Section 6105 EXCESS PREMIUM CREDIT.

(a) In General. If plan payment reductions are made for one or more regional alliance health plans offered by a regional alliance for plan payments in a year under section 6021, the alliance shall provide for a credit under this section, in the amount described in subsection (b), in the case of each family enrolled in a regional alliance health plan offered by the alliance for premiums in the year.

(b) Amount of Credit.

(1) In general. Subject to paragraph (2), the amount of the credit under this subsection, for a family enrolled in a class of family enrollment for a regional alliance for a year, is the amount that would be the weighted average premium for such alliance, class, and year, if the per capita excess premium amount (determined under subsection (c)) for the alliance for the year were substituted for the reduced weighted average accepted bid for the regional alliance for the year.

(2) Adjustment to account for use of estimates. Subject to section 1361(b)(3), if the total payments made by a regional alliance to all regional alliance health plans in a year under section 1351(b) exceeds (or is less than) the total of such payments estimated by the alliance (based on the reduced weighted average accepted bid under subsection (c)(1)), because of a difference between

(A) the alliance's estimate of the distribution of enrolled families between excess premium plans and other plans, and

(B) the actual distribution of such enrolled families among such plans, the amount of the credit under this section in the second succeeding year shall be reduced (or increased, respectively) by the amount of such excess (or deficit) in the total of such payments made by the alliance to all such plans.

(c) Per Capita Excess Premium Amount. The per capita excess premium amount, for a regional alliance for a year, is the amount by which

(1) the reduced weighted average accepted bid (as defined in section 6000(a)(1)) for the alliance for the year, exceeds

(2) the regional alliance per capita premium target for

the alliance for the year.

Section 6106 CORPORATE ALLIANCE OPT-IN CREDIT.

(a) In General. If a regional alliance is owed a payment adjustment under section 6124 for a year, then the alliance shall provide for a credit under this section equal to 20 percent of the amount described in subsection (b), in the case of each family enrolled in a regional alliance plan offered by the alliance.

(b) Amount of Credit. The amount described in this subsection, for a family enrolled in a class of family enrollment for a regional alliance for a year, is the amount that would be the weighted average premium for such alliance, class, and year, if the per capita corporate alliance opt-in amount (determined under subsection (c)) for the alliance for the year were substituted for the reduced weighted average accepted bid for the regional alliance for the year.

(c) Per Capita Corporate Alliance Opt-in Amount. The per capita corporate alliance opt-in amount, for a regional alliance for a year, is

(1) the total amount of the payment adjustments owed for the year under section 6124, divided by

(2) the estimated average number of regional alliance eligible individuals in the regional alliance during the year (reduced by the average number of such individuals whose family share of premiums, determined without regard to this section and section 6107, is zero).

Section 6107 FAMILY COLLECTION SHORTFALL ADD-ON.

(a) In General. The family collection shortfall add-on, for a regional alliance for a class of enrollment for a year, is the amount that would be the weighted average premium for such alliance, class, and year, if the per capita collection shortfall amount (determined under subsection (b)) for the alliance for the year were substituted for the reduced weighted average accepted bid for the regional alliance for the year.

(b) Computation of Per Capita Adjustment for Collection Shortfalls.

(1) Per capita collection shortfall amount. The per capita collection shortfall amount, for a regional alliance for a year, under this subsection is equal to

(A) the amount estimated under paragraph (2)(A) for the year, divided by

(B) the estimated average number of regional alliance eligible individuals in the regional alliance during the year (reduced by the average number of such individuals whose family share of premiums, determined without regard to this section and section 6106, is zero).

(2) Aggregate collection shortfall.

(A) In general. Each regional alliance shall estimate, for each year (beginning with the first year) the total amount of payments which the alliance can reasonably identify as owed to the alliance under this Act (taking into account any premium reduction or discount under this subtitle and including amounts owed under subpart B and not taking into account any penalties) for the year and not likely to be collected (after making collection efforts described in section 1345) during a period specified by the Secretary beginning on the first day of the year.

(B) Exclusion of government debts. The amount under subparagraph (A) shall not include any payments owed to a regional alliance by the Federal, State, or local governments.

(C) Adjustment for previous shortfall estimation discrepancy. Subject to section 1361(b)(3), the amount estimated under this paragraph for a year shall be adjusted to reflect over (or under) estimations in the amounts so computed under this paragraph for previous years (based on actual collections), taking into account interest payable based upon borrowings (or savings) attributable to such over or under estimations.

Subpart B Repayment of Alliance Credit by Certain Families

Section 6111 REPAYMENT OF ALLIANCE CREDIT BY CERTAIN FAMILIES.

(a) In General. Subject to the succeeding provisions of this subpart, each family which is provided an alliance credit under section 6103(a) for a class of enrollment is liable to the regional alliance for repayment of an amount equal to the base employment monthly premium (applicable to such class) for the month under section 6122.

(b) Reduction for Self-Employment Payments. The liability of

a family under this section for a year shall be reduced (but not below zero) by the amount of any employer payments made in the year under section 6126 based on the net earnings from self-employment of a family member.

Section 6112 NO LIABILITY FOR FAMILIES EMPLOYED FULL-TIME; REDUCTION IN LIABILITY FOR PART-TIME EMPLOYMENT.

