific Federal medical assistance percentage (FMAP) limitation for territories.
- Sec. 103. Application of Medicaid waiver authority to all of the territories.
- Sec. 104. Application of 100 percent Federal poverty line (FPL) limitation to territories.
- Sec. 105. Permitting Medicaid DSH allotments for territories.

TITLE II—MEDICARE

Subtitle A—Part A

- Sec. 201. Modification of Medicare inpatient hospital payment rate for Puerto Rico hospitals.
- Sec. 202. Application of Medicare HITECH payments to hospitals in Puerto Rico.
- Sec. 203. Calculation of Medicare DSH payments for IPPS hospitals in Puerto Rico.

Subtitle B—Part B

- Sec. 211. Application of part B deemed enrollment process to residents of Puerto Rico; special enrollment period and limit on late enrollment penalties.
- Sec. 212. Puerto Rico practice expense GPCI improvement.

Subtitle C—Medicare Advantage (Part C)

- Sec. 221. Adjustment in benchmark for low base payment counties in Puerto Rico.

Subtitle D—Part D

- Sec. 231. Improved use of allocated prescription drug funds by territories.
- Sec. 232. Report on treatment of territories under Medicare part D.

TITLE III—MISCELLANEOUS

- Sec. 301. Report on exclusion of territories from Exchanges.

- 1 **TITLE I—MEDICAID**
- 2 **SEC. 101. ELIMINATION OF GENERAL MEDICAID FUNDING**
- 3 **LIMITATIONS (“CAP”) FOR TERRITORIES.**
- 4 (a) IN GENERAL.—Section 1108 of the Social Secu-
- 5 rity Act (42 U.S.C. 1308) is amended—

1 (1) in subsection (f), in the matter before para-
2 graph (1), by striking “subsection (g)” and inserting
3 “subsections (g) and (h)”;

4 (2) in subsection (g)(2), in the matter before
5 subparagraph (A), by inserting “and subsection (h)”
6 after “paragraphs (3) and (5)”;

7 (3) by adding at the end the following new sub-
8 section:

9 “(h) SUNSET OF MEDICAID FUNDING LIMITATIONS
10 FOR PUERTO RICO, THE VIRGIN ISLANDS OF THE
11 UNITED STATES, GUAM, THE NORTHERN MARIANA IS-
12 LANDS, AND AMERICAN SAMOA.—Subsections (f) and (g)
13 shall not apply to Puerto Rico, the Virgin Islands of the
14 United States, Guam, the Northern Mariana Islands, and
15 American Samoa beginning with fiscal year 2017.”.

16 (b) CONFORMING AMENDMENTS.—

17 (1) Section 1902(j) of the Social Security Act
18 (42 U.S.C. 1396a(j)) is amended by striking “, the
19 limitation in section 1108(f),”.

20 (2) Section 1903(u) of the Social Security Act
21 (42 U.S.C. 1396b(u)) is amended by striking para-
22 graph (4).

23 (3) Section 1323(c)(1) of the Patient Protection
24 and Affordable Care Act (42 U.S.C. 18043(c)(1)) is
25 amended by striking “2019” and inserting “2016”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply beginning with fiscal year 2017.

3 **SEC. 102. ELIMINATION OF SPECIFIC FEDERAL MEDICAL**
4 **ASSISTANCE PERCENTAGE (FMAP) LIMITA-**
5 **TION FOR TERRITORIES.**

6 Section 1905 of the Social Security Act (42 U.S.C.
7 1396d) is amended—

8 (1) in subsection (b)(2), by inserting “for fiscal
9 years before fiscal year 2017” after “American
10 Samoa”; and

11 (2) in subsection (y)(1), in the matter preceding
12 subparagraph (A)—

13 (A) by inserting “, for fiscal years before
14 fiscal year 2017,” before “is one of the”; and

15 (B) by inserting “and, for fiscal year 2017
16 and subsequent fiscal years, is one of the 50
17 States, the District of Columbia, Puerto Rico,
18 the Virgin Islands of the United States, Guam,
19 the Northern Mariana Islands, or American
20 Samoa,” after “the District of Columbia”.

