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 individuals with a severe disability in attaining or maintaining their maximum potential for independence and capacity to participate in community and family life, and for other purposes.

1 Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

2 SECTION 1. SHORT TITLE.

3 This Act may be cited as the "Medicaid Home and

4 Community Quality Services Act of 1987 ".

SEC 2. DEFINITIONS,

Section 1905 of the Social Security Act is amended
by adding at the end thereof the following new subsections;

"(r) INDIVIDUAL WITH A SEVERE DISABILITY,—

"(1) The term 'individual with a severe disabil-

ity means an individual who is under a disability

within the meaning of section 1614(a)(3) of this Act,

the onset of which occurred before the individual at-

tained the age that applies with respect to a fiscal

year (as determined under paragraph (2)).

"(2) For purposes of paragraph (1), the age that

applies with respect to a fiscal year is the lesser of—

"(A) 22 plus the number of fiscal years

after fiscal year 1986 and before the beginning

of such fiscal year; and

"(B) 50 "

(s) COMMUNITY AND FAMILY SUPPORT SERVICES.—

The term 'community and family support services' means

supportive services made available to an individual with a

severe disability (or to his natural, adoptive, or foster

family or spouse) to enable such individual to begin,

resume, or continue living in a family home, foster family

home, or community living facility. Such supportive serv-

ices shall include both in-home and out—or home services
(as needed) from among those enumerated in section 1921(a)(2).

"(t) FAMILY HOME.—The term 'family home' means a residence maintained by an individual (whether or not disabled) or a couple, or by a natural or adoptive family, in which one or more individuals with a severe disability are living who receive medical assistance which includes payment for some services enumerated in section 1921(a)(2).

"(u) FOSTER FAMILY HOME.—The term 'foster family home' means a residence maintained by an individual or couple—

"(1) in which not more than five individuals with a severe disability are living, are provided surrogate family services, and receive medical assistance which includes payment for one or more services enumerated in section 1921(a)(2); and

"(2) that is under contract with an agency licensed or designated to place individuals with a severe disability in such residence.

"(v) COMMUNITY LIVING FACILITY.—

"(1) The term 'community living facility' means a single household, other than a family home or foster family home, composed of related or unrelated persons, which—
"(A) provides living arrangements and one or more of the care and services enumerated in section 1921(a)(2) to one or more individuals with a severe disability;

"(B) 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—

"(i) 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 1980 decennial census), or

"(ii) 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);

"(C) is located in a neighborhood which—

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

"(ii) is populated primarily by individuals other than individuals with a severe disability;
"(D) meets such standards of safety and sanitation, and other standards relating to services provided by the facility, as are promulgated by the State;

"(E) meets the requirements of section 1861(j)(14) of this Act with respect to the personal funds of individuals residing in such facility; and

"(F) is staffed by individuals who (i) are trained or retrained in accordance with the provisions of the State implementation strategy (submitted to the Secretary under section 1921(c)(5)) by the State in which such facility is located, and (ii) in providing such living arrangements, care, or service to individuals with a severe disability, cooperate with other providers and with appropriate case managers in implementing a written habilitation plan for each such individual.

"(2) A facility that-

"(A) is in operation on September 30, 1987.

"(B) does not increase its number of beds after such date (exclusive of beds occupied by staff members);
"(C) does not contain more than eight beds (exclusive of beds occupied by staff members):

"(D) consists of a cluster of two or three facilities in proximity to one another, each of which meets the requirements of paragraph (1) (except for sub paragraph (C) of such paragraph);

shall be treated as a community living facility.

"(w) WRITTEN HABILITATION PLAN.—The term 'written habilitation plan' means a plan for medical assistance and other services for an individual with a severe disability which—

"(1) is developed by an interdisciplinary team consisting of—

"(A) individuals who are representative of professional and other disciplines which are relevant to the habilitation 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 (including the professionals responsible for providing case management services and case coordination services to the individual),
"(B) such individual, persons requested to participate by the individual, and, when appro-
prate, the spouse, parent, guardian, other family member, or advocate of such individual;
"(2) is based upon a comprehensive assessment of the service needs of the individual designed to—
"(A) enable such individual to attain or retain to the greatest extent possible capabilities for independence of self-care,
"(B) promote and increase interaction be tween disabled and non-disabled individuals within the community, and
"(C) in the case of any such individual who has attained the age of 18 and who is not engaged in competitive or supported employ-
ment, assess the individual's capability of en-gaging in supported employment or other work in integrated employment environments;
(3) specifies—
"(A) the particular objectives to be achieved with respect to an individual described in behavioral terms that provide measurable in-
dices of performance,
"(B) the dates by which the particular ob jectives are to be achieved,
"(C) the program strategies for achieving
the specific objectives, and

"(D) the priority with which the specific
objectives are to be achieved; and

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

"(x) CASE MANAGEMENT SERVICES.—The term 'case
management services' means, with respect to any individ-
ual with a severe disability, services rendered to such indi-
vidual by a designated qualified professional who—

(1) has a continuing relationship with such in-
dividual but who is not associated with the commu-
nity living facility, foster family home, family home,
or any other provider of ongoing direct services to
such individual;

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

"(3) provides such individual (or his spouse,
parent, guardian, other family member, or advocate,
as appropriate) with information about, and referral
to, appropriate social, educational, vocational, medi-
cal, advocacy, or other services which are among or
in addition to those for which payment may be made
under this title;
"(4) provides assistance and serves as an advocate 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.

"(y) INDIVIDUAL AND FAMILY SUPPORT SERVICES.—The term individual and family support services means—

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

"(2) services provided to the family of an individual with a severe disability which the individual's interdisciplinary team determines are appropriate for assisting the family in providing services described in paragraph (1) to the individual, including respite care.