(a) In General. The amount of any liability under section 6111 shall be reduced, in accordance with rules established by the National Health Board consistent with this section, based on employer premiums payable under section 6121 with respect to the employment of a family member who is a qualifying employee or with respect to a family member. In no case shall the reduction under this section result in any payment owing to a family.

(b) Credit for Full-Time and Part-Time Employment.

(1) In general. Under rules of the Board, in the case of a family enrolled under a class of family enrollment, if a family member is a qualifying employee for a month and (except in the case described in section 6114(a)) the employer is liable for payment under section 6121 based on such employment

(A) Full-time employment credit. If the employment is on a full-time basis (as defined in section 1901(b)(2)(A)) the liability under section 6111 shall be reduced by the credit amount described in subparagraph (C).

(B) Part-time employment credit. If the employment is on a part-time basis (as defined in section 1901(b)(2)(A)) the liability under section 6111 shall be reduced by the employment ratio (as defined in section 1901(b)(2)(B)) of the credit amount described in subparagraph (C).

(C) Full-time monthly credit.The amount of the credit under this subparagraph, with respect to employment by an employer in a month, is \1/12\ (or, if applicable, the fraction described in paragraph (2)) of the amount owed under section 6111, based on the class of enrollment, for the year.

(2) Coverage during only part of a year. In the case of a family that is not enrolled in a regional alliance health plan for all the months in a year, the fraction described in this paragraph is 1 divided by the number of months in the year in which the family was enrolled in such a plan.

(3) Aggregation of credits. For purposes of paragraph (1)

(A) Individuals. In the case of an individual who is a qualifying employee of more than one employer in a month, the credit for the month shall equal the sum of the credits earned with respect to employment by each employer. Such sum may exceed the credit amount described in paragraph (1)(C).

(B) Couples. In the case of a couple each spouse of which is a qualifying employee in a month, the credit for the month shall equal the sum of the credits earned with respect to employment by each spouse. Such sum may exceed the credit amount described in paragraph (1)(C).

(c) Treatment of Change of Enrollment Status. In the case of a family for which the class of family enrollment changes during a year, the Board shall establish rules for appropriate conversion and allocation of the credit amounts under the previous provisions of this section in a manner that reflects the relative values of the base employment monthly premiums (as determined under section 6122) among the different classes of family enrollment.

Section 6113 LIMITATION OF LIABILITY BASED ON INCOME.

(a) In General. In the case of an eligible family described in subsection (b), the repayment amount required under this subpart (after taking into account any work credit earned under section 6112) with respect to a year shall not exceed the amount of liability described in subsection (c) for the year.

(b) Eligible Family Described. An eligible family described in this subsection is a family which is determined, under subpart B of part 3 of subtitle D of title I by the regional alliance for the alliance area in which the family resides, to have wage-adjusted income (as defined in subsection (d)) below 250 percent of the applicable poverty level.

(c) Amount of Liability.

(1) Determination. Subject to subsection (f), in the case of a family enrolled in a class of enrollment with wage-adjusted income (as defined in subsection (d)), the amount of liability under this subsection is determined as follows:

(A) No obligation if income below income threshold amount or if afdc or ssi family. If such income is than the income threshold amount (specified in section 6104(c)(4)) or if the family is an AFDC or SSI family, the amount of liability is

zero.

(B) Income above income threshold amount. If such income is at least such income threshold amount and the family is not an AFDC or SSI family, the amount of liability is the sum of the following:

(i) 5.5 percent of income (above income threshold amount) up to the poverty level. The initial marginal rate (specified in paragraph (2)(A)) of the amount by which

(I) the wage-adjusted income (not including any portion that exceeds the applicable poverty level for the class of family involved), exceeds

(II) such income threshold amount.

(ii) Graduated phase out of discount up to 250 percent of poverty level. The final marginal rate (specified in paragraph (2)(B)) of the amount by which the wage-adjusted income exceeds 100 percent of the applicable poverty level.

(2) Marginal rates.In paragraph (1)

(A) Initial marginal rate. The initial marginal rate, for a year for a class of enrollment, is the ratio of

(i) 5.5 percent of the applicable poverty level for the class of enrollment for the year, to

(ii) the amount by which such poverty level exceeds such income threshold amount.

(B) Final marginal rate. The final marginal rate, for a year for a class of enrollment, is the ratio of

(i) the amount by which (I) the amount of the repayment amount described in section 6111(a) exceeds (II) 5.5 percent of the applicable poverty level (for the class and year); to

(ii) 150 percent of such poverty level.

(3) Monthly application to afdc and ssi families. Paragraph (1) insofar as it relates to an AFDC or SSI family shall be applied so as to reduce to zero the liability amount only for months in which the family is such an AFDC or SSI family.

(d) Wage-Adjusted Income Defined. In this subtitle, the term

"wage-adjusted income" means, for a family, family adjusted income of the family (as defined in section 1372(d)(1)), reduced by the sum of the following:

(1) (A) Subject to subparagraph (B), the amount of any wages included in such family's income that is received for employment which is taken into account in the computation of the amount of employer premiums under section 6121 (without consideration of section 6126).

