117TH CONGRESS  
2D SESSION  

S.

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

IN THE SENATE OF THE UNITED STATES

Mr. CASEY (for himself and Mr. SCOTT of South Carolina) introduced the fol-
lowing bill; which was read twice and referred to the Committee on

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 Expanded Act” or the “PACE
6 Expanded Act”.

SEC. 2. IMPROVING ACCESS TO AND AFFORDABILITY OF PACE PROGRAMS FOR MEDICARE BENEFICIARIES WHO ARE NOT DUAL ELIGIBLE BENEFICIARIES THROUGH FLEXIBILITY IN RATE SETTING FOR SERVICES NOT COVERED BY MEDICARE.

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

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

"(1) CODIFICATION OF AUTHORITY TO CHARGE A MONTHLY CAPITATION AMOUNT FOR NON-MEDICARE SERVICES.—Subject to the succeeding provisions of this subsection, a PACE program operated by a PACE provider under a PACE program agreement in any State may charge a Medicare-only PACE program eligible individual (as defined in paragraph (4)(A)) who is enrolled in such PACE program a monthly capitation payment amount for the provision of non-Medicare services (as defined in paragraph (4)(B)) under the PACE program.

"(2) DETERMINATION OF MONTHLY CAPITATION PAYMENT AMOUNT.—"
“(A) IN GENERAL.—Notwithstanding section 460.186 of title 42, Code of Federal Regulations (or any successor regulation), the monthly capitation payment amount that may be charged under paragraph (1) shall be determined by the PACE provider operating the PACE program. Such monthly capitation payment amount shall be based on assessments conducted on the Medicare-only PACE program eligible individual who is enrolled in such PACE program by the PACE program interdisciplinary team and shall take into account the health status of such individual. In determining the monthly capitation amount for a Medicare-only PACE program eligible individual under this paragraph, a PACE provider may take into account the services determined necessary for the individual by the PACE program interdisciplinary team based upon their assessment of the individual. A determination described in the preceding sentence shall not be construed as limiting the responsibility of the PACE provider to meet any unforeseen needs or provide for any required services for such individual."
“(B) Authority to adjust monthly capitation amount.—

“(i) In general.—Subject to clause (ii) and paragraph (3), the monthly capitation payment amount that may be charged under paragraph (1) to a Medicare-only PACE program eligible individual enrolled in a PACE program for non-Medicare services may increase or decrease based on assessments conducted on such individual. Any change in the monthly capitation payment amount charged to such an individual shall take effect beginning with the first day of the first month that begins after the month during which the plan of care is developed for such individual based on such an assessment.

“(ii) Limitation on frequency of increase.—The monthly capitation payment amount that may be charged under paragraph (1) to such an individual may not increase more frequently than once per calendar quarter.

“(3) Beneficiary protections.—
“(A) Disclosure of premium rate structure.—A PACE provider shall disclose to Medicare-only PACE program eligible individuals the capitation payment amounts that may be charged under this section to such individuals for non-Medicare services under the PACE program operated by such PACE provider under this section—

“(i) prior to enrollment of such individual in such PACE program, and

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

“(B) Assessment instrument.—

“(i) In general.—The Secretary shall develop an assessment instrument for use by PACE programs with respect to Medicare-only PACE program eligible individuals under this subsection.

“(ii) Requirement for disclosure of assessment instrument.—The monthly capitation payment amount charged under paragraph (1) to a Medicare-only PACE program eligible individual for non-Medicare services shall be based on an assessment of such individual conducted
by the PACE provider (using the assessment instrument developed by the Secretary under clause (i)), accounting for health status and corresponding needs.

“(iii) REQUIREMENT FOR DISCLOSURE OF ASSESSMENT INSTRUMENT.—The assessment instrument used by the interdisciplinary team of the PACE program to evaluate the health and social status of PACE participants shall be disclosed to the individual prior to the assessment.

“(C) PROCESS TO SEEK REVIEW OF ASSESSMENTS.—The Secretary shall establish a process for a Medicare-only PACE program eligible individual to seek review of any assessment conducted on the individual under this subsection.

