IN THE SENATE OF THE UNITED STATES

Mr. Chafee introduced the following bill; which was read twice and referred to the committee on _____________________

A BILL

To amend title XIX of the Social Security Act to assist severely disabled individuals to attain or maintain their maximum potential for independence and capacity to participate in community and family life.

1 Be it enacted by the Senate and House of Representatives
2 Of the United States of America in Congress assembled.
3
SHORT TITLE
4 Section 1. This Act may be cited as the "Community and Family Living Amendments of 1985".
5
DEFINITIONS
6 sec. 2. Section 1985 of the Social Security Act is amended by adding at the end thereof the following new subsections:
7 "(O) Severely Disabled Individual.--
"(1) In general.—The term "severely disabled individual" means an individual who is under a disability within the meaning of section 223(d) of this Act, the onset of which occurred—

"(A) before the individual attained age 35, or

"(B) In the case of an individual whose disability is primarily due to a mental impairment, before the individual attained age 22.

"(2) Inapplicability of earnings test.—In determining whether an individual meets the criteria of paragraph (1), the State shall not find that an individual is not under a disability on the basis of earnings.

"(p) Community and Family Support Services.—The term "community and family support services" means supportive services made available to a severely disabled individual (or to his natural, adoptive or foster family or spouse) to enable such individual to begin, resume or continue living in a family home or community living facility. Such supportive services shall include both in-home and out-of-home services (as needed) from among those enumerated in section 1919(a).

"(q) Family Home.—The term "family home" means a residence maintained by an individual (whether or not disabled) or a couple, or by a natural, adoptive, or foster
family, in which one or more severely disabled individuals are living who receive medical assistance which includes payment for some services enumerated in section 1919(a).

"(r) Community Living Facility.—The term "community living facility" means a single household, other than a family home, composed of related or unrelated persons, which—

"(1) provides living arrangements and some care or service enumerated in section 1919(a) to one or more severely disabled individuals;

"(2) has a number of beds (exclusive of beds occupied by staff members) not in excess of the product obtained by multiplying by three the greater of—

" (A) the number of individuals in an average family household in the area in which such facility is located (as determined in accordance with data from the 1960 decennial census), or

" (B) the number of individuals in an average family household in such area (as determined in accordance with any decennial census conducted after the 1980 decennial census);

"(3) is located in a neighborhood which—

" (A) is representative of residential neighborhoods in such area, and

" (B) is populated primarily by individuals other
than severely disabled individuals)

"(it) meets such standards of safety and sanitation, and other standards relating to services provided by the facility, as are established under regulations of the secretary for community living facilities, in addition to those applicable under State law;

"(5) meets the requirements of section 1861(J)(14) of this Act with respect to the personal funds of individuals residing in such facility, and

"(6) is staffed by individuals who (A) are trained or retrained in accordance with the provisions of the community and family living implementation agreement entered into under section 1919(d) by the state in which such facility is located, and (B) in providing such living arrangements, care, or service to severely disabled individuals, cooperate with other providers and with appropriate case Managers in implementing a written plan of habilitation or rehabilitation for each such individual.

"(s) Written Habilitation or Rehabilitation Plan.--The term " written habilitation or rehabilitation plan" means a plan for medical assistance and other services for a severely disabled individual which is--

"(1) developed by an interdisciplinary team consisting of--
"(A) individuals who are representative of professional and other disciplines which are relevant to the habilitation or rehabilitation of such individual, and have been involved in providing services to the individual or are likely to be involved in providing services to the individual,

"(B) such individual, persons requested to participate by the individual, and, when appropriate, the spouse, parent, guardian, other family member, or advocate of such Individual;

"(2) responsive to the individual needs of such individual, as determined by members of the team through individual assessment;

"(3) designed to enable such individual to attain or retain to the greatest extent possible capabilities for independence or self-care;

"(4) designed to promote and increase interaction between disabled and non-disabled individuals within the community: an3

"(5) re-evaluated by such team at least once each year.