(B) The reduction under subparagraph (A) shall not exceed for a year $5,000 (adjusted under section 6104(c)(3)(B)) multiplied by the number of months (including portions of months) of employment with respect to which employer premiums were payable under section 6121 (determined in a manner consistent with section 1901(b)(3)).

(2) The amount of net earnings from self employment of the family taken into account under section 6126.

(3) The amount of unemployment compensation included in income under section 85 of the Internal Revenue Code of 1986.

(e) Determinations. A family's wage-adjusted income and the amount of liability under subsection (c) shall be determined by the applicable regional alliance upon application by a family under under subpart B of part 3 of subtitle D of title I.

(f) No Liability for Indians and Certain Veterans and Military Personnel. The provisions of paragraph (3) of section 6104(a) shall apply to the reduction in liability under this section in the same manner as such paragraph applies to the premium discount under section 6104.

Section 6114 SPECIAL TREATMENT OF CERTAIN RETIREES AND QUALIFIED SPOUSES AND CHILDREN.

(a) Treatment as Full-Time Employee. Subject to subsection (d), an individual who is an eligible retiree (as defined in subsection (b)) or a qualified spouse or child (as defined in subsection (c)) for a month in a year (beginning with 1998) is considered, for purposes of section 6112, to be a full-time employee described in such section in such month.

(b) Eligible Retiree Defined. In this section, the term "eligible retiree" means, for a month, an individual who establishes to the satisfaction of the regional alliance (for the alliance area in which the individual resides), pursuant to rules of the Secretary, that the individual, as of the first day of the

month--

(1) is at least 55, but less than 65, years of age,

(2) is not employed on a full-time basis (as defined in section 1901(b)(2)(A)),

(3) would be eligible (under section 226(a) of the Social Security Act) for hospital insurance benefits under part A of title XVIII of such Act if the individual were 65 years of age based only on the employment of the individual, and

(4) is not a medicare-eligible individual.

(c) Qualified Spouse or Child Defined. In subsection (a), the term "qualified spouse or child" means, in relation to an eligible retiree for a month, an individual who establishes to the satisfaction of the regional alliance (for the alliance area in which the individual resides) under rules of the Secretary that the requirements in one of the following paragraphs is met with respect to the individual:

(1) The individual (A) is under 65 years of age and is (and has been for a period of at least one year) married to an eligible retiree or (B) is a child of the eligible retiree.

(2) In the case of a person who was an eligible retiree at the time of the person's death

(A) the individual was (and had for a period of at least one year been) married to the retiree at the time of the person's death,

(B) the individual is under 65 years of age,

(C) the individual is not employed on a full-time basis (as defined in section 1901(b)(2)(A)),

(D) the individual is not remarried, and

(E) the deceased spouse would still be an eligible retiree in the month if such spouse had not died.

(3) The individual is a child of an individual described in paragraph (2).

(d) Application. An individual may not be determined to be an eligible retiree or qualified spouse or child unless an application has been filed with the regional alliance. Such

application shall contain such information as the Secretary may require to establish such status and verify information in the application. Any material misrepresentation in the application is subject to a penalty in the same manner as a misrepresentation described in section 1374(i)(2).

Section 6115 SPECIAL TREATMENT OF CERTAIN MEDICARE BENEFICIARIES.

In the case of an individual who would be a medicare-eligible individual in a month but for the application of section 1012(a) on the basis of employment (in the month or a previous month) of the individual or the individual's spouse or parent, the individual (or spouse or parent, as the case may be) so employed is considered, for purposes of section 6112, to be a full-time employee described in such section in such month.

Part 2 EMPLOYER PREMIUM PAYMENTS

Subpart A Regional Alliance Employers

Section 6121 EMPLOYER PREMIUM PAYMENT REQUIRED.

(a) Requirement.

(1) In general. Each regional alliance employer described in paragraph (2) for a month shall pay to the regional alliance that provides health coverage to a qualifying employee of the employer an employer premium in a amount at least equal to the amount specified in subsection (b). Such payments shall be made in accordance with section 1345(c).

(2) Employer described. An employer described in this paragraph for a month is an employer that in the month employs one or more qualifying employees (as defined in section 1901(b)(1)).

(3) Treatment of certain employment by corporate alliance employers. A corporate alliance employer shall be deemed, for purposes of this subpart, to be a regional alliance employer with respect to qualifying employees who are not corporate alliance eligible individuals.

(b) Premium Payment Amount.

(1) In general. Except as provided in section 6123 (relating to a discount for certain employers), section 6124 (relating to large employers electing coverage in a regional alliance), and section 6125 (relating to the employer collection

shortfall add-on), the amount of the employer premium payment, for a month for qualifying employees of the employer who reside in an alliance area, is the sum of the payment amounts computed under paragraph (2) for each class of family enrollment with respect to such employees in such area.

(2) Payment amount for all employees in a class of family enrollment. Subject to paragraph (3), the payment amount under this paragraph, for an employer for a class of family enrollment for a month for qualifying employees residing in an alliance area, is the product of

(A) the base employment monthly premium determined under section 6122 for the class of family enrollment for the previous month for the regional alliance, and

(B) the number of full-time equivalent employees (determined under section 1901(b)(2)) enrolled in that class of family enrollment for the previous month and residing in the alliance area.