21 **SEC. 103. APPLICATION OF MEDICAID WAIVER AUTHORITY**
22 **TO ALL OF THE TERRITORIES.**

23 (a) IN GENERAL.—Section 1902(j) of the Social Se-
24 curity Act (42 U.S.C. 1396a(j)) is amended—

1 (1) by striking “American Samoa and the
2 Northern Mariana Islands” and inserting “Puerto
3 Rico, the Virgin Islands of the United States, Guam,
4 the Northern Mariana Islands, and American
5 Samoa”;

6 (2) by striking “American Samoa or the North-
7 ern Mariana Islands” and inserting “Puerto Rico,
8 the Virgin Islands of the United States, Guam, the
9 Northern Mariana Islands, or American Samoa”;

10 (3) by inserting “(1)” after “(j)”;

11 (4) by inserting “except as otherwise provided
12 in this subsection,” after “Notwithstanding any
13 other requirement of this title”; and

14 (5) by adding at the end the following:

15 “(2) The Secretary may not waive under this sub-
16 section the requirement of subsection (a)(10)(A)(i)(IX)
17 (relating to coverage of adults formerly under foster care)
18 with respect to any territory.”.

19 (b) EFFECTIVE DATE.—The amendments made by
20 this section shall apply beginning October 1, 2016.

21 **SEC. 104. APPLICATION OF 100 PERCENT FEDERAL POV-**
22 **ERTY LINE (FPL) LIMITATION TO TERRI-**
23 **TORIES.**

24 (a) IN GENERAL.—Section 1902 of the Social Secu-
25 rity Act (42 U.S.C. 1396a) is amended—

1 (1) in subsection (a)(10)(A)(i)(VIII), by insert-
2 ing “(or, subject to subsection (j), 100 percent in
3 the case of Puerto Rico, the Virgin Islands of the
4 United States, Guam, the Northern Mariana Is-
5 lands, and American Samoa)” after “133 percent”;
6 and

7 (2) in subsection (j), as amended by section
8 103, by adding at the end the following new para-
9 graph:

10 “(3)(A) Subject to subparagraph (B), Federal finan-
11 cial participation shall not be available to Puerto Rico, the
12 Virgin Islands of the United States, Guam, the Northern
13 Mariana Islands, or American Samoa for medical assist-
14 ance for an individual whose family income exceeds 100
15 percent of the official poverty line for a family of the size
16 involved, except in the case of individuals qualifying for
17 medical assistance under subsection (a)(10)(A)(i)(IX).

18 “(B) The Secretary may, under paragraph (1) or sec-
19 tion 1115, waive the limitation under subparagraph (A)
20 in the case of a territory other than Puerto Rico. In car-
21 rying out this subparagraph, the Secretary shall take into
22 account the eligibility levels established under the State
23 plan of the territory involved before the date of the enact-
24 ment of this paragraph.”.

1 (b) NOT APPLYING 5 PERCENT DISREGARD.—Sec-
 2 tion 1902(e)(14)(I) of the Social Security Act (42 U.S.C.
 3 1396b(e)(14)(I)) is amended by adding at the end the fol-
 4 lowing:

5 “The previous sentence shall only apply to a
 6 State that is one of the 50 States or the Dis-
 7 trict of Columbia.”.

8 (c) EFFECTIVE DATE.—The amendments made by
 9 this section shall apply with respect to eligibility deter-
 10 minations made with respect to items and services fur-
 11 nished on or after October 1, 2016.

12 **SEC. 105. PERMITTING MEDICAID DSH ALLOTMENTS FOR**
 13 **TERRITORIES.**

14 Section 1923(f) of the Social Security Act (42 U.S.C.
 15 1396) is amended—

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

18 “(C) TERRITORIES.—

19 “(i) FISCAL YEAR 2017.—For fiscal
 20 year 2017, with respect to the territories of
 21 Puerto Rico, the Virgin Islands of the
 22 United States, Guam, the Northern Mar-
 23 iana Islands, and American Samoa, the
 24 DSH allotment determined for each such
 25 territory shall bear the same ratio to

1 \$150,000,000 as the ratio of the number
2 of individuals who are low-income or unin-
3 sured and residing in each such respective
4 territory (as estimated from time to time
5 by the Secretary) bears to the sums of the
6 number of such individuals residing in all
7 of the territories.

8 “(ii) SUBSEQUENT FISCAL YEAR.—
9 For each subsequent fiscal year, the DSH
10 allotment for each such territory is subject
11 to an increase or reduction in accordance
12 with paragraphs (3) and (7).”;

13 (2) in paragraph (7)(A), by striking clause (iv)
14 and redesignating clause (v) as clause (iv); and

15 (3) in paragraph (9), by inserting before the pe-
16 riod at the end the following: “, and includes, begin-
17 ning with fiscal year 2017, Puerto Rico, the Virgin
18 Islands of the United States, Guam, the Northern
19 Mariana Islands, and American Samoa”.

