

117TH CONGRESS  
2D SESSION

# H. R. 6770

To improve access to the Program of All-Inclusive Care for the Elderly,  
and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 18, 2022

Mrs. DINGELL (for herself and Mr. BLUMENAUER) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To improve access to the Program of All-Inclusive Care  
for the Elderly, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Program of All-Inclu-  
5       sive Care for the Elderly Plus Act” or the “PACE Plus  
6       Act”.

7       **SEC. 2. PACE EXPANSION GRANT PROGRAM.**

8       (a) DEFINITIONS.—In this section:

1           (1) AREA AGENCY ON AGING.—The term “area  
2       agency on aging” has the meaning given that term  
3       in section 102 of the Older Americans Act of 1965  
4       (42 U.S.C. 3002).

5           (2) CMS.—The term “CMS” means the Cen-  
6       ters for Medicare & Medicaid Services.

7           (3) FOR-PROFIT PACE PROVIDER.—The term  
8       “for-profit PACE provider” means a PACE provider  
9       that is operated by an entity that is not a public en-  
10      tity or a private, nonprofit entity organized for char-  
11      itable purposes under section 501(c)(3) of the Inter-  
12      nal Revenue Code of 1986.

13          (4) PACE PILOT SITE.—The term “PACE pilot  
14      site” means a PACE provider that—

15                (A) has been approved to provide services  
16                in a geographic service area that is, in whole or  
17                in part, a rural area or an underserved urban  
18                area; and

19                (B) has received a grant under subsection  
20                (b).

21          (5) PACE PROGRAM.—The term “PACE pro-  
22      gram” has the meaning given that term in sections  
23      1894(a)(2) and 1934(a)(2) of the Social Security  
24      Act (42 U.S.C. 1395eee(a)(2); 1396u–4(a)(2)).

1 (6) PACE PROVIDER.—The term “PACE pro-  
 2 vider” has the meaning given that term in section  
 3 1894(a)(3) or 1934(a)(3) of the Social Security Act  
 4 (42 U.S.C. 1395eee(a)(3); 1396u–4(a)(3)).

5 (7) RURAL AREA.—The term “rural area” has  
 6 the meaning given that term in section  
 7 1886(d)(2)(D) of the Social Security Act (42 U.S.C.  
 8 1395ww(d)(2)(D)).

9 (8) SECRETARY.—The term “Secretary” means  
 10 the Secretary of Health and Human Services.

11 (9) UNDERSERVED URBAN AREA.—The term  
 12 “underserved urban area” means an urban health  
 13 professional shortage area (as such term is defined  
 14 in section 332 of the Public Health Service Act (42  
 15 U.S.C. 254e)).

16 (b) SITE DEVELOPMENT ASSISTANCE PROGRAM.—

17 (1) SITE DEVELOPMENT ASSISTANCE.—

18 (A) IN GENERAL.—The Secretary shall es-  
 19 tablish a process and criteria to award grants  
 20 to qualified PACE providers that have been ap-  
 21 proved to serve a rural area or an underserved  
 22 urban area.

23 (B) REQUIREMENTS FOR PARTICIPATING  
 24 PACE PROVIDERS.—To be eligible for a grant  
 25 under subparagraph (A), a PACE provider shall

1 demonstrate to the Secretary that the provider  
2 has a plan to partner with—

3 (i) each area agency on aging serving  
4 the area that the provider is approved to  
5 serve; or

6 (ii) if there is no area agency on aging  
7 serving such area, the applicable State  
8 Unit on Aging.

9 (C) AMOUNT PER AWARD.—A grant  
10 awarded under subparagraph (A) to any indi-  
11 vidual PACE pilot site shall not exceed  
12 \$1,000,000.

13 (D) NUMBER OF AWARDS.—Not more than  
14 30 PACE pilot sites shall be awarded a grant  
15 under subparagraph (A).

16 (E) USE OF FUNDS.—Funds made avail-  
17 able under a grant awarded under subpara-  
18 graph (A) may be used for the following ex-  
19 penses only to the extent such expenses are in-  
20 curred in relation to establishing or delivering  
21 PACE program services in a rural area or un-  
22 derserved urban area:

23 (i) Feasibility analysis and planning.

24 (ii) Interdisciplinary team develop-  
25 ment.

1 (iii) Development of a provider net-  
2 work, including contract development.

3 (iv) Development or adaptation of  
4 claims processing systems.

5 (v) Preparation of special education  
6 and outreach efforts required for the  
7 PACE program.

8 (vi) Development of any special qual-  
9 ity of care or patient satisfaction data col-  
10 lection efforts.

11 (vii) Purchase or lease of a building.

12 (viii) Modifications to a building.

13 (ix) To cover the cost of reinsurance  
14 during the grant period.

15 (x) Establishment of a working capital  
16 fund to sustain fixed administrative, facil-  
17 ity, or other fixed costs until the provider  
18 reaches sufficient enrollment size.