"(t) Case Management Services.—The term "case management services" means, with respect to any severely disabled individual, services rendered to such individual by a designated qualified professional who—
(1) has a continuing relationship with such individual but who is not associated with the community living facility or family home or other provider of ongoing direct services to such individual;

(2) coordinates the development and implementation of the individual written plan of habilitation or rehabilitation for such individual;

(3) provides such individual (or his spouse, parent, guardian, other fully member, or advocate, as appropriate) with information about, and referral to, appropriate social, educational, vocational, medical, advocacy, or other services which are among or in addition to those for which payment may be Made under this titles

(4) assists in procuring such services as necessary;

(5) periodically reviews the changing needs of such individual and the appropriateness of the Medical assistance and other services provided to such individual]

(6) cooperates with personnel in school, employment related, or treatment settings who have specific responsibilities for developing or implementing any individual education plan, plan of vocational services, or plan of treatment designed for such individual, so
that all such plans are, to the greatest extent possible, coordinated and complementary; and

"(7) is available to such individual or his family for consultation or crisis intervention when required.

"(u) Individual and Family Support services.— The term "individual and family support services' means—

"(1) those services provided to a severely disabled individual which the individual's interdisciplinary team (described in subsection (s)(1) determines are appropriate for carrying out those activities of daily living which the individual cannot perform for himself, including non-medical personal care, assistance in ambulating or transferring, limited domestic services, and assistance with communicative devices and aids, and

"(2) services provided to the family of a severely disabled individual which the individual's interdisciplinary team determines are appropriate for assisting the family in providing services described in subparagraph (A) to the individual, including respite care.

"(v) Cluster Home.—The term "cluster home" means a facility which—

"(1) was in operation on September 30, 1985;

"(2) has not increased its number of beds since September 30, 1985; and
"(3) consists of * cluster of two or three facilities in proximity to one another, each of which would meet the definition of a community living facility (As defined in subsection (c)), except that the presence of the other facilities of the cluster in the neighborhood violates the requirement of subsection (c)(3)."

COMMUNITY AND FAMILY SUPPORT SERVICES FOR CERTAIN SEVERELY DISABLED INDIVIDUALS

sec. 3. (a) State Plan Requirement.—Section 1982(a) of the social security Act is amended—

(1) by striking out "and" at the end of paragraph (45);

"(2) by striking out the period at the end of paragraph (46) and inserting in lieu thereof "and";

and

(3) by inserting after paragraph (46) the following new paragraph;

"(47) effective not later than October 1, 1988, provide that with respect to any severely disabled individual who is entitled to medical assistance under such plan and who resides in a family home or community living facility, such assistance shall include an array of community and family support services which the State determines are appropriate, when combined with other
medical assistance available under the plan and with other available resources, to assist in providing for the health, safety, and effective habilitation or rehabilitation of such individual, including at a minimum case management services, individual and family support services, and protective intervention.".
(b) Inclusion as Medical Assistance.--Section 1905(a)(13) of such Act is amended by inserting before the semicolon at the end thereof the following: **, including community and family support services for severely disabled individuals".
(c) Services For Severely Disabled Individuals.—Title XIX of such Act is amended by adding at the end thereof the following new section:

"MEDICAL ASSISTANCE, HABILITATION, AND REHABILITATION FOR SEVERELY DISABLED INDIVIDUALS

"Sec. 1919. (a) Community and Family Support Services.—

"(1) Payment authorized.--For purposes of section 1903, amounts expended by a State under its State plan for community and family support services may be included as medical assistance if such services are provided--

"(A) to a severely disabled individual residing in a family home or in a community living facility. and

"(B) in accordance with an individual written habilitation or rehabilitation plan."
"(2) Services included.--The following types of services may be included as community and family support services:

"(A) case management services (as defined in section 1905(t)).

"(B) Individual and family support services (as defined in section 1905(u)).

"(C) protective intervention services.

"(D) periodic interdisciplinary diagnostic and assessment services*

"(E) Personal assistance and attendant care.

"(F) Domestic assistance necessitated by the individual's disability*

"(G) Services to enable the Individual to improve or maintain functional capacities.

"(H) Prosthesis, assistive devices, supplies, appliances, and communicative aids and devices.