1 **TITLE II—MEDICARE**

2 **Subtitle A—Part A**

3 **SEC. 201. MODIFICATION OF MEDICARE INPATIENT HOS-**
 4 **PITAL PAYMENT RATE FOR PUERTO RICO**
 5 **HOSPITALS.**

6 Section 1886(d)(9)(E) of the Social Security Act (42
 7 U.S.C. 1395ww(d)(9)(E)) is amended—

8 (1) by striking “and” at the end of clause (iii);

9 (2) in clause (iv)—

10 (A) by inserting “and before October 1,
 11 2015,” after “2004,”; and

12 (B) by striking the period at the end and
 13 inserting “; and”; and

14 (3) by adding at the end the following new
 15 clause:

16 “(v) on or after October 1, 2015, the applicable
 17 Puerto Rico percentage is 0 percent and the applica-
 18 ble Federal percentage is 100 percent.”.

19 **SEC. 202. APPLICATION OF MEDICARE HITECH PAYMENTS**
 20 **TO HOSPITALS IN PUERTO RICO.**

21 (a) IN GENERAL.—Subsection (n)(6)(B) of section
 22 1886 of the Social Security Act (42 U.S.C. 1395ww) is
 23 amended by striking “subsection (d) hospital” and insert-
 24 ing “hospital that is a subsection (d) hospital or a sub-
 25 section (d) Puerto Rico hospital”.

1 (b) CONFORMING AMENDMENTS.—

2 (1) Subsection (b)(3)(B)(ix) of section 1886 of
3 the Social Security Act (42 U.S.C. 1395ww) is
4 amended—

5 (A) in subclause (I), by striking
6 “(n)(6)(A)” and inserting “(n)(6)(B)”; and

7 (B) in subclause (II), by striking “a sub-
8 section (d) hospital” and inserting “an eligible
9 hospital”.

10 (2) Paragraphs (2) and (4)(A) of section
11 1853(m) of the Social Security Act (42 U.S.C.
12 1395w–23(m)) are each amended by striking
13 “1886(n)(6)(A)” and inserting “1886(n)(6)(B)”.

14 (c) IMPLEMENTATION.—Notwithstanding any other
15 provision of law, the Secretary of Health and Human
16 Services may implement the amendments made by this
17 section by program instruction or otherwise.

18 (d) EFFECTIVE DATE.—The amendments made by
19 this section shall apply as if included in the enactment
20 of the American Recovery and Reinvestment Act of 2009
21 (Public Law 111–5), except that, in order to take into ac-
22 count delays in the implementation of this section, in ap-
23 plying subsections (b)(3)(B)(ix), (n)(2)(E)(ii), and
24 (n)(2)(G)(i) of section 1886 of the Social Security Act,
25 as amended by this section, any reference in such sub-

1 sections to a particular year shall be treated with respect
 2 to a subsection (d) Puerto Rico hospital as a reference
 3 to the year that is 5 years after such particular year (or
 4 7 years after such particular year in the case of applying
 5 subsection (b)(3)(B)(ix) of such section).

6 **SEC. 203. CALCULATION OF MEDICARE DSH PAYMENTS FOR**
 7 **IPPS HOSPITALS IN PUERTO RICO.**

8 Section 1886(d)(9)(D)(iii) of the Social Security Act
 9 (42 U.S.C. 1395ww(d)(9)(D)(iii)) is amended to read as
 10 follows:

11 “(iii) Subparagraph (F) (relating to dispropor-
 12 tionate share payments), including application of
 13 subsection (r), except that for this purpose—

14 “(I) the sum described in clause (ii) of this
 15 subparagraph shall be substituted for the sum
 16 referred to in paragraph (5)(F)(ii)(I); and

17 “(II) for discharges occurring on or after
 18 October 1, 2015, subclause (I) of paragraph
 19 (5)(F)(vi) shall be applied by substituting for
 20 the numerator described in such subclause the
 21 number of subsection (d) Puerto Rico hospital’s
 22 patient days for the cost reporting period in-
 23 volved which were made up of patients who (for
 24 such days) were entitled to benefits under part
 25 A of this title and were—

1 “(aa) entitled to supplementary secu-
 2 rity income benefits (excluding any State
 3 supplementation) under title XVI of this
 4 Act;

5 “(bb) eligible for medical assistance
 6 under a State plan under title XIX; or

7 “(cc) receiving aid or assistance under
 8 any plan of the State approved under title
 9 I, X, XIV, or XVI.”.