19 (xi) Startup and development costs in-  
20 curred prior to the approval of the PACE  
21 pilot site's PACE provider application, new  
22 center application, or service area expan-  
23 sion application by CMS.

24 (xii) Any other efforts determined by  
25 the PACE pilot site to be critical to its

1 successful startup, as approved by the Sec-  
2 retary.

3 (F) SITE DEVELOPMENT GRANT ELIGI-  
4 BILITY.—

5 (i) GRANT ELIGIBILITY.—A PACE  
6 provider shall only be eligible to receive a  
7 grant under this subsection if the provider  
8 is not a for-profit PACE provider.

9 (ii) LIMITATION ON ELIGIBILITY TO  
10 PROVIDERS IN 3-WAY PACE PROGRAM  
11 AGREEMENTS.—A PACE provider shall  
12 not be eligible for a grant under this sub-  
13 section unless the provider has entered into  
14 an agreement, consistent with sections  
15 1894 and 1934 of the Social Security Act  
16 (42 U.S.C. 1395eee, 1396u–4), and regula-  
17 tions promulgated to carry out such sec-  
18 tions, among the PACE provider, the Sec-  
19 retary, and a State administering agency  
20 for the operation of a PACE program by  
21 the provider under such sections.

22 (2) TECHNICAL ASSISTANCE PROGRAM.—The  
23 Secretary shall establish a technical assistance pro-  
24 gram to provide—

1           (A) outreach and education to State agen-  
2           cies and provider organizations interested in es-  
3           tablishing and expanding PACE programs in  
4           rural areas or underserved urban areas; and

5           (B) technical assistance necessary to sup-  
6           port PACE pilot sites.

7           (3) APPROPRIATION.—There is appropriated to  
8           the Secretary \$30,000,000 to carry out this sub-  
9           section, to remain available until expended.

10          (c) EVALUATION OF PACE PROVIDERS SERVING  
11          RURAL OR UNDERSERVED URBAN SERVICE AREAS.—Not  
12          later than 60 months after the date of enactment of this  
13          Act, the Secretary shall submit a report to Congress, in-  
14          cluding the Special Committee on Aging of the Senate and  
15          the Committee on Finance of the Senate, containing an  
16          evaluation of the experience of PACE pilot sites in rural  
17          areas and underserved urban areas.

18          (d) STATE EXPANSION GRANTS.—

19               (1) IN GENERAL.—The Secretary shall establish  
20               a process and criteria to award State expansion  
21               grants to qualified State agencies in States that do  
22               not currently have PACE providers.

23               (2) AMOUNT PER AWARD.—A State expansion  
24               grant awarded under subparagraph (A) to any State  
25               agency shall not exceed \$100,000.

1           (3) USE OF FUNDS.—Funds made available  
2           under a State expansion grant awarded under para-  
3           graph (1) may be used for the following expenses  
4           only to the extent such expenses are incurred in re-  
5           lation to establishing a PACE program in the State:

6                   (A) Expenditures related to the develop-  
7                   ment of a capitated payment rate model, includ-  
8                   ing appropriate risk adjustment, for making  
9                   payments to PACE providers under a PACE  
10                  program agreement.

11                  (B) Expenditures on any other efforts de-  
12                  termined by the State Medicaid agency to be  
13                  critical to the successful implementation of a  
14                  PACE program in the State, as approved by  
15                  the Secretary.

16           (4) APPROPRIATION.—There are appropriated  
17           to the Secretary \$2,000,000 to carry out this sub-  
18           section, to remain available until expended.

19           (e) AMOUNTS IN ADDITION TO PAYMENTS UNDER  
20           SOCIAL SECURITY ACT.—Any amounts paid under the au-  
21           thority of this section to a PACE provider shall be in addi-  
22           tion to payments made to the provider under section 1894  
23           or 1934 of the Social Security Act (42 U.S.C. 1395eee;  
24           1396u-4).



1 **SEC. 3. TWO-WAY PACE PROGRAM AGREEMENTS.**

2 (a) **MEDICARE.**—Section 1894(a)(4) of the Social Se-  
3 curity Act (42 U.S.C. 1395eee(a)(4)) is amended by add-  
4 ing at the end the following new sentence: “Beginning  
5 January 1, 2022, with respect to a PACE provider oper-  
6 ating in a State that has not entered into an agreement  
7 described in the previous sentence as of such date, such  
8 term shall include an agreement, consistent with this sec-  
9 tion and regulations promulgated to carry out this section,  
10 between such a PACE provider and the Secretary for the  
11 operation of a PACE program in such State by the pro-  
12 vider under this section alone.”.