"(I) preventive and therapeutic dental services.

"(J) Adaptation of equipment and vehicles, and of housing or other space, to be used by a severely disabled individual*

"(K) comprehensive outpatient rehabilitation facility services.

"(L) Adult day programs.

"(M) purchase and maintenance of guide dogs and
similar trained animals.

(W) Services (other than board, lodging, and basic foster care) provided to any severely disabled individual by members of a family or household in which such Individual is living.

(o) support services to families and care givers, including specialized training and respite care in or out of the home or usual residence.

(P) Special transportation services.

(Q) home-maker and home health services.

(R) Chore services.

(S) Crisis intervention.

(T) Personal guidance, supervision, counseling, representation* and advocacy.

(U) specialized vocational services which will enhance the Independence, productivity, and community integration of a severely disabled individual, including employment training, support necessary to maintain the employment of such individual, and other training and therapeutic activities specified in the written plan of habilitation or rehabilitation developed with respect to such Individual and for which the Individual is not eligible under the Rehabilitation Act.
"(V) Appropriate preventive services to decrease the needs of severely disabled individuals for future services.

"(w) Any other services identified by the state and approved by the Secretary as conforming with the purposes of this section.

"(3) Services excluded.—The following services may not be included as community and family support services;

"(A) Room and board, other than room and board provided for less than six consecutive weeks and less than twelve weeks in a year as an integral but subordinate part of * service described in paragraph (1). However, auxiliary payments may be made as medical assistance to cover extraordinary costs of food or housing attributable to the disabling condition of a particular individual or individuals.

"(B) Any service for which payment is made under section 403 or 422 of this Act.

"(C) Cash payments as a service.

"(D) Any service to any individual to the extent that the provider of the service or the individual receiving the service is eligible to receive payment under title xviii with respect to the provider of the service.

"(E) Any educational service which the State
mates generally available to its residents without
cost and without regard to their income.

"(f) Any service to any severely disabled
individual living in any hospital, skilled nursing
facility, or intermediate care facility (including
any such hospital or facility for mental diseases).

"(4) Administrative costs.--Amounts expended by the
State or by a provider of services to administer the
provision of community and family support services
pursuant to this section shall be treated as
administrative costs of the state plan.

:(b) Services Are In Addition to Other Medical
Assistance.--Community and family support services provided
pursuant to this section shall be in addition to any other
medical assistance for which a severely disabled individual
is otherwise eligible under the State plan.

"(c) State Requirements.--In order to receive payment
after September 39, 1938, under section 1903 with respect to
any community or family support services provided under the
state plan to any eligible severely disabled individual, a
State agency administering or supervising the administration
of a state plan under this title shall--

"(1) enter into a community and family living
implementation agreement with the secretary in accordance
with subsection (d);
"(2) report to the secretary on the implementation of such agreement in such form and with such frequency as the Secretary may prescribe (which shall be not less than one nor more than four times each fiscal year);

"(3) make a copy of such agreement and reports available for public inspection during normal business hours at readily accessible locations in the State;

"(4) provide for review by an independent auditor each fiscal year in accordance with generally accepted auditing standards) of care and services provided to severely disabled individuals in such State under such plan during such year in order to ensure compliance by the State with the provisions of such plan and with the community and Family living amendments of 1985) end

"(5) submit a copy of any such audit to the Governor of the State, the legislature of the State, and the secretary not later than 120 days after the close of the fiscal year to which such audit pertains.

"(d) community and Family living Implementation Agreement.--The community and family living implementation agreement required under subsection (c)(1) must include the following provisions:

"(1) Community or family support services.—the agreement must include provisions to assure that --

"(A) community living facilities are not unduly
concentrated in any residential area (but may allow for cluster homes),

"(B) every individual on the staff of a community living facility who is involved in providing services to severely disabled individuals for which any payment is made under this title has received or will receive adequate and continuing training or retraining in the provision of services to such individuals;

"(C) training will be made available to natural, adoptive, and foster parents of severely disabled persons eligible for medical assistance;

"(D) case management services and, as necessary, individual and family support services, are available to any severely disabled individual eligible to receive services under this title,