10 **Subtitle B—Part B**

11 **SEC. 211. APPLICATION OF PART B DEEMED ENROLLMENT** 12 **PROCESS TO RESIDENTS OF PUERTO RICO;** 13 **SPECIAL ENROLLMENT PERIOD AND LIMIT** 14 **ON LATE ENROLLMENT PENALTIES.**

15 (a) APPLICATION OF PART B DEEMED ENROLLMENT
 16 PROCESS TO RESIDENTS OF PUERTO RICO.—Section
 17 1837(f)(3) of the Social Security Act (42 U.S.C.
 18 1395p(f)(3)) is amended by striking “, exclusive of Puerto
 19 Rico”.

20 (b) EFFECTIVE DATE.—The amendment made by
 21 subsection (a) shall apply to individuals whose initial en-
 22 rollment period under section 1837(d) of the Social Secu-
 23 rity Act begins on or after the first day of the effective
 24 month, specified by the Secretary of Health and Human

1 Services under section 1839(j)(1)(C) of such Act, as added
 2 by subsection (c)(2).

3 (c) TRANSITION PROVIDING SPECIAL ENROLLMENT
 4 PERIOD AND LIMIT ON LATE ENROLLMENT PENALTIES
 5 FOR CERTAIN MEDICARE BENEFICIARIES.—Section 1839
 6 of the Social Security Act (42 U.S.C. 1395r) is amend-
 7 ed—

8 (1) in the first sentence of subsection (b), by in-
 9 serting “subject to section 1839(j)(2),” after “sub-
 10 section (i)(4) or (l) of section 1837,”; and

11 (2) by adding at the end the following new sub-
 12 section:

13 “(j) SPECIAL RULES FOR CERTAIN RESIDENTS OF
 14 PUERTO RICO.—

15 “(1) SPECIAL ENROLLMENT PERIOD, COVERAGE
 16 PERIOD FOR RESIDENTS WHO ARE ELIGIBLE BUT
 17 NOT ENROLLED.—

18 “(A) IN GENERAL.—In the case of a tran-
 19 sition individual (as defined in paragraph (3))
 20 who is not enrolled under this part as of the
 21 day before the first day of the effective month
 22 (as defined in subparagraph (C)), the Secretary
 23 shall provide for a special enrollment period
 24 under section 1837 of 7 months beginning with

1 such effective month during which the indi-
2 vidual may be enrolled under this part.

3 “(B) COVERAGE PERIOD.—In the case of
4 such an individual who enrolls during such spe-
5 cial enrollment period, the coverage period
6 under section 1838 shall begin on the first day
7 of the second month after the month in which
8 the individual enrolls.

9 “(C) EFFECTIVE MONTH DEFINED.—In
10 this section, the term ‘effective month’ means a
11 month, not earlier than October 2016 and not
12 later than January 2017, specified by the Sec-
13 retary.

14 “(2) REDUCTION IN LATE ENROLLMENT PEN-
15 ALTIES FOR CURRENT ENROLLEES AND INDIVID-
16 UALS ENROLLING DURING TRANSITION.—

17 “(A) IN GENERAL.—In the case of a tran-
18 sition individual who is enrolled under this part
19 as of the day before the first day of the effec-
20 tive month or who enrolls under this part on or
21 after the date of the enactment of this sub-
22 section but before the end of the special enroll-
23 ment period under paragraph (1)(A), the
24 amount of the late enrollment penalty imposed
25 under section 1839(b) shall be recalculated by

1 reducing the penalty to 15 percent of the pen-
 2 alty otherwise established.

3 “(B) APPLICATION.—Subparagraph (A)
 4 shall be applied in the case of a transition indi-
 5 vidual who—

6 “(i) is enrolled under this part as of
 7 the month before the effective month, for
 8 premiums for months beginning with such
 9 effective month; or

10 “(ii) enrolls under this part on or
 11 after the date of the enactment of this Act
 12 and before the end of the special enroll-
 13 ment period under paragraph (1)(A), for
 14 premiums for months during the coverage
 15 period under this part which occur during
 16 or after the effective month.

17 “(C) LOSS OF REDUCTION IF INDIVIDUAL
 18 TERMINATES ENROLLMENT.—Subparagraph
 19 (A) shall not apply to a transition individual if
 20 the individual terminates enrollment under this
 21 part after the end of the special enrollment pe-
 22 riod under paragraph (1).

