

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”.

1 **SEC. 2. IMPROVING ACCESS TO AND AFFORDABILITY OF**
2 **PACE PROGRAMS FOR MEDICARE BENE-**
3 **FICIARIES WHO ARE NOT DUAL ELIGIBLE**
4 **BENEFICIARIES THROUGH FLEXIBILITY IN**
5 **RATE SETTING FOR SERVICES NOT COVERED**
6 **BY MEDICARE.**

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

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

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

25 “(2) DETERMINATION OF MONTHLY CAPITA-
26 TION PAYMENT AMOUNT.—

1 “(A) IN GENERAL.—Notwithstanding sec-
2 tion 460.186 of title 42, Code of Federal Regu-
3 lations (or any successor regulation), the
4 monthly capitation payment amount that may
5 be charged under paragraph (1) shall be deter-
6 mined by the PACE provider operating the
7 PACE program. Such monthly capitation pay-
8 ment amount shall be based on assessments
9 conducted on the Medicare-only PACE program
10 eligible individual who is enrolled in such PACE
11 program by the PACE program interdiscipli-
12 nary team and shall take into account the
13 health status of such individual. In determining
14 the monthly capitation amount for a Medicare-
15 only PACE program eligible individual under
16 this paragraph, a PACE provider may take into
17 account the services determined necessary for
18 the individual by the PACE program inter-
19 disciplinary team based upon their assessment
20 of the individual. A determination described in
21 the preceding sentence shall not be construed as
22 limiting the responsibility of the PACE provider
23 to meet any unforeseen needs or provide for any
24 required services for such individual.

1 “(B) AUTHORITY TO ADJUST MONTHLY
2 CAPITATION AMOUNT.—

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

18 “(ii) LIMITATION ON FREQUENCY OF
19 INCREASE.—The monthly capitation pay-
20 ment amount that may be charged under
21 paragraph (1) to such an individual may
22 not increase more frequently than once per
23 calendar quarter.

24 “(3) BENEFICIARY PROTECTIONS.—

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

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

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

13 “(B) ASSESSMENT INSTRUMENT.—

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

19 “(ii) REQUIREMENT FOR DISCLOSURE
20 OF ASSESSMENT INSTRUMENT.—The
21 monthly capitation payment amount
22 charged under paragraph (1) to a Medi-
23 care-only PACE program eligible individual
24 for non-Medicare services shall be based on
25 an assessment of such individual conducted

1 by the PACE provider (using the assess-
2 ment instrument developed by the Sec-
3 retary under clause (i)), accounting for
4 health status and corresponding needs.

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

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

18 “(4) RULE OF CONSTRUCTION.—Nothing in
19 this subsection shall be construed to preclude the
20 testing under section 1115A of a model to permit a
21 PACE provider operating a PACE program to es-
22 tablish and charge monthly capitation payment
23 amounts for the provision of non-Medicare services
24 under the PACE program to Medicare-only PACE
25 program eligible individuals under a rate structure

1 established by such PACE provider for such pur-
2 pose, including the use of an assessment instrument
3 developed by the PACE program to assign such indi-
4 viduals to an appropriate rate category under such
5 rate structure.

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

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

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

18 (b) EFFECTIVE DATE.—The amendment made by
19 subsection (a) shall take effect on the date of the enact-
20 ment of this Act, and apply with respect to capitation
21 amounts that may be charged for months beginning on
22 or after January 1, 2023.

23 (c) RULE OF CONSTRUCTION.—Nothing in this sec-
24 tion, or the amendments made by this section, shall be
25 construed to modify or otherwise impact the following

1 Medicare capitation rates that may be charged by PACE
2 plans for PACE participants who are Medicare bene-
3 ficiaries who are not both entitled to (or enrolled for) bene-
4 fits under part A of title XVIII of the Social Security Act
5 (42 U.S.C. 1395 et seq.) and enrolled for benefits under
6 part B of such title:

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

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

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

24 (a) IN GENERAL.—

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

5 “(C) ANY TIME ENROLLMENT AND EFFEC-
6 TIVE DATE OF ENROLLMENT.—

7 “(i) ANY TIME ENROLLMENT.—A
8 PACE program eligible individual may en-
9 roll in a PACE program at any time dur-
10 ing a month.