(3) Treatment of certain employees. In applying this subpart in the case of a qualifying employee (other than a medicare-eligible individual) who is not enrolled in any alliance health plan

(A) the employee is deemed enrolled in a regional alliance health plan (for the alliance area in which the individual resides) in the dual parent class of enrollment, and

(B) if the employee's residence is not known, the employee is deemed to reside in the alliance area in which the employee principally is employed for the employer.

(4) Transitional rules for first month in first year for a state. In the case of an employer for a State in the first month of the State's first year

(A) the premium amount for such month shall be computed by substituting "month" for "previous month" in paragraph (2);

(B) payment for such month shall be made on the first of the month based on an estimate of the payment for such month;

(C) an adjustment shall be made to the payment in the following month to reflect the difference between the payment in the first month and the payment in the following month

(calculated without regard to the adjustment under this subparagraph); and

(D) the reconciliation of premiums for such first month under section 1602(c) shall be included in the reconciliation of premiums for the following 12 months.

(5) Special rules for divided families. In the case of an individual who is a qualifying employee of an employer, if the individual has a spouse or child who is not treated as part of the individual's family because of section 1012

(A) the employer premium payment under this section shall be computed as though such section had not applied, and

(B) the regional alliance shall make proportional payments (consistent with rules established by the Secretary) to the health plans (if different) of the qualifying employee and of the employee's spouse and children.

(c) Application During Transition Period.

(1) In general. For purposes of applying this subpart in the case of an employer described in paragraph (3), there shall only be taken into account qualifying employees (and wages of such employees) who reside in a participating State.

(2) Exception. Paragraph (1) shall not apply in determining the average number of full-time equivalent employees or whether an employer is a small employer.

(3) Employer described. An employer described in this paragraph is an employer that employs one or more qualifying employees in a participating State and one or more qualifying employees in a State that is not a participating State.

Section 6122 COMPUTATION OF BASE EMPLOYMENT MONTHLY PREMIUM.

(a) In General. Each regional alliance shall provide for the computation for each year (beginning with the first year) of a base employment monthly premium for each class of family enrollment as follows:

(1) Individual enrollment. The base employment monthly premium for the individual class of enrollment is equal to \1/12\ of 80 percent of the credit-adjusted weighted average premium (as defined in paragraph (4)) for such regional alliance for the individual class of enrollment.

(2) Couple-only enrollment.

(A) In general. The base employment monthly premium for the couple class of enrollment is equal to \1/12\ of 80 percent of the product described in subparagraph (B), divided by the sum described in subparagraph (C).

(B) Total premiums for couple-only enrollments. The product described in this subparagraph is

(i) the credit-adjusted weighted average premium for such regional alliance for the couple-only class of enrollment, multiplied by

(ii) the sum, for all the months in the year, of the number of covered families receiving coverage through regional alliance health plans of the regional alliance within such class of enrollment in each such month.

(C) Number of workers and extra workers. The sum described in this subparagraph is

(i) the sum specified in subparagraph (B)(ii), plus

(ii) the number of additional workers (determined under subsection (b)(1)), for families receiving coverage within such class from regional alliance health plans offered by the regional alliance.

(3) Single and dual parent enrollments.

(A) In general. The base employment monthly premium for the single parent and dual parent classes of enrollment is equal to \1/12\ of 80 percent of the sum described in subparagraph (B), divided by the sum described in subparagraph (C).

(B) Total premiums for single and dual parent enrollments. The sum described in this subparagraph is the sum of the products described in the following clauses:

(i) Total premiums for single parent enrollment. The product of

(I) the credit-adjusted weighted average premium for such regional alliance for the single parent class of enrollment, multiplied by

(II) the sum, for all the months in the year, of the number of covered families receiving coverage through regional alliance health plans of the regional alliance within such class of enrollment in each such month.

(ii) Total premiums for dual parent enrollment. The product of

(I) the credit-adjusted weighted average premium for such regional alliance for the dual parent class of enrollment, multiplied by

(II) the sum, for all the months in the year, of the number of covered families receiving coverage through regional alliance health plans of the regional alliance within such class of enrollment in each such month.

(C) Number of workers and extra workers. The sum described in this subparagraph is

(i) the sum specified in subparagraph (B)(i)(II); plus

(ii) the sum specified in subparagraph (B)(ii)(II); plus

(iii) the number of additional workers (determined under subsection (b)(1)), for families receiving coverage within the dual parent class of enrollment from regional alliance health plans offered by the regional alliance.

(4) Credit-adjusted weighted average premium defined. In this subsection, the term "credit-adjusted weighted average premium" means, for a class of enrollment and a regional alliance, the weighted average premium for the class and alliance, reduced by the amount described in section 6106(b) for such class and alliance.

(b) Determination of Additional Workers for Couple-Only and Dual Parent Class.

(1) In general. Subject to paragraph (4), the regional alliance shall determine, for each couple class of family enrollment and in a manner specified by the Board, an estimated total number of additional workers equal to

(A) 12 times the alliance-wide monthly average number of premium payments (as determined under paragraph (2)) for covered families (as defined in paragraph (3)) within such class of enrollment, minus

(B) the sum described in subsection (a)(2)(B)(ii) or (a)(3)(B)(ii)(II) for the couple-only and dual parent classes, respectively.