13 (b) **MEDICAID.**—Section 1934 of the Social Security  
14 Act (42 U.S.C. 1396u–4) is amended—

15 (1) in subsection (a)(4), by adding at the end  
16 the following new sentence: “Beginning January 1,  
17 2022, with respect to a PACE provider operating in  
18 a State that has not entered into an agreement de-  
19 scribed in the previous sentence as of such date,  
20 such term shall include an agreement, consistent  
21 with section 1894 and regulations promulgated to  
22 carry out such section, between such a PACE pro-  
23 vider and the Secretary for the operation of a PACE  
24 program in such State by the provider under such  
25 section 1894 alone.”; and

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

3       “(k) APPLICATION TO PACE PROVIDERS IN 2-WAY  
4 PACE PROGRAM AGREEMENT STATES.—

5           “(1) IN GENERAL.—In the case of a State de-  
6       scribed in the second sentence of subsection (a)(4),  
7       the Secretary shall administer the preceding provi-  
8       sions of this section with respect to PACE programs  
9       offered by PACE providers under PACE program  
10      agreements described in such sentence to PACE pro-  
11      gram eligible individuals who are eligible for benefits  
12      under part A, or enrolled under part B, of title  
13      XVIII.

14       “(2) ASSESSMENT OF NEED OF NURSING HOME  
15      LEVEL OF CARE.—

16           “(A) IN GENERAL.—For purposes of the  
17       administration of this section pursuant to this  
18       subsection, the determination under subsection  
19       (a)(5)(B) of whether an individual requires the  
20       level of care required under the State plan for  
21       coverage of nursing facility services shall be  
22       made by an independent entity based on a level  
23       of care assessment tool used by the State to de-  
24       termine whether an individual requires such  
25       level of care.

1 “(B) INDEPENDENT ENTITY DEFINED.—

2 In this subsection, the term ‘independent entity’  
3 means an entity with demonstrated professional  
4 knowledge to identify institutional level of care  
5 needs that—

6 “(i) is not the PACE provider oper-  
7 ating the PACE program involved;

8 “(ii) is not owned or controlled by, or  
9 an employee of, such PACE provider;

10 “(iii) does not receive any differential  
11 payment (such as a bonus) for identifying  
12 individuals who are PACE program eligible  
13 individuals under the PACE program  
14 agreement involved; and

15 “(iv) is free of any other conflict of  
16 interest (as defined by the Secretary) be-  
17 tween the entity and the PACE provider  
18 operating the PACE program involved.”.

19 **SEC. 4. ANY TIME ENROLLMENT IN PACE.**

20 (a) IN GENERAL.—

21 (1) ANY TIME ENROLLMENT AND EFFECTIVE  
22 DATE.—Section 1894(c)(5) of the Social Security  
23 Act (42 U.S.C. 1395eee(c)(5)) is amended by adding  
24 at the end the following new subparagraph:

1           “(C) ANY TIME ENROLLMENT AND EFEC-  
2           TIVE DATE OF ENROLLMENT.—

3           “(i) ANY TIME ENROLLMENT.—A  
4           PACE program eligible individual may en-  
5           roll in a PACE program at any time dur-  
6           ing a month.

7           “(ii) EFFECTIVE DATE.—Subject to  
8           clause (iii), the enrollment of a PACE pro-  
9           gram eligible individual in a PACE pro-  
10          gram shall be effective on the date the  
11          PACE provider operating the PACE pro-  
12          gram receives an enrollment agreement  
13          signed by such PACE program eligible in-  
14          dividual with respect to such PACE pro-  
15          gram.

16          “(iii) SPECIAL RULE IN THE CASE OF  
17          DUAL ELIGIBLE BENEFICIARIES.—In the  
18          case of a PACE program eligible individual  
19          who is eligible for benefits under this title  
20          and title XIX, clause (i) shall only apply if  
21          the State in which such individual resides  
22          has made an election under section  
23          1934(c)(5)(C) to permit PACE program  
24          eligible individuals enroll in a PACE pro-

1                   gram at any time during a month in such  
2                   State.”.

3                   (2) PRORATED PAYMENTS.—Section 1894(d) of  
4                   the Social Security Act (42 U.S.C. 1395eee(d)) is  
5                   amended by adding at the end the following new  
6                   paragraph:

7                   “(4) PRORATED PAYMENTS.—In the case of a  
8                   PACE program eligible individual enrolled in a  
9                   PACE program operated by a PACE provider with  
10                  an enrollment effective date that is not the first day  
11                  of a month, the capitation amount that would other-  
12                  wise be made under this subsection to the PACE  
13                  provider for such individual for the first month in  
14                  which such individual is so enrolled shall be prorated  
15                  accordingly.”.

16                  (b) CONFORMING AMENDMENTS.—

17                  (1) ANY TIME ENROLLMENT AND EFFECTIVE  
18                  DATE.—Section 1934(c)(5) of the Social Security  
19                  Act (42 U.S.C. 1396u–4(c)(5)) is amended by add-  
20                  ing at the end the following new subparagraph:

21                         “(C) STATE OPTION TO PERMIT ANY TIME  
22                         ENROLLMENT AND EFFECTIVE DATE OF EN-  
23                         ROLLMENT.—

24                                 “(i) ANY TIME ENROLLMENT.—A  
25                                 State may elect to permit a PACE pro-

1           gram eligible individual to enroll in a  
2           PACE program at any time during a  
3           month.