“(4) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to preclude the testing under section 1115A of a model to permit a PACE provider operating a PACE program to establish and charge monthly capitation payment amounts for the provision of non-Medicare services under the PACE program to Medicare-only PACE program eligible individuals under a rate structure
established by such PACE provider for such purpose, including the use of an assessment instrument developed by the PACE program to assign such individuals to an appropriate rate category under such rate structure.

“(5) Definitions.—In this subsection—

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

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

(b) Effective Date.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act, and apply with respect to capitation amounts that may be charged for months beginning on or after January 1, 2023.

(e) Rule of Construction.—Nothing in this section, or the amendments made by this section, shall be construed to modify or otherwise impact the following
Medicare capitation rates that may be charged by PACE plans for PACE participants who are Medicare beneficiaries who are not both entitled to (or enrolled for) benefits under part A of title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) and enrolled for benefits under part B of such title:

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

(2) **PART B ONLY MEDICARE BENEFICIARY.**—In the case of a Medicare beneficiary who is a PACE participant who is enrolled for benefits under part B of such title XVIII but who is not entitled to (or enrolled for) benefits under part A of such title, the Medicare Part A capitation rate under paragraph (c) of such section 460.186 (or any successor regulations).

**SEC. 3. ANYTIME ENROLLMENT IN PACE.**

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

“(C) **ANY TIME ENROLLMENT AND EFFECTIVE DATE OF ENROLLMENT.**—

“(i) **ANY TIME ENROLLMENT.**—A PACE program eligible individual may enroll in a PACE program at any time during a month.

“(ii) **EFFECTIVE DATE.**—Subject to clause (iii), the enrollment of a PACE program eligible individual in a PACE program shall be effective on the date the PACE provider operating the PACE program receives an enrollment agreement signed by such PACE program eligible individual with respect to such PACE program.

“(iii) **SPECIAL RULE IN THE CASE OF DUAL ELIGIBLE BENEFICIARIES.**—In the case of a PACE program eligible individual who is eligible for benefits under this title and title XIX, clause (i) shall only apply if the State in which such individual resides
has made an election under section 1934(e)(5)(C) to permit PACE program eligible individuals enroll in a PACE program at any time during a month in such State.”.

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

“(4) PRORATED PAYMENTS.—In the case of a PACE program eligible individual enrolled in a PACE program operated by a PACE provider with an enrollment effective date that is not the first day of a month, the capitation amount that would otherwise be made under this subsection to the PACE provider for such individual for the first month in which such individual is so enrolled shall be prorated accordingly.”.

(b) CONFORMING AMENDMENTS.—

(1) ANYTIME ENROLLMENT AND EFFECTIVE DATE.—Section 1934(e)(5) of the Social Security Act (42 U.S.C. 1396u–4(e)(5)) is amended by adding at the end the following new subparagraph:
“(C) State option to permit any time enrollment and effective date of enrollment.—

“(i) Any time enrollment.—A State may elect to permit a PACE program eligible individual to enroll in a PACE program at any time during a month.

“(ii) Effective date.—Pursuant to a State election made under clause (i), the enrollment of a PACE program eligible individual in a PACE program shall be effective on the date the PACE provider operating the PACE program receives an enrollment agreement signed by such PACE program eligible individual with respect to such PACE program.”.

(2) Prorated payments.—Section 1934(d) of the Social Security Act (42 U.S.C. 1396u–4(d)) is amended by adding at the end the following new paragraph:

“(3) Prorated payments.—If a State elects under subsection (e)(5)(C) to permit enrollment at any time during a month, in the case of a PACE program eligible individual enrolled in a PACE pro-
gram operated by a PACE provider with an enrollment effective date that is not the first day of a month, the State shall prorate the capitation amount that would otherwise be made under this subsection to the PACE provider for such individual for the first month in which such individual is so enrolled.”.

(c) Effective Date.—The amendments made by this section shall take effect on January 1, 2023.

9 SEC. 4. PACE SITE APPROVAL AND EXPANSION.

(a) In General.—Sections 1894(e) and 1934(e) of the Social Security Act (42 U.S.C. 1395eee(e), 1396u–4(e)) are each amended by striking paragraph (8) and inserting the following:

“(8) Authority to submit applications at any time; timely consideration of applications.—

“(A) Authority to submit applications at any time.—

“(i) New PACE provider status.—

An entity that seeks to become a PACE provider may submit an application for PACE provider status at any time.

