SEC. 1104. QUALIFIED EMPLOYER-COVERED EMPLOYEE DEFINED.

(a) IN GENERAL.—In this part, the term "qualified employer-covered employee" means any employee if (and only if)—

(1) such employee is covered under a certified health plan of the employee's employer,

(2) such employee's coverage under such plan is in accordance with subsection (b),

(3) such employee was offered such coverage in accordance with subsection (c), and

(4) the employer makes a contribution for such coverage in accordance with subsection (d).

(b) COVERAGE REQUIREMENTS.—

(1) IN GENERAL.—An employee's coverage under a certified health plan is in accordance with this subsection if—

(A) such plan (which may be a high deductible plan, as defined in subsection (d)(2)(E)) was selected by the employee from plans offered consistent with subsection (c),

(B) family members of the employee are covered under such plan if such family coverage is elected in accordance with such subsection, and

(C) such coverage does not terminate by reason of termination of employment until the end of the month in which such termination occurs.

(2) COVERAGE DEFINED.—For purposes of this subsection, an individual is considered to be covered with respect to a plan at such time as the plan bears a legal responsibility for provision of (or payment for) services for which benefits are included under the plan.

(c) OFFERING REQUIRED.—

(1) IN GENERAL.—Coverage is offered in accordance with this subsection with respect to an employee only if the employee is offered coverage under a choice of certified health plans, including at least—

(A) 1 managed care plan (as defined in section 5504(7)), if available to the employer with respect to the employee, and

(B) 1 unlimited-choice-of-provider plan (as defined in section 5504(17)), which may be a point-of-service plan (as defined in section 5504(10)).

(2) OFFERING FAMILY COVERAGE.—

(A) IN GENERAL.—Coverage is offered in accordance with this subsection with respect to an employee only if coverage also is offered for family members under the plan in which the employee obtains coverage.

(B) FAMILY MEMBERS DEFINED.—For purposes of this section, the term "family member" means, with respect to an employee—

(i) the employee's spouse, if the spouse is an eligible individual, and

(ii) any young dependent of the employee, if the dependent is an eligible individual.

(3) TERMS OF OFFERING.—An employer shall not be treated as offering coverage in accordance with this subsection unless the following requirements are met:

(A) ANNUAL OPEN ENROLLMENT PERIODS.—The employer has an annual open enrollment period of at least 45 days during which employees may change the plan under which they are provided coverage.

(B) CHANGES IN ENROLLMENT DURING 1ST YEAR OF EMPLOYMENT.—Once during the 1st year of employment with an employer, each employee may change the plan under which the employee is provided coverage. Such a change shall be effective on the first day of the first month beginning at least 45 days after the date the employer receives a notice of change of coverage.

PHOTOCOPY PRESERVATION

(C) CHANGES IN FAMILY STATUS.—The offer of family coverage under paragraph (2) is made (in accordance with regulations prescribed by the Secretary) at such times and in such manner as may be necessary to take into account changes in family status and changes in employment of family members.

(4) TREATMENT OF COOPERATIVES, UNIVERSAL FEHBP, AND STATE SINGLE-PAYER SYSTEMS.—An employer is deemed to meet the requirement of the paragraph (1) with respect to an employee if—

(A) in the case of a small employer, the employer makes available a choice of certified health plans through a consumer purchasing cooperative or through Universal FEHBP; or

(B) the employee resides in a State which has a State single-payer system approved under subtitle A of title IV and the employer meets the requirements applicable to the employer under such system.

(d) REQUIRED CONTRIBUTION.—

(1) IN GENERAL.—An employer makes a contribution for coverage under a certified health plan in accordance with this subsection with respect to an employee only if—

(A) the employer pays the employer contribution amount specified in paragraph (2) for an employee (and family members) covered under a certified health plan under subsection (b), and

(B) the portion of the premium for coverage not paid by the employer, net of the value of any premium certificates provided under part A of title XXII of the Social Security Act or other premium subsidies provided with respect to the employee, is withheld from wages paid the employee.

(2) EMPLOYER CONTRIBUTION AMOUNT.—

(A) FULL-TIME EMPLOYEES.—For purposes of paragraph (1)—

(i) COVERED UNDER MANAGED CARE PLANS.—In the case of an employee who is covered under a managed care plan (as defined in section 5504(7)), the employer contribution amount specified in this paragraph is equal to at least 80 percent of the premium for the qualified managed care plan offered under subsection (c) to the employee that has the lowest premium for the class of enrollment involved.

(ii) COVERED UNDER UNLIMITED-CHOICE-OF-PROVIDER PLAN.—In the case of an employee who is covered under an unlimited-choice-of-provider plan (other than a high deductible plan) the employer contribution amount specified in this paragraph is equal to at least 80 percent of the premium for the qualified unlimited-choice-of-provider plan offered under subsection (b) to the employee that has the lowest premium for the class of enrollment involved and that is not a high deductible plan.

(iii) COVERED UNDER HIGH DEDUCTIBLE PLAN.—In the case of an employee who is covered by a certified health plan that is a high deductible plan, the employer contribution amount specified in this paragraph is the same percent of the premium for such coverage as the percent that would apply under clause (ii) if the employee were covered under an unlimited-choice-of-provider plan that is not a high deductible plan.

(B) REDUCTION FOR PART-TIME EMPLOYEES.—

(i) IN GENERAL.—In the case of a part-time employee (as defined in section 1106(a)), the amount specified in this paragraph is an amount that is not less than the part-time fraction (as defined in such

PHOTOCOPY PRESERVATION

section) of the amount otherwise provided under subparagraph (A).

(ii) EMPLOYER ELECTION TO INCREASE SHARE.—An employer may elect to specify, with respect to any part-time employee for any month, an part-time fraction which is greater than the part-time fraction which would (but for this clause) apply to such employee for such month but not greater than 1. Any fraction so specified shall apply to the employee for the month for which made and all succeeding months beginning before the date it is revoked by the employer.

(C) CONTRIBUTION TO MEDICAL SAVINGS ACCOUNT REQUIRED IF COVERAGE UNDER HIGH DEDUCTIBLE MEDICAL SAVINGS ACCOUNT PLAN.—

(i) IN GENERAL.—An employer shall not be treated as making a contribution fc. coverage under a certified health plan in accordance with this subsection in the case of an employee covered under a high deductible plan offered by the employer, unless the employer also makes a contribution in the amount of the medical savings contribution amount specified in clause (ii) into a medical savings account (as defined in section 7705(a) of the Internal Revenue Code of 1986) on behalf of the employee. Such a contribution shall be made not later than the date of the premium payment to which it relates.

(ii) MSA CONTRIBUTION AMOUNT.—For purposes of clause (i), the term "medical savings contribution amount" means, for an employee covered under a high deductible plan, an amount equal to the excess of—

(I) the employer contribution amount that would apply under this paragraph if the employee were covered under an unlimited-choice-of-provider plan that was not a high deductible plan, over

(II) the employer contribution amount made for coverage under the high deductible plan.

(D) TREATMENT OF PLANS OFFERED THROUGH A COOPERATIVE OR UNIVERSAL FEHBP.—With respect to certified health plans offered through a consumer purchasing cooperative or Universal FEHBP by an employer to an employee, the contribution amount under this paragraph shall be determined as if all the certified health plans offered by the cooperative or Program were offered by the employer.

(E) HIGH DEDUCTIBLE PLAN.—For purposes of this paragraph, the term "high deductible plan" has the meaning given such term by section 5504(5).

(3) DETERMINATION OF PREMIUM.—

(A) IN GENERAL.—For purposes of this subsection, the term "premium" means, with respect to—

(i) a certified health plan that is offered by a carrier (as defined in section 5504(2)), the premium established by the carrier for the plan with respect to the guaranteed national benefit package described in title II ; or

(ii) any other certified health plan, a reasonable estimate of the aggregate accident and health coverage expenditures of the plan (as determined under section 4376(d) of the Internal Revenue Code of 1986) for the period involved with respect to the guaranteed national benefit package which—

(I) is determined on an actuarial basis for different classes of enrollment (consistent with section 5108), and

PHOTOCOPY PRESERVATION

(II) takes into account such factors as the Secretary of the Treasury, in consultation with the Secretary of Health and Human Services, may prescribe.

(B) PREMIUM BASED ON CLASS OF ENROLLMENT.—The premium with respect to an employee for a month shall be based on the class of enrollment with respect to which the employee is provided coverage as of the first day of the month.

(C) ADDITIONAL RULES.—Rules similar to the rules in clauses (ii) and (iii) of subparagraph (B), and subparagraph (C), of section 4980B(f)(4) of the Internal Revenue Code of 1986 shall apply to the determination of the premium, except that the adjustment under subparagraph (B)(ii)(II) of such section shall be by the sum described in section 6001(c) of the Guaranteed Health Insurance Act (c. 1994).

(4) COMPLIANCE WITH PREMIUM CERTIFICATE REQUIREMENTS.—An employer is not considered to have made a contribution for coverage with respect to an employee in accordance with this subsection unless—

(A) the employer provides the employee, upon request, with such documentation, in such form and in such a timely manner, as the Secretary specifies, as the employee may require to apply for and obtain a premium certificate under part A of title XXII of the Social Security Act; and

(B) if the employee tenders to the employer a premium certificate issued under such subpart, the employer reduces by the value of the certificate the amount of any premium required to be paid by the employee for periods beginning after the date of tender of the certificate unless otherwise provided.

SEC. 1105. EMPLOYEES NOT SUBJECT TO REQUIREMENT.

(a) IN GENERAL.—An employer is not required to provide or contribute to health insurance coverage with respect to employment of a generally excludable employee (as defined in subsection (b)).

(b) GENERALLY EXCLUDABLE EMPLOYEE DEFINED.—For purposes of subsection (a), the term "generally excludable employee" means any employee for any month if—

(1) such employee began work for the employer after the first day of such month;

(2) there is in effect as of the first day of such month a withholding exemption certificate stating that such employee reasonably expects to be a young dependent (as defined in section 1003(b)(1)(B)) of any taxpayer for the taxable year of such taxpayer which includes such month;

(3) as of the first day of such month, there is in effect for such employee—

(A) a qualified religious exemption (as defined in section 1004(c)(1)); or

(B) a qualified disabled veteran exemption (as defined in section 1004(c)(2));

(4) as of the first day of such month, such individual is on active duty as a member of the uniformed services (as defined in section 101 of title 10, United States Code);

(5) the only services performed by such employee for the employer during such month are services the income from which is excluded from gross income for purposes of section 151(c)(1)(A) of the Internal Revenue Code of 1986 by reason of section 151(c)(5) of such Code; or

(6) the amount of wages paid by the employer to such employee during such month does not exceed $100.

(c) INFLATION ADJUSTMENT OF WAGE AMOUNT.—In the case of months in any calendar year after 1997, the dollar amount con-

PHOTOCOPY PRESERVATION

tained in subsection (b)(6) shall be increased by an amount equal to—

(1) such dollar amount, multiplied by

(2) the cost-of-living adjustment determined under section 1(f)(3) of the Internal Revenue Code of 1986 for the calendar year which includes such month, by substituting "calendar year 1994" for "calendar year 1992" in subparagraph (B) thereof.

If any increase determined under the preceding sentence is not a multiple of $5, such increase shall be rounded to the nearest multiple of $5.

SEC. 1106. DEFINITIONS AND SPECIAL RULES.

(a) FULL-TIME EMPLOYEE; PART-TIME EMPLOYEE; PART-TIME FRACTION.—For purposes of this part—

(1) FULL-TIME EMPLOYEE.—The term "full-time employee" means any employee of an employer whose normal work week for such employer is not less than 35 hours.

(2) PART-TIME EMPLOYEE.—The term "part-time employee" means any employee who is not a full-time employee.

(3) PART-TIME FRACTION.—The part-time fraction is a fraction—

(A) the numerator of which is the number of hours in the employee's normal work week, and

(B) the denominator of which is 35.

(4) AGGREGATION RULES.—For purposes of this subsection—

(A) all employers treated as a single employer under subsection (a) or (b) of section 52 of the Internal Revenue Code of 1986 shall be treated as a single employer, and

(B) all employees of the members of an affiliated service group (as defined in section 414(m) of such Code) shall be treated as employed by a single employer.

(b) LARGE EMPLOYER; SMALL EMPLOYER DEFINED.—

(1) IN GENERAL.—For purposes of this part—

(A) LARGE EMPLOYER.—The term "large employer" means, with respect to any calendar year, any employer if, on each of 20 days during the preceding calendar year (each day being in a different week), such employer (or any predecessor) employed more than 100 employees for some portion of the day.

(B) SMALL EMPLOYER.—The term "small employer" means an employer other than a large employer.