"(z) SPECIALIZED VOCATIONAL SERVICES.—

"(1) The term 'specialized vocational services' means services designed to enhance the independence, productivity, and integration of an individual with a severe disability, including—

"(A) prevocational services for such an individual whose earning capacity (as determined on the basis of a current vocational assessment or other objective measure of work performance) is less than 50 percent of the minimum wage established under section 6(a) of the Fair Labor Standards Act of 1938; and

"(B) supported employment services for such an individual for whom competitive employment—

"(i) has not traditionally occurred, or
'(ii) has been interrupted or intermittent as a result of such disability (and for whom ongoing support services are needed to perform such employment),

'(2) For purposes of paragraph (1)—

'(A) the term prevocational services' means services that are designed to assist an individual in acquiring and maintaining basic work and work-related skills necessary to acquire and retain work in an integrated work setting, which services may include—

'(i) training the individual to follow directions, adapt to work routines, and carry out assigned duties in an effective and efficient manner,

'(ii) helping the individual to acquire appropriate attitudes and work habits, including instruction in socially-appropriate behaviors on and off the job site,

'(iii) assisting the individual to adjust to the productive and social demands of the work place,

'(iv) familiarizing the individual with job production and performance requirements,
"(v) providing transportation between the individual's place of residence and the workplace when other forms of transportation are unavailable or inaccessible,

"(vi) providing mobility training, including the utilization of public and paratransit systems,

"(vii) training the individual in the use of assistive devices and aids, and

"(viii) instructing individuals in appropriate use of job-related facilities (e.g., break areas, lunch rooms, cafeterias and rest rooms); and

"(B) the term 'supported employment services' means services designed to assist an individual in procuring and maintaining employment, which services may include—

"(i) individuated assessment,

"(ii) individualized and group counseling,

"(iii) individualized job development and placement services that produce an appropriate job match for the individual and such individual's employer,
"(iv) on the job training in work and work-related skills required to perform the job.

"(v) ongoing supervision and monitoring of the individual's performance on the job.

"(vi) ongoing support services necessary to assure job retention,

"(vii) training in related skills essential to obtaining and retaining employment, such as the effective use of community resources and transportation,

"(viii) transportation between the individual's place of residence and the work place when other forms of transportation are unavailable or inaccessible, and

"(ix) adaptive equipment necessary to obtain and retain employment,

"(aa) HABILITATION SERVICES.—

"(1) The term 'habilitation services' means those services provided to an individual with a severe disability (other than those specified in paragraph (2)) which the individual's interdisciplinary team (described in subsection (w)(1)) determines are appropriate in assisting the individual to acquire,
retain, regain, or improve the self-help, socialization, and adaptive skills necessary to reside successfully in home and community based settings.

"(2) The services specified in this paragraph are--

"(i) specialized vocational services (as defined in subsection (z)) and educationally-related services (as defined in subsection (cc));

"(ii) special education services (as defined in section 602(16) of the Education of the Handicapped Act) which otherwise are available to the individual through a local educational agency;

"(iii) vocational rehabilitation services which otherwise are provided to the individual through a program funded under section 110 or 633 of the Rehabilitation Act of 1973.

"(bb) CASE COORDINATION SERVICES.—The term case coordination services' means, with respect to any individual with a severe disability, services rendered to such individual by a designated qualified professional who—

"(1) is employed by an agency directly responsible for providing habilitation services to such individual; and
"(2) in cooperation with the professional responsible for providing case management services, is responsible for coordinating the agency's responsibilities for implementing such individual's written habilitation plan.

"(cc) EDUCATIONALLY-RELATED SERVICES.—The term educationally-related services' means, with respect to an individual with a severe disability who is eligible to receive services under parts B and H of the Education of the Handicapped Act, those services required by such individual in order to receive a free appropriate public education (as defined in section 602(18) of such Act).

"(dd) INDEPENDENCE, PRODUCTIVITY, AND INTEGRATION.—The terms 'independence,' 'productivity,' and 'integration' when used in reference to the provision of community and family support services under this title have the same meaning with respect to individuals with a severe disability as the meaning given to such terms with respect to persons with developmental disabilities in section 102 of Developmental Disabilities Assistance and Bill of Rights Act.

SEC. 3. COMMUNITY AND FAMILY SUPPORT SERVICES FOR CERTAIN INDIVIDUALS WITH A SEVERE DISABILITY.

(a) STATE PLAN REQUIREMENT.—Section 1902(a) of the Social Security Act is amended—
(1) by striking "and" at the end of paragraph (46);

(2) by striking the period at the end of paragraph (47) added by section 9407(a) of the Omnibus Budget Reconciliation Act of 1986 and inserting a semicolon and transferring and inserting such paragraph after paragraph (46);

(3) by striking the period at the end of the paragraph (47) added by section 11005(b) of the Anti-Drug Abuse Act of 1986 and inserting "; and", by re-designating such paragraph as paragraph (48), and by transferring and inserting such paragraph after paragraph (47); and

(4) by inserting after paragraph (48) the following new paragraph:

"(49) effective not later than the first day of the second fiscal year beginning after the date of enactment of the Medicaid Home and Community Quality Services Act of 1987, that with respect to any individual with a severe disability who is entitled to medical assistance under such plan and who resides in a family home, foster 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, specialized vocational 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 individuals with a severe disability".

(c) SERVICES FOR INDIVIDUALS WITH A SEVERE DISABILITY,—Title XIX of such Act is amended—

(1) by re-designating section 1921 as section 1922; and

(2) by inserting after section 1920 the following new section:

"MEDICAL ASSISTANCE, HABILITATION, AND REHABILITATION FOR INDIVIDUALS WITH A SEVERE DISABILITY

"SEC. 1921, (a) COMMUNITY AND FAMILY SUPPORT SERVICES.—

"(1) 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 an individual with a severe disability residing in a family home, foster family home, or community living facility, and
"(B) in accordance with the individual's written habilitation plan.