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

20 “(iii) SPECIAL RULE IN THE CASE OF
21 DUAL ELIGIBLE BENEFICIARIES.—In the
22 case of a PACE program eligible individual
23 who is eligible for benefits under this title
24 and title XIX, clause (i) shall only apply if
25 the State in which such individual resides

1 has made an election under section
2 1934(c)(5)(C) to permit PACE program
3 eligible individuals enroll in a PACE pro-
4 gram at any time during a month in such
5 State.”.

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

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

19 (b) CONFORMING AMENDMENTS.—

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

1 “(C) STATE OPTION TO PERMIT ANY TIME
2 ENROLLMENT AND EFFECTIVE DATE OF EN-
3 ROLLMENT.—

4 “(i) ANY TIME ENROLLMENT.—A
5 State may elect to permit a PACE pro-
6 gram eligible individual to enroll in a
7 PACE program at any time during a
8 month.

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

18 (2) PRORATED PAYMENTS.—Section 1934(d) of
19 the Social Security Act (42 U.S.C. 1396u-4(d)) is
20 amended by adding at the end the following new
21 paragraph:

22 “(3) PRORATED PAYMENTS.—If a State elects
23 under subsection (c)(5)(C) to permit enrollment at
24 any time during a month, in the case of a PACE
25 program eligible individual enrolled in a PACE pro-

1 gram operated by a PACE provider with an enroll-
2 ment effective date that is not the first day of a
3 month, the State shall prorate the capitation amount
4 that would otherwise be made under this subsection
5 to the PACE provider for such individual for the
6 first month in which such individual is so enrolled.”.

7 (c) EFFECTIVE DATE.—The amendments made by
8 this section shall take effect on January 1, 2023.

9 **SEC. 4. PACE SITE APPROVAL AND EXPANSION.**

10 (a) IN GENERAL.—Sections 1894(e) and 1934(e) of
11 the Social Security Act (42 U.S.C. 1395eee(e), 1396u-
12 4(e)) are each amended by striking paragraph (8) and in-
13 serting the following:

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

17 “(A) AUTHORITY TO SUBMIT APPLICA-
18 TIONS AT ANY TIME.—

19 “(i) NEW PACE PROVIDER STATUS.—
20 An entity that seeks to become a PACE
21 provider may submit an application for
22 PACE provider status at any time.

23 “(ii) SERVICE AREA EXPANSION AND
24 ADDITION OF PACE CENTER SITE.—To the
25 extent the Secretary requires a PACE pro-

1 vider to submit an application to expand
2 its service area or to add a PACE center
3 site, a PACE provider may submit such an
4 application at any time, subject to the re-
5 quirements of section 460.12(d) of title 42,
6 Code of Federal Regulations (relating to
7 the first trial period audit), or any suc-
8 cessor regulation.

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

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

20 “(II) An assurance that—

21 “(aa) the PACE provider’s
22 contracts for all contractors and
23 contracted personnel will be exe-
24 cuted by the time the proposed

1 PACE center becomes oper-
2 ational; and

3 “(bb) executed contracts
4 may include provisions for staff-
5 ing levels to commensurate with
6 enrollment to full projected cen-
7 sus.

8 “(B) DEEMED APPROVAL.—An application
9 described in subparagraph (A) shall be deemed
10 approved unless the Secretary, within 45 days
11 after the date of the submission of the applica-
12 tion to the Secretary, either denies such request
13 in writing or informs the applicant in writing
14 with respect to any additional information that
15 is needed in order to make a final determina-
16 tion with respect to the application. After the
17 date the Secretary receives such additional in-
18 formation, the application shall be deemed ap-
19 proved unless the Secretary, within 45 days of
20 such date, denies such request.”.