(2) AGGREGATION RULES.—For purposes of paragraph (1)—

(A) all employers treated as a single employer under subsection (a) or (b) of section 52 of the Internal Revenue Code of 1986 shall be treated as a single employer, and

(B) all employees of the members of an affiliated service group (as defined in section 414(m) of such Code) shall be treated as employed by a single employer.

(c) TREATMENT OF EMPLOYEES OF EDUCATIONAL ORGANIZATIONS.—For purposes of this part—

(1) IN GENERAL.—Notwithstanding subsection (b)(4), an employee of an educational organization shall be treated as a full-time employee if such employee's normal work week is the customary hours that constitute full-time employment for such organization (as determined by such organization).

(2) PART-TIME EMPLOYEES.—The part-time fraction of an employee of an educational organization who is not treated as a full-time employee under paragraph (1) shall be the fraction which such employee's normal work week bears to the customary hours that constitute full-time employment for such organization (as so determined).

(3) SUMMER MONTHS, ETC.—In the case of a period between 2 successive academic years or terms, if—

(A) an employee of an educational organization performs services in the first of such academic years or terms,

PHOTOCOPY PRESERVATION

(B) such employee performs substantially reduced services (if any) during such period, and

(C) there is a reasonable assurance that such employee will perform such services in the second of such academic years or terms,

then the employee shall be treated as an employee of such organization during such period and as having the same normal work week (and compensation) as such employee had in the first of such years or terms.

(4) EMPLOYEE OF EDUCATIONAL ORGANIZATION DEFINED.—For purposes of paragraphs (1) and (2), an individual is an employee of an educational organization if such individual—

(A) is an employee of an institution of higher education (as defined in section 1201(a) of the Higher Education Act of 1965) or an elementary or secondary school (as defined in section 1471 of the Elementary and Secondary Education Act of 1965), and

(B) is employed in a capacity described in so much of section 13(a)(1) of the Fair Labor Standards Act of 1936 as ends with "secondary schools)".

(d) OTHER DEFINITIONS.—

(1) IN GENERAL.—For purposes of this part, the terms "wages", "employer", "employment", and "employee" have the same meanings as when used in chapter 21 of the Internal Revenue Code of 1986: except that, for purposes of this part, the following provisions of chapter 21 of such Code shall not apply:

(A) Paragraph (1) of section 3121(a).

(B) Paragraph (5) of section 3121(b).

(C) Paragraph (7) of section 3121(b) (other than subparagraph (C) or (F) thereof).

(D) Paragraph (9) of section 3121(b).

(2) CONSUMER PURCHASING COOPERATIVE.—The term "consumer purchasing cooperative" means such a cooperative under subtitle B of title IV or subtitle E of title V.

(3) UNIVERSAL FEHBP.—The term "Universal FEHBP" means the program established under subtitle D of title V.

PHOTOCOPY PRESERVATION

PART 2—ADDITIONAL EMPLOYER RESPONSIBILITIES

SEC. 1111. MAINTENANCE-OF-EFFORT IN PROVIDING HEALTH BENEFITS TO EMPLOYEES.

(a) EMPLOYERS TO WHICH SECTION APPLIES.—This section shall apply to any employer if such employer (or any predecessor) offered as of January 1, 1994, health benefits to any employee.

(b) REQUIREMENTS.—An employer meets the requirements of this section only if the employer offers, throughout the 5-year period beginning on the date of the enactment of this Act, at least the level of health benefits offered as of January 1, 1994, to—

(1) the employees, spouses, and dependents to whom such benefits were offered as of such date, and

(2) similarly situated employees, spouses, and dependents.

(c) COLLECTIVE BARGAINING AGREEMENTS.—To the extent health benefits are provided pursuant to a collective bargaining agreement between employee representatives and 1 or more employers which was ratified before the date of the enactment of this Act, the 5-year period referred to in subsection (b) shall not expire before the date on which such agreement terminates (determined without regard to any extension thereof on or after the date of the enactment of this Act). The preceding sentence shall cease to apply with respect to any such agreement on the effective date of any modification of such agreement on or after June 29, 1994.

(d) EFFECTIVE DATE.—The requirements of this section shall apply to benefits offered on or after the date of the enactment of this Act.

SEC. 1112. NONDISCRIMINATION REQUIREMENTS IN PROVIDING ADDITIONAL HEALTH BENEFITS TO FULL-TIME EMPLOYEES.

(a) EMPLOYERS TO WHICH SUBSECTION APPLIES.—This section shall apply to any employer who makes an additional health benefit payment on behalf of any full-time employee.

(b) REQUIREMENTS.—An employer meets the requirements of this section only if all full-time employees are offered the same amount of additional health benefit payments. The requirements of this subsection shall be applied separately with respect to employees enrolled in different classes of enrollment.

(c) SAFE HARBOR RULES RELATING TO PREMIUM PAYMENTS.—In any case in which an additional health benefit payment is an additional premium payment for a certified health plan, the employer shall not be treated as failing to meet the requirements of this section if such payment meets the requirements of any (or any combination) of the following paragraphs:

(1) LEVEL PERCENTAGE CONTRIBUTION FOR PLAN SELECTED.—The additional payment amount is a fixed percentage of the premium under each certified health plan offered. Such percentage may vary based on class of enrollment.

(2) LEVEL PERCENTAGE CONTRIBUTION FOR CATEGORY OF PLAN.—The additional payment amount is a fixed percentage of the premium for the lowest cost plan within each category of certified health plans offered. Such percentage may vary based on class of enrollment.

(3) EQUALIZING DOLLAR AMOUNTS OF REQUIRED CONTRIBUTIONS.—The additional payment amount is the minimum dollar amount, within such a class of enrollment, that is required to assure that the total dollar contribution by the employer (including both the minimum required contribution and the additional payment amount) for all employees is equal to the greater of—

(A) the minimum level of employer contribution required for a managed care plan, or

(B) the minimum level of employer contribution required for an unlimited-choice-of-provider plan,

without regard to the plan selected. Such dollar amount may vary based on class of enrollment.

(4) LEVEL DOLLAR AMOUNTS OF ADDITIONAL CONTRIBUTIONS.—The payment is a fixed equal dollar amount per full-time employee, without regard to the plan selected. Such premium contribution may vary, or not vary, based on such a class of enrollment.

For purposes of applying this subsection, the term "premium" includes, with respect to a high deductible medical savings plan, a contribution to a medical savings account.

(d) DIFFERENT TREATMENT OF UNLIMITED-CHOICE-OF-PROVIDER PLANS AND MANAGED CARE PLANS.—If any additional benefit consists of a reduction in the cost sharing otherwise required under the guaranteed national benefit package—

(1) such reduction shall be treated as an additional health benefit payment, and

(2) the requirements of this section shall be met only if any difference in such reduction between unlimited-choice-of-provider plans and managed care plans meets such terms and conditions as may be prescribed by the Secretary by regulations.

(e) RECOMMENDATIONS ON INCLUSION OF PART-TIME EMPLOYEES.—The Secretary of Labor shall analyze and submit to Congress a report on how the provisions of this section may be applied in the case of part-time employees.

(f) DEFINITIONS.—For purposes of this section—

(1) ADDITIONAL HEALTH BENEFIT PAYMENT.—The term "additional health benefit payment" means any payment designed to be used exclusively (or primarily) towards the cost of health insurance coverage and does not include any tax imposed by chapter 25 of the Internal Revenue Code of 1986.

PHOTOCOPY PRESERVATION

(2) FULL-TIME EMPLOYEE.—The term "full-time employee" means any full-time employee (as defined in section 1106(a)(1)) with respect to whom the employer is required to make a contribution under section 1104(d).

(3) AGGREGATION RULES.—For purposes of this subsection—

(A) all employers treated as a single employer under subsection (a) or (b) of section 52 of the Internal Revenue Code of 1986 shall be treated as a single employer, and

(B) all employees of the members of an affiliated service group (as defined in section 414(m) of such Code) shall be treated as employed by a single employer.

(g) EXCEPTION FOR COLLECTIVE BARGAINING AGREEMENT.—This section shall not apply with respect to additional health benefits provided pursuant to a bona fide collective bargaining agreement or to a multiemployer plan.

(h) EFFECTIVE DATE.—

(1) IN GENERAL.—This section shall apply to benefits provided—

(A) by a large employer (as defined in section 1106(b)) on or after January 1, 1997, or

(B) by another employer on or after January 1, 1999.

(2) RELATIONSHIP TO TRANSITIONAL MAINTENANCE-OF-EFFORT REQUIREMENTS.—An employer shall not be considered to have failed to comply with the requirements of this subsection because of the provision of additional health benefit payments that are required to be provided pursuant to section 1111.

SEC. 1113. MAINTENANCE-OF-EFFORT REQUIREMENTS WITH RESPECT TO FORMER EMPLOYEES.

(a) EMPLOYERS TO WHICH SECTION APPLIES.—This section shall apply to any employer if such employer (or any predecessor), as of January 1, 1994, was paying any portion of the health costs for a qualified retiree or a qualified spouse or child.

(b) REQUIREMENTS.—

(1) IN GENERAL.—An employer meets the requirements of this section only if—

(A) each individual who is a qualified retiree or a qualified spouse or child is offered coverage under a health benefit plan of such employer which covers benefits comparable to the benefits covered by the employer with respect to qualified retirees as of January 1, 1994, and

(B) with respect to such individuals who elect coverage under a certified health plan of such employer, the employer contribution for each month is an amount equal to 80 percent of the cost of providing such coverage.

(2) OPTION TO PROVIDE EMPLOYER CONTRIBUTION TO MEDICARE PART C.—For periods beginning on or after January 1, 1999, an employer also shall meet the requirements of this section if—

(A) each individual who is a qualified retiree or a qualified spouse or child is offered coverage under medicare part C, and

(B) the employer contribution for each month for each such individual who elects coverage (or is covered) under medicare part C is an amount equal to the employer's share of applicable medicare part C premium for such month (as determined under section 3455 of the Internal Revenue Code of 1986).

(c) QUALIFIED RETIREE DEFINED.—For purposes of this section, the term "qualified retiree" means an eligible individual who—

(1) has attained age 55 but not age 65,

(2) is not a full-time employee, and

(3) is not a medicare part A beneficiary.

(d) QUALIFIED SPOUSE OR CHILD DEFINED.—For purposes of this section, the term "qualified spouse or child" means, in relation

PHOTOCOPY PRESERVATION

to a qualified retiree, an eligible individual with respect to whom the requirements in one of the following paragraphs is met:

(1) The individual (A) is under 65 years of age and is (and has been for a period of at least one year) married to a qualified retiree or (B) is a child of the qualified retiree.

(2) In the case of a person who was a qualified retiree at the time of the person's death—

(A) the individual was (and had for a period of at least one year been) married to the retiree at the time of the person's death,

(B) the individual is under 65 years of age,

(C) the individual is not a full-time employee,

(D) the individual is not remarried, and

(E) the deceased spouse would still be a qualified retiree if such spouse had not died.

(3) The individual is a child of an individual described in paragraph (2).

(e) EMPLOYER.—For purposes of this section, the term "employer" includes, with respect to any qualified retiree under a State or local retirement system (or the qualified spouse or child of such a retiree), such system.

(f) EFFECTIVE DATE.—This section shall apply to coverage for periods beginning on or after the date of the enactment of this Act.

SEC. 1114. ENFORCEMENT BY CIVIL MONEY PENALTIES OF SECRETARY OF LABOR.

(a) APPLICATION.—

(1) IN GENERAL.—Except as otherwise specifically provided, in the case of a person that violates a requirement of this part, the Secretary of Labor may impose a civil money penalty, in an amount not to exceed $10,000, for each violation with respect to each individual with respect to whom a violation occurred.

(b) CONSIDERATIONS IN IMPOSITION.—In determining the amount of any penalty to be assessed under this section, the Secretary of Labor shall take into account the previous record of compliance of the person being assessed with the applicable requirements of this Act and the gravity of the violation.

(c) ADMINISTRATIVE REVIEW.—

(1) OPPORTUNITY FOR HEARING.—The person assessed shall be afforded an opportunity for hearing by the Secretary of Labor upon request made within 30 days after the date of the issuance of a notice of assessment. In such hearing all factual determinations shall be determined on the record pursuant to section 554 of title 5, United States Code. If no hearing is requested, the assessment shall constitute a final and unappealable order.

(2) HEARING PROCEDURE.—If a hearing is requested, the initial agency decision shall be made by an administrative law judge, and such decision shall become the final order unless the Secretary of Labor modifies or vacates the decision. Notice of intent to modify or vacate the decision of the administrative law judge shall be issued to the parties within 30 days after the date of the decision of the judge. A final order which takes effect under this paragraph shall be subject to review only as provided under subsection (d).