(2) Computation of alliance-wide monthly average number.

(A) In general. In determining the alliance-wide monthly average number of premium payments under paragraph (1)(A), a covered family shall count for a month as 1, or, if greater, the number computed under subparagraph (B) (but in no case greater than 2).

(B) Counting of families in which both spouses are qualifying employees. The number computed under this subparagraph over all families within a couple-only or dual parent class of enrollment in which both spouses are qualifying employees is determined on an alliance-wide basis based on the following:

(i) For such a spouse, determine, using the rules under section 1902(b)(1)(A), how many full-time equivalent employees the spouse is counted as, but not to exceed 1 for either spouse.

(ii) Add the 2 numbers determined under clause (i) for spouses in such families.

(3) Covered family defined. In this subsection, the term "covered family" means a family other than--

(A) an SSI family or AFDC family,

(B) a family in which a spouse is a medicare-eligible individual, or

(C) a family that is enrolled in a health plan other than a regional alliance health plan.

(4) Adjustment to account for use of estimates. Subject to section 1361(b)(3), if the total receipts of a regional alliance to all regional alliance health plans in a year under this subpart exceeds, or is less than, the total of such receipts estimated by the alliance (based on the base employment monthly premium under subsection (a)), because of a difference between

(A) the alliance's estimate of the estimated total number of additional workers for the alliance and the estimate of the number of covered families, and

(B) the actual total number of additional workers and the actual number of covered families, the estimated total

number of additional workers to be applied under this section in the second succeeding year shall be reduced, or increased, respectively, in a manner that results in total receipts of the alliance under this subpart in such succeeding year being increased or decreased by the amount of such excess (or deficit).

(c) Basis for Determinations.

(1) Premiums. The determinations of premiums and families under plans under this section shall be made in a manner determined by the Board and based on the premiums and families used by the Board in carrying out subtitle A and shall be based on estimates on an annualized basis.

(2) Employment. The determinations of employment under this section for the first year for a State shall be based on estimates of employment established by the regional alliance in accordance with standards promulgated by the Secretary of Labor in consultation with the National Health Board.

(3) Reports. In accordance with rules established by the Secretary of Labor in consultation with the National Health Board, a regional alliance may require regional alliance employers to submit such periodic information on employment as may be necessary to monitor the determinations made under this section, including months and extent of employment.

(d) Timing of Determination. Determinations under this section for a year shall be made by not later than December 1, or such other date as the Board may specify, before the beginning of the year.

Section 6123 PREMIUM DISCOUNT FOR CERTAIN EMPLOYERS.

(a) Employer Discount.

(1) In general. Subject to section 6124(c) (relating to phase in for certain large corporate alliance employers) and section 6125 (relating to the employer collection shortfall add-on), the amount of the employer premium payment required under this subpart for a regional alliance employer for any year shall not exceed the limiting percentage (as defined in subsection (b)) of the employer's wages for that year.

(2) Exclusion of governmental employers and certain corporate alliance
employers. Paragraph (1) shall not apply to

(A) the Federal Government, a State government, or a unit of local government, or a unit or instrumentality of such government, before 2002; and

(B) a corporate alliance employer which is treated as a regional alliance employer under section 6131(a)(2).

(b) Limiting Percentage Defined.In subsection (a)

(1) Any employer. For an employer that is not a small employer (as defined in subsection (c)), the limiting percentage is 7.9 percent.

(2) Small employers.For an employer that is a small employer and that has an average number of full-time equivalent employees and average annual wages per full-time equivalent employee (as determined under subsection (d)), the limiting percentage is the applicable percentage determined based on following table:

Limiting Percentage

Average number of full-time equivalent employees
Employer's average annual wages per full-time equivalent employee are:

	$12,000- $15,000	$15,000- $18,000	$18,00- $21,000	$21,00- 24,000
Fewer than 25	03.5%	04.4%	05.3%	06.2% 07.1%
25 but fewer than 50	04.4%	05.3%	06.2%	07.1% 07.9%
50 but not over 75	05.3%	06.2%	07.1%	07.9% 07.9%

(c) Small Employer Defined.

(1) In general. In this section

(A) the term "small employer" means an employer that does not employ, on average, more than 75 full-time equivalent employees; and

(B) the average number of full-time equivalent employees shall be determined by averaging the number of full-time equivalent employees employed by the employer in each countable month during the year.

(2) Countable month. In paragraph (1), the term "countable month" means, for an employer, a month in which the employer employs any qualifying employee.

(3) Determinations. The number of full-time equivalent employees shall be determined using the rules under section 1901(b)(2).

(d) Average Annual Wages Per Full-Time Equivalent Employee Defined.

(1) In general. In this section, the term "average annual wages per full-time equivalent employee" means, for an employer for a year

(A) the total wages paid in the year to individuals who, at the time of payment of the wages, are qualifying employees of the employer; divided by

(B) the number of full-time equivalent employees of the employer in the year.

(2) Determination. The Board may establish rules relating to the computation of the average annual wages for employers.