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

23 **SEC. 5. PACE PILOT.**

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

1 to participate in a PACE program
2 within 1 year of the date on which the
3 model is selected.

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

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

21 “(I) be paid fixed, monthly
22 capitated rates from both Medicare
23 and the applicable State Medicaid
24 agency for all services provided to
25 each enrollee fitting the criteria of the

1 PACE provider’s designated popu-
2 lation;

3 “(II) partner with non-PACE
4 providers, such as Area Agencies on
5 Aging, Centers for Independent Liv-
6 ing, local hospitals, and non-hospital
7 providers such as physicians, behav-
8 ioral health providers and other com-
9 munity-based organizations to effec-
10 tively reach the PACE provider’s se-
11 lected population;

12 “(III) adapt the PACE program
13 model of care to appropriately serve
14 the PACE provider’s selected popu-
15 lation to integrate care and meet the
16 unique needs of said population; and

17 “(IV) if the PACE provider is lo-
18 cated in a State that has not yet
19 served the selected population through
20 a PACE program under section 1934,
21 receive an up-front fixed payment to
22 coordinate with the State to develop a
23 capitated payment rate, with appro-
24 priate risk adjustment, for the PACE
25 provider’s selected population.

1 “(iii) REQUIREMENTS FOR PARTICI-
2 PATING PACE ORGANIZATIONS.—In order
3 to participate in the model, a PACE pro-
4 vider must—

5 “(I) conduct a survey or needs
6 assessment of their service area to de-
7 termine the most appropriate popu-
8 lation with which to expand their serv-
9 ices;

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

14 “(III) following such survey or
15 needs assessment and approval from
16 the applicable State Medicaid agency,
17 submit and receive approval of an ap-
18 plication of expansion from the Sec-
19 retary.

20 “(iv) APPLICATION.—A PACE pro-
21 vider’s application to participate in this
22 model shall include the following informa-
23 tion:

24 “(I) Results of the survey or
25 needs assessment of their service area

1 under clause (iii)(I) and an expla-
2 nation of the expanded population the
3 PACE organization will serve.

4 “(II) The types of services that
5 the expanded population will require
6 and the PACE provider’s plan to im-
7 plement these services.

8 “(III) How the PACE provider
9 will achieve engagement and enroll-
10 ment of the new population in the
11 model, including how it will partner
12 with non-PACE providers in the ap-
13 plicable service area.

14 “(IV) How the expanded popu-
15 lation’s participation in the PACE
16 program is intended to improve qual-
17 ity of care and health outcomes under
18 the model.

19 “(V) Certification that the appli-
20 cable State Medicaid agency has ap-
21 proved the PACE provider’s applica-
22 tion to participate in the model.

23 “(VI) Plans to coordinate with
24 the State Medicaid agency to develop

1 an initial capitated rate with appro-
2 priate risk adjustment.

3 “(VII) Plans for the PACE pro-
4 vider and the State Medicaid agency
5 to review and adjust the Medicaid
6 capitated rate on a biennial basis, as
7 needed.

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

10 “(v) TECHNICAL ASSISTANCE.—The
11 Secretary shall provide, or designate an en-
12 tity to provide, technical assistance to par-
13 ticipating PACE providers as they apply
14 for and implement the model.

15 “(vi) ACCOUNTING FOR UNCER-
16 TAINTY.—In order for implementing
17 PACE providers to receive unanticipated
18 additional resources needed to implement
19 the model, the Secretary shall establish
20 procedures for the implementing PACE
21 providers to submit to the Secretary a re-
22 quest for additional resources.

23 “(vii) MONITORING OUTCOMES.—The
24 Secretary, in conjunction with PACE pro-
25 viders and in consultation with States that

1 have elected to expand PACE program eli-
2 gibility under section 1934(l), shall develop
3 a plan to—

4 “(I) annually monitor outcomes
5 under the model, which may include
6 financial, quality, access, and utiliza-
7 tion outcomes;

8 “(II) annually monitor the health
9 outcomes of the PACE provider’s ex-
10 panded population; and

11 “(III) any other outcomes as de-
12 termined by the Secretary.