(d) JUDICIAL REVIEW.—

(1) FILING OF ACTION FOR REVIEW.—Any person against whom an order imposing a civil money penalty has been entered after an agency hearing under this section may obtain review by the United States district court for any district in which such person is located or the United States District Court for the District of Columbia by filing a notice of appeal in such court within 30 days from the date of such order, and simultaneously sending a copy of such notice be registered mail to the Secretary of Labor.

PHOTOCOPY PRESERVATION

(2) CERTIFICATION OF ADMINISTRATIVE RECORD.—The Secretary of Labor shall promptly certify and file in such court the record upon which the penalty was imposed.

(3) STANDARD FOR REVIEW.—The findings of the Secretary of Labor shall be set aside only if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5, United States Code.

(4) APPEAL.—Any final decision, order, or judgment of such district court concerning such review shall be subject to appeal as provided in chapter 83 of title 28 of such Code.

(e) FAILURE TO PAY ASSESSMENT; MAINTENANCE OF ACTION.—

(1) FAILURE TO PAY ASSESSMENT.—If any person fails to pay an assessment after it has become a final and unappealable order, or after the court has entered final judgment in favor of the Secretary of Labor, the Secretary shall refer the matter to the Attorney General who shall recover the amount assessed by action in the appropriate United States district court.

(2) NONREVIEWABILITY.—In such action the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

(f) PAYMENT OF PENALTIES.—Penalties collected under this section shall be paid to the Secretary of Labor (or other officer) imposing the penalty and shall be available without appropriation and until expended for the purpose of enforcing the provisions of this part.

PHOTOCOPY
PRESERVATION

TITLE II—INDIVIDUAL AND EMPLOYER RESPONSIBILITIES

SEC. 2001. AMENDMENT OF 1986 CODE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

Subtitle A—Individual Responsibilities

SEC. 2101. INDIVIDUAL SHARE OF MEDICARE PART C PREMIUMS.

(a) GENERAL RULE.—Subchapter A of chapter 1 (relating to determination of tax liability) is amended by adding at the end the following new part:

"PART VIII—INDIVIDUAL SHARE OF MEDICARE PART C PREMIUMS

"Sec. 59B. Individual share of medicare part C premiums.

"SEC. 59B. INDIVIDUAL SHARE OF MEDICARE PART C PREMIUMS.

"(a) IMPOSITION OF TAX.—In the case of an individual, there is hereby imposed (in addition to any other tax imposed by this subtitle) a tax for the taxable year in the amount equal to the medicare part C premium liability (if any) of such individual for such taxable year.

"(b) EXEMPTION FOR LOW-INCOME INDIVIDUALS.—

"(1) IN GENERAL.—No tax shall be imposed by subsection (a) on any taxpayer whose modified adjusted gross income for the taxable year does not exceed the threshold amount.

"(2) PHASE-IN OF TAX.—

"(A) IN GENERAL.—If the modified adjusted gross income of the taxpayer for the taxable year exceeds the threshold amount by less than the phase-in amount, the amount of the tax imposed by subsection (a) for such taxable year shall be the phase-in percentage of the medicare part C premium liability of such taxpayer for such taxable year.

"(B) PHASE-IN PERCENTAGE.—For purposes of subparagraph (A), the phase-in percentage shall be determined under tables prescribed by the Secretary which—

"(i) shall have income brackets of not more than $50, and

"(ii) provide for a ratable increase in the amount of tax imposed by subsection (a) for modified adjusted gross incomes between the threshold amount and the sum of the threshold amount and the phase-in amount.

"(C) PHASE-IN AMOUNT.—For purposes of subparagraphs (A) and (B), the phase-in amount is the amount equal to the applicable percentage (determined in accordance with the following table) of the threshold amount.

"In the case of taxable years ending with or within—	The applicable percentage is—
1999, 2000, or 2001	100 percent
2002 or 2003	120 percent
2004 or thereafter	140 percent.

"(c) MEDICARE PART C PREMIUM LIABILITY.—For purposes of this section—

PHOTOCOPY PRESERVATION

"(1) IN GENERAL.—The medicare part C premium liability of any individual for any taxable year is the excess (if any) of—

"(A) the sum of the applicable medicare part C premiums for each month of medicare part C coverage during the taxable year, over

"(B) the sum of—

"(i) the aggregate mandatory employer taxes with respect to the employment of such individual during the calendar year in which the taxable year begins, and

"(ii) the aggregate elective employer taxes with respect to the employment of such individual during such calendar year.

For purposes of this paragraph, the term 'month of medicare part C coverage' means any month as of the first day of which the individual, the spouse of the individual, or any young dependent of the individual is a medicare part C covered individual.

"(2) LIMITATION ON MANDATORY EMPLOYER TAXES TAKEN INTO ACCOUNT.—The amount of mandatory employer taxes which are taken into account under paragraph (1)(B)(i) with respect to any individual for any taxable year shall not exceed 80 percent of the amount referred to in paragraph (1)(A).

"(3) APPLICABLE MEDICARE PART C PREMIUM.—

"(A) TAXPAYERS WITH YOUNG DEPENDENTS.—Except as provided in subparagraph (C), if, as of the first day of a month, the individual (or, in the case of a joint return, either spouse) has a young dependent who is a medicare part C covered individual, the applicable medicare part C premium for such month is—

"(i) the applicable family premium for such month in the case of a joint return filed by spouses both of whom are medicare part C covered individuals for such month, and

"(ii) the applicable single parent premium for such month in any other case.

"(B) TAXPAYERS WITHOUT YOUNG DEPENDENTS.—Except as provided in subparagraph (C), if, as of the first day of a month, the individual does not have (or, in the case of a joint return, neither spouse has) a young dependent who is a medicare part C covered individual, the applicable medicare part C premium for such month is—

"(i) the applicable individual premium for such month, or

"(ii) in the case of a joint return, the sum of the applicable individual premiums for each spouse who is a medicare part C covered individual for such month.

"(C) SPOUSES NOT FILING JOINT RETURNS BY REASON OF DIVORCE OR OTHERWISE.—If—

"(i) the individual was married as of the first day of a month,

"(ii) the applicable medicare part C premium for such month would have been the applicable family premium if the individual had filed a joint return for the taxable year which includes such month with the spouse of such individual as of such first day, and

"(iii) the individual does not file a joint return for such taxable year,

the applicable medicare part C premium for such month is ½ the applicable family premium.

"(D) APPLICABLE PREMIUMS.—The applicable individual premium, the applicable family premium, and the applicable single parent premium of an individual for any month shall be determined—

"(i) under tables prescribed under section 2121(a) of the Social Security Act by the Secretary of Health

PHOTOCOPY PRESERVATION

and Human Services which are effective for such month, and

"(ii) on the basis of the State (or place outside the United States) in which such individual has his principal place of abode as of the first day of such month.

"(d) MEDICARE PART C COVERED INDIVIDUAL.—For purposes of this section—

"(1) IN GENERAL.—An individual shall be treated as a medicare part C covered individual for any month unless—

"(A) for such month, such individual is covered under a certified health plan or medicare part A, and

"(B) such individual furnishes to the Secretary (at such time and in such manner as the Secretary may prescribe) the required certification of such coverage for such month.

"(2) CERTIFIED HEALTH PLAN.—The term 'certified health plan' has the meaning given such term by section 2 of the Guaranteed Health Insurance Act of 1994.

"(3) MEDICARE PART A.—The term 'medicare part A' means the insurance program established by part A of title XVIII of the Social Security Act.

"(e) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) THRESHOLD AMOUNT.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'threshold amount' means—

"(i) $7,400 in the case of a return with respect to which 1 personal exemption is allowable under section 151,

"(ii) $11,500 in the case of a return with respect to which 2 or 3 personal exemptions are allowable under section 151, and

"(iii) $16,000 in the case of a return with respect to which 4 or more personal exemptions are allowable under section 151.

"(B) CERTAIN SEPARATE RETURNS.—The threshold amount shall be zero in the case of a taxpayer who—

"(i) is married as of the close of the taxable year but does not file a joint return for such taxable year, and

"(ii) does not live apart from his spouse at all times during the last 6 months of the taxable year.

"(C) INFLATION ADJUSTMENTS.—In the case of a taxable year beginning in a calendar year after 1998, each dollar amount contained in subparagraph (A) shall be increased by an amount equal to—

"(i) such dollar amount, multiplied by

"(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, by substituting 'calendar year 1994' for 'calendar year 1992' in subparagraph (B) thereof.

"(2) MODIFIED ADJUSTED GROSS INCOME.—The term 'modified adjusted gross income' means adjusted gross income—

"(A) determined without regard to sections 911, 931, and 933, and

"(B) increased by the amount of interest received or accrued by the individual during the taxable year which is exempt from tax.

The determination under the preceding sentence shall be made without regard to any carryover or carryback.

"(3) MANDATORY EMPLOYER TAXES.—The term 'mandatory employer taxes' means the tax imposed by section 3455 determined without regard to any election under section 3455(b)(2).

PHOTOCOPY PRESERVATION

"(4) ELECTIVE EMPLOYER TAXES.—The term 'elective employer taxes' means the taxes imposed by section 3455 which are not mandatory employer taxes.

"(5) YOUNG DEPENDENT.—The term 'young dependent' has the meaning given such term by section 1003(b)(1) of the Guaranteed Health Insurance Act of 1994.

"(6) REQUIRED CERTIFICATION.—The term 'required certification' means the statement required to be provided under section 6050Q(b) (or a copy thereof) or any other statement approved by the Secretary for purposes of this section.

"(7) ALLOCATION OF EMPLOYER'S SHARE OF PREMIUMS FOR SPOUSES NOT FILING JOINT RETURN.—Individuals who are married to each other as of the first day of any month and who do not file a joint return with each other for the taxable year which includes such month may allocate mandatory and elective employer taxes for such month to such extent and subject to such conditions as the Secretary shall prescribe.

"(f) COORDINATION WITH OTHER PROVISIONS.—

"(1) TREATMENT AS MEDICAL EXPENSE.—For purposes of section 213, the tax imposed by this section for any taxable year shall be treated as an expense paid during such taxable year for medical care of the taxpayer.

"(2) NOT TREATED AS TAX FOR CERTAIN PURPOSES.—The tax imposed by this section shall not be treated as a tax imposed by this chapter for purposes of determining—

"(A) the amount of any credit allowable under this chapter, or

"(B) the amount of the minimum tax imposed by section 55.

"(3) TREATMENT UNDER SUBTITLE F.—For purposes of subtitle F, the tax imposed by this section shall be treated as if it were a tax imposed by section 1.

"(4) TAXES IMPOSED BY POSSESSIONS.—The tax imposed by this section shall not apply to a bona fide resident of a possession with respect to which the requirements of section 2101(c)(3)(A) of the Social Security Act are met.

"(g) EXEMPTIONS.—

"(1) IN GENERAL.—No tax shall be imposed by this section on any individual for any taxable year if such individual is—

"(A) a covered, noncontributing individual (as defined in section 1003(b) of the Guaranteed Health Insurance Act of 1994) for such taxable year, or

"(B) a nonresident alien (as defined in section 7701(b)).

"(2) CERTAIN INDIVIDUALS NOT TAKEN INTO ACCOUNT IN DETERMINING AMOUNT OF TAX.—

"(A) IN GENERAL.—For purposes of this section, an individual shall be treated as not being a medicare part C covered individual for any month if—

"(i) the individual is a noncovered, noncontributing individual (as defined in section 1004(b) of the Guaranteed Health Insurance Act of 1994) for such month, or

"(ii) the first day of such month is included in any period for which such individual is a qualified individual (as defined in section 911(d)(1)).

Clause (ii) shall not apply to any individual for any taxable year if, at any time during such taxable year, such individual receives services under medicare part C.

"(B) MEDICARE PART C.—For purposes of subparagraph (A), the term 'medicare part C' means the program of health insurance benefits under title XXI of the Social Security Act.

"(h) REGULATIONS.—The Secretary may prescribe such regulations as may be appropriate to carry out the purposes of this section, including—

PHOTOCOPY PRESERVATION

"(1) regulations determining the applicable premium for spouses having different principal places of abode, and

"(2) regulations, prescribed after consultation with the Secretary of Health and Human Services, treating health plans of foreign governments or foreign employers outside the United States as certified health plans."

(b) ADJUSTMENTS TO WITHHOLDING.—Subsection (a) of section 3402 (relating to income tax collected at source) is amended by adding at the end the following new paragraph:

"(3) SPECIAL RULE FOR TAX IMPOSED BY SECTION 59B.—

"(A) IN GENERAL.—In determining the amount required to be deducted and withheld from wages paid to an individual during any month by such individual's employer, the tax imposed by section 59B shall be taken into account.