4                   “(ii) EFFECTIVE DATE.—Pursuant to  
5           a State election made under clause (i), the  
6           enrollment of a PACE program eligible in-  
7           dividual in a PACE program shall be effec-  
8           tive on the date the PACE provider oper-  
9           ating the PACE program receives an en-  
10          rollment agreement signed by such PACE  
11          program eligible individual with respect to  
12          such PACE program.”.

13           (2) PRORATED PAYMENTS.—Section 1934(d) of  
14          the Social Security Act (42 U.S.C. 1396u–4(d)) is  
15          amended by adding at the end the following new  
16          paragraph:

17                   “(3) PRORATED PAYMENTS.—If a State elects  
18          under subsection (c)(5)(C) to permit enrollment at  
19          any time during a month, in the case of a PACE  
20          program eligible individual enrolled in a PACE pro-  
21          gram operated by a PACE provider with an enroll-  
22          ment effective date that is not the first day of a  
23          month, the State shall prorate the capitation amount  
24          that would otherwise be made under this subsection

1 to the PACE provider for such individual for the  
 2 first month in which such individual is so enrolled.”.

3 (c) EFFECTIVE DATE.—The amendments made by  
 4 this section shall take effect on January 1, 2022.

5 **SEC. 5. IMPROVING ACCESS TO AND AFFORDABILITY OF**  
 6 **PACE PROGRAMS FOR MEDICARE BENE-**  
 7 **FICIARIES WHO ARE NOT DUAL ELIGIBLE**  
 8 **BENEFICIARIES THROUGH FLEXIBILITY IN**  
 9 **RATE SETTING FOR SERVICES NOT COVERED**  
 10 **BY MEDICARE.**

11 (a) IN GENERAL.—Section 1894 of the Social Secu-  
 12 rity Act (42 U.S.C. 1395eee) is amended by adding at the  
 13 end the following new subsection:

14 “(j) FLEXIBILITY IN ESTABLISHING PREMIUMS FOR  
 15 MEDICARE PACE PARTICIPANTS WHO ARE NOT ALSO  
 16 ENTITLED TO BENEFITS UNDER A STATE MEDICAID  
 17 PROGRAM.—

18 “(1) CODIFICATION OF AUTHORITY TO CHARGE  
 19 A MONTHLY CAPITATION AMOUNT FOR NON-MEDI-  
 20 CARE SERVICES.—Subject to the succeeding provi-  
 21 sions of this subsection, a PACE program operated  
 22 by a PACE provider under a PACE program agree-  
 23 ment in any State may charge a Medicare-only  
 24 PACE program eligible individual (as defined in  
 25 paragraph (4)(A)) who is enrolled in such PACE

1 program a monthly capitation payment amount for  
2 the provision of non-Medicare services (as defined in  
3 paragraph (4)(B)) under the PACE program.

4 “(2) DETERMINATION OF MONTHLY CAPITA-  
5 TION PAYMENT AMOUNT.—

6 “(A) IN GENERAL.—Notwithstanding sec-  
7 tion 460.186 of title 42, Code of Federal Regu-  
8 lations (or any successor regulation), the  
9 monthly capitation payment amount that may  
10 be charged under paragraph (1) shall be deter-  
11 mined by the PACE provider operating the  
12 PACE program. Such monthly capitation pay-  
13 ment amount shall be based on assessments  
14 conducted on the Medicare-only PACE program  
15 eligible individual who is enrolled in such PACE  
16 program by the PACE program interdisciplinary  
17 team and shall take into account the  
18 health status of such individual. In determining  
19 the monthly capitation amount for a Medicare-  
20 only PACE program eligible individual under  
21 this paragraph, a PACE provider may take into  
22 account the services determined necessary for  
23 the individual by the PACE program inter-  
24 disciplinary team based upon their assessment  
25 of the individual. A determination described in



1 the preceding sentence shall not be construed as  
2 limiting the responsibility of the PACE provider  
3 to meet any unforeseen needs or provide for any  
4 required services for such individual.

5 “(B) AUTHORITY TO ADJUST MONTHLY  
6 CAPITATION AMOUNT.—

7 “(i) IN GENERAL.—Subject to clause  
8 (ii) and paragraph (3), the monthly capita-  
9 tion payment amount that may be charged  
10 under paragraph (1) to a Medicare-only  
11 PACE program eligible individual enrolled  
12 in a PACE program for non-Medicare  
13 services may increase or decrease based on  
14 assessments conducted on such individual.  
15 Any change in the monthly capitation pay-  
16 ment amount charged to such an indi-  
17 vidual shall take effect beginning with the  
18 first day of the first month that begins  
19 after the month during which the plan of  
20 care is developed for such individual based  
21 on such an assessment.