"(E) protective intervention services are available, as necessary, to any severely disabled individual who is, or would except for his income or resources be, eligible to receive services under this title

"(F) any severely disabled individual for whom a public agency <or an agency under contract to a public agency) arranges placement will have an opportunity to reside in a family home or community
living facility that is located as close to the home of the natural, adoptive, or foster family of such individual as is consistent with the best interests of such individual;

"(g) each community living facility or family home is accredited by an appropriate rational accrediting body or is licensed or certified by an appropriate state agency)

"(H) periodic independent Monitoring or reviews are conducted of the Quality of services provided to severely disabled individuals residing in family homes or community living facilities;

"(I) procedures are established for granting an opportunity for a timely appeal and a speedy hearing before an impartial hearing officer—

"(1) to any individual who believes himself to be inappropriately placed or who is denied an appropriate placement or service, or who is being scheduled for transfer (other than under the provisions of paragraph (2)(D) of this subsection and other than on his own initiative) from one living arrangement (including his own home) to another* or

"(11) as appropriate, to his spouse, parent, guardian, appropriate family member, or advocate
acting on his behalf,

and for giving written notice to affected parties at
least 30 days before such proposed transfer except in
an emergency

"(J) the availability (including volume and
distribution) of care and services of high quality to
persons with severe disabilities who are or could be
living in a family home or community living facility
is adequate to meet changing needs;

"(K) the availability of suitable domestic
arrangements and services is adequate (whether
supplied directly or by incentives to the private
sector) to enable severely disabled Individuals who
are eligible for supplemental security income
Benefits under title xvi to live in family homes or
community living facilities; and

"(L) suitable state supplementary payments, as
authorized under sections 1616 and 1618, or other
assistance in cash or in kind to or on behalf of such
individuals, based on their need for shelter and
maintenance, is made available.

"(3) Severely disabled individuals living In
residential facilities which are not family homes or
community living facilities*—The agreement must Include
provisions with respect to severely disabled Individuals
who are living in residential facilities which are not
fatally homes or community living facilities which assure
that—

"(A) admissions to such residential facilities
will be restricted through the use of community-based
services

"(B) within one year after October 1, 1988, and
annually thereafter, individuals eligible* for medical
assistance who are living in skilled nursing
facilities, intermediate care facilities, board and
care facilities, or other public or private
facilities, having 16 or more beds and in which a
significant number of recipients of supplemental
security income benefits are likely to reside, will
be identified, and the needs of such individuals will
be assessed, including a description of the types of
medical assistance and other services that such
individual will require when transferred to a family
home or community living facility;

"(c) the number of individuals who are at any
one time identified in subparagraph (B) will be
reduced progressively over a period of ten years,
such reductions to take place according to a plan to
be set forth in the agreement;

"(D) prior to transfer of any severely disabled
individual residing at any time during the period of
the agreement in a skilled nursing facility, an
intermediate care facility* or a board and care
facility, to a family home or community living
faculty located in such State, a community services
transfer plan will be developed through a process
which—

"(i) identifies the specific community and
family support services, as well as other
services, that such individual will require and
will have available when such individual is
transferred to a community living facility or
family home:

"(ii) involves the Interdisciplinary team
(or other professional group) responsible for the
Individual treatment plan or written plan of care
or habilitation or rehabilitation with respect to
such individual while residing in the facility
from which transfer is to Be Made, and the case
manager and other appropriate professional
personnel who are lively to be involved in
providing services to the individual in the
community and

"(iii) provides to the individual arm as
appropriate to his spouse, parent, guardian.
appropriate family member, or advocate, an opportunity to participate in developing the community services transfer plant

"(E) any severely disabled individual described in subparagraph (D), and his spouse, parent, guardian, appropriate family member, or advocate, are notified in writing at least 60 days before the date of any proposed transfer of such individual to a family home or community living facility;

"(F) procedures are established for granting to a severely disabled individual described in sub paragraph (P) or, as appropriate, to Ms spouse, parent, guardian, appropriate family member, or advocate, an opportunity for an appeal regarding the transfer plan developed under subparagraph,(D) with respect to such individual, and for a fair hearing before an impartial hearing officer designated by the State, on the grounds that—