"(2) The following types of services may be included as community and family support services:

"(A) Case management services (as defined in section 1905(x)),
"(B) Individual and family support services (as defined in section 1905(y)).
"(C) Specialized vocational services (as defined in section 1905(z)).
"(D) Protective intervention.
"(E) Habilitation services (as defined in section 19G5(aa)).
"(F) Case coordination services (as defined in section 1905(bb)).
"(G) Educationally-related services (as defined in section 1905(cc)).
"(H) Periodic interdisciplinary diagnostic and assessment services.
"(I) Personal assistance and attendant care.
"(J) Domestic assistance necessitated by the individual's disability-
"(K) Services to enable the individual to improve or maintain functional capacities (including physical therapy, occupational therapy, speech therapy and audiology, respiratory therapy, and non-averse behavior intervention therapy)"

"(L) Prostheses, assistive devices, supplies, appliances, and communicative aids and devices.

"(M) Preventive and therapeutic dental services,

"(N) Adaptation of equipment and vehicles, and of housing or other space, to be used by an individual with a severe disability,

"(O) Comprehensive outpatient rehabilitation facility services.

"(P) Purchase and maintenance of guide dogs and similar trained animals.

"(Q) Services (other than board, lodging, and basic foster care) provided to any individual with a severe disability by members of a family or household in which such individual is living.

"(R) Support services to families and caregivers, including specialized training and respite care in or out of the home or usual residence.
"(S) Special transportation services.

"(T) Homemaker and home health services.

"(U) Chore services.

"(V) Crisis intervention.

"(W) Personal guidance, supervision, counseling, representation, and advocacy.

"(X) Appropriate preventive services to decrease the needs of individuals with a severe disability for future services.

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

"(3) 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 a service described in paragraph (2). 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) Averse behavior intervention, management, or therapies.

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

"(F) Any educational service which the State makes generally available to its residents without cost and without regard to their income except for educationally-related services (as defined in section 1905(cc)).

"(G) Any service to any individual with a severe disability living in any hospital, skilled nursing facility, or intermediate care facility (including any such hospital or facility for mental diseases).

"(4) 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 an individual with a severe disability is otherwise eligible under the State plan.

"(c) State Requirements.—In order to receive payment under section 1903 with respect to community and family support services provided under the State plan to any eligible individual with a severe disability, such plan shall provide that the State—

"(1) ensure that community living facilities are not unduly concentrated in any residential area (except as provided in section 1905(v)(2));

"(2) report to the Secretary on the implementation of the State's implementation strategy (submitted to the Secretary under paragraph (5)) in such form and with such frequency as the Secretary may prescribe and comply with the requests of the Secretary to correct or verify such report;

"(3) cooperate with the Secretary in carrying out his responsibility (under section 11(d) of the Medicaid Home and Community Quality Services Act of 1987) to assess the State's compliance with its State implementation strategy (submitted to the Secretary under paragraph (5)), including making
available to the Secretary such records as the Secretary may reasonably require to assess such compliance;

"(4) promulgate standards governing each element of community and family support services covered under its plan, monitor all providers of such services to assure that such providers comply with applicable standards, and take necessary steps to assure that such standards are promptly and effectively enforced;

"(5) submit to the Secretary a State implementation strategy (as described in subsection (d)) that is annually reviewed and updated (as appropriate);

"(6) meet the maintenance of effort requirement described in subsection (e);

"(7) safeguard the rights of all individuals with a severe disability who are participating in activities for which payment is made under this title;

"(8) ensure that individuals with a severe disability are granted equal access to available community and family support services without regard to their place of residence or the nature or degree of their disability;

"(9) ensure that, to the extent possible, any individual with a severe disability for whom a public
agency (or an agency under contract with a public agency) arranges a residential placement is placed in a foster family home or community living facility that is located as close to the home of the natural, adoptive, or foster family of the individual as is consistent with the best interests of the individual; and "(10) ensure that, to the extent possible, any individual with a severe disability who has attained the age of 18 for whom a public agency (or an agency under contract with a public agency) arranges work or work-related services for which payment is made under this title are provided in an integrated work environment

"(d) STATE IMPLEMENTATION STRATEGY,—The State implementation strategy submitted to the Secretary under subsection (c) (5) shall—

"(1) (A) describe—

"(i) the extent and scope of community and family support services provided to individuals with a severe disability which are financed (in whole or in part) under—

"(I) the State's plan under this title,

"(H) other Federal or Federally-assisted State programs or social entitlement programs, and
"(III) non-Federal sources, and

"(ii) the extent and scope of services provided to individuals with a severe disability who are residing in a facility that is an acute care hospital, a skilled nursing facility, an intermediate care facility (including a facility that is certified in accordance with section 1905(d)), a board and care facility, or other public or private facility having 16 or more beds and in which a significant number of recipients of supplemental security income benefits reside or are likely to reside, which are so financed;

"(B) set forth specific objectives and a projected schedule for expanding and improving community and family support services for individuals with a severe disability over the succeeding five-year period, which objectives shall identify the extent to which such services will be financed under the State's plan under this title and from other funding sources;

"(C) in the case of any individual with a severe disability who is residing in a facility described in sub paragraph (A)(ii), provide that—

"(i) the service needs of such individual and the types of services the individual would
require if transferred to a family home, foster family home, or community living facility, are identified not later than 18 months after the date on which community and family support services are first covered under the State plan (and annually thereafter), and "(ii) such individual and, as appropriate, such individual's spouse, parent, guardian, appropriate family member, or advocate, are afforded an opportunity to participate in the process under clause (i); 

"(D) in the case of any individual with a severe disability who is residing in a skilled nursing facility or an intermediate care facility (other than a facility that is certified in accordance with section 1905(d)) and who is determined (in accordance with sub-paragraph (C)) to be in need of alternative residential placement, provide that (subject to sub paragraph (F)) such individual is transferred from such facility not later than 40 months after the date on which the process described in sub paragraph (C) is completed with respect to such individual; 

"(E) in the case of any individual with a severe disability who is residing in a facility described in sub paragraph (A)(ii) and who is not transferred pur-
suant to subparagraph (D), set forth specific objectives and a projected schedule for transferring such individual over the succeeding five-year period (in accordance with subparagraph (F));

*(F) provide that in transferring any individual with a severe disability from a skilled nursing facility, an intermediate care facility, or a board and care facility to a family home, foster family home, or community living facility—

"(i) such individual is placed only in a facility or program that is capable of providing an appropriate array of community and family support services, and