"(B) WAGES NOT REDUCED BY EXEMPTIONS.—In determining the amount to be deducted and withheld by reason of subparagraph (A), the amount of wages shall not be reduced as provided in paragraph (2)."

(c) RELIEF FROM ESTIMATED TAX PENALTIES WHERE EMPLOYMENT TERMINATED.—Paragraph (3) of section 6654(e) (relating to failure by individual to pay estimated income tax) is amended by adding at the end the following new subparagraph:

"(C) UNDERPAYMENT OF MEDICARE PART C PREMIUMS FOR MONTHS AFTER INVOLUNTARY TERMINATION OF EMPLOYMENT.—If the Secretary determines that—

"(i) an individual's employment was involuntarily terminated during the taxable year, and

"(ii) the medicare part C portion of any underpayment for such year was due to reasonable cause and not due to willful neglect,

no addition to tax shall be imposed under subsection (a) with respect to such portion. For purposes of the preceding sentence, the medicare part C portion of an underpayment is the amount of the underpayment to the extent that it does not exceed the amount of the tax imposed by section 59B which is attributable to the portion of such taxable year after such termination."

(d) TECHNICAL AMENDMENTS.—

(1) Subsection (a) of section 6012 is amended by inserting after paragraph (9) the following new paragraph:

"(10) Every individual if—

"(A) such individual, or the spouse or any young dependent (as defined in section 1003(b)(1) of the Guaranteed Health Insurance Act of 1994) of such individual, is a medicare part C covered individual (as defined in section 59B(d)) for any month in the taxable year, and

"(B) such individual is not exempt from the tax imposed by section 59B by reason of subsection (b)(1) or (g) thereof."

(2) Section 31 is amended by adding at the end the following new subsection:

"(d) CERTAIN PAYMENTS OF MEDICARE PART C PREMIUMS.—The amount paid by an individual to the Secretary of Health and Human Services under section 2123(b) of the Social Security Act shall be allowed to such individual as a credit against the tax imposed by this subtitle for the taxable year which includes the month for which such amount was required to be paid. Individuals who are married to each other as of the first day of any month and who do not file a joint return with each other for the taxable year which includes such month may allocate the amounts described in the preceding sentence for such month to such extent and subject to such conditions as the Secretary shall prescribe."

(3) Subparagraph (A) of section 1(f)(6) is amended by inserting "section 59B(e)(1)(C)," after paragraph (2)(A),".

PHOTOCOPY PRESERVATION

(4)(A) Subsection (b) of section 6521 is amended to read as follows:

"(b) INDIVIDUAL AND EMPLOYER MEDICARE PART C PREMIUMS.—In the case of the tax imposed by section 59B (relating to individual share of medicare part C premiums) and the tax imposed by section 3455 (relating to employer share of medicare part C premiums), if—

"(1) an amount is erroneously treated under section 59B as the medicare part C premium liability of an individual, or an amount is erroneously treated under section 3455 as the employer share of the applicable medicare part C premium with respect to such individual,

"(2) the correction of the error would require an assessment of one such tax and the refund or credit of the other tax, and

"(3) at any time the correction of the error is authorized as to one such tax but is prevented as to the other tax by any law or rule of law (other than section 7122, relating to compromises),

then, if the correction authorized is made, the amount of the assessment, or the amount of the credit or refund, as the case may be, authorized as to the one tax shall be reduced by the amount of the credit or refund, or the amount of the assessment, as the case may be, which would be required with respect to such other tax for the correction of the error if such credit or refund, or such assessment, of such other tax were not prevented by any law or rule of law (other than section 7122, relating to compromises)."

(B) Subsection (a) of section 6521 is amended by adding at the end the following new sentence: "For purposes of this subsection, the terms 'self-employment income' and 'wages' shall have the same meanings as when used in section 1402(b)."

(e) CLERICAL AMENDMENT.—The table of parts for subchapter A of chapter 1 is amended by adding at the end the following new item:

"Part VIII. Individual share of medicare part C premiums."

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to months beginning after December 31, 1998, in taxable years ending after such date.

PHOTOCOPY PRESERVATION

Subtitle B—Employer Responsibilities

SEC. 2201. HEALTH-RELATED EMPLOYER TAXES AND CREDITS.

(a) GENERAL RULE.—Subtitle C (relating to employment taxes) is amended by redesignating chapter 25 as chapter 26 and by inserting after chapter 24 the following new chapter:

"CHAPTER 25—HEALTH-RELATED EMPLOYER TAXES AND CREDITS

"Subchapter A. Employer Taxes.
"Subchapter B. Employer Credits.
"Subchapter C. General Provisions.

"Subchapter A—Employer Taxes

"Part I. Tax on noncomplying large employers.
"Part II. Employer share of medicare part C premiums.
"Part III. Tax with respect to employees covered by certain other health plans.

"PART I—TAX ON NONCOMPLYING LARGE EMPLOYERS

"Sec. 3451. Imposition of tax.

"SEC. 3451. IMPOSITION OF TAX.

"(a) IMPOSITION OF TAX.—In addition to other taxes, there is hereby imposed on every large employer an excise tax, with respect to the employment of any employee during any month unless, for such month—

"(1) such employee is a qualified employer-covered employee of such employer, or

"(2) such employee is a voluntarily excluded employee.

"(b) AMOUNT OF TAX.—The amount of the tax imposed by subsection (a) with respect to any employee for any month shall be an amount equal to 25 percent of the wages paid during such month by such employer to such employee.

"(c) TAX NOT TO APPLY TO EMPLOYMENT OF CERTAIN EMPLOYEES.—

"(1) EMPLOYEES PERMITTED TO BE EXCLUDED FROM COVERAGE UNDER PRIVATE EMPLOYER PLANS.—No tax shall be imposed by this section on the employment for any month of any exempt part-time, seasonal, or temporary employee (as defined in section 1102(c) of the Guaranteed Health Insurance Act of 1994).

"(2) GENERALLY EXCLUDABLE EMPLOYEES.—

"For exemption from tax for employment of generally excludable employees, see section 3465.

"(d) DEFINITIONS.—For purposes of this section—

"(1) LARGE EMPLOYER.—The term 'large employer' has the meaning given to such term by section 1106 of the Guaranteed Health Insurance Act of 1994.

"(2) VOLUNTARILY EXCLUDED EMPLOYEE.—The term 'voluntarily excluded employee' has the meaning given to such term by section 1102 of the Guaranteed Health Insurance Act of 1994.

"(3) QUALIFIED EMPLOYER-COVERED EMPLOYEE.—The term 'qualified employer-covered employee' has the meaning given to such term by section 1104 of the Guaranteed Health Insurance Act of 1994 are met.

"(e) WAIVER OF TAX IN CERTAIN CASES.—If—

"(1) a large employer failed—

"(A) to correctly determine that it is a large employer, or

"(B) to cover any employee as a qualified employer-covered employee of such employer (other than an employee referred to in paragraph (1) or (2) of subsection (c)),

"(2) such failure is due to reasonable cause and not to willful neglect, and

"(3) the employer takes such corrective action as the Secretary may require,

the Secretary may waive part or all of the tax imposed by subsection (a) if the Secretary determines that the payment of such tax would be excessive relative to the failure involved.

"PART II—EMPLOYER SHARE OF MEDICARE PART C PREMIUMS

"Sec. 3455. Imposition of tax.

"SEC. 3455. IMPOSITION OF TAX.

"(a) IMPOSITION OF TAX.—In addition to other taxes, there is hereby imposed on every employer an excise tax, with respect to the employment of any medicare part C covered employee during any calendar month, equal to the employer share of the applicable medicare part C premium for such month.

"(b) EMPLOYER SHARE OF MEDICARE PART C PREMIUM.—For purposes of subsection (a)—

"(1) IN GENERAL.—The employer share of the applicable medicare part C premium for any calendar month is an

PHOTOCOPY PRESERVATION

amount equal to 80 percent of the applicable medicare part C premium for such month.

"(2) EMPLOYER ELECTION TO INCREASE SHARE.—At the election of the employer, paragraph (1) shall be applied by substituting for '80 percent' any percentage specified by the employer which is greater than 80 percent and not greater than 100 percent. Any percentage so specified shall apply to the month for which made and all succeeding months beginning before the date it is revoked by the employer. Any percentage so specified shall apply to all medicare part C covered employees of such employer.

"(3) REDUCTION FOR PART-TIME EMPLOYEES.—

"(A) IN GENERAL.—In the case of any part-time employee (as defined in section 1106 of the Guaranteed Health Insurance Act of 1994), the employer share of the applicable medicare part C premium for any month is the part-time fraction (as defined in such section 1106) of the amount determined under paragraphs (1) and (2).

"(B) EMPLOYER ELECTION TO INCREASE SHARE.—Any employer may elect to specify, with respect to any part-time employee for any month, a part-time fraction which is greater than the part-time fraction which would (but for this subparagraph) apply to such employee for such month but not greater than 1. Any fraction so specified shall apply to such employee for the month for which made and all succeeding months beginning before the date it is revoked by the employer.

"(4) SPECIAL RULE FOR STATES WITH APPROVED STATE MANAGED COMPETITION PROGRAMS.—With respect to an employee who resides in a State with a managed competition program approved under subtitle B of title IV of the Guaranteed Health Insurance Act of 1994, the employer share of the applicable medicare part C premium for any calendar month is amount equal to 25 percent of the wages paid during such month by such employer to such employee.

"(c) APPLICABLE MEDICARE PART C PREMIUM.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the applicable medicare part C premium for a medicare part C covered employee for any month is the applicable individual premium for such month.

"(2) EMPLOYEES WITH YOUNG DEPENDENTS.—If, for any month, an employee has a young dependent who is not covered by a certified health plan or medicare part A—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the applicable medicare part C premium for such employee for such month is—

"(i) the applicable family premium for such month if such employee is married and both spouses are not covered by any certified health plan or medicare part A, and

"(ii) the applicable single parent premium for such month in any other case.

"(B) FULL FAMILY PREMIUM PAID BY ANOTHER EMPLOYER.—If, for such month, another employer pays an unreduced applicable family premium for such month with respect to such employee or the spouse of such employee, the applicable medicare part C premium for such employee for such month is zero. For purposes of this subparagraph, the term 'unreduced' means, with respect to any premium, a premium which is not reduced under subsection (b)(3).

"(3) EMPLOYEES WITH SPOUSES FOR WHOM NO EMPLOYER PAYS PART C PREMIUM.—If, for any month—

"(A) an employee is married but does not have a young dependent who is not covered by a certified health plan or medicare part A,

PHOTOCOPY PRESERVATION

"(B) neither such employee nor such employee's spouse is covered by a certified health plan or medicare part A, and

"(C) no other employer pays the employer's share of an unreduced (as defined in paragraph (2)(B)) applicable medicare part C premium for such spouse for such month,

then the applicable medicare part C premium for such employee for such month is twice the applicable individual premium for such month.

"(4) APPLICABLE PREMIUMS.—The applicable individual premium, the applicable family premium, and the applicable single parent premium of an employee for any month shall be determined—

"(A) under tables prescribed under section 2121(a) of the Social Security Act by the Secretary of Health and Human Services which are effective for such month, and

"(B) on the basis of the State or place outside the United States (which such employee certifies in the withholding exemption certificate which is in effect as of the first day of such month) in which such employee has his principal place of abode.

"(5) CERTAIN INDIVIDUALS NOT TAKEN INTO ACCOUNT IN DETERMINING AMOUNT OF TAX.—An individual who is married to a noncovered, noncontributing individual (as defined in section 1004(b) of the Guaranteed Health Insurance Act of 1994) shall be treated as not married for purposes of this subsection.

"(6) FAILURE TO DISCLOSE PRINCIPAL PLACE OF ABODE.—If an employee does not have in effect with his employer a withholding exemption certificate which certifies the employee's principal place of abode, such employee's principal place of abode shall be treated for purposes of paragraph (4)(B) as being in the State which includes such employee's principal place of employment with his employer.

"(7) DETERMINATIONS MADE ON BASIS OF WITHHOLDING CERTIFICATE.—Determinations of the applicable medicare part C premium for an employee for any month shall be made on the basis of such employee's withholding exemption certificate (if any) which is in effect as of the first day of such month unless the employer has actual knowledge that the information provided on such certificate is incorrect.