"(i) the types of health related services, habilitation, rehabilitation, housing, or ether services specified In the community services transfer plan developed with respect to such individual are inappropriate or inadequate: or

"(ii) a particular type of health related service, habilitation, rehabilitation, housing.
or other service specified in such plan is not yet available in the area in which such individual will reside:

"(G) alternate provisions will be made for appropriate care (including basic maintenance if needed) and services for any severely disabled individual eligible for medical assistance who has been living in a facility or institution which has been receiving payments for care, treatment, or maintenance of such individual under this title and which ceases to receive such payments, or ceases to provide such care and services to such individual, other than at the request of the individual or his representative;

"(H) not later than October 1, 1988, any public or private institution (other than a correctional institution) receiving any state or Federal funds (under this title or any other provision of law), which is not a family home or community living facility and which adults severely disabled Individuals as in-patients or residents, will be either accredited by an appropriate national accrediting body or certified as a skilled nursing facility or intermediate care facility under this title!
"(I) the State will cooperate in any on-site sample surveys and validation procedures which may be conducted by the secretary under section 1903(g)(2) and which may, at the discretion of the Secretary, include--

"(1) Inspection of individual records with special reference to compliance with the community and family living amendments of 1905, and

"(ii) interviews with residents and with their relatives or guardians and with staff and State officials.

"(3) objectives of agreement.--The agreement trust include descriptions of the methods to be used to achieve the following objectives:

"(A) To advise severely disabled individuals or families or other advocates, individually and collectively, of the alternative arrangements and services available to them, of their right to freedom of choice of provider under section 1902(a)(23), and of their right to a fair hearing under section 1902(a)(3) and this section.

"(B) To assure fair and equitable provisions as determined by the secretary in consultation with the secretary of Labor) to protect the interests of
public employees who will be affected by the transfer
of severely disabled Individuals from public
institutions, including public medical institutions,
to community or family living facilities under the
agreements and that maximum efforts will be made to
provide for the employment of such employees,
including arrangements designed to preserve employee
rights and benefits and arrangements to provide
(where necessary) for the training or retraining of
such employees.

"(C) To assure application of fair employment
standards and equitable compensation to workers in
private programs and facilities offering care and
services for which payments are made under this
title.

"(D) To assure timely submission of any
demographic, fiscal, or other reports by the State as
requires by the secretary, relating to community or
institutional services to severely disabled
individuals, including, if requested, copies of any
surveys or plans of correction for major modification
by any intermediate care facility for the Mentally
retarded or persons with related disorders, or other
intermediate care facility or skilled nursing
facility within the State.
"(4) State maintenance of effort.—The State implementation agreement must provide that --

"(A) any services which were provided by the state for severely disabled individuals during fiscal year 1986 at State expense (without reimbursement in whole or in part by the federal government under this title or otherwise), must continue to be provided by the state, at State expense (and without reimbursement under this title), in the same amount, duration, and scope for all fiscal years thereafter; and

"(B) any facility or other provider of such services must meet all requirements of this title relating to a facility or other provider of the same type (as determined by the secretary).

"(e) Audit.—The secretary may provide for an independent audit of Medical assistance provided under any State plan in order to ensure the compliance of such plan with the provisions of this section and the Community and Family living Amendments of 1905. Such audit shall be conducted in accordance with generally accepted auditing standards.

"(f) noncompliance.—If, on the basis of an audit conducted in accordance with subsection (e), and after affording the State agency notice and an opportunity to
comment, the secretary finds that any amount paid to a State under section 1903 with respect to medical assistance for severely disabled Individuals has been expended under such plan in a manner that does not comply with the provisions of this section or of the Community and family Living Amendments of 1985, the Secretary may treat such amount as an overpayment to such State under section 1903(d)(5).

"(g) Review by Comptroller General—The Comptroller General of the united states shall, from time to time, review state plans approved by the Secretary pursuant to section 1982 In order to ensure the compliance of such plans with the provisions of this section And the Community and Family Living Amendments of 1985.