“(ii) Service area expansion and addition of PACE center site.—To the extent the Secretary requires a PACE pro-
provider to submit an application to expand
its service area or to add a PACE center
site, a PACE provider may submit such an
application at any time, subject to the re-
quirements of section 460.12(d) of title 42,
Code of Federal Regulations (relating to
the first trial period audit), or any suc-
cessor regulation.

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

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

“(II) An assurance that—

“(aa) the PACE provider’s
contracts for all contractors and
contracted personnel will be exe-
cuted by the time the proposed
PACE center becomes operational; and

“(bb) executed contracts may include provisions for staffing levels to commensurate with enrollment to full projected census.

“(B) DEEMED APPROVAL.—An application described in subparagraph (A) shall be deemed approved unless the Secretary, within 45 days after the date of the submission of the application to the Secretary, either denies such request in writing or informs the applicant in writing with respect to any additional information that is needed in order to make a final determination with respect to the application. After the date the Secretary receives such additional information, the application shall be deemed approved unless the Secretary, within 45 days of such date, denies such request.”

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on January 1, 2023.

SEC. 5. PACE PILOT.

Section 1115A(b)(2) of the Social Security Act (42 U.S.C. 1315a(b)(2)) is amended—
(1) in subparagraph (B), by adding at the end the following new clause:

“(xxviii) National testing of a model for expanded eligibility for the Program of All-Inclusive Care for the Elderly as described in subparagraph (D).”; and

(2) by adding at the end the following new subparagraph:

“(D) National testing of model for expanded eligibility for the Program of All-Inclusive Care for the Elderly.—In the case where the Secretary selects the model described in clause (ii) of this subparagraph for testing pursuant to clause (xxviii) of subparagraph (B), the following shall apply:

“(i) National testing.—

“(I) In general.—Subject to subclause (II), the Secretary shall design a demonstration that allows each PACE provider with an executed PACE agreement to develop and submit to the Secretary an application to begin testing expanded PACE eligibility for high-need and high-cost populations that are not otherwise eligible
to participate in a PACE program
within 1 year of the date on which the
model is selected.

“(II) NO EFFECT ON ONGOING
MODELS OR DEMONSTRATION
PROJECTS.—Nothing in this subpara-
graph shall affect the testing of any
model under this subsection or any
demonstration project under this Act
that is implemented prior to the date
of the enactment of this subpara-
graph.

“(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 re-
duce 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 community-based organizations to effectively reach the PACE provider’s selected population;

“(III) adapt the PACE program model of care to appropriately serve the PACE provider’s selected population to integrate care and meet the unique needs of said population; and

“(IV) if the PACE provider is located in a State that has not yet served the selected population through a PACE program under section 1934, receive an up-front fixed payment to coordinate with the State to develop a capitated payment rate, with appropriate risk adjustment, for the PACE provider’s selected population.
“(iii) Requirements for participating PACE organizations.—In order to participate in the model, a PACE provider must—

“(I) conduct a survey or needs assessment of their service area to determine the most appropriate population with which to expand their services;

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

“(III) following such survey or needs assessment and approval from the applicable State Medicaid agency, submit and receive approval of an application of expansion from the Secretary.

“(iv) Application.—A PACE provider’s application to participate in this model shall include the following information:

“(I) Results of the survey or needs assessment of their service area
under clause (iii)(I) and an explanation of the expanded population the PACE organization will serve.

“(II) The types of services that the expanded population will require and the PACE provider’s plan to implement these services.

“(III) How the PACE provider will achieve engagement and enrollment of the new population in the model, including how it will partner with non-PACE providers in the applicable service area.

“(IV) How the expanded population’s participation in the PACE program is intended to improve quality of care and health outcomes under the model.

“(V) Certification that the applicable State Medicaid agency has approved the PACE provider’s application to participate in the model.

“(VI) Plans to coordinate with the State Medicaid agency to develop
an initial capitated rate with appropriate risk adjustment.

“(VII) Plans for the PACE provider and the State Medicaid agency to review and adjust the Medicaid capitated rate on a biennial basis, as needed.

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

“(v) TECHNICAL ASSISTANCE.—The Secretary shall provide, or designate an entity to provide, technical assistance to participating PACE providers as they apply for and implement the model.