"(d) DEFINITIONS.—For purposes of this section—

"(1) MEDICARE PART C COVERED EMPLOYEE.—An employee of the employer shall be treated as a medicare part C covered employee for any month unless—

"(A)(i) such employee is a qualified employer-covered employee of such employer for such month, or

"(ii) there is in effect as of the first day of such month a withholding exemption certificate stating that such employee is covered under a certified health plan (other than a plan of such employer) or medicare part A, and

"(B)(i) each young dependent (if any) of such employee is covered for such month under the certified health plan of the employer under which such employee is covered, or

"(ii) there is in effect as of the first day of such month a withholding exemption certificate stating that each young dependent (if any) of such employee is covered under a plan described in subparagraph (A)(ii).

"(2) YOUNG DEPENDENT.—The term 'young dependent' has the meaning given such term by section 1003(b)(1) of the Guaranteed Health Insurance Act of 1994.

"(3) EMPLOYEE.—For purposes of this section, the term 'employee' includes a former employee of an employer if the requirements of section 1113 of the Guaranteed Health Insurance Act of 1994 apply to such employer and the employer elects to satisfy such requirements as described in section 1113(b)(2) of such Act.

PHOTOCOPY PRESERVATION

"(e) TREATMENT OF INDIANS EMPLOYED OTHER THAN BY INDIAN TRIBES AND TRIBAL ORGANIZATIONS.—

"(1) IN GENERAL.—For purposes of this section—

"(A) the term 'certified health plan' shall not include any health program of the Service (as defined in section 901 of the Indian Health Care Improvement Act), and

"(B) any employee who (but for this subsection) would not be a medicare part C covered employee solely by reason of coverage under such a health program shall be treated as a medicare part C covered employee.

"(2) EXCEPTION FOR EMPLOYMENT BY INDIAN TRIBE, ETC.—Paragraph (1) shall not apply if the employer is—

"(A) an Indian tribe (as defined in section 4 of the Indian Health Care Improvement Act (25 U.S.C. 1603)), or

"(B) a tribal organization (as defined in such section 4).

"(3) TRANSFER OF TAX TO HEALTH PROGRAMS OF THE INDIAN HEALTH SERVICE.—

"For transfer of taxes received in the Medicare Part C Trust Fund by reason of this subsection for programs of the Indian Health Service, see section 2124(c)(2)(A) of the Social Security Act.

"(f) TREATMENT OF VETERANS IN AN GHIA-QUALIFIED VA HEALTH PLAN.—

"(1) IN GENERAL.—For purposes of this section—

"(A) the term 'certified health plan' shall not include any GHIA-qualified VA health plan (as defined in section 1801 of title 38, United States Code) in the case of an employee who is a veteran (within the meaning of section 101 of such title) or a spouse or dependent of such an employee, and

"(B) any employee who (but for this subsection) would not be a medicare part C covered employee solely by reason of coverage under such a health plan shall be treated as a medicare part C covered employee.

"(2) TRANSFER OF TAX TO HEALTH PROGRAMS OF THE DEPARTMENT OF VETERANS AFFAIRS.—

"For transfer of taxes received in the Medicare Part C Trust Fund by reason of this subsection for programs of the Department of Veterans Affairs, see section 2124(c)(2)(B) of the Social Security Act.

PHOTOCOPY PRESERVATION

"(g) CREDIT FOR TAXES PAID BASED ON INCORRECT INFORMATION.—If—

"(1) on or before January 31 of any calendar year, an employer determines (in such manner as the Secretary shall prescribe) that such employer overpaid the tax imposed by this section with respect to an employee for any month during the preceding calendar year by reason of incorrect information shown on any withholding exemption certificate of such employee which was in effect for such month, and

"(2) the statement furnished to such employee under section 6051 on or before such January 31 for the preceding calendar year reflects the tax which would have been paid by such employer if the information shown on such certificate had been correct,

then the excess of the tax paid under this section by such employer during such preceding calendar year over the amount of tax referred to in paragraph (2) shall be treated as an overpayment of the tax.

"(h) TAX TREATED AS EMPLOYER-PROVIDED HEALTH COVERAGE.—

"(1) INCOME TAX.—For purposes of chapter 1, payment of the taxes imposed by this section shall be treated as the providing of coverage by the employer under an accident or health plan.

"(2) EMPLOYMENT TAXES.—For purposes of this subtitle, no amount shall be included in the remuneration of any individ-

ual by reason of the payment of the taxes imposed by this section.

"PART III—TAX WITH RESPECT TO EMPLOYEES COVERED BY CERTAIN OTHER HEALTH PLANS

"Sec. 3458. Imposition of tax.

"SEC. 3458. IMPOSITION OF TAX.

"(a) IMPOSITION OF TAX.—In addition to other taxes, there is hereby imposed on every employer an excise tax, with respect to the employment of any employee described in subsection (b) during any month, equal to 80 percent of the applicable individual premium (as defined in section 3455(c)(4)) for such month with respect to each such employee. In applying section 3455(c)(4) for purposes of the preceding sentence, such employee's principal place of abode shall be treated as being in the State which includes such employee's principal place of employment with such employer.

"(b) EMPLOYEES DESCRIBED.—For purposes of subsection (a), an employee is described in this subsection for any month if—

"(1) such employee is covered for such month under a certified health plan other than a plan of his employer and (but for such coverage) such employer would be liable for tax under section 3451 or 3455 with respect to the employment of such employee for such month, or

"(2) such employee is a medicare part C covered individual (as defined in section 59B(d)) for such month, and the applicable medicare part C premium for such employee is zero by reason of section 3455(c)(2)(B).

For purposes of paragraph (1), it shall be assumed that the employee would not become a qualified employer-covered employee of his employer.

"(c) REDUCTION OF TAX FOR PART-TIME EMPLOYEES.—With respect to any part-time employee, the tax imposed by this section for any month shall be an amount equal to the part-time fraction of the amount determined under subsection (a).

"(d) TREATMENT OF INDIANS EMPLOYED BY INDIAN TRIBES AND TRIBAL ORGANIZATIONS.—No tax shall be imposed by this section with respect to the employment of any employee if—

"(1) such employee is described in subsection (b)(1) solely by reason of being covered under a health program of the Service (as defined in section 901 of the Indian Health Care Improvement Act), and

"(2) the employer is an Indian tribe (as defined in section 4 of the Indian Health Care Improvement Act (25 U.S.C. 1603)) or a tribal organization (as defined in such section 4).

PHOTOCOPY PRESERVATION

"Subchapter B—Employer Credits

"Sec. 3461. Family premium credit.
"Sec. 3462. Small employer credit.

"SEC. 3461. FAMILY PREMIUM CREDIT.

"(a) GENERAL RULE.—Every employer shall be entitled to treat an amount equal to the applicable percentage of such employer's family premium amount for any calendar quarter as a payment by such employer of such employer's employment tax liability for such calendar quarter.

"(b) FAMILY PREMIUM AMOUNT.—

"(1) IN GENERAL.—For purposes of this section, the family premium amount of an employer for any calendar quarter is an amount equal to the sum of—

"(A) such employer's aggregate liability for tax under section 3455 for such quarter with respect to employees for

whom the applicable medicare part C premium is the applicable family premium, and

"(B) the aggregate imputed part C family premiums for such quarter for qualified employer-covered employees of such employer receiving family coverage under any certified health plan of such employer.

"(2) PART C FAMILY PREMIUM LIABILITY.—The determination under paragraph (1)(A) shall be made without regard to any election under section 3455(b)(2).

"(3) IMPUTED PART C FAMILY PREMIUM.—

"(A) IN GENERAL.—For purposes of paragraph (1)(B), the imputed part C family premium for any qualified employer-covered employee is an amount equal to 80 percent of the applicable family premium determined under section 3455 on the basis of the State which includes such employee's principal place of employment with his employer.

"(B) LOWER PERCENTAGE IN CERTAIN CASES.—If, in determining the amount of the employer contribution to any certified health plan of such employer with respect to any part-time employee who is a qualified employer-covered employee, the part-time fraction applied by the employer is less than 1, the imputed part C family premium for such employee is such fraction of the amount determined under subparagraph (A).

"(c) APPLICABLE PERCENTAGE.—For purposes of this section—

"(1) IN GENERAL.—The applicable percentage for any calendar year is the percentage which the Secretary estimates (in consultation with the Secretary of Health and Human Services) will result in the aggregate amount of the deemed payments determined under this section for all employers for such year being equal to the product of the phase-in percentage and the Secretary's estimate of the taxes imposed by section 3458 which will be paid for such year. Proper adjustments shall be made in the applicable percentage determined for succeeding calendar years to the extent that the applicable percentage determined for such calendar year was greater than or less than the correct percentage.

"(2) PHASE-IN PERCENTAGE.—For purposes of paragraph (1), the phase-in percentage is—

"(A) 25 percent for calendar year 1999,

"(B) 40 percent for calendar year 2000,

"(C) 60 percent for calendar year 2001, and

"(D) 100 percent for calendar years after 2001.

"(d) COORDINATION WITH DEPOSITORY REQUIREMENTS.—Any employer who is entitled to treat any amount as a payment under subsection (a) for any calendar quarter may reduce, in such manner as the Secretary may by regulations prescribe, by a like amount, the amount otherwise required to be deposited during such quarter by reason of the employment tax liability of such employer.

"(e) SPECIAL RULES.—

"(1) PAYMENT TREATED AS MADE ON DUE DATE.—Notwithstanding subsection (d), for purposes of determining interest, any deemed payment under subsection (a) for any calendar quarter shall be treated as made on the due date for the return for such quarter.

"(2) DENIAL OF DEDUCTION.—The amount of any deduction otherwise allowable under chapter 1 for the taxes imposed by this chapter or for expenditures under any certified health plan of such employer shall be reduced by any payment treated as made under subsection (a).

"(f) EMPLOYMENT TAX LIABILITY.—For purposes of this section, the term 'employment tax liability' means liability for the taxes imposed by this chapter and chapters 21 and 24.

PHOTOCOPY PRESERVATION

"SEC. 3462. SMALL EMPLOYER CREDIT.

"(a) GENERAL RULE.—Every eligible small employer shall be entitled to treat an amount equal to the applicable percentage of such employer's total premium amount for any calendar year as a payment by such employer of such employer's employment tax liability (as defined in section 3461(f)) for such calendar year.

"(b) TOTAL PREMIUM AMOUNT.—

"(1) IN GENERAL.—For purposes of this section, the total premium amount of an employer for a calendar year is an amount equal to the excess of—

"(A) the sum of—

"(i) such employer's aggregate liability for tax under sections 3455 and 3458 for such year, and

"(ii) the aggregate imputed part C premiums for such year for qualified employer-covered employees of such employer receiving coverage under any certified health plan of such employer, over

"(B) the aggregate deemed payments by the employer for such year under section 3461.

"(2) IMPUTED PART C PREMIUM.—For purposes of paragraph (1), the imputed part C premium for any qualified employer-covered employee is an amount equal to 80 percent of the applicable medicare part C premium determined under section 3455 for such employee on the basis of the State which includes such employee's principal place of employment with his employer and the type of coverage provided to such employee under the certified health plan. Rules similar to the rules of section 3461(b)(3)(B) shall apply for purposes of the preceding sentence.

"(3) CERTAIN INDIVIDUALS NOT TAKEN INTO ACCOUNT.—The total premium amount of an employer shall be determined without regard to—

"(A) in the case of an employer which is a corporation, any employee who owns (directly or by application of section 318) more than 10 percent of—

"(i) the outstanding stock of such corporation, or

"(ii) the total combined voting power of all stock of the corporation,

"(B) in the case of an employer which is an estate or trust, any grantor, beneficiary, or fiduciary of the estate or trust, and

"(C) any member of the family (within the meaning of section 267(c)(4)) of—

"(i) an individual described in subparagraph (A) or (B),

"(ii) in the case of an employer which is a sole proprietorship, the sole proprietor, or

"(iii) in the case of an employer which is a partnership, any partner who owns more than 10 percent of the capital interest or profits interest of such partnership.

In the case of an employer who is not a corporation, the total premium amount also shall be determined without regard to any individual not performing services in a trade or business of the employer.

"(c) APPLICABLE PERCENTAGE.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the applicable percentage is—

"(A) 37.5 percent for calendar years after 1998 and before 2004,

"(B) 20 percent for calendar year 2004,

"(C) 10 percent for calendar year 2005, and

"(D) 0 for calendar years after 2005.

"(2) SMALLER EMPLOYERS.—In the case of an employer who would be an eligible small employer if '25 employees' were sub-

PHOTOCOPY PRESERVATION

stituted for '50 employees' in subsection (d)(1), the applicable percentage is—

"(A) 50 percent for calendar years after 1998 and before 2004,

"(B) 30 percent for calendar year 2004,

"(C) 15 percent for calendar year 2005, and

"(D) 0 for calendar years after 2005.