"(h) waiver of statewide Requirement.—For any 2-year period, a State may provide any new service under this section without regard to the statewide requirement of section 1902(a)(1).

(d) intermediate Care Facility services in an Institution for the Mentally Retarded.—section 1905(d) of the Social security Act is amended—

(1) by striking out "'public'";

(2) by striking out "and" at the end of paragraph (2); and

(3) by striking out paragraph (3) and inserting In Lieu thereof the following:
"(3) the individual needs of each newly admitted individual are ascertained by an Interdisciplinary team within 30 days, and an individual written habilitation or rehabilitation plan is developed for the individual, including an assessment of his needs for community and family support services*

"(4) the state has in effect (not later than October 1, 1988) and is implementing an implementation agreement with the Secretary for progressive reduction in the number of severely disabled individuals living in facilities which do not meet the site and location criteria for community living facilities, and

"(5) the institution, if not operated by the State, has a written agreement with an appropriate states agency to cooperate in the implementation of the agreement between the State and the secretary.**.

(e) Conforming amendments.—

(1) Section 1903(a)(2) of the Social Security Act Is amended—

(A) by inserting after "professional medical personnel" the following "or personnel skilled in the delivery of community and family support services needed by severely disabled individuals"! and

(B) by inserting after "other public agency" the following "or any agency under contract to the
State to provide services under section 1919".

(2) Section 1915(f) of the Social security Act is amended by inserting **or implementation agreement" after "plan amendment'".

LIMITATION ON PAYMENTS FOR SERVICES PROVIDED IN LARGE FACILITIES

Sec. 4. Section 1903 of the Social Security Act is amended by adding at the end thereof the following new subsection

"(s) Limitation on Payments for Services Provided in Large Facilities.--

"(1) General rule.--

"(A) Effective for quarters beginning on or after October 1, 2000, the aggregate amount payable under this title to any state for any quarter for skilled nursing facility services and intermediate care facility services furnished to severely disabled individuals under 55 years of age in facilities having more than 15 beds, shall not exceed an amount equal to 15 percent of the greater of--

"(1) 25 percent of the amount paid under this title to such state for any fiscal year (selected by the State) ending prior to October 1, 1985, for intermediate care facility services provided in an intermediate care facility for the
mentally retarded (described in section 1905(d)),

or

"(ii) the aggregate amount paid under this
title to such state for the quarter ending on
December 31, 1989, for skilled nursing facility
services and intermediate care facility services
furnished to severely disabled individuals (as
defined in section 1905(o)) under 65 years of age
in facilities having more than 15 beds,
increased or decreased in accordance with
subparagraph (B).

"(B) The limitation amount for a State
determined under sub paragraph (A) shall be Increased
or decreased by the percentage increase or decrease
in the consumer Price Index (used for purposes of
section.215 of this act) fro* the fiscal year .
applicable under clause (1) of subparagraph (K), or
from fiscal year 1989 in the case of clause (ii) of
sub paragraph (A); to the fiscal year to which the
limitation is being applied*

''(C) For purposes of applying this subsection,
aggregate amounts paid under this title shall be
determined without adjustments for amounts recovered
from third parties Considered as overpayments.
"(2) Exemptions from limitation,--The limitation on
payments in paragraph (l) shall not apply to the following payments for skilled nursing facility services or intermediate care facility services provided in a facility which unconditionally meets all requirements applicable to such type of facility (Including appropriateness of Admissions);

"(A) payments for such services for individuals in a facility which meets the size and location requirements for a community living facility,

"(B) Payments for such services for individuals in a facility which was in operation on September 30, 1985, has not increased the number of beds since September 30, 1985, and has no more than 15 beds exclusive of accommodations for staff).

"(c) Payments for such services for individuals in a cluster home.

"(D) payments for such services for any individual, if the facility furnishes services which--

"(i) are necessary for the achievement of one or More significant developmental or therapeutic objectives with respect to such individual, and

"(ii) are not available in a family home or community living facility in such State;
but only to the extent that the amount of time in which such individual will reside in such facility was projected by the interdisciplinary team which develops such individual's written habilitation or rehabilitation plan at the time of admission), when combined with the amount of time in which such Individual resided in any skilled nursing facility or intermediate care facility after September 30, 2000, does not exceed two years.''.