(e) Determinations. For purposes of this section, the number of employees and average wages shall be determined on an annual basis.

(f) Treatment of Certain Self-employed Individuals. In the case of an individual who is a partner in a partnership, is a 2-percent shareholder in an S corporation (within the meaning of section 1372 of the Internal Revenue Code of 1986), or is any other individual who carries on a trade or business as a sole proprietorship, for purposes of this section

(1) the individual is deemed to be an employee of the partnership, S corporation, or proprietorship, and

(2) the individual's net earnings from self employment attributable to the partnership, S corporation, or sole proprietorship are deemed to be wages from the partnership, S corporation, or proprietorship.

(g) Application to Employers. An employer that claims that this section applies

(1) shall provide notice to the regional alliance involved of the claim at the time of making payments under this subpart; and

(2) shall make available such information (and provide access to such information) as the regional alliance may require (in accordance with regulations of the Secretary of Labor) to audit the determination of

(A) whether the employer is a small employer, and, if so, the average number of full-time equivalent employees and average annual wages of the employer; and

(B) the total wages paid by the employer for qualifying employees.

(h) Treatment of Multi-Alliance Employers. In the case in which this section is applied to an employer that makes employer premium payments to more than one regional alliance, the reduction under this section shall be applied in a pro-rated manner to the premium payments made to all such alliances.

Section 6124 PAYMENT ADJUSTMENT FOR LARGE EMPLOYERS ELECTING COVERAGE IN A REGIONAL ALLIANCE.

(a) Application of Section.

(1) In general. Except as otherwise provided in this subsection, this section shall apply to the employer premium payments for full-time employees in a State of an employer if

(A) (i) the employer is an eligible sponsor described in section 1311(b)(1)(A), (ii) the employer elected to be a corporate alliance under section 1312(a)(1), and (iii) the election is terminated under section 1313;

(B) (i) the employer is such an eligible sponsor as of the first day of the first year of the State, and (ii) the employer did not provide the notice required under section 1312(a)(1) (with respect to an election to become a corporate alliance); or

(C) (i) the employer is such an eligible sponsor, (ii) the employer subsequently became a large employer and elected to be a corporate alliance under section 1312(a)(2), and (iii) the election was terminated under section 1313.

(2) Effective date. In the case of an employer described in

(A) paragraph (1)(A) or (1)(C), this section shall first apply on the effective date of the termination of the election under section 1313, or

(B) paragraph (1)(B), this section shall first apply as of January 1, 1996 (or, if later with respect to a State, the first day of the first year for the State).

(3) Treatment of employees in small establishments. This section shall not apply to the payment of premiums for full-time employees of an employer described in paragraph (1)(A) or (1)(C), if the employees are employed at an establishment with respect to which the option described in section 1311(c)(1)(B) was exercised.

(4) Sunset. This section shall cease applying to an employer with respect to employment in a State after the 7th year in which this section applies to the employer in the State.

(5) Large employer defined. In this section, the term "large employer" has the meaning given such term in section 1311(e)(3).

(b) Additional Amount.

(1) In general. If an employer subject to this section for a year has an excess risk proportion (specified in paragraph (3)) of greater than zero with respect to an alliance area, then the employer shall provide, on a monthly basis, for payment to the regional alliance for such area of an amount equal to \1/12\ of the excess risk amount described in paragraph (2) for the year.

(2) Excess risk amount. The excess risk amount described in this paragraph, for an employer for a year with respect to an alliance area, is equal to the product of the following:

(A) The reduced weighted average accepted bid for the regional alliance for the area for the year.

(B) The total average number of alliance eligible individuals who

(i) were full-time employees (or family members of such employees) of the employer, and

(ii) residing in the regional alliance area, in the year before the first year in which this section applies to the employer.

(C) The excess risk proportion (specified in paragraph (3)) for the employer for such area.

(D) The phase-down percentage (specified in paragraph (4)) for the year.

(3) Excess risk proportion.

(A) In general. The "excess risk proportion", specified in this paragraph, with respect to an employer and an alliance area, is a percentage that reflects, for the year before the first year in which this section applies to the employer, the amount by which

(i) the average demographic risk for employees (and family members) described in paragraph (2)(B) residing in the alliance area, exceeds

(ii) the average demographic risk for all regional alliance eligible individuals residing in the area.

(B) Measurement of demographic risk.

(i) In general. Demographic risk under subparagraph (A) shall be measured, in a manner specified by the Board, based on the demographic characteristics described in section 6001(c)(1)(A), that relate to the actuarial value of the comprehensive benefit package.

(ii) Provision of information. Each employer to which this section applies shall submit, to each regional alliance for which an additional payment may be required under this section, such information (and at such time) as the Board may require in order to determine the demographic risk referred to in subparagraph (A)(i).

(4) Phase-down percentage. The phase down percentage, specified in this paragraph for an employer for

(A) each of the first 4 years to which this section applies to the employer, is 100 percent,

(B) the fifth such year, is 75 percent,

(C) the sixth such year, is 50 percent, and

(D) the seventh such year, is 25 percent.