22 “(ii) LIMITATION ON FREQUENCY OF  
23 INCREASE.—The monthly capitation pay-  
24 ment amount that may be charged under  
25 paragraph (1) to such an individual may

1 not increase more frequently than once per  
2 calendar quarter.

3 “(3) BENEFICIARY PROTECTIONS.—

4 “(A) DISCLOSURE OF PREMIUM RATE  
5 STRUCTURE.—A PACE provider shall disclose  
6 to Medicare-only PACE program eligible indi-  
7 viduals the capitation payment amounts that  
8 may be charged under this section to such indi-  
9 viduals for non-Medicare services under the  
10 PACE program operated by such PACE pro-  
11 vider under this section—

12 “(i) prior to enrollment of such indi-  
13 vidual in such PACE program, and

14 “(ii) periodically, and upon request of  
15 such individual, after enrollment.

16 “(B) ASSESSMENT INSTRUMENT.—

17 “(i) IN GENERAL.—The Secretary  
18 shall develop an assessment instrument for  
19 use by PACE programs with respect to  
20 Medicare-only PACE program eligible indi-  
21 viduals under this subsection.

22 “(ii) REQUIREMENT FOR DISCLOSURE  
23 OF ASSESSMENT INSTRUMENT.—The  
24 monthly capitation payment amount  
25 charged under paragraph (1) to a Medi-

1 care-only PACE program eligible individual  
2 for non-Medicare services shall be based on  
3 an assessment of such individual conducted  
4 by the PACE provider (using the assess-  
5 ment instrument developed by the Sec-  
6 retary under clause (i)), accounting for  
7 health status and corresponding needs.

8 “(iii) REQUIREMENT FOR DISCLOSURE  
9 OF ASSESSMENT INSTRUMENT.—The as-  
10 sessment instrument used by the inter-  
11 disciplinary team of the PACE program to  
12 evaluate the health and social status of  
13 PACE participants shall be disclosed to  
14 the individual prior to the assessment.

15 “(C) PROCESS TO SEEK REVIEW OF AS-  
16 SESSMENTS.—The Secretary shall establish a  
17 process for a Medicare-only PACE program eli-  
18 gible individual to seek review of any assess-  
19 ment conducted on the individual under this  
20 subsection.

21 “(4) RULE OF CONSTRUCTION.—Nothing in  
22 this subsection shall be construed to preclude the  
23 testing under section 1115A of a model to permit a  
24 PACE provider operating a PACE program to es-  
25 tablish and charge monthly capitation payment

1 amounts for the provision of non-Medicare services  
2 under the PACE program to Medicare-only PACE  
3 program eligible individuals under a rate structure  
4 established by such PACE provider for such pur-  
5 pose, including the use of an assessment instrument  
6 developed by the PACE program to assign such indi-  
7 viduals to an appropriate rate category under such  
8 rate structure.

9 “(5) DEFINITIONS.—In this subsection—

10 “(A) the term ‘Medicare-only PACE pro-  
11 gram eligible individual’ means an individual  
12 who is described in subsection (a)(1) and who  
13 is not entitled to medical assistance under title  
14 XIX, and includes the designated representative  
15 of the individual as appropriate; and

16 “(B) the term ‘non-Medicare services’  
17 means items and services covered under title  
18 XIX that are not covered under this title and  
19 items and services described in subsection  
20 (b)(1)(A)(ii).”.

21 (b) EFFECTIVE DATE.—The amendment made by  
22 subsection (a) shall take effect on the date of the enact-  
23 ment of this Act, and apply with respect to capitation  
24 amounts that may be charged for months beginning on  
25 or after January 1, 2022.

1       (c) RULE OF CONSTRUCTION.—Nothing in this sec-  
2 tion, or the amendments made by this section, shall be  
3 construed to modify or otherwise impact the following  
4 Medicare capitation rates that may be charged by PACE  
5 plans for PACE participants who are Medicare bene-  
6 ficiaries who are not both entitled to (or enrolled for) bene-  
7 fits under part A of title XVIII of the Social Security Act  
8 (42 U.S.C. 1395 et seq.) and enrolled for benefits under  
9 part B of such title:

10           (1) PART A ONLY MEDICARE BENEFICIARY.—In  
11 the case of a Medicare beneficiary who is a PACE  
12 participant who is entitled to (or enrolled for) bene-  
13 fits under part A of such title XVIII but who is not  
14 enrolled for benefits under part B of such title, the  
15 Medicare Part B capitation rate under paragraph  
16 (b) of section 460.186 of title 42, Code of Federal  
17 Regulations (or any successor regulations).

18           (2) PART B ONLY MEDICARE BENEFICIARY.—In  
19 the case of a Medicare beneficiary who is a PACE  
20 participant who is enrolled for benefits under part B  
21 of such title XVIII but who is not entitled to (or en-  
22 rolled for) benefits under part A of such title, the  
23 Medicare Part A capitation rate under paragraph (c)  
24 of such section 460.186 (or any successor regula-  
25 tions).