23 “(3) TRANSITION INDIVIDUAL DEFINED.—In
 24 this section, the term ‘transition individual’ means
 25 an individual who resides in Puerto Rico and who

1 would have been deemed enrolled under this part
 2 pursuant to section 1837(f) before the first day of
 3 the effective month but for the fact that the indi-
 4 vidual was a resident of Puerto Rico, regardless of
 5 whether the individual is enrolled under this part as
 6 of such first day.”.

7 **SEC. 212. PUERTO RICO PRACTICE EXPENSE GPCI IM-**
 8 **PROVEMENT.**

9 Section 1848(e)(1) of the Social Security Act (42
 10 U.S.C. 1395w-4(e)(1)) is amended—

11 (1) in subparagraph (A), by striking “and (I)”
 12 and inserting “(I), and (J)”; and

13 (2) by adding at the end the following new sub-
 14 paragraph:

15 “(J) FLOOR FOR PRACTICE EXPENSE
 16 INDEX FOR SERVICES FURNISHED IN PUERTO
 17 RICO.—

18 “(i) IN GENERAL.—For purposes of
 19 payment for services furnished in Puerto
 20 Rico in a year (beginning with 2016), after
 21 calculating the practice expense index in
 22 subparagraph (A)(i) for Puerto Rico, if
 23 such index is below the reference index (as
 24 defined in clause (ii)) for the year, the Sec-
 25 retary shall increase such index for Puerto

1 Rico to equal the value of the reference
 2 index for the year. The preceding sentence
 3 shall not be applied in a budget neutral
 4 manner.

5 “(ii) REFERENCE INDEX DEFINED.—
 6 In this subparagraph, the term ‘reference
 7 index’ means, with respect to a year, 0.800
 8 or, if less, the lowest practice expense
 9 index value for the year for any area in the
 10 50 States or the District of Columbia.”.

11 **Subtitle C—Medicare Advantage**
 12 **(Part C)**

13 **SEC. 221. ADJUSTMENT IN BENCHMARK FOR LOW BASE**
 14 **PAYMENT COUNTIES IN PUERTO RICO.**

15 Section 1853(n) of the Social Security Act (42 U.S.C.
 16 1395w–23(n)) is amended—

17 (1) in paragraph (1), by striking “and (5)” and
 18 inserting “, (5), and (6)”;

19 (2) in paragraph (4), by striking “In no case”
 20 and inserting “Subject to paragraph (6), in no
 21 case”; and

22 (3) by adding at the end the following new
 23 paragraph:

24 “(6) SPECIAL RULES FOR BLENDED BENCH-
 25 MARK AMOUNT FOR TERRITORIES.—

1 “(A) IN GENERAL.—Subject to paragraph
 2 (2), the blended benchmark amount for an area
 3 in a territory for a year (beginning with 2016)
 4 shall not be less than 80 percent of the national
 5 average of the base payment amounts specified
 6 in subparagraph (2)(E) for such year for areas
 7 within the 50 States and the District of Colum-
 8 bia.

9 “(B) LIMITATION.—In no case shall the
 10 blended benchmark amount for an area in a
 11 territory for a year under subparagraph (A) ex-
 12 ceed the lowest blended benchmark amount for
 13 any area within the 50 States and the District
 14 of Columbia for such year.”.

15 **Subtitle D—Part D**

16 **SEC. 231. IMPROVED USE OF ALLOCATED PRESCRIPTION** 17 **DRUG FUNDS BY TERRITORIES.**

18 Section 1935(e) of the Social Security Act (42 U.S.C.
 19 1396u–5(e)) is amended by adding at the end the fol-
 20 lowing new paragraph:

21 “(5) IMPROVED USE OF FUNDS FOR LOW-IN-
 22 COME PART D ELIGIBLE INDIVIDUALS.—This sub-
 23 section shall be applied beginning on January 1,
 24 2016, as follows, notwithstanding any other provi-
 25 sion of this title:

1 “(A) CLARIFYING STATE FLEXIBILITY TO
2 COVER NON-DUAL-ELIGIBLE INDIVIDUALS.—
3 For purposes of this subsection, the term ‘med-
4 ical assistance’ includes financial assistance fur-
5 nished under this subsection by a State other
6 than the 50 States or the District of Columbia
7 to part D eligible individuals who, if they were
8 residing in one of the 50 States or the District
9 of Columbia, would qualify as subsidy eligible
10 individuals under section 1860D–14(a)(3),
11 without regard to whether such individuals oth-
12 erwise qualify for medical assistance under this
13 title.