"(ii) to the extent that an appropriate array of such services cannot be provided in a family home, foster family home, or community living facility deemed to be capable of meeting the individual's needs that is located in the community where the individual would otherwise reside, such individual is temporarily placed in an intermediate care facility that is certified under section 1905(d);

"(G) provide that prior to transfer of any individual with a severe disability from a skilled nursing facility, an intermediate care facility, or a board and care facility,
care facility to a family home, foster family home, or community living facility deemed to be capable of meeting the individual's needs—

"(i) a community services transfer plan is 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 family home, foster family home, or community living facility,

"(II) involves the interdisciplinary team (or other professional group) responsible for the written habilitation plan with respect to such individual while residing in the facility from which transfer is to be made, and the professional responsible for providing case management services and other appropriate professional personnel who are likely to be involved in providing services to the individual in the community, and

"(III) provides to the individual and, as appropriate, to such individual's spouse,
parent, guardian, appropriate family member, or advocate, an opportunity to participate in developing such plan;

"(ii)(I) such individual and his or her spouse, parent, guardian, appropriate family member, or advocate, are notified in writing at least 60 days before the date of any proposed transfer,

"(II) procedures are established for granting to such individual (or, as appropriate, to his spouse, parent, guardian, appropriate family member, or advocate) an opportunity for an appeal regarding the transfer plan developed under clause (i) with respect to the individual, and for a fair hearing before an impartial hearing officer designated by the State, on the grounds that the types of health related services, habilitation,* rehabilitation, housing, or other services specified in the community services transfer plan developed with respect to such individual are inappropriate or inadequate, or 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, and
"(III) if such individual initiates an appeal under sub clause (II), the individual remains in the facility from which such individual is to be transferred pending the outcome of the appeal (unless protective intervention is determined to be necessary with respect to the individual), and if the individual does not initiate such an appeal, the individual is furnished, to the extent possible, community and family support services as if the individual were residing in a family home, foster family home, or community living facility;

"(2) provide that, not later than 18 months after the date on which community and family support services are first covered under the State plan, the State has in place a preadmission screening program (using criteria specified by the Secretary) to prevent the inappropriate placement of individuals with a severe disability in skilled nursing facilities and intermediate care facilities;

"(3) set forth—

"(A) the component parts of a comprehensive, integrated quality assurance system that affords individuals with a severe disability expanded opportunities for independence, produc-
tivity, and integration and which includes stand-
aids to govern the quality of each element of
community and family support services covered
under the State plan, as well as each class of
residential facilities or living arrangements
(except for a family home) in which a signifi-
cant number of individuals with a severe dis-
ability reside, which standards assure that such
services—
"(i) are based on timely assessments
of me individual's needs and are organized
systematically to assure optimal individual
development, independent functioning, pro-
ductivity, and community integration,
"(ii) are furnished in accordance with
the provisions of the individual's written
habilitation plan and reflect the strengths of
the individual and the services necessary to
assist the individual to achieve more inde-
pendent functioning with respect to health
and physical development, receptive and
expressive communication, cognitive learn-
ing, mobility, self-direction, socialization,
leisure time, and vocational activities,
"(iii) are provided in a manner that maximizes opportunities for and fosters the
development of relationships between the individual and other members of the com-
munity (including individuals who are not disabled),

"(iv) are provided in the home or at school, a job site, or other community set-
ting where existing and newly acquired skills can be put to practical use,

"(v) are designed to ensure that (if the individual resides in a community living facility) services, other than residenci-
ally-related services, are provided in set-
tings other than the facility in which the individual resides (unless medically contra-
indicated), and

"(vi) are designed to assist the indi-
vidual to acquire the functional life skills necessary to enhance the capacity of the individual to achieve independent living, to integrate into the community, and to social-
ly interact with individuals who are not disabled;
"(B) the methods and procedures to be used in instituting and maintaining the quality assurance system described in sub paragraph (A), which procedures shall provide for the same opportunity for public input with respect to the standards developed under such system as exists under the State plan amendment process, for review of such standards by the State Planning Council established under section 124 of the Developmental Disabilities Assistance and Bill of Rights Act, and for response to any comments made by such Council with respect to such standards;

"(C)(i) a program for licensing and certifying all facilities and programs that provide community and family support services covered under the State plan, which program, at the option of the State, may include a requirement that a class or classes of facilities or programs are accredited by a national accrediting body that is designated by the Secretary, and

"(ii) a requirement that all physical structures (other than a family home) in which individuals with a severe disability reside, or in which community and family support services
are provided, meet applicable State or local fire, safety, health, and sanitation codes, and have interior and exterior features that are comparable to other residential structures in the surrounding neighborhood;

"(D) a system for conducting an annual independent, third-party evaluation of community and family support services provided under the State plan, which system shall include (at a minimum)—

"(i) an analysis and validation of client-based data,

"(ii) periodic visits to a statistically valid sample of agencies or individuals providing such services,

"(iii) an assessment (conducted with respect to a statistically valid sample of individuals with a severe disability and, where available, through the use of valid and reliable instruments) to determine the extent to which the services contribute to reduced dependency, enhanced opportunities to make choices, the acquisition of positive social behaviors, improved social integration and participation in community
life, increased productivity, consumer satisfaction, the physical comfort of the individual and the attractiveness and appropriateness (in view of the individual's age) of such individual's living environment, and the achievement of the written goals and objectives set forth in the individual's written habilitation plan, and

"(iv) a summary of findings and recommendations with respect to needed changes in State laws and the administrative policies and practices of responsible State and local agencies (and any other provider of such services);

"(E) an annual assessment of consumer satisfaction with community and family support services provided under the State plan;

"(F) a program of periodic assessments of the adequacy of the physical and social environment of residential settings serving individuals with a severe disability conducted by a review body composed of parents, guardians, relatives, or neighbors of an individual with a severe disability (except that no member of the body shall be affiliated with the facility or home being re-
viewed or with any agency responsible for providing funds with respect to such facility or home and in no event may the neighbors of the individual comprise a majority of the body); and