1 **SEC. 6. PACE SITE APPROVAL AND EXPANSION.**

2 (a) IN GENERAL.—Sections 1894(e) and 1934(e) of  
3 the Social Security Act (42 U.S.C. 1395eee(e), 1396u–  
4 4(e)) are each amended by striking paragraph (8) and in-  
5 serting the following:

6 “(8) AUTHORITY TO SUBMIT APPLICATIONS AT  
7 ANY TIME; TIMELY CONSIDERATION OF APPLICA-  
8 TIONS.—

9 “(A) AUTHORITY TO SUBMIT APPLICA-  
10 TIONS AT ANY TIME.—

11 “(i) NEW PACE PROVIDER STATUS.—  
12 An entity that seeks to become a PACE  
13 provider may submit an application for  
14 PACE provider status at any time.

15 “(ii) SERVICE AREA EXPANSION AND  
16 ADDITION OF PACE CENTER SITE.—To the  
17 extent the Secretary requires a PACE pro-  
18 vider to submit an application to expand  
19 its service area or to add a PACE center  
20 site, a PACE provider may submit such an  
21 application at any time, subject to the re-  
22 quirements of section 460.12(d) of title 42,  
23 Code of Federal Regulations (relating to  
24 the first trial period audit), or any suc-  
25 cessor regulation.

1 “(iii) ASSURANCES.—An application  
2 for PACE provider status under clause (i)  
3 or to add a PACE center site under clause  
4 (ii) shall include the following assurances:

5 “(I) An assurance that the re-  
6 quired members of the interdiscipli-  
7 nary team are employees or contrac-  
8 tors of the proposed PACE center or  
9 will be employees or contractors of the  
10 proposed PACE center by the time  
11 the PACE center becomes operational.

12 “(II) An assurance that—

13 “(aa) the PACE provider’s  
14 contracts for all contractors and  
15 contracted personnel will be exe-  
16 cuted by the time the proposed  
17 PACE center becomes oper-  
18 ational; and

19 “(bb) executed contracts  
20 may include provisions for staff-  
21 ing levels to commensurate with  
22 enrollment to full projected cen-  
23 sus.

24 “(B) DEEMED APPROVAL.—An application  
25 described in subparagraph (A) shall be deemed

1           approved unless the Secretary, within 45 days  
2           after the date of the submission of the applica-  
3           tion to the Secretary, either denies such request  
4           in writing or informs the applicant in writing  
5           with respect to any additional information that  
6           is needed in order to make a final determina-  
7           tion with respect to the application. After the  
8           date the Secretary receives such additional in-  
9           formation, the application shall be deemed ap-  
10          proved unless the Secretary, within 45 days of  
11          such date, denies such request.”.

12          (b) **EFFECTIVE DATE.**—The amendments made by  
13          subsection (a) shall take effect on January 1, 2022.

14          **SEC. 7. PACE PILOT.**

15          Section 1115A(b)(2) of the Social Security Act (42  
16          U.S.C. 1315a(b)(2)) is amended—

17                  (1) in subparagraph (B), by adding at the end  
18          the following new clause:

19                          “(xxviii) National testing of a model  
20                          for expanded eligibility for the Program of  
21                          All-Inclusive Care for the Elderly as de-  
22                          scribed in subparagraph (D).”; and

23                  (2) by adding at the end the following new sub-  
24          paragraph:



1           “(D) NATIONAL TESTING OF MODEL FOR  
2           EXPANDED ELIGIBILITY FOR THE PROGRAM OF  
3           ALL-INCLUSIVE CARE FOR THE ELDERLY.—In  
4           the case where the Secretary selects the model  
5           described in clause (ii) of this subparagraph for  
6           testing pursuant to clause (xxviii) of subpara-  
7           graph (B), the following shall apply:

8                   “(i) NATIONAL TESTING.—

9                           “(I) IN GENERAL.—Subject to  
10                          subclause (II), the Secretary shall de-  
11                          sign a demonstration that allows each  
12                          PACE provider with an executed  
13                          PACE agreement to develop and sub-  
14                          mit to the Secretary an application to  
15                          begin testing expanded PACE eligi-  
16                          bility for high-need and high-cost pop-  
17                          ulations that are not otherwise eligible  
18                          to participate in a PACE program  
19                          within 1 year of the date on which the  
20                          model is selected.

21                          “(II) NO EFFECT ON ONGOING  
22                          MODELS OR DEMONSTRATION  
23                          PROJECTS.—Nothing in this subpara-  
24                          graph shall affect the testing of any  
25                          model under this subsection or any

demonstration project under this Act that is implemented prior to the date of the enactment of this subparagraph.