REDUCTION IN FEDERAL MATCHING FOR SERVICES PROVIDED IN LARGE FACILITIES

Sec. 5. Section 1903 of the Social Security Act as amended by section 4 of this Act) is amended by adding at the end thereof the following new subsection;

"(t) Reduction in Federal Matching for services Provided in large facilities.—

"(1) General rule.--Effective for quarters beginning on or after October 1, 1988, the federal medical assistance percentage shall be reduced for skilled nursing facility services and intermediate care facility services, furnished to any severely disabled individual under 65 years of age.

"(2) Amount of reduction.--The reduction in the Federal medical assistance percentage under paragraph (1) shall be--
"(A) In the case of a State having in effect a community and family living implementation agreement under section 1919(d), one percent of the federal medical assistance percentage which would otherwise apply but for this subsection, for each quarter which has elapsed after September 30, 1988, and before October 1, 1998; and

"(B) in the case of a State not having such an agreement in effect—

"(i) two percent of the Federal Medical assistance percentage which would otherwise apply but for this subsection, for each quarter which has elapsed after September 30, 1988, and before October 1, 1993, plus

"(ii) one percent of the federal medical assistance which would otherwise apply but for this subsection, for each quarter which has elapsed after September 30, 1993, and before October 1, 1999.

"(3) Exemptions from reduction.--The reduction under paragraph (1) shall not apply to services furnished in any facility described in subsection is) (2).

PROTECTION OF RIGHTS OF SEVERELY DISABLED INDIVIDUALS
Sec. 6. Section 1919 of the Social Security Act (added by section 3 of this Act) Is amended by adding at the end
thereof the following new subsection;

'(i) protection of Rights

'(1) common of payment.—In order to receive any payments pursuant to subsection (a)(1), the State must have in effect a system to protect and advocate these rights of severely disabled individuals eligible for Medical assistance which relate to the provision of such assistance.

'(2) Agency.—Such system Must be implemented by an agency which—

'(A) is independent of any agency which provides services to severely disabled individuals under the State plan;

'(B) has the authority to pursue legal administrative, and other appropriate remedies to insure the protection of the rights of severely disabled Individuals eligible for medical assistance: and

'(C) has the authority to obtain access to records of severely disabled individuals eligible for medical assistance In order to carry out such agency's duties under this subsection.''

PRIVATE ENFORCEMENT

Sec. 7. Section 1919 of the Social Security Act (as amended by section 6 of this Act) is further amended by
adding at the end thereof the following new subsection:

"(j) Private Enforcement.—

"(1) In general.--(A) Except as provided in paragraph (3), any person injured or adversely affected or aggrieved by a violation of this section, or of the community and family Living amendments of 1985, by a state Agency administering the state plan may bring an action to enjoin such violation.

"(B) An action Brought under this paragraph shall be brought in the appropriate district court of the United states within the state in which such State plan is in operation.

"(C) The party bringing such action may elect, by so stating in the complaint filed at the commencement of such action, to recover reasonable attorney's fees and costs from the defendant in the Event that such party prevails.

"(2) Notice.--not less than 15 days before commencing an action under this subsection, an interested party shall Give notice by registered mail to the Secretary, the Attorney General of the United States, and the State agency administering the State plan alleged to be in violation of this section or of the Community and Family Living Amendments of 1985. Such notice shall state the nature of the alleged violation and the court In
which such action will be brought.

"(3) Approval of State plan shall not constitute a defense.— The approval of the State plan under section 1902(b) shall not be a bar to the bringing of an action under this subsection, nor shall it constitute a defense to any such action.**.