"(G) a systematic methodology for assuring prompt correction of any deficiency identified with respect to the provision of community and family support services under the Slate plan, which methodology shall include—

"(i) a procedure under which the affected entity may appeal a determination that there is such a deficiency,

"(ii) a requirement that any such entity with respect to which a deficiency is identified submit a plan of correction to the appropriate State agency which sets forth a schedule for promptly eliminating the deficiency,

"(iii) a program for providing training and technical assistance to assist such entity in eliminating a deficiency, and

"(iv) a list of penalties with respect to any such entity that fails to promptly correct the deficiency;
"(4)(A) in the case of individuals with a severe disability who are living in residential facilities which are not family homes, foster family homes, community living facilities, provide that—

"(i) admissions to such residential facilities are restricted through the use of community-based services, and

"(ii) the service needs of any such individual are identified in accordance with paragraph (1)(C); and

"(B) provide that alternate provisions are made for appropriate care (including basic maintenance if needed) and services for any individual with a severe disability 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;

"(5)(A) provide that, as part of a plan to afford the public an adequate opportunity to comment on the State's implementation strategy prior to when
such strategy is submitted to the Secretary (or prior
to any annual revision)—

"(i) copies of such strategy are distributed
to individuals, agencies, and organizations in
the State that are interested in the welfare of in-
dividuals with a severe disability,

"(ii) such individuals, agencies, and orga-
nizations are afforded not less than 45 days to
comment on the strategy,

"(iii) public hearings are conducted on the
contents of the strategy (and the date of any
such hearing is published in general circulation
newspapers across the State not. less than 10
days prior to the hearing),

"(iv) the comments of the State Planning
Council established under section 124 of the
Developmental Disabilities Assistance and Bill
of Rights Act are solicited, and

"(v) a summary of the comments received
from the general public and such Council is
prepared, indicating any revisions made as a
result of such comments (or explaining why
such revisions were not made);

"(B) set forth the methods and procedures to be
used to ensure that, with respect to every organiza-
tion or agency responsible for providing services to
individuals with a severe disability for which any
payment is made under this title—
"(i) each member of the staff of such or-
ganization or agency is fully qualified to per-
form any assigned duty and has received or will
receive adequate and continuing training or re-
training in the provision of services to such in-
dividuals sufficient to allow such member to
remain informed of the latest developments in
serving such individuals and to correct any defi-
ciencies in the provision of community and
family support services under this section,
"(ii) such agency or organization maintains
written personnel policies, and
"(iii) such agency or organization has
access to needed technical assistance services;
"(C) set forth the methods and procedures to
ensure that any entity responsible for providing pro-
tective intervention services to an individual with a
severe disability—
"(i) has daily, 24-hour access to every or-
ganization or agency responsible for providing
services to an individual with a severe disability
for which any payment is made under this title,
"(ii) is independent of each such organization or agency, and

"(iii) has the legal capacity to intervene on behalf of an individual with a severe disability when necessary to protect such individual's rights

"(D) set forth the methods by which training and needed technical assistance services are made available to natural, adoptive, and foster parents of individuals with a severe disability who are eligible for medical assistance;

"(E) set forth the methods by which protective intervention services are made available, as necessary, to any individual with a severe disability who is or would except for his income or resources be, eligible to receive services under this title;

"(F) set forth the steps by which the State ensures that each individual with a severe disability receiving community and family support services under the State plan has access to case management services which are provided—

"(i) by an entity that is organizationally independent of any entity furnishing ongoing direct services to individuals with a severe dis-
(ii) with sufficient frequency and intensity to ensure that the objectives in an individual's written habilitation plan are achieved within the period of time specified in such plan, and

"(iii) by a professional who is permitted to visit each individual under his or her care not less than once a month;

"(G) set forth the steps by which qualified providers of case coordination services for individuals with a severe disability are organizationally independent of any entity furnishing ongoing direct services to such individuals;

"(H) provide that the State has in effect a management information system capable of collecting, storing, and retrieving data with respect to individuals with a severe disability who receive (or who are eligible to receive) community and family support services under this section, which system shall—

"(i) be based on information derived from an individual's written habilitation plan or from any other need-assessment data source,

"(ii) provide client based data with respect to the nature and extent of service needs, the type and duration of services provided, the cost
and outcome of such services, and any gaps in available services, and

"(iii) use (where available) valid and reliable instruments for collecting such data:

"(I) set forth procedures for—

"(i) granting an opportunity for a timely appeal and a speedy hearing before an impartial hearing officer—

"(I) 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 (1) of this subsection and other than on his own initiative) from one living arrangement (including his own home) to another, or

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

"(ii) giving written notice to affected parties at least 60 days before such proposed transfer except in an emergency, and

"(iii) advising individuals with severe disabilities, their families, and their advocates of
available alternative arrangements and services, of the right to choose among, available licensed or certified providers of services, and of the right to a fair hearing under section 1902(a)(3);

"(J) describe the methods to be used in administering community and family support services under the State plan, including—

"(i) the specific roles and responsibilities

"(I) specified State and local governmental agencies in establishing policies governing the provision of such services and in providing such services (either directly or under arrangements with other public or private entities),

"(B) the agency responsible for providing protection and advocacy in accordance with subsection (j), and

"(III) the community organizations and agencies responsible for providing such services, and

"(ii) the steps to be taken in recruiting and selecting such provider organizations and agencies;
"(K) set forth criteria to govern the use of psychotropic and anti-convulsant medications and behavior management techniques, as well as monitoring methods to be used to ensure compliance with such criteria; and

"(L) set forth the methods by which the number and types of integrated work settings and the range of supportive services available to individuals with a severe disability who have attained the age of 18 are developed and expanded; and

"(6) set forth methods and procedures to assure

/(A) 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 individuals with a severe disability from public institutions, including public medical institutions, to community or family living facilities under the agreement, 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, and

"(B) 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.