“(ii) MODEL DESCRIBED.—The model described in this clause seeks to increase access to quality, integrated, care for high-need, high-cost individuals who are not otherwise eligible to participate in a PACE program in order to improve health and reduce cost. Under this model, participating PACE providers would—

“(I) be paid fixed, monthly capitated rates from both Medicare and the applicable State Medicaid agency for all services provided to each enrollee fitting the criteria of the PACE provider’s designated population;

“(II) partner with non-PACE providers, such as Area Agencies on Aging, Centers for Independent Living, local hospitals, and non-hospital providers such as physicians, behavioral health providers and other com-

1 community-based organizations to effec-  
2 tively reach the PACE provider’s se-  
3 lected population;

4 “(III) adapt the PACE program  
5 model of care to appropriately serve  
6 the PACE provider’s selected popu-  
7 lation to integrate care and meet the  
8 unique needs of said population; and

9 “(IV) if the PACE provider is lo-  
10 cated in a State that has not yet  
11 served the selected population through  
12 a PACE program under section 1934,  
13 receive an up-front fixed payment to  
14 coordinate with the State to develop a  
15 capitated payment rate, with appro-  
16 priate risk adjustment, for the PACE  
17 provider’s selected population.

18 “(iii) REQUIREMENTS FOR PARTICI-  
19 PATING PACE ORGANIZATIONS.—In order  
20 to participate in the model, a PACE pro-  
21 vider must—

22 “(I) conduct a survey or needs  
23 assessment of their service area to de-  
24 termine the most appropriate popu-

1                   lation with which to expand their serv-  
2                   ices;

3                   “(II) receive prior approval from  
4                   the applicable State Medicaid agency  
5                   to submit an application to participate  
6                   in the model; and

7                   “(III) following such survey or  
8                   needs assessment and approval from  
9                   the applicable State Medicaid agency,  
10                  submit and receive approval of an ap-  
11                  plication of expansion from the Sec-  
12                  retary.

13                  “(iv) APPLICATION.—A PACE pro-  
14                  vider’s application to participate in this  
15                  model shall include the following informa-  
16                  tion:

17                         “(I) Results of the survey or  
18                         needs assessment of their service area  
19                         under clause (iii)(I) and an expla-  
20                         nation of the expanded population the  
21                         PACE organization will serve.

22                         “(II) The types of services that  
23                         the expanded population will require  
24                         and the PACE provider’s plan to im-  
25                         plement these services.

1 “(III) How the PACE provider  
2 will achieve engagement and enroll-  
3 ment of the new population in the  
4 model, including how it will partner  
5 with non-PACE providers in the ap-  
6 plicable service area.

7 “(IV) How the expanded popu-  
8 lation’s participation in the PACE  
9 program is intended to improve qual-  
10 ity of care and health outcomes under  
11 the model.

12 “(V) Certification that the appli-  
13 cable State Medicaid agency has ap-  
14 proved the PACE provider’s applica-  
15 tion to participate in the model.

16 “(VI) Plans to coordinate with  
17 the State Medicaid agency to develop  
18 an initial capitated rate with appro-  
19 priate risk adjustment.

20 “(VII) Plans for the PACE pro-  
21 vider and the State Medicaid agency  
22 to review and adjust the Medicaid  
23 capitated rate on a biennial basis, as  
24 needed.

1                   “(VIII) Any other information  
2                   required by the Secretary.

3                   “(v) TECHNICAL ASSISTANCE.—The  
4                   Secretary shall provide, or designate an en-  
5                   tity to provide, technical assistance to par-  
6                   ticipating PACE providers as they apply  
7                   for and implement the model.

8                   “(vi) ACCOUNTING FOR UNCER-  
9                   TAINTY.—In order for implementing  
10                  PACE providers to receive unanticipated  
11                  additional resources needed to implement  
12                  the model, the Secretary shall establish  
13                  procedures for the implementing PACE  
14                  providers to submit to the Secretary a re-  
15                  quest for additional resources.

16                  “(vii) MONITORING OUTCOMES.—The  
17                  Secretary, in conjunction with PACE pro-  
18                  viders and in consultation with States that  
19                  have elected to expand PACE program eli-  
20                  gibility under section 1934(l), shall develop  
21                  a plan to—

22                         “(I) annually monitor outcomes  
23                         under the model, which may include  
24                         financial, quality, access, and utiliza-  
25                         tion outcomes;

1 “(II) annually monitor the health  
2 outcomes of the PACE provider’s ex-  
3 panded population; and

4 “(III) any other outcomes as de-  
5 termined by the Secretary.

6 “(viii) REPORTING REQUIREMENTS.—

7 “(I) REPORT TO CONGRESS.—  
8 Not less frequently than every 3 years  
9 (for the duration of the implementa-  
10 tion of the model under this subpara-  
11 graph), the Secretary shall submit to  
12 Congress a report on the implementa-  
13 tion of the model under this subpara-  
14 graph. The report shall include demo-  
15 graphic information on the popu-  
16 lations served under the demonstra-  
17 tion, best practices for future imple-  
18 mentation efforts and any other infor-  
19 mation the Secretary determines ap-  
20 propriate together with recommenda-  
21 tions for such legislation and adminis-  
22 trative action as the Secretary deter-  
23 mines appropriate.