13 “(viii) REPORTING REQUIREMENTS.—

14 “(I) REPORT TO CONGRESS.—

15 Not less frequently than every 3 years
16 (for the duration of the implementa-
17 tion of the model under this subpara-
18 graph), the Secretary shall submit to
19 Congress a report on the implementa-
20 tion of the model under this subpara-
21 graph. The report shall include demo-
22 graphic information on the popu-
23 lations served under the demonstra-
24 tion, best practices for future imple-
25 mentation efforts and any other infor-

1 mation the Secretary determines ap-
2 propriate together with recommenda-
3 tions for such legislation and adminis-
4 trative action as the Secretary deter-
5 mines appropriate.

6 “(ix) FUNDING.—The Secretary shall
7 allocate funds made available under sub-
8 section (f)(1) to design, implement, evalu-
9 ate, and report on the model described in
10 clause (ii) in accordance with this subpara-
11 graph.”.

12 **SEC. 6. COORDINATION WITH THE FEDERAL COORDINATED**
13 **HEALTH CARE OFFICE.**

14 Section 1934 of the Social Security Act (42 U.S.C.
15 1396u-4), as amended by sections 3 and 8, is amended
16 by adding at the end the following new subsection:

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

19 “(1) STATE COORDINATION WITH FCHCO.—The
20 Director of the Federal Coordinated Health Care Of-
21 fice established under section 2602 of the Patient
22 Protection and Affordable Care Act shall serve as a
23 point of contact between State administering agen-
24 cies and the Federal Government for purposes of im-
25 plementing and operating a PACE program in a

1 State, and shall coordinate with other relevant of-
2 fices and staff of the Centers for Medicare & Med-
3 icaid Services involved in carrying out this section.

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

10 **SEC. 7. EVALUATION OF EFFECTIVENESS OF PACE PRO-**
11 **GRAM IN RURAL AND UNDERSERVED AREAS.**

12 (a) IN GENERAL.—The Assistant Secretary for Plan-
13 ning and Evaluation of the Department of Health and
14 Human Services (referred to in this section as the “Assist-
15 ant Secretary”) shall conduct an evaluation of the effec-
16 tiveness of the program for all-inclusive care for the elder-
17 ly under sections 1894 and 1934 of the Social Security
18 Act (42 U.S.C. 1395eee, 1396u–4) in rural and under-
19 served areas, including with respect to the following fac-
20 tors:

21 (1) Reductions in hospitalizations and re-hos-
22 pitalizations among program beneficiaries.

23 (2) Reductions in emergency department use
24 among program beneficiaries.

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

3 (4) Reductions in mortality among program
4 beneficiaries.

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

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

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

14 (8) Improvements in quality of life among pro-
15 gram beneficiaries.

16 (b) REPORT.—Not later than 60 months after the
17 date of enactment of this Act, the Assistant Secretary
18 shall submit a report containing the results of the evalua-
19 tion required under subsection (a), an analysis of which
20 elements of the program for all-inclusive care for the elder-
21 ly under sections 1894 and 1934 of the Social Security
22 Act (42 U.S.C. 1395eee, 1396u–4) should be replicated
23 and scaled by governmental or non-governmental entities,
24 and such recommendations for legislation and administra-
25 tive action as the Assistant Secretary determines appro-

1 piate to the chairs and ranking members of the following
2 committees:

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

5 (2) The Committee on Finance of the Senate.

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

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

10 (5) The Committee on Energy and Commerce
11 of the House of Representatives.

12 (c) PARTNERS.—In conducting the evaluation and
13 completing the report required under this section, the As-
14 sistant Secretary shall provide an opportunity for partners
15 and persons that have participated in the program for all-
16 inclusive care for the elderly under sections 1894 and
17 1934 of the Social Security Act (42 U.S.C. 1395eee,
18 1396u–4) on every level, especially individuals who receive
19 care through the program and their unpaid or family care-
20 givers, have an opportunity to contribute their expertise
21 to evaluating the strategy and outcomes of the program.