"(e) STATE MAINTENANCE OF EFFORT.—

"(1) A State meets the maintenance of effort requirement of this subsection for any quarter in a fiscal year in which community and family support services are provided if for such quarter the total amount of the funds expended by the State (and political subdivisions thereof) from non-Federal funds for these services for eligible individuals with a severe disability is at least equal to the base amount, increased by the inflation factor that applies with respect to the fiscal year in which such services are provided.

"(2) For purposes of paragraph (1)—

"(A) the term 'base amount' means the average quarterly amount of the funds expended (during the four-quarter period ending September 30, 1987) by the State (and political subdivisions thereof) from non-Federal funds under
the plan for services that are community and
family support services; and

"(B) the inflation factor that applies with respect to the fiscal year in which such services are provided is the amount (expressed as a percentage) by which the Consumer Price Index for the third quarter of the fiscal year preceding such fiscal year exceeds the Consumer Price Index for the third quarter of the second fiscal year preceding such fiscal year.

"(f) 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 1902 in order to ensure the compliance of such plans with the provisions of this section and the Medicaid Home and Community Quality Services Act of 1987.

"(g) WAIVER OF STATEWIDE REQUIREMENT AND REQUIREMENT OF COMPARABILITY.—For any three-year period, a State may provide any new service under this section without regard to the statewide requirement of section 1902(a)(1) or the requirement of section 1902(a)(10)(B).

"(h) WAIVER OF FREEDOM OF CHOICE REQUIREMENT.—A State may provide case management services under this section without regard to the requirement of sec-
tion 1902(a)(23) to the extent that the State determines that waiving such requirement is necessary to the effective and efficient provision of such services.

"(i) STATE ADMINISTRATION,—The Governor of each State may assign the responsibility for performing specified management functions regarding services provided to individuals with a severe disability under this section to State agencies other than the agency administering the plan under this title."

(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 "a public' and inserting in lieu thereof "an";

(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 plan is developed for the individual, including an assessment of his needs for community and family support services; and
"(4) the institution, if not operated by the State, has a written agreement with an appropriate State agency to cooperate in carrying out the State implementation strategy required to be submitted to the Secretary under section 1921(c)(5)."

(e) CONFORMING AMENDMENTS.—Section 1903(a)(2) of the Social Security Act is amended—

(1) by inserting after "professional medical personnel" the following: "or personnel skilled in the delivery of community and family support services needed by individuals with a severe disability"; and

(2) by inserting after "other public agency" the following "or any agency under contract to the State to provide services under section 1921".

SEC. 4, LIMITATION ON PAYMENTS FOR SERVICES PROVIDED IN LARGE FACILITIES,

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

"(w) LIMITATION ON PAYMENTS FOR SERVICES PROVIDED IN LARGE FACILITIES.—

(1)(A) Except as provided in paragraph (2), effective for any fiscal year beginning after the first fiscal year to begin after the date of the enactment of
the Medicaid Home and Community Quality Services Act of 1937, the aggregate amount payable under this title to any State for any quarter beginning in such fiscal year for skilled nursing facility services and intermediate care facility services furnished to any individual described in sub paragraph (C) in facilities having more than 15 beds shall not exceed 25 percent of the maximum expenditure amount determined with respect to the State under sub paragraph (B) for such fiscal year.

"(B)(i) For purposes of sub paragraph (A), the term 'maximum expenditure amount' means, with respect to a State for a fiscal year, an amount equal to the aggregate amount payable under this title to the State for the services described in sub paragraph (A) for the fiscal year immediately preceding the first fiscal year to begin after the date of the enactment of the Medicaid Home and Community Quality Services Act of 1987, increased by the percentage (if any) by which CPI percentage increase for the fiscal year exceeds 6.0 percent (and by any amounts expended for the fiscal year for which payment would otherwise be made under this title that are attributable to the cost of implementing a plan of correction or reduction plan approved under section 1919).
"(ii) For purposes of clause (i), the CPI percentage increase' for a fiscal year is—

"(1) in the case of the second fiscal year to begin after the date of the enactment of the Medicaid Home and Community Quality Services Act of 1987, the amount (expressed as a percentage) by which the Consumer Price Index for the third quarter of the fiscal year preceding such fiscal year exceeds the Consumer Price Index for the first quarter of the fiscal year immediately preceding the first fiscal year to begin after such date, and

"(II) in the case of any fiscal year beginning after the second fiscal year to begin after such date, the amount (expressed as a percentage) by which the Consumer Price index for the third quarter of the fiscal year preceding such fiscal year exceeds the Consumer Price Index for the third quarter of the second fiscal year preceding such fiscal year.

"(C) An individual described in this sub paragraph is an individual who—

"(i) is under the age of 65, and

"(ii) who is under a disability within the meaning of section 1614(a)(3) of this Act, the
onset of which occurred before the individual attained the age of 22.

"(D) 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) The limitation on payments in paragraph (1) shall not apply, with respect to 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), to—

"(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 is in operation on September 30, 1987, does not increase its number of beds after such date, and has no more than 15 beds (exclusive of beds occupied by staff members); and

"(C) payments for such services for individuals in a facility treated as a community living facility under section 1905(v)(2).
SEC. 5. PROTECTION OF RIGHTS OF INDIVIDUALS WITH A SEVERE DISABILITY.

Section 1921 of the Social Security Act (as added by section 3(c) of this Act) is amended by adding at the end thereof the following new subsection:

"(j) PROTECTION OF RIGHTS.—

"(1) Subject to paragraph (3), in order to receive any payments for community and family support services provided under this section, the State must have in effect a system to protect and advocate those rights of individuals with a severe disability who are eligible for medical assistance which relate to the provision of such assistance.

"(2) Such system must be implemented by an agency which—

"(A) is independent of any agency which provides services to individuals with a severe disability under the State plan;

"(B) has the authority to pursue legal, administrative, and other appropriate remedies to insure the protection of the rights of individuals with a severe disability who are eligible for medical assistance: and

"(C) has the authority to obtain access to records of individuals with a severe disability who are eligible for medical assistance in order
to carry out such agency's duties under this subsection

"(3)(A) In the case of a State that has in effect a system for providing protection and advocacy under part C of the Development Disabilities Assistance and Bill of Rights Act, such State shall take appropriate steps to ensure that such existing system is used to perform the protection and advocacy functions required by this section.