"(3) PHASEOUT OF CREDIT WHERE HIGHER AVERAGE EMPLOYEE WAGE.—If the average employee wage of an eligible small employer for any calendar year exceeds $12,000, the applicable percentage which would (but for this paragraph) apply for such calendar year shall be reduced (but not below zero) by the number of percentage points which bears the same ratio to such applicable percentage as such excess bears to $14,000.

"(d) ELIGIBLE SMALL EMPLOYER.—For purposes of this section—

"(1) IN GENERAL.—The term 'eligible small employer' means, with respect to any calendar year, any employer unless—

"(A) on each of 20 days during such year (each day being in a different week), such employer (or any predecessor) employed more than 50 employees for some portion of the day, or

"(B) the average employee wage of such employer for such year exceeds $26,000.

"(2) AVERAGE EMPLOYEE WAGE.—The average employee wage of an employer for any calendar year is an amount equal to—

"(A) the total payroll of such employer for such calendar year, divided by

"(B) the number of full-time equivalent employees of such employer for such calendar year.

"(3) TOTAL PAYROLL.—The total payroll of an employer for any calendar year is an amount equal to the sum of—

"(A) the total wages paid by the employer during such calendar year,

"(B) in the case of a sole proprietorship, the net earnings from self-employment of the proprietor from such trade or business for the taxable year ending with or within such calendar year, and

"(C) in the case of a partnership, the net income of the partnership for the taxable year ending with or within such calendar year which will be treated as net earnings from self-employment by the partners.

"(4) NET EARNINGS FROM SELF-EMPLOYMENT.—The term 'net earnings from self-employment' has the meaning given such term by section 1402, except that the amount thereof may never be less than zero.

"(5) FULL-TIME EQUIVALENT EMPLOYEES.—The number of full-time equivalent employees of an employer for any calendar year is the sum of—

"(A) the number of employees who worked on a substantially full-time basis for the employer throughout the calendar year, and

"(B) a fraction for each other employee based on the number of hours such employee worked during the calendar year compared to a full-time, full-year employee.

For purposes of this paragraph, the proprietor shall be treated as an employee of a sole proprietorship, and each partner who has net earnings from self-employment from a partnership shall be treated as an employee of such partnership.

"(6) AGGREGATION RULES.—For purposes of this subsection—

"(A) all employers treated as a single employer under subsection (a) or (b) of section 52 shall be treated as a single employer, and

PHOTOCOPY PRESERVATION

"(B) all employees of the members of an affiliated service group (as defined in section 414(m)) shall be treated as employed by a single employer.

"(e) COORDINATION WITH DEPOSITORY REQUIREMENTS.—

"(1) IN GENERAL.—Any employer who reasonably expects to be entitled to treat any amount as a payment under subsection (a) for any calendar year may reduce, in such manner as the Secretary may by regulations prescribe, by a like amount, the amount otherwise required to be deposited during such year by reason of the employment tax liability (as defined in section 3461(f)) of such employer.

"(2) QUARTERLY DETERMINATIONS.—The amount of reduction permitted under paragraph (1) for any calendar quarter shall be based on a separate estimate for such quarter of the amount of deemed payments to which the employer reasonably expects to be entitled under subsection (a) for the calendar year which includes such quarter and shall be properly adjusted (under regulations prescribed by the Secretary) to reflect the amount by which prior reductions under subsection (a) during such calendar year were in excess of, or less than, the amounts which would be proper under such estimate.

"(3) YEAR-END ADJUSTMENTS.—

"(A) EXCESS OF DEEMED PAYMENTS ALLOWABLE OVER DEPOSITORY BENEFIT CLAIMED.—If the amount of deemed payments to which an employer is entitled under subsection (a) for any calendar year exceeds the amount claimed by the employer under paragraph (1) during such year, such excess shall be treated for purposes of this title as an overpayment made by such employer. For purposes of determining interest, such overpayment shall be treated as made on January 31 of the following calendar year.

"(B) DEPOSITORY BENEFIT CLAIMED EXCEEDS DEEMED PAYMENT ALLOWABLE.—If the amount claimed by the employer under paragraph (1) during the calendar year exceeds the amount of deemed payments to which such employer is entitled under subsection (a) for such year, such excess shall be treated for purposes of this title as an underpayment of the tax imposed by this chapter for such calendar year. For purposes of determining interest, such underpayment shall be allocated ratably among the calendar quarters in such year (or in such other manner as the Secretary may by regulations prescribe).

"(f) SPECIAL RULES.—

"(1) PAYMENT TREATED AS MADE ON DUE DATE.—Notwithstanding subsection (e), for purposes of determining interest, a payment shall be treated as made under subsection (a) on the due date for the return for each calendar quarter in an amount equal to the amount of the reduction permitted under subsection (e) for such quarter.

"(2) DENIAL OF DEDUCTION.—The amount of any deduction otherwise allowable under chapter 1 for the taxes imposed by this chapter or for expenditures under any certified health plan of such employer shall be reduced by any payment treated as made under subsection (a).

PHOTOCOPY PRESERVATION

"Subchapter C—General Provisions

"Sec. 3465. Exemption for employment of generally excludable employees.
"Sec. 3466. Definitions and special rules.

"SEC. 3465. EXEMPTION FOR EMPLOYMENT OF GENERALLY EXCLUDABLE EMPLOYEES.

"No tax shall be imposed by subchapter A with respect to the employment of any employee during any month if such employee is a generally excludable employee (as defined in section 1105(b) of the Guaranteed Health Insurance Act of 1994) for such month.

"SEC. 3466. DEFINITIONS AND SPECIAL RULES.

"(a) CERTIFIED HEALTH PLAN; MEDICARE PART A.—For purposes of this chapter—

"(1) CERTIFIED HEALTH PLAN.—The term 'certified health plan' has the meaning given such term by section 2 of the Guaranteed Health Insurance Act of 1994.

"(2) MEDICARE PART A.—The term 'medicare part A' means the insurance program established by part A of title XVIII of the Social Security Act.

"(b) FULL-TIME EMPLOYEE; PART-TIME EMPLOYEE; PART-TIME FRACTION.—For purposes of this chapter—

"(1) IN GENERAL.—Except as provided in paragraph (2)—

"(A) the terms 'full-time employee', 'part-time employee', and 'part-time fraction' have the meanings given to such terms by section 1106 of the Guaranteed Health Insurance Act of 1994, and

"(B) the rules of section 1106(c) of the Guaranteed Health Insurance Act of 1994 shall apply.

"(2) EXCEPTION.—Subparagraphs (A) and (B) of section 1106(a)(4) of the Guaranteed Health Insurance Act of 1994, and section 1106(c) of such Act, shall not apply for purposes of section 3462.

"(c) NO COVER OVER TO POSSESSIONS.—Notwithstanding any other provision of law, no amount collected under this chapter shall be covered over to any possession of the United States.

"(d) OTHER DEFINITIONS.—For purposes of this chapter, the terms 'State', 'wages', 'employer', 'employment', and 'employee' have the same respective meanings as when used in chapter 21: except that, for purposes of this chapter, the following provisions of chapter 21 shall not apply:

"(1) Paragraph (1) of section 3121(a).

"(2) Paragraph (5) of section 3121(b).

"(3) Paragraph (7) of section 3121(b) (other than subparagraph (C) or (F) thereof).

"(4) Paragraph (9) of section 3121(b).

"(e) REGULATIONS.—The Secretary may prescribe such regulations as may be appropriate to carry out the purposes of this chapter, including regulations prescribing 1 or more simplified methods (including brackets of hours) for determining the part-time fraction and full-time equivalent employees."

(b) MODIFICATION OF WITHHOLDING EXEMPTION CERTIFICATE REQUIREMENTS.—Subsection (f) of section 3402 is amended by adding at the end the following new paragraph:

"(8) CERTIFICATE TO INCLUDE INFORMATION RELATED TO MEDICARE PART C STATUS.—

"(A) INITIAL CERTIFICATE.—On the withholding exemption certificate furnished by an employee under paragraph (2)(A), the employee shall certify—

"(i) whether the employee—

"(I) is covered under medicare part A or a certified health plan (as defined in section 2 of the Guaranteed Health Insurance Act of 1994) other than a plan of such employer, or

"(II) reasonably expects to be a young dependent (as defined in section 1003(b)(1) of the Guaranteed Health Insurance Act of 1994) of any taxpayer,

"(ii) whether the employee has a young dependent (as so defined),

"(iii) the State (or place outside the United States) in which such employee has his principal place of abode, and

"(iv) such other information as the Secretary may require.

"(B) CHANGE OF STATUS.—If, on any day, there is a change in any item of information required to be certified

PHOTOCOPY PRESERVATION

under subparagraph (A) on the withholding exemption certificate then in effect with respect to an employee, such employee shall within 10 days thereafter furnish the employer with a new withholding exemption certificate containing the information described in subparagraph (A)."

(c) MODIFICATION OF PENALTY FOR FAILURE TO MAKE DEPOSIT OF TAXES.—Section 6656 (relating to failure to make deposit of taxes) is amended by adding at the end the following new subsection:

"(c) REDUCTIONS IN DEPOSITS BY REASON OF HEALTH-RELATED CREDITS.—No penalty shall be imposed by subsection (a) on any underpayment attributable to the depositor's estimate of any deemed payment under subchapter B of chapter 25 (relating to health-related employer credits) unless there is no reasonable basis for such estimate."

(d) CLERICAL AMENDMENT.—The table of chapters for subtitle C is amended by striking the item relating to chapter 25 and inserting the following:

"Chapter 25. Health-related employer taxes and credits.
"Chapter 26. General provisions relating to employment taxes."

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall take effect on January 1, 1999.

(2) APPLICATION OF SECTION 3451 TO LARGER EMPLOYERS.—Section 3451 of the Internal Revenue Code of 1986 (as added by this section) shall take effect on January 1, 1997.

SEC. 2202. REPORTING REQUIREMENTS.

(a) EMPLOYER SHARE OF MEDICARE PART C PREMIUM SHOWN ON W-2.—Subsection (a) of section 6051 (relating to receipts for employees) is amended by striking "and" at the end of paragraph (8), by striking the period at the end of paragraph (9) and inserting a comma, and by inserting after paragraph (9) the following new paragraphs:

"(10) the total mandatory employer taxes (as defined in section 59B(e)(3)) with respect to such employee, and

"(11) the total elective employer taxes (as defined in section 59B(e)(4)) with respect to such employee."

(b) RETURNS RELATING TO CERTIFIED HEALTH PLANS AND MEDICARE PART A, DIRECT PREMIUM PAYMENTS TO HHS, AND MEDICARE PART C COVERAGE OF EMPLOYEES.—Subpart B of part III of subchapter A of chapter 61 (relating to information concerning transactions with others) is amended by adding at the end the following new sections:

"SEC. 6050Q. RETURNS RELATING TO CERTIFIED HEALTH PLANS AND MEDICARE PART A.

"(a) REQUIREMENT OF REPORTING.—The administrator of any certified health plan (as defined in section 2 of the Guaranteed Health Insurance Act of 1994) and the Secretary of Health and Human Services with respect to medicare part A (as defined in such section) shall make a return for each calendar year setting forth—

"(1) the name and TIN of each individual covered under such plan or program at any time during such taxable year as a primary insured or as the spouse of a primary insured,

"(2) the name and TIN (to the extent available) of each individual covered under such plan or program at any time during such taxable year as a young dependent (as defined in section 1003(b)(1) of the Guaranteed Health Insurance Act of 1994) of a primary insured, and

"(3) the months during such calendar year for which such individuals were so covered.

Such return shall be made at such time and in such form as the Secretary may by regulations prescribe.

PHOTOCOPY PRESERVATION

"(b) STATEMENTS TO PRIMARY INSURED INDIVIDUALS.—Every administrator (and the Secretary of Health and Human Services) required to make a return under subsection (a) shall furnish to each individual whose name is required to be set forth in such return by reason of being a primary insured a written statement showing—

"(1) the name of the certified health plan (or medicare part A) and the address of its administrator (or of the Secretary), and

"(2) the information required to be shown on the return with respect to such primary insured.

The written statement required under the preceding sentence shall be furnished to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made.

"(c) STATEMENT TO SPOUSE OR YOUNG DEPENDENTS OF PRIMARY INSURED ON REQUEST.—At the request of an individual who, at any time during a calendar year, was the spouse or a young dependent (as defined in section 1003(b)(1) of the Guaranteed Health Insurance Act of 1994) of a primary insured who is required to receive a statement under subsection (b) from an administrator, such administrator shall furnish to such individual a copy of such statement with respect to such insured for such calendar year.

"SEC. 6050R. RETURNS RELATING TO MEDICARE PART C PREMIUM PAYMENTS TO DEPARTMENT OF HEALTH AND HUMAN SERVICES.