14 “(B) 100 PERCENT FMAP TO REFLECT NO
15 STATE MATCHING REQUIRED FOR PART D LOW
16 INCOME SUBSIDIES.—The Federal medical as-
17 sistance percentage applicable to the assistance
18 furnished under this subsection is 100 percent.

19 “(C) LIMITED FUNDING FOR SPECIAL
20 RULES.—Subparagraphs (A) and (B), and the
21 provision of medical assistance for covered part
22 D drugs to low-income part D eligible individ-
23 uals for a State and year under this subsection,
24 are limited to the amount specified in para-
25 graph (3) for such State and year, without re-

1 gard to the application of subsection (f) or (g)
2 of section 1108.”.

3 **SEC. 232. REPORT ON TREATMENT OF TERRITORIES**
4 **UNDER MEDICARE PART D.**

5 Paragraph (4) of section 1935(e) of the Social Secu-
6 rity Act (42 U.S.C. 1396u-5(e)) is amended to read as
7 follows:

8 “(4) REPORT ON APPLICATION OF SUB-
9 SECTION.—

10 “(A) IN GENERAL.—Not later than May 1,
11 2018, the Secretary shall submit to Congress a
12 report on the application of this subsection dur-
13 ing the period beginning with fiscal year 2006
14 and ending with December 31, 2017.

15 “(B) INFORMATION TO BE INCLUDED IN
16 REPORT.—Such report shall include—

17 “(i) program guidance issued by the
18 Secretary to implement this subsection;

19 “(ii) for each of Puerto Rico, the Vir-
20 gin Islands of the United States, Guam,
21 the Northern Mariana Islands, and Amer-
22 ican Samoa, information on the increased
23 amount under paragraph (3) and how the
24 territory has applied such amount, includ-
25 ing the territory’s program design, expend-

1 itures, and number of individuals (and
2 dual-eligible individuals) assisted; and

3 “(iii) a description of the differences
4 between how such territories are treated
5 under part D of title XVIII and under this
6 title compared with the treatment of the
7 50 States and the District of Columbia
8 under such part and this title for different
9 fiscal years within the period covered
10 under the report.

11 “(C) RECOMMENDATIONS.—Such report
12 shall include recommendations for improving
13 prescription drug coverage for low-income indi-
14 viduals in each territory identified in subpara-
15 graph (B)(ii), including recommendations re-
16 garding each of the following alternative ap-
17 proaches:

18 “(i) Adjusting the aggregate amount
19 specified in paragraph (3)(B).

20 “(ii) Allowing residents of the terri-
21 tories to be subsidy eligible individuals
22 under section 1860D–14, notwithstanding
23 subsection (a)(3)(F) of such section, or
24 providing substantially equivalent low-in-

1 come prescription drug subsidies to such
2 residents.”.

3 **TITLE III—MISCELLANEOUS**

4 **SEC. 301. REPORT ON EXCLUSION OF TERRITORIES FROM** 5 **EXCHANGES.**

6 (a) **IN GENERAL.**—Not later than February 1, 2018,
7 the Secretary of Health and Human Services shall submit
8 to Congress a report that details the adverse impacts in
9 each territory from the practical exclusion of the terri-
10 tories from the provisions of part II of subtitle D of title
11 I of the Patient Protection and Affordable Care Act inso-
12 far as such provisions provide for the establishment of an
13 American Health Benefit Exchange or the administration
14 of a federally facilitated Exchange in each State and in
15 the District of Columbia for the purpose of making health
16 insurance more affordable and accessible for individuals
17 and small businesses.

18 (b) **INFORMATION IN REPORT.**—The report shall in-
19 clude information on the following:

20 (1) An estimate of the total number of unin-
21 sured and underinsured individuals residing in each
22 territory with respect to health insurance coverage.

23 (2) A description of the number of health insur-
24 ance issuers in each territory and the health insur-
25 ance plans these issuers offer.

1 (3) An estimate of the number of individuals re-
2 siding in each territory who are denied premium and
3 cost-sharing assistance that would otherwise be
4 available to them for obtaining health insurance cov-
5 erage through an Exchange if they resided in one of
6 the 50 States or in the District of Columbia.

7 (4) An estimate of the amount of Federal as-
8 sistance described in paragraph (3) that is not being
9 made available to residents of each territory.

10 (5) An estimate of the number of small employ-
11 ers in each territory that would be eligible to pur-
12 chase health insurance coverage through a Small
13 Business Health Options Program (SHOP) Market-
14 place that would operate as part of an Exchange if
15 the employers were in one of the 50 States or in the
16 District of Columbia.

○