"(B) The State must provide assurances to the Secretary that the amounts paid to the State under this title that are attributable to the use of the system in effect under part C of such Act shall be the only Federal funds used for the purposes of providing protection and advocacy relating to the provision of medical assistance to individuals with a severe disability."

SEC. 6. PRIVATE ENFORCEMENT.

Section 1921 of the Social Security Act (as added by section 3(c) of this Act and amended by section 5 of this Act) is further amended by adding at the end thereof the following new subsection;

"(k) PRIVATE ENFORCEMENT.—"

"(1){A) Except as provided in paragraph (3), any person injured or adversely affected or aggrieved
by a violation of this section, or of the Medicaid
Home and Community Quality Services Act of 1987,
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 com-
mencement of such action, to recover reasonable at-
torney's fees and costs from the defendant in the
event that such party prevails.

"(2) 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 Medicaid
Such notice shall state the nature of the alleged vio-
lation and the court in which such action will be
brought.

"(3) The approval of the State plan under sec-
lion 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.”.

SEC. 7. RATES OF PAYMENT FOR SERVICES.

Section 1902(a)(13) of the Social Security Act is amended by striking out "and' at the end of sub paragraph (D), by adding "and" at the end of sub paragraph (E), and by adding at the end thereof the following new sub paragraph:

"(F) for payment for community and family support services for individuals with a severe disability, described in section 1921 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 regulations, and applicable quality and safety standards, and to assure that individuals with a severe disability eligible for medical assistance have reasonable access (taking into account geographic location and reasonable travel time for family and friends) to community and family support services of adequate quality;".
SEC. 8. MEDICAID ELIGIBILITY OF CERTAIN INDIVIDUALS WITH A
SEVERE DISABILITY.

(a) OPTIONAL ELIGIBILITY.—Section 1902 of the Social Security Act is amended by re-designating the subsection (1) added by section 3(b) of the Employment Opportunities for Disabled Americans Act as subsection (o) and by inserting after such subsection the following new subsection:

"(p) ELIGIBILITY OF CERTAIN INDIVIDUALS WITH A SEVERE DISABILITY--

"(1) At the option of the State, any individual who has not attained the age of 19 and who—

"'(A) qualifies as a disabled individual under section 1614(a),

"'(B) as determined by the State, is an individual who requires (or whose family requires) community and family support services, and

"'(C) if the individual were in a medical institution, would be an individual with respect to whom supplemental security benefits (or a State supplementary payment) could be paid under title XVI;

shall be deemed, for purposes of this title only, to be an individual with respect to whom a supplemental security income payment, or State supplementary payment, respectively, is being paid under title XVI."
"(2) A State electing the option under paragraph (1) shall set forth in its State plan and its State implementation strategy (submitted to the Secretary under section 1921(c)(5)) the criteria which the State will use in identifying eligible 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(p),"

(c) Uniform INCOME STANDARD, AND EXPANDED ELIGIBILITY— Section 1902(a)(10)(A)(ii) of such Act is amended—

(1) by inserting before the comma at the end of sub clause (V) the following new matter: ": Provided 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 individuals with a severe disabilty,";

(2) by striking out "or" at the end of sub clause

(3) by striking out the semicolon at the end of

sub clause (X) and inserting in lieu thereof "or";

and

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

"(XI) 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

1634(c)(1) of such Act is amended by striking out "the

effective date of this subsection" and inserting in lieu

thereof "January 1, 1957".

SEC. 9. REMOVAL OF CERTAIN LIMITATIONS ON REDUCTION AND

CORRECTION PLANS FOR INTERMEDIATE CARE

FACILITIES FOR THE MENTALLY RETARDED.

Section 1919 of the Social Security Act (42 U.S.C.

1396r) is amended —

(1) in subsection (d)—

(A) by striking "(d)(i)" and inserting in

lieu thereof (d)"; and
SEC. 10. SPECIAL ELIGIBILITY EXCEPTION FOR INDIVIDUALS WITH A SEVERE DISABILITY.

Section 1902(f) of the Social Security Act (42 U.S.C. 1396a(f)) is amended:

(I) by inserting "(1)" after the subsection designation;

(2) by inserting "paragraph (2)," before "subsection (e);" and

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

"(2) Notwithstanding paragraph (1), an individual with a severe disability receiving benefits under title XVI or deemed to receive such benefits under this title shall be entitled to receive medical assistance as long as such individual remains severely disabled and continues to receive benefits under title XVI or is deemed to receive benefits under this title."

SEC. 11. RESPONSIBILITIES OF THE SECRETARY.

(a) ESTABLISHMENT OF A BUREAU OF DEVELOPMENTAL DISABILITIES SERVICES.—

(1) The Secretary of Health and Human Services (referred to in this section as the "Secretary") shall establish, within the Health Care Financing Ad-
ministration, a Bureau of Developmental Disabilities Services (referred to in this subsection as the Bureau). The Bureau shall be the principal office in the Department of Health and Human Services for administering and carrying out programs relating to the furnishing of quality services to individuals with a severe disability in order to promote their independence productivity, and integration into the community, and to provide coordinated leadership, guidance, and support to assist States in developing such services.

(2) The Bureau shall be headed by a Director who shall be appointed by the Secretary in consultation with the Administrator of the Health Care Financing Administration. The position of Director shall be placed in Level IV of the Executive Schedule in section 5318 of title 5, United States Code and shall be designated a career reserved position in the Senior Executive Service. The Director shall have training and experience in the furnishing of services to individuals with developmental disabilities.

(3) The additional staffing of the Bureau shall be in sufficient numbers to meet program needs, and at levels which shall attract and maintain the most qualified personnel. Such personnel shall include in-
individuals who have training and experience in the provision of services to developmentally disabled individuals.