"(a) REQUIREMENT OF REPORTING.—The Secretary of Health and Human Services shall make a return for each calendar year setting forth—

"(1) the name and TIN of each individual from whom such Secretary received payments during such year under section 2123(b) of the Social Security Act for coverage under medicare part C, and

"(2) the amount of such payments during such year.

Such return shall be made at such time and in such form as the Secretary may by regulations prescribe.

"(b) STATEMENTS TO INDIVIDUALS.—The Secretary of Health and Human Services shall furnish to each individual whose name is required to be set forth in such return a written statement showing the aggregate payments described in subsection (a) received by such Secretary from such individual. The written statement required under the preceding sentence shall be furnished to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made.

"(c) MEDICARE PART C.—For purposes of this section, the term 'medicare part C' means the program of health insurance benefits under part title XXI of the Social Security Act.

"SEC. 6050S. RETURNS RELATING TO EMPLOYER MEDICARE PART C PREMIUM PAYMENTS.

"Every employer who pays tax under section 3455 (relating to employer share of medicare part C premiums) with respect to the employment of any employee during any calendar year shall make a return for such year setting forth—

"(1) the name and TIN of each such employee,

"(2) the class of enrollment on which such tax was determined with respect to each such employee for each month of such year,

"(3) the name and TIN of the spouse of such employee,

"(4) the name and TIN (to the extent available) of each young dependent (as defined in section 1003(b)(1) of the Guaranteed Health Insurance Act of 1994) of such employee.

Such return shall be made at such time and in such form as the Secretary may by regulations prescribe."

(c) MONTHLY STATEMENTS TO EMPLOYEES TO SPECIFY EMPLOYER SHARE OF MEDICARE PART C PREMIUM.—Section 6051 (re-

PHOTOCOPY PRESERVATION

lating to receipts for employees) is amended by adding at the end the following new subsection:

"(g) EMPLOYER SHARE OF MEDICARE PART C PREMIUM.—Every employer required to pay a tax under section 3455 with respect to any employee for any month shall furnish to each such employee a written statement showing the aggregate amount of such tax paid by such employer with respect to such employee for such month. Such statement shall be furnished with the employer's payment of wages for the payroll period which includes the last day of such month or at such times as may be specified by the Secretary by regulations."

(d) UNIFORM PENALTY PROVISIONS MADE APPLICABLE.—

(1) Subparagraph (B) of section 6724(d)(1) is amended by inserting after the item relating to clause (viii) the following new items (and redesignating the following clauses accordingly):

"(ix) section 6050Q(a) (relating to returns regarding certified health plans and medicare part A),

"(x) section 6050R(a) (relating to returns relating to medicare part C premium payments to Department of Health and Human Services),

"(xi) section 6050S (relating to returns relating to employer medicare part C premium payments),".

(2) Paragraph (2) of section 6724(d) is amended by inserting after subparagraph (P) the following new subparagraph (and by redesignating the following subparagraphs accordingly):

"(Q) subsection (b) or (c) of section 6050Q (relating to returns regarding certified health plans and medicare part A),

"(R) section 6050R(b) (relating to returns relating to medicare part C premium payments to Department of Health and Human Services),".

(e) DISCLOSURE OF INFORMATION BY SECRETARY.—

(1) Subsection (l) of section 6103 is amended by adding at the end the following new paragraphs:

"(15) DISCLOSURE OF RETURN INFORMATION TO CARRY OUT HEALTH PREMIUM CERTIFICATE PROGRAM.—The Secretary shall, upon written request from the Secretary of Health and Human Services, disclose to officers and employees of the Department of Health and Human Services return information for purposes of determining or verifying whether any taxpayer is entitled to a premium certificate under part A of title XXII of the Social Security Act and the amount thereof. Such return information shall be limited to—

"(A) such taxpayer's marital status,

"(B) the adjusted gross income of such taxpayer,

"(C) the interest received by such taxpayer which is exempt from tax, and

"(D) the number of personal exemptions of such taxpayer.

Return information disclosed under this paragraph may be used by such officers and employees only for the purposes of, and to the extent necessary in, making such determination or verification.

"(16) DISCLOSURE OF RETURN INFORMATION RELATING TO SUBSIDIES TO STATES ADOPTING STATE BENEFIT MANAGEMENT PROGRAMS.—The Secretary shall, upon written request from the Secretary of Health and Human Services, disclose to officers and employees of the Department of Health and Human Services return information necessary to determine or verify the proper amount payable under section 2124(c)(1)(C) of the Social Security Act to a State which has a State benefit management program approved under subtitle B of title IV of the Guaranteed Health Insurance Act of 1994. Return information disclosed under this paragraph may be used by such officers

PHOTOCOPY PRESERVATION

and employees only for the purposes of, and to the extent necessary in, making such determination or verification."

(2) Paragraph (4) of section 6103(p) is amended by striking "or (14)" each place it appears and inserting "(14), (15), or (16)".

(f) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by adding at the end the following new items:

"Sec. 6050Q. Returns relating to certified health plans and medicare part A.
"Sec. 6050R. Returns relating to medicare part C premium payments to Department of Health and Human Services.
"Sec. 6050S. Returns relating to employer medicare part C premium payments."

(g) EFFECTIVE DATE.—The amendments made by this section (other than subsection (e)) shall apply to calendar years after 1998.

SEC. 2203. TRANSITIONAL CONTINUATION COVERAGE REQUIREMENT FOR GROUP HEALTH PLANS.

Clause (i) of section 4980B(f)(2)(B) is amended by adding at the end the following new sentence: "In the case of an individual whose period of coverage under this clause would (but for this sentence) end after the date of the enactment of the Guaranteed Health Insurance Act of 1994 and before January 1, 1999, such period shall in no event terminate by reason of this clause before January 1, 1999."

PHOTOCOPY PRESERVATION

TITLE III—BENEFITS

Subtitle A—Guaranteed National Benefit Package

PHOTOCOPY PRESERVATION

PART 1—BENEFITS DESCRIBED

SEC. 3001. ESTABLISHMENT OF PACKAGE.

(a) COVERAGE OF EXPANDED MEDICARE BENEFITS.—

(1) IN GENERAL.—Except as otherwise provided in this subtitle, for purposes of this Act and the Social Security Act, the guaranteed national benefit package shall consist of the same items and services for which payment may be made under title XVIII of the Social Security Act (as amended by the Guaranteed Health Insurance Act of 1994) to individuals entitled to benefits under part A, and enrolled under part B, of title XVIII of such Act, subject to the same exclusions from coverage as are provided under section 1862(a) of such Act.

(2) EXCEPTIONS RELATING TO PRESCRIPTION DRUGS.—

(A) MEDICARE REBATES NOT APPLICABLE.—An outpatient prescription drug shall be included in the guaranteed national benefit package notwithstanding any exclusion from coverage that may be made with respect to the drug under section 1862(a)(17) of the Social Security Act.

(B) NONAPPLICATION OF PRIOR AUTHORIZATION AND DRUG USE REVIEW BY SECRETARY.—The provisions of section 1834(d)(6) of the Social Security Act shall not apply with respect to an outpatient prescription drug furnished to an individual who is not enrolled under part B of title XVIII of such Act or under medicare part C. A health plan may subject an outpatient prescription drug furnished to any other individual to prospective review, prior authorization, or drug use review, but only if the plan meets the requirements described in section 5007(d).

(b) ENHANCED MEDICARE BENEFITS DESCRIBED.—In addition to the items and services covered under title XVIII of the Social Security Act as of the date of the enactment of this title, the guaranteed national benefit package shall include the following items and services for which coverage is provided under such title XVIII as a result of the amendments to such title made by subtitle B.

(1) Outpatient prescription drugs (as added by section 3101).

(2) Limitations on out-of-pocket expenditures (as added by section 3111).

(3) Unlimited days of coverage for inpatient hospital services (as added by section 3112).

(4) Newborn, well-baby, and well-child services and hearing aids (as added by section 3113).

(5) Expanded coverage of screening mammography (provided under section 3114(a)) and screening pap smears (provided under section 3114(b)).

(6) Screening fecal-occult blood tests, screening flexible sigmoidoscopies, and screening colonoscopy (as added by section 3114(c)).

(7) Screening for sexually-transmitted diseases (as added by section 3114(d)).

(8) Screening for tuberculosis (as added by section 3114(e)).

(9) Pregnancy-related services and voluntary family planning services (as added by section 3115).

(10) Expanded coverage for mental health and substance abuse services (as provided under section 3116).

(11) Expanded coverage for certain chiropractic services (as provided under section 3117).

SEC. 3002. COVERAGE OF ITEMS AND SERVICES NOT COVERED UNDER MEDICARE.

(a) EXPERIMENTAL TREATMENTS.—

(1) IN GENERAL.—In the absence of a national coverage decision under the medicare program, the guaranteed national benefit package may, at the option of a certified health plan, include coverage of an experimental item, service, or treatment. Nothing in the previous sentence may be construed to permit a certified health plan to include in the guaranteed national benefit package an item or service for which the Secretary does not have the authority to make such a national coverage decision.

(2) CONSTRUCTION.—For purposes of paragraph (1), a service covered as an incident to a qualifying investigational treatment under subsection (b) shall not be considered an experimental item, service, or treatment.

PHOTOCOPY PRESERVATION

(b) SERVICES INCIDENT TO INVESTIGATIONAL TREATMENTS.—

(1) IN GENERAL.—The guaranteed national benefit package shall include coverage of any item or service provided to an individual incident to a qualifying investigational treatment if the item or service is otherwise included in the guaranteed national benefit package.

(2) QUALIFYING INVESTIGATIONAL TREATMENT DEFINED.—In this subsection, a "qualifying investigational treatment" means an investigational treatment provided under a clinical research trial approved by the Secretary or a qualified non-governmental research entity (as defined in guidelines of the National Institutes of Health, including guidelines for designated cancer support grants of the National Cancer Institute), or a peer-reviewed and approved research program (as defined by the Secretary), conducted for the primary purpose of determining whether or not a treatment is safe, efficacious, or having any other characteristic of a treatment which must be demonstrated in order for the treatment to be medically necessary.

(3) EXCLUSIONS.—Nothing in this subsection may be construed to provide for coverage under the guaranteed national benefit package of an item or service of a class or type for which the Secretary determines that payment is generally made from sources other than certified health plans, including the investigational agent or device itself or the investigational procedure, any non-health services that might be required for a person to receive the qualifying investigational treatment, or the costs of managing the research.

(c) MODIFICATION OF COVERAGE FOR PREVENTIVE SERVICES.—In consultation with appropriate experts in the area of preventive medicine (including the Advisory Council on Immunological Practices of the Centers for Disease Control and Prevention), the Secretary may modify the coverage of immunizations and other preventive services otherwise provided under the guaranteed national benefit package under this part to provide for coverage of additional services or to increase the frequency of coverage, but only if—

(1) any such modification is determined to be clinically appropriate;

(2) in the case of preventive services related to communicable diseases, such services shall be provided pursuant to modification without the application of any deductible or coinsurance; and

(3) in the case of behavioral preventive services (as specified by the Secretary), the coverage of such services will not result in any increase in the premium imposed under medicare part C.

(d) COVERAGE OF CERTAIN OTHER PROVIDERS.—

(1) IN GENERAL.—For purposes of a certified health plan or medicare part C, the guaranteed national benefit package shall include—

(1) coverage of services provided at an individual's home by a Christian Science practitioner or Christian Science nurse; and

(2) coverage of services provided in a Christian Science Sanitorium (as defined in section 1861(y) by a Christian Science practitioner.

(2) QUALIFICATIONS OF PROVIDERS.—A Christian Science practitioner or Christian Science nurse is qualified for purposes of paragraph (1) if the practitioner or nurse is listed as such a practitioner or nurse by the First Church of Christ, Scientist, in Boston, Massachusetts.

SEC. 3003. MODIFICATION OF MENTAL HEALTH AND SUBSTANCE ABUSE BENEFITS UNDER APPROVED MANAGED MENTAL HEALTH PROGRAMS.

(a) SUBSTITUTION OF MENTAL HEALTH BENEFITS PROVIDED UNDER PROGRAM FOR BENEFITS PROVIDED UNDER GUARANTEED NATIONAL BENEFIT PACKAGE.—In the case of an individual who is a resident of a State operating a comprehensive managed mental health program approved by the Secretary under section 1981 of the Public Health Service Act for a month, the individual is considered to have waived the right to benefits for mental health services under the guaranteed national benefit package under this subtitle in consideration of receipt of benefits for mental health services through such program.

(b) MENTAL HEALTH SERVICES DESCRIBED.—In this section, the term "mental health services" means the following items and services:

(1) Inpatient psychiatric services (as described in section 1812(a)(5) of the Social Security Act).