24 “(ix) FUNDING.—The Secretary shall  
25 allocate funds made available under sub-

1 section (f)(1) to design, implement, evalu-  
 2 ate, and report on the model described in  
 3 clause (ii) in accordance with this subpara-  
 4 graph.”.

5 **SEC. 8. STATE OPTION TO EXPAND ELIGIBILITY FOR PACE**  
 6 **PROGRAM.**

7 (a) IN GENERAL.—Section 1934 of the Social Secu-  
 8 rity Act (42 U.S.C. 1396u–4), as amended by section 3(b),  
 9 is amended—

10 (1) in subsection (a)(5)(B), by inserting “, sub-  
 11 section (k), and subsection (l)” after “subsection  
 12 (c)(4)”;

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

15 “(l) STATE OPTION TO EXPAND ELIGIBILITY.—

16 “(1) IN GENERAL.—A State described in para-  
 17 graph (3) may, at the option of the State, deem in-  
 18 dividuals described in paragraph (2) to be PACE  
 19 program eligible individuals for the purposes of this  
 20 section without regard to the requirement under  
 21 subsection (a)(5)(B) that a PACE program eligible  
 22 individual require the level of care required under  
 23 the State medicaid plan for coverage of nursing fa-  
 24 cility services.



1           “(2) EXPANSION OF ELIGIBILITY.—An indi-  
2       vidual is described in this paragraph if—

3           “(A) the individual meets the requirements  
4       of subparagraphs (A), (C), and (D) of sub-  
5       section (a)(5);

6           “(B) the individual is unable to perform at  
7       least 2 (or such higher number as the State  
8       may establish) activities of daily living, as de-  
9       termined by the State; and

10          “(C) the individual’s income does not ex-  
11       ceed 150 percent of the poverty line (as defined  
12       in section 2110(c)(5)) or, if greater, the income  
13       level applicable for an individual who has been  
14       determined to require an institutional level of  
15       care to be eligible for nursing facility services  
16       under the State plan and with respect to whom  
17       there has been a determination that, but for the  
18       provision of such services, the individual would  
19       require the level of care provided in a hospital,  
20       a nursing facility, an intermediate care facility  
21       for the mentally retarded, or an institution for  
22       mental diseases, the cost of which could be re-  
23       imbursed under the State plan.

1           “(3) STATES ELIGIBLE FOR OPTION.—A State  
2           shall only be eligible to exercise the option under  
3           this subsection if—

4                   “(A) the State administering agency has  
5                   entered into an agreement for the operation of  
6                   a PACE program under this section (and sec-  
7                   tion 1894, if applicable) among such agency,  
8                   the Secretary, and a PACE provider; and

9                   “(B) the State provides coverage under the  
10                  State plan under this title (or a waiver of such  
11                  plan) for long-term services and supports.

12           “(4) ENHANCED FMAP.—Notwithstanding sec-  
13           tion 1905(b), in the case of a State that exercises  
14           the option under this subsection, the Federal med-  
15           ical assistance percentage applicable with respect to  
16           expenditures by such State on monthly payments  
17           made to PACE providers under a PACE program  
18           agreement under this section for individuals who are  
19           deemed to be PACE program eligible individuals in  
20           accordance with paragraph (2) shall be equal to 90  
21           percent.”.

22           (b) CONFORMING AMENDMENT.—Section 1894(a)(5)  
23           of the Social Security Act (42 U.S.C. 1395eee(a)(5)) is  
24           amended by inserting “and section 1934(l)” after “sub-  
25           section (c)(4)”.

1 **SEC. 9. COORDINATION WITH THE FEDERAL COORDINATED**  
2 **HEALTH CARE OFFICE.**

3 Section 1934 of the Social Security Act (42 U.S.C.  
4 1396u–4), as amended by sections 3 and 8, is amended  
5 by adding at the end the following new subsection:

6 “(m) COORDINATION WITH THE FEDERAL COORDI-  
7 NATED HEALTH CARE OFFICE.—

8 “(1) STATE COORDINATION WITH FCHCO.—The  
9 Director of the Federal Coordinated Health Care Of-  
10 fice established under section 2602 of the Patient  
11 Protection and Affordable Care Act shall serve as a  
12 point of contact between State administering agen-  
13 cies and the Federal Government for purposes of im-  
14 plementing and operating a PACE program in a  
15 State, and shall coordinate with other relevant of-  
16 fices and staff of the Centers for Medicare & Med-  
17 icaid Services involved in carrying out this section.

18 “(2) ANNUAL REPORT.—Not later than Janu-  
19 ary 1, 2023, and annually thereafter, the Director of  
20 the Federal Coordinated Health Care Office shall  
21 submit to Congress a report on the demographics of  
22 the populations served by PACE programs operated  
23 under this section and section 1894.”.

○