(4) The Bureau shall be established and staffed not later than 6 months after the date of enactment of this Act

(5) The Bureau shall be responsible for—

(A) preparing all necessary regulations and other administrative policies governing the provision of services under sections 1921 (as added by this Act), 1905(d), and 1915(c) of the Social Security Act as such services relate to individuals with a severe disability;

(B) coordinating the activities of responsible regional office personnel related to the provision of services to individuals with a severe disability under titles XVIII and XIX of the Social Security Act;

(C) conducting periodic studies to determine the consistency, reliability, and validity of surveys of intermediate care facilities certified or requesting certification under section 1905(d) conducted under section 1902(a)(33)(B) of such Act (and, based on such studies, developing
policies and procedures governing such surveys);

(D) preparing and issuing policies governing the conduct of utilization reviews under section 1902(a)(30)(A) of the Social Security Act, onsite inspections of care under section 1902(a)(31)(B) of such Act, and the preparation of professional review reports under section 1902(a)(31)(C) of such Act (as such reports pertain to care provided in facilities certified or requesting certification under section 1905(d) of such Act);

(E) advising the Administrator of the Health Care Financing Administration on all aspects of policies that may impact upon individuals with a severe disability and recommending (in consultation with such Administrator) policy initiatives and modifications necessary to improve services provided under titles XVIII and XIX of the Social Security Act in order to promote the independence, productivity, and integration of such individuals (as such terms are defined under section 1905(dd) of the Social Security Act);
(F) developing policies and procedures governing the conduct of periodic assessments of the status of individuals with a severe disability who are receiving services under any title of the Social Security Act; and

(G) performing such other functions relating to the provision of services to individuals with a severe disability as the Secretary may assign (including any function related to a responsibility of the Secretary under subsection (b), (c), (d), or (e) of this section).

(b) TRAINING OF SURVEY PERSONNEL.—The Secretary shall—

(1) with respect to Federal and State personnel who perform surveys under section 1902(a)(33)(B) of the Social Security Act of facilities that are certified under section 1905(d) of such Act—

(A) not later than 18 months after the date of enactment of this Act, develop a standardized curriculum for training such personnel which places particular emphasis on valid and reliable methods for assessing the provision of active treatment provided to residents of such facilities in accordance with standards prescribed by the Secretary;
(B) in accordance with the curriculum developed under sub paragraph (A), design and initiate a comprehensive training program for such personnel which provides—

(i) initial training not later than 30 months after the date of enactment of this Act in the case of personnel assigned to survey such facilities on or before the date of enactment of this Act,

(ii) initial training not later than six months after the date on which personnel are assigned to survey such facilities in the case of personnel assigned to survey such facilities after the date of enactment of this Act, and

(iii) continuing education to such personnel at least every 36 months; and

(C) develop standards regarding the qualifications of such personnel, including a standard requiring that at least one member of any survey team be a qualified mental retardation professional (as defined by the Secretary);
to determine the compliance of facilities certified under section 1905(d) of the Social Security Act with the standards prescribed by the Secretary under paragraph (1) of such section; and
(3) make such changes in Federal regulations, administrative policies or procedures (or initiate such specialized training programs) as are—
(A) consistent with the findings of studies conducted under paragraph (2), and
(B) necessary to improve the reliability and consistency of survey findings and certification decisions with respect to facilities certified under section 1905(d).
(c) DEVELOPMENT, TESTING, AND DISSEMINATION OF INSTRUMENTS AND STANDARDS.—
(1) Subject to paragraph (2), the Secretary shall support the development, field testing, and dissemination of-
(A) reliable and valid instruments to assess service outcomes in the provision of care and services under this Act, including outcomes in such areas as community integration, individual and family satisfaction, and the impact of environmental factors; and
(B) competency-based personnel standards

with respect to every agency or organization involved in providing services to individuals with a severe disability for which any payment is made as a result of the amendments made by this Act.

(2) Nothing in paragraph (1) shall be construed to allow the Secretary to require that a State use a specific outcome indicator or personnel standard selected by the Secretary.

(d) ASSESSMENT OF STATE COMPLIANCE WITH STATE IMPLEMENTATION STRATEGY,—

(1) Beginning with the first fiscal year beginning after the date of enactment of this Act, the Secretary, after consultation with the Secretary of Education, shall conduct an assessment of each State's—

(A) compliance with its implementation strategy (required to be submitted to the Secretary under section 1921(c)(5) of the Social Security Act, as added by section 3(c) of this Act); and

(B) progress in carrying out such strategy, including the steps taken to—
(i) expand the quantity and improve
the quality of community and family sup-
port services;
(ii) develop essential support services
necessary to maintain a responsive network
of community and family support services
(including the provision of training, techni-
cal assistance, and crisis intervention serv-
ices); and
(iii) promulgate standards governing
community and family support services and
monitor compliance and take necessary
steps to enforce such standards.
(2) The Secretary shall conduct periodic assess-
ments of the adequacy of the quality assurance com-
ponents established by States under such implemen-
tation strategy.
(e) REPORT.—Not later than January 15, 1992, and bi-
ennially thereafter, the Secretary shall submit a report to
Congress that is based on the assessments, studies, and
other activities conducted under subsections (b), (c), and
(d) (and such other information as the Secretary may
gather). Such report shall contain an analysis of the find-
ings of such assessments, studies and activities a descrip-
tion of all relevant fiscal, programmatic, and demographic
data, and recommendations regarding the need for any
changes in Federal law,
(f) REGULATIONS.—
(1) Prior to the first fiscal year beginning after
the date of enactment of this Act, the Secretary shall
issue final regulations with respect to all amend-
ments to the Social Security Act made by this Act,
including regulations which govern the preparation,
public review, distribution, and annual revision of
the State implementation strategy (required to be
submitted to the Secretary under section 1921(c)(5)
of the Social Security Act, as added by section 3(c)
of this Act)-
(2) Nothing in this subsection shall be construed
to authorize the Secretary to promulgate standards
governing the provision of community and family
support services.

SEC 12. EFFECTIVE DATE.
This Act and the amendments made by this Act shall
apply with respect to fiscal years beginning after the date
of enactment of this Act