(c) Phase in of Employer Premium Discount. For

(1) each of the first 4 years in which this section

applies to such employer, section 6123 shall not apply to the employer;

(2) the fifth such year, section 6123 shall apply to the employer but the reduction in premium payment effected by such section shall be 25 percent of the reduction that would otherwise apply (but for this subsection);

(3) the sixth such year, section 6123 shall apply to the employer but the reduction in premium payment effected by such section shall be 50 percent of the reduction that would otherwise apply (but for this subsection);

(4) the seventh such year, section 6123 shall apply to the employer but the reduction in premium payment effected by such section shall be 75 percent of the reduction that would otherwise apply (but for this subsection); or

(5) a subsequent year, section 6123 shall apply to the employer without any reduction under this subsection.

Section 6125 EMPLOYER COLLECTION SHORTFALL ADD-ON.

(a) In General. The amount payable by an employer under this subpart shall be increased by the amount computed under subsection (b).

(b) Amount. The amount under this subsection for an employer is equal to the premium payment amount that would be computed under section 6121(b)(2) if the per capita collection shortfall amount (computed under section 6107(b)(1)) for the year were substituted for the reduced weighted average accepted bid for the year. The reduced weighted average accepted bid is used under section 6000(b)(1) in computing the weighted average premium, which in turn is used under section 6122(a)(1) in computing the base employment monthly premium, which in turn is used under section 6121(b)(2)(A) in computing the employer premium amount.

(c) Discount Not Applicable. Section 6123 shall not apply to the increase in the amount payable by virtue of this section.

Section 6126 APPLICATION TO SELF-EMPLOYED INDIVIDUALS.

(a) In General. A self-employed individual (as defined in section 1901(c)(2)) shall be considered, for purposes of this subpart to be an employer of himself or herself and to pay wages to himself or herself equal to the amount of net earnings from self-employment (as defined in section 1901(c)(1)).

(b) Credit for Employer Premiums.

(1) In general. In the case of a self-employed individual, the amount of any employer premium payable by virtue of subsection (a) in a year shall be reduced (but not below zero) by the sum of the following:

(A) Subject to paragraph (2), the amount of any employer premiums payable under this subpart (determined not taking into account any adjustment in the premium amounts under section 6123 or 6124) with respect to the employment of that individual in the year.

(B) The product of (i) the number of months in the year the individual was employed on a full-time basis by a corporate alliance employer, and (ii) the employer premium that would have been payable for such months under this subpart (determined not taking into account any adjustment in the premium amounts under section 6123 or 6124) for the class of enrollment if such employer had been a regional alliance employer.

(2) Special rule for certain closely-held businesses.

(A) In general. In the case of an individual who

(i) has wage-adjusted income (as defined in section 6113(d), determined without regard to paragraphs (1)(B) and (2) thereof) that exceeds 250 percent (or such higher percentage as the Board may establish) of the applicable poverty level, and

(ii) is both a substantial owner and an employee of a closely held business, the amount of any reduction under paragraph (1)(A) that is attributable to the individual's employment by that business shall be appropriately reduced in accordance with rules prescribed by the Board, in order to prevent individuals from avoiding payment of the full amount owed through fraudulent or secondary employment arrangements.

(B) Closely held business. For purposes of subparagraph (A), a business is "closely held" if it is an employer that meets the requirements of section 542(a)(2) of the Internal Revenue Code of 1986 or similar requirements as appropriate in the case of a partnership or other entity.

Subpart B Corporate Alliance Employers

Section 6131 EMPLOYER PREMIUM PAYMENT REQUIRED.

(a) Per Employee Premium Payment. Subject to section 6124, each corporate alliance employer of a corporate alliance that in a month in a year employs a qualifying employee who is

(1) enrolled in a corporate alliance health plan offered by the alliance, shall provide for a payment toward the premium for the plan in an amount at least equal to the corporate employer premium specified in subsection (b); or

(2) is not so enrolled, shall make employer premium payments with respect to such employment under subpart A in the same manner as if the employer were a regional alliance employer (except as otherwise provided in such subpart).

(b) Corporate Employer Premium.

(1) Amount.

(A) In general. Except as provided in paragraph (2), the amount of the corporate employer premium for a month in a year for a class of family enrollment for a family residing in a premium area (established under section 1384(b)) is 80 percent of the weighted average monthly premium of the corporate alliance health plans offered by the corporate alliance for that class of enrollment for families residing in that area.

(B) Application to self-insured plans. In applying this paragraph in the case of one or more corporate alliance health plans that are self-insured plans

(i) the "premium" for the plan is the actuarial equivalent of such premium, based upon the methodology (or such other consistent methodology) used under section 6021(a) (relating to application of premium caps to corporate alliance health plans), and

(ii) the premium amount, for different classes and, if applicable, for different premium areas, shall be computed in a manner based on such factors as may bear a reasonable relationship to costs for the provision of the comprehensive benefit package to the different classes in such areas. The Secretary of Labor shall establish rules to carry out this subparagraph.

(2) Low-wage employees. In the case of a low-wage employee entitled to a premium discount under section 6104(a)(2), the amount of the employer premium payment for a month in a year for a class of family enrollment shall be increased by the amount of such premium discount.

(c) Determinations.

(1) Basis. Determinations under this section shall be made based on such information as the Secretary of Labor shall specify.