RATES OF PAYMENT FOR SERVICES

sec. 8. Section 1902(a)(13) of the Social Security Act is amended by striking out "and" at the end of sub paragraph (B), by adding "and" at the end of sub paragraph (C), and by adding at the and thereof the following new sub paragraph:

"(D) for payment for community and family support services for severely disabled individuals, described in section 1919 and provided under the plan, through the use of rates (determined in accordance with methods and standards developed by the state) which the state finds, and makes assurances satisfactory to the secretary, are reasonable and adequate to assure the provision of care and service in conformity with applicable State and Federal laws and peculations, and applicable quality and safety standards, and to assure that severely disabled individuals eligible for medical assistance have reasonable access (taxing Into account geographic location and reasonable travel time
for family and friends) to community and family support services of adequate quality;

MEDICAID ELIGIBILITY OF CERTAIN SEVERELY DISABLED INDIVIDUALS

Sec. 9. (a) Optional Eligibility --Section 1902 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(k) Eligibility of certain Severely Disabled Individuals,--notwithstanding any other provision of this title, a State may, at its option, provide for making payment for community and family support services, or any other service included in the state plan as medical assistance, to any severely disabled individual who expends (or is a member of a family which expends) at least 5 percent of the adjusted gross income was defined in section 62 of the Internal Revenue code of 1954) Of such individual or family, as the case may be, for necessary Medical care (as defined in section 213 of the internal Revenue Code) and for community and family support services described in section 1919 provided to such Individual. A State electing this option shall set forth in its State plan and its implementation agreement the criteria which the state will use in identifying individuals or reasonable classifications of such individuals, and the extent of the services for which payment may be authorized under this subsection.".

(b) Exemption From Family Income Limitation.--Section
1903(f)(4) of such Act is amended—

(1) by adding " or " at the end of sub paragraph (C), and

(2) by inserting after sub paragraph (C) the following new sub paragraph;

"(D) who meets the requirements of section 1902(k),

(c) uniform Income Standard, and Expanded Eligibility.—

section 1902(a)(18)(A)(11) of the Social Security Act is amended—

(1) by striking out "or" at the end of sub clause (V) and inserting In lieu thereof* "Provided however' That if the state establishes such a separate income standard for individuals who are in any medical institution, the state must establish the same separate income standard for all severely disabled individuals,

(2) by striking out the semicolon at the end of sub clause (VI) and inserting in lieu thereof "or";

and

(3) by adding at the end thereof the following:

"(VII) who are disabled children or disabled spouses who, except for resources deemed to them, would be eligible for supplementary security income benefits under title XVI;
(d) Eligibility of Disabled Child.--Section 1902(e) of the Social Security Act is amended by inserting at the end thereof the following new paragraph;

"(5) Whenever an individual is receiving benefits under title II as an adult disabled child was provided in section 202(d)(1)(E)(11)), and but for those benefits would be eligible for supplemental security income benefits under a title XVI or for a State supplementary payment, such individual shall be deemed, for purposes of this title only, to be receiving supplemental security income benefits, or a State supplementary payment, respectively.''.

RESPONSIBILITIES OF THE SECRETARY

Sec. 1B. (a) Assessment.--Beginning with fiscal year 1907, the Secretary of Health and Human services, after consultation with the Secretary of Education, shall assess the status of disabled Individuals in each state who are receiving or are entitled to receive services under any title of the Social Security Act, and shall report to the Congress not less often than every two years concerning the progress each State is making toward achieving the national goal of access to community based services and appropriate living arrangements for all such individuals. The secretary shall make a comprehensive study, including evaluations of the impact of changes in Federal law on communities and on public and private entities. Such report shall Include both fiscal
and demographic data, together with any recommendations for changes in Federal legislation. The secretary shall submit a comprehensive report to the Congress not later than January 15, 1997.

(b) Regulations.—Within 12 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall issue a notice of proposed rule making with respect to all amendments to the Social Security Act made by this Act, and after allowing not less than 60 days for public comment, shall issue final regulations not later than 18 months after such date of enactment. Such regulations shall provide for the receipt and preliminary review by the Secretary of implementation agreements proposed by any state beginning not later than June 30, 1987.

EFFECTIVE DATE

Sec. 11. Except as otherwise provided, the amendments Made by this Act shall apply in fiscal years beginning on or after October 1, 1986.