(2) Any items or services furnished under part B of title XVIII of such Act for the treatment of mental, psychoneurotic, and personality disorders of an individual who is not an inpatient of a hospital.

(3) Intensive community-based mental health services (as described in section 1861(ff) of such Act).

(4) Intensive residential services (as described in section 1861(qq) of such Act).

PHOTOCOPY PRESERVATION

PART 2—COST-SHARING

SEC. 3011. APPLICATION OF COST-SHARING SCHEDULES.

(a) IN GENERAL.—Benefits provided under the guaranteed national benefit package shall be subject to one of the following cost-sharing schedules offered by a certified health plan and medicare part C:

(1) The standard cost-sharing schedule described in section 3013.

(2) The managed care cost-sharing schedule described in section 3014.

(b) TREATMENT OF DEDUCTIBLES.—

(1) APPLICATION ON AN ANNUAL BASIS.—The deductibles for a year under the schedules referred to in subsection (a) shall be applied based upon expenses incurred for items and services covered under the guaranteed national benefit package that are furnished in the year.

(2) INDIVIDUAL AND FAMILY GENERAL DEDUCTIBLES.—

(A) INDIVIDUAL.—Subject to subparagraphs (B) and (C), with respect to an individual enrolled under a certified health plan or medicare part C (regardless of the class of enrollment), any individual general deductible in the cost sharing schedule offered by the plan represents the amount of countable expenses (as defined in subparagraph (D)) that the individual may be required to incur in a year before the plan incurs liability for expenses for items and services covered under the guaranteed national benefit package that are furnished to the individual.

(B) FAMILY.—Subject to subparagraph (C), in the case of an individual enrolled under a certified health plan or medicare part C other than under an individual class of enrollment (as defined in section 3(b)), the individual general deductible under subparagraph (A) shall not apply to countable expenses incurred by any member of the individual's family in a year at such time as the family members included in such enrollment have incurred, in the aggregate, countable expenses in the amount of the family general deductible for the year.

(C) SPECIAL RULE FOR HIGH DEDUCTIBLE PLANS.—In the case of an individual enrolled under a certified health plan that is a high deductible plan (as defined in section 5504(5)) in a class of enrollment other than an individual class of enrollment, subparagraph (A) shall not apply and the family general deductible represents the amount of countable expenses (as defined in subparagraph (D)) that the members of family may be required to incur in the aggregate in a year before the plan incurs liability for expenses for items and services covered under the guaranteed national benefit package that are furnished to such members.

(D) COUNTABLE EXPENSE.—In this paragraph, the term "countable expense" means, with respect to an individual for a year, an expense for an item or service covered under the guaranteed national benefit package that is subject to the general deductible and for which, but for such deductible and any other cost sharing under this part, a health plan is liable for payment. The amount of countable expenses for an individual for a year under this paragraph shall not exceed the individual general deductible for the year.

(c) TREATMENT OF COINSURANCE AND COPAYMENTS.—After a general or separate deductible that applies to an item or service covered under the guaranteed national benefit package has been satisfied for a year, coinsurance and copayments are amounts (expressed as a percentage of an amount otherwise payable or as a dollar amount, respectively) that an individual may be required to pay with respect to the item or service.

(d) ROUNDING OF AMOUNTS.—Any amount expressed in dollars in this part shall be rounded to the nearest multiple of $1.

SEC. 3012. LIMITS ON OUT-OF-POCKET EXPENDITURES.

(a) ANNUAL OUT-OF-POCKET LIMIT ON COST-SHARING FOR SERVICES OTHER THAN OUTPATIENT PRESCRIPTION DRUGS.—The total amount of cost-sharing incurred in a year (beginning with 1997) with respect to items and services covered under the guaranteed national benefit package (other than outpatient prescription drugs) may not exceed the following:

(1) In the case of an individual enrolled under a certified health plan or medicare part C under an individual class of enrollment (as defined in section 3(b))—

(A) for 1997, an amount equal to $3,000, increased by the average annual percentage increase in the per capita gross domestic product (in current dollars, as published by the Secretary of Commerce) during each of the years 1994 through 1996;

(B) for 1998, the amount determined under this paragraph for 1997, increased by the average annual percentage increase in the per capita gross domestic product (in current dollars, as published by the Secretary of Commerce) during 1997; and

(C) for each succeeding year, the amount determined under this paragraph for the previous year, increased by the national medicare growth factor established for the year under section 8201(c).

PHOTOCOPY PRESERVATION

(2) In the case of an individual enrolled under a certified health plan or medicare part C under any other class of enrollment—

(A) for 1997, an amount equal to $6,000, increased by the average annual percentage increase in the per capita gross domestic product (in current dollars, as published by the Secretary of Commerce) during the period of 1994 through 1996;

(B) for 1998, the amount determined under this paragraph for 1997, increased by the average annual percentage increase in the per capita gross domestic product (in current dollars, as published by the Secretary of Commerce) during 1997; and

(C) for each succeeding year, the amount determined under this paragraph for the previous year, increased by the national medicare growth factor established for the year under section 8201(c).

(b) SEPARATE OUT-OF-POCKET LIMIT ON COST-SHARING FOR OUTPATIENT PRESCRIPTION DRUGS.—The amount of cost-sharing incurred in a year with respect to outpatient prescription drugs may not exceed—

(1) for 1997, $1,000, increased by the average annual percentage increase in private sector per capita outpatient prescription drug expenditures (as determined by the Secretary) during each of the years 1994 through 1996;

(2) for 1998, the amount applicable under this paragraph for 1997, increased by the average annual percentage increase in private sector per capita outpatient prescription drug expenditures (as determined by the Secretary) during 1997; and

(3) for 1999 and each succeeding year, the amount applicable under this paragraph for the previous year, increased by the percentage increase computed under section 8206(b) for the year.

PHOTOCOPY PRESERVATION

SEC. 3013. STANDARD COST-SHARING SCHEDULE DESCRIBED.

(a) DEDUCTIBLE.—

(1) IN GENERAL.—Except as provided in paragraphs (3) and (4), with respect to expenses incurred for items and services in the comprehensive benefit package during a year (other than expenses incurred for items and services described in paragraph (2)), the standard cost-sharing schedule offered by a certified health plan and medicare part C shall have—

(A) for 1997—

(i) an annual individual general deductible of $500, increased by the average annual percentage increase in the per capita gross domestic product (in current dollars, as published by the Secretary of Commerce) during the period of 1994 through 1996, and

(ii) an annual family general deductible of $750, increased by such average annual percentage increase;

(B) for 1998, the annual individual general deductible and the annual family general deductible applicable for 1997, increased by the average annual percentage increase in the per capita gross domestic product (in current dollars, as published by the Secretary of Commerce) during 1997; and

(C) for 1999 and each succeeding year, the annual individual general deductible and the annual family general deductible applicable for the previous year, increased by the national medicare growth factor established for the year under section 8201(c).

(2) SEPARATE DEDUCTIBLE FOR COVERED OUTPATIENT DRUGS.—With respect to expenses incurred for covered outpatient drugs in a year, the standard cost-sharing schedule offered by a certified health plan and medicare part C shall have—

(A) for 1997, an annual general deductible of $500, increased by the average annual percentage increase in private sector per capita outpatient prescription drug expenditures (as determined by the Secretary) during each of the years 1994 through 1996;

(B) for 1998, the amount applicable under this paragraph for 1997, increased by the average annual percentage increase in private sector per capita outpatient prescription drug expenditures (as determined by the Secretary) during 1997; and

(C) for 1999 and each succeeding year, the amount applicable under this paragraph for the previous year, increased by the percentage increase computed under section 8206(b) for the year.

(3) WAIVER OF DEDUCTIBLE FOR CERTAIN SERVICES.—No deductible shall be applied under the standard cost-sharing schedule offered by a certified health plan or medicare part C with respect to expenses incurred—

(A) for screening mammography (described in section 1834(c) of such Act);

(B) for screening pap smear and pelvic exams (described in section 1861(s)(14);

(C) for screening for sexually-transmitted diseases (described in section 1861(s)(19) of such Act); and

(D) for screening for tuberculosis (described in section 1861(s)(20)) of such Act).

(E) for pregnancy-related services consisting of prenatal services (described in section 1861(s)(21) of such Act);

(F) for voluntary family planning services (described in section 1861(s)(22) of such Act);

(G) for newborn and well-baby services (described in section 1861(oo)(1) of the Social Security Act); and

(H) for well-child services (described in section 1861(pp)(1) of such Act).

(4) SPECIAL RULES FOR HIGH DEDUCTIBLE PLAN.—In the case of a high deductible plan (as defined in section 5504(5))—

(A) the reference in paragraph (1)(A)(i) to "$500" shall be considered a reference to an amount established by the carrier offering the plan, except that such amount may not be less than $1,500 and may not exceed $2,500; and

(B) the reference in paragraph (1)(A)(ii) to "$750" shall be considered a reference to an amount established by the carrier offering the plan, except that such amount may not be less than $2,150 and may not exceed $3,750.

(b) APPLICATION OF MEDICARE COINSURANCE RATES AND COPAYMENTS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the coinsurance rates applicable to an item or service under title XVIII of the Social Security Act shall apply under the standard cost-sharing schedule offered by a certified health plan and medicare part C with respect to the same item or service covered under the guaranteed national benefit package.

(2) WAIVER OF COINSURANCE AND COPAYMENTS FOR CERTAIN INPATIENT SERVICES.—Under the standard cost-sharing schedule offered by a certified health plan and medicare part C, inpatient hospital services (as defined in section 1861(b) of the Social Security Act) and intensive residential services (as defined in section 1861(qq) of such Act) shall not be subject to the coinsurance otherwise applicable under the second sentence of section 1813(a)(1) of such Act.

(3) COVERAGE OF EXTENDED CARE SERVICES WITHOUT REGARD TO SPELL OF ILLNESS.—With respect to post-hospital extended care services (as defined in section 1861(i) of such Act) furnished in a skilled nursing facility (as defined in section 1861(j) of such Act), such services may be furnished to an indi-

PHOTOCOPY PRESERVATION

vidual notwithstanding that the services are not furnished during a spell of illness (as described in section 1861(a)).

SEC. 3014. MANAGED CARE COST-SHARING SCHEDULE.

(a) IN GENERAL.—Items and services covered under the guaranteed national benefit package provided through a provider network (as defined in section 5504(10)) of a certified health plan or medicare part C—

(1) are not subject to a deductible or to payment of any coinsurance (except as may be provided in subsection (b)), and

(2) are subject to the applicable copayment described in this section.

(b) COPAYMENTS IMPOSED IN 1997.—

(1) IN GENERAL.—The copayment applicable under this section with respect to items and services provided during 1997 shall be equal to the following amounts, adjusted in accordance with paragraph (2):

(A) In the case of physician visits and other health professional visits, $15.

(B) In the case of emergency room services (or any other emergency services) for non-emergency treatment, $30.

(C) In the case of hospital outpatient and other ambulatory medical and surgical services, $15.

(D) In the case of a covered outpatient drug—

(i) which is a generic product or which is not a generic product if an equivalent generic product is not available, the lesser of $10 or an amount equal to a coinsurance of 20 percent; or

(ii) which is not a generic product if an equivalent generic product is available, the greater of $10 or an amount equal to a coinsurance of 20 percent.

(E) In the case of pregnancy-related services and family planning services (other than prenatal visits), $15.

(F) In the case of intensive community mental illness and substance abuse services, $30.

(G) In the case of outpatient mental health and substance abuse services (other than psychotherapy) $15 per visit.

(H) In the case of outpatient mental health and substance abuse services consisting of psychotherapy, $25 per visit.

(2) INDEXING OF AMOUNTS PROVIDED.—The amounts described in paragraph (1) shall be increased by the average annual percentage increase in the per capita gross domestic product (in current dollars, as published by the Secretary of Commerce) during the period of 1994 through 1996.

(c) COPAYMENTS IMPOSED IN SUBSEQUENT YEARS.—The copayment applicable under this section with respect to items and services provided—

(1) in 1998 is equal to the amount applicable under this section for 1997, increased by the average annual percentage increase in the per capita gross domestic product (in current dollars, as published by the Secretary of Commerce) during 1997; and

(2) in 1999 and each succeeding year is equal to the amount applicable under this section for the previous year, increased by the national medicare growth factor established for the year under section 8201(c).

PART 3—MISCELLANEOUS PROVISIONS

SEC. 3021. REFERENCES TO MEDICARE PROVISIONS.

In this subtitle, except as otherwise specifically provided, any references to provisions of title XVIII of the Social Security Act are deemed to be references to such provisions as in effect on the day after the date of the enactment of this Act, taking into account the

PHOTOCOPY PRESERVATION