(2) Timing. Determinations of the monthly premiums under this section for months in a year shall be made not later than December 1 of the previous year.

Title VI, Subtitle C

Subtitle C Payments to Regional Alliance Health Plans

Section 6201 COMPUTATION OF BLENDED PLAN PER CAPITA PAYMENT AMOUNT.

(a) In General. For purposes of section 1351, the blended plan per capita payment amount for a regional alliance health plan for enrollments in an alliance for a year is equal to the sum of the 3 components described in subsection (b), multiplied by any adjustment factor applied for the year under section 6202(d).

(b) Sum of Products. The 3 components described in this subsection are:

(1) Plan bid component for that plan. The product of

(A) the final accepted bid for plan (as defined in section 6000(a)(2)) for the year, and

(B) the plan bid proportion determined under section 6202(a)(1) for the year.

(2) AFDC component for alliance. The product of

(A) the AFDC per capita premium amount for the regional alliance for the year (determined under section 9012), and

(B) the AFDC proportion determined under section 6202(a)(2) for the year.

(3) SSI component for alliance. The product of

(A) the SSI per capita premium amount for the regional alliance for the year (determined under section 9013)

for the year, and

(B) the SSI proportion determined under section 6202(a)(3) for the year.

Section 6202 COMPUTATION OF PLAN BID, AFDC, AND SSI PROPORTIONS.

(a) In General.For purposes of this subtitle:

(1) Plan bid proportion. The "plan bid proportion" is, for a class of enrollment, 1 minus the sum of (A) the AFDC proportion, and (B) the SSI proportion.

(2) AFDC proportion. The "AFDC proportion" is, for a class of family enrollment for a year, the ratio of

(A) the average of the number of AFDC recipients (as determined under subsection (c)) enrolled in regional alliance health plans in that class of enrollment for the year, to

(B) the average of the total number of individuals enrolled in regional alliance health plans in that class of enrollment for the year.

(3) SSI proportion. The "SSI proportion" is, for a class of family enrollment for a year, the ratio of

(A) the average of the number of SSI recipients (as determined under subsection (c)) enrolled in regional alliance health plans in that class of enrollment for the year, to

(B) the average described in paragraph (2)(B).

(b) Computation.

(1) Projections. The proportions described in subsection (a) shall be determined and applied by the State, based upon the best available data, at least 1 month before the date bids are submitted under section 6004 before the beginning of the calendar year involved.

(2) Actual. For purposes of making adjustments under subsection (d), the regional alliance shall determine, after the end of each year, the actual proportions described in subsection (a).

(c) Counting of AFDC and SSI Recipients. For purposes of subsections (a)(2)(A) and (a)(3)(A), the terms "SSI recipient"

and "AFDC recipient" do not include a medicare-eligible individual.

(d) Adjustments For Discrepancies In Estimations.

(1) In general. If the actual AFDC proportion or SSI proportion (as determined under subsection (a)) for a year (in this subsection referred to as the "reference year"), determined after the end of the year based upon actual number of AFDC recipients and SSI recipients in the year, is different from the projected AFDC and SSI proportions (as determined under subsection (b)(1)) used in computing the blended plan payment amount for the year, then, subject to section 1361(b)(3), the regional alliance shall adjust the blended plan payment amount in the second succeeding year (in this subsection referred to as the "applicable year") in the manner described in paragraph (2). By regulation the Secretary may apply the adjustment, based on estimated amounts, in the year before the applicable year, with final adjustment in the applicable year.

(2) Adjustment described.

(A) Positive cash flow. If the cash flow difference (as defined in paragraph (3)(A)) for the reference year is positive, then in the applicable year the blended plan payment amount shall be increased by the adjustment percentage described in paragraph (4).

(B) Negative cash flow. If the cash flow difference (as defined in paragraph (3)(A)) for the reference year is negative, then in the applicable year the blended plan payment amount shall be reduced by the adjustment percentage described in paragraph (4).

(3) Cash flow difference defined.In this subsection:

(A) In general. The term "cash flow difference" means, for a regional alliance for a reference year

(i) the actual cash flow (as defined in subparagraph (B)) for the alliance for the year, minus

(ii) the reconciled cash flow (as defined in subparagraph (C)) for the alliance for the year.

(B) Actual cash flow. The term "actual cash flow" means, for a regional alliance for a reference year, the total amount paid by the regional alliance to the regional alliance health plans in the year based on the blended plan payment amount

(computed on the basis of projected AFDC and SSI proportions determined under subsection (b)(1)).

(C) Reconciled cash flow. The term "reconciled cash flow" means, for a regional alliance for a reference year, the total amount that would have been paid to regional alliance health plans in the year if such payments had been made based on the blended plan payment amount computed on the basis of the actual AFDC and SSI proportions for the year (determined under subsection (b)(2), rather than based on such payment amount computed on the basis of the projected AFDC and SSI proportions for the year (determined under subsection (b)(1)).

(4) Percentage adjustment. The percentage adjustment described in this paragraph for a regional alliance for an applicable year is the ratio (expressed as a percentage) of

(A) the cash flow difference for the reference year, to

(B) the total payments estimated by the regional alliance to be paid to regional alliance health plans under this subtitle in the applicable year (determined without regard to any adjustment under this subsection).