“(vi) ACCOUNTING FOR UNCERTAINTY.—In order for implementing PACE providers to receive unanticipated additional resources needed to implement the model, the Secretary shall establish procedures for the implementing PACE providers to submit to the Secretary a request for additional resources.

“(vii) MONITORING OUTCOMES.—The Secretary, in conjunction with PACE providers and in consultation with States that
have elected to expand PACE program eligibility under section 1934(l), shall develop a plan to—

“(I) annually monitor outcomes under the model, which may include financial, quality, access, and utilization outcomes;

“(II) annually monitor the health outcomes of the PACE provider’s expanded population; and

“(III) any other outcomes as determined by the Secretary.

“(viii) REPORTING REQUIREMENTS.—

“(I) REPORT TO CONGRESS.—

Not less frequently than every 3 years (for the duration of the implementation of the model under this subparagraph), the Secretary shall submit to Congress a report on the implementation of the model under this subparagraph. The report shall include demographic information on the populations served under the demonstration, best practices for future implementation efforts and any other infor-
mation the Secretary determines appropriate together with recommendations for such legislation and administrative action as the Secretary determines appropriate.

“(ix) FUNDING.—The Secretary shall allocate funds made available under subsection (f)(1) to design, implement, evaluate, and report on the model described in clause (ii) in accordance with this subparagraph.”.

SEC. 6. COORDINATION WITH THE FEDERAL COORDINATED HEALTH CARE OFFICE.

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

“(m) COORDINATION WITH THE FEDERAL COORDINATED HEALTH CARE OFFICE.—

“(1) STATE COORDINATION WITH FCHCO.—The Director of the Federal Coordinated Health Care Office established under section 2602 of the Patient Protection and Affordable Care Act shall serve as a point of contact between State administering agencies and the Federal Government for purposes of implementing and operating a PACE program in a
State, and shall coordinate with other relevant offices and staff of the Centers for Medicare & Medicaid Services involved in carrying out this section.

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

SEC. 7. EVALUATION OF EFFECTIVENESS OF PACE PROGRAM IN RURAL AND UNDERSERVED AREAS.

(a) IN GENERAL.—The Assistant Secretary for Planning and Evaluation of the Department of Health and Human Services (referred to in this section as the “Assistant Secretary”) shall conduct an evaluation of the effectiveness of the program for all-inclusive care for the elderly under sections 1894 and 1934 of the Social Security Act (42 U.S.C. 1395eee, 1396u–4) in rural and underserved areas, including with respect to the following factors:

(1) Reductions in hospitalizations and re-hospitalizations among program beneficiaries.

(2) Reductions in emergency department use among program beneficiaries.
(3) Reductions in long-term nursing facility use among program beneficiaries.

(4) Reductions in mortality among program beneficiaries.

(5) Achieving lower rates of functional decline, and improvements in reported health status and quality of life among program beneficiaries.

(6) Reductions in the total cost of care among program beneficiaries.

(7) The effect of activities supported under the program on the local area serviced by the program, including on the health and well-being of unpaid and family caregivers of program beneficiaries.

(8) Improvements in quality of life among program beneficiaries.

(b) REPORT.—Not later than 60 months after the date of enactment of this Act, the Assistant Secretary shall submit a report containing the results of the evaluation required under subsection (a), an analysis of which elements of the program for all-inclusive care for the elderly under sections 1894 and 1934 of the Social Security Act (42 U.S.C. 1395eee, 1396u–4) should be replicated and scaled by governmental or non-governmental entities, and such recommendations for legislation and administrative action as the Assistant Secretary determines appro-
appropriate to the chairs and ranking members of the following committees:

(1) The Special Committee on Aging of the Senate.

(2) The Committee on Finance of the Senate.

(3) The Committee on Health, Education, Labor and Pensions of the Senate.

(4) The Committee on Ways and Means of the House of Representatives.


(c) PARTNERS.—In conducting the evaluation and completing the report required under this section, the Assistant Secretary shall provide an opportunity for partners and persons that have participated in the program for all-inclusive care for the elderly under sections 1894 and 1934 of the Social Security Act (42 U.S.C. 1395eee, 1396u–4) on every level, especially individuals who receive care through the program and their unpaid or family caregivers, have an opportunity to contribute their expertise to evaluating the strategy and outcomes of the program.