H. R. 1654

To amend title XVIII of the Social Security Act to provide for additional opportunities to enroll under part B of the Medicare Program, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 15, 2011

Mr. SCHRADER (for himself, Mr. KISSELL, Mr. LARSON of Connecticut, Ms. BALDWIN, Mr. KUCINICH, and Mr. FARR) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend title XVIII of the Social Security Act to provide for additional opportunities to enroll under part B of the Medicare Program, and for other purposes.

1 Be it enacted by the Senate and House of Representa-
2 tives of the United States of America in Congress assembled,

3 SECTION 1. SHORT TITLE.

4 This Act may be cited as the “Medicare Enrollment

5 Protection Act of 2011”.
SEC. 2. MEDICARE PART B SPECIAL ENROLLMENT PERIOD
FOR INDIVIDUALS ENROLLED IN COBRA CONTINUATION COVERAGE.

(a) Special Enrollment Period.—Section 1837(i) of the Social Security Act (42 U.S.C. 1395p(i)) is amended by adding at the end the following new paragraph:

“(5)(A) In the case of an individual who—

“(i) at the time the individual first satisfies paragraph (1) or (2) of section 1836, is enrolled in COBRA continuation coverage (as defined in subparagraph (D)), and

“(ii) has elected not to enroll (or to be deemed enrolled) under this section during the individual’s initial enrollment period,

there shall be a special enrollment period described in subparagraph (B).

“(B) The special enrollment period referred to in subparagraph (A) is the period including each month during any part of which the individual is enrolled in COBRA continuation coverage ending with the last day of the eighth consecutive month in which the individual is at no time so enrolled.

“(C) An individual may only enroll during the special enrollment period provided under subparagraph (B) one time during the individual’s lifetime.
“(D) For purposes of this paragraph, the term ‘COBRA continuation coverage’ means continuation coverage provided pursuant to part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (other than under section 609), title XXII of the Public Health Service Act, section 4980B of the Internal Revenue Code of 1986 (other than subsection (f)(1) of such section insofar as it relates to pediatric vaccines), or section 8905a of title 5, United States Code, or under a State program that provides comparable continuation coverage. Such term does not include coverage under a health flexible spending arrangement under a cafeteria plan within the meaning of section 125 of the Internal Revenue Code of 1986.”.

(b) COVERAGE PERIOD.—Section 1838(e) of such Act (42 U.S.C. 1395q(e)) is amended—

(1) by striking “pursuant to section 1837(i)(3) or 1837(i)(4)(B)” and inserting the following:

“pursuant to—

“(1) section 1837(i)(3) or 1837(i)(4)(B)—”;

(2) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and moving the indentation of each such subparagraph 2 ems to the right;
(3) by striking the period at the end of the sub-
paragraph (B), as so redesignated, and inserting “; 
or”; and

(4) by adding at the end the following new 
paragraph:

“(2) section 1837(i)(5), the coverage period 
shall begin on the first day of the month following 
the month in which the individual so enrolls.”.

(e) No Increase in Premium.—Section 1839(b) of 
such Act (42 U.S.C. 1395r(b)) is amended—

(1) in the first sentence, by inserting “, (i)(5),” 
after “subsection (i)(4)” ; and

(2) in the second sentence, by inserting before 
the period at the end the following: “or months for 
which the individual can demonstrate that the indi-
vidual was enrolled in COBRA continuation coverage 
(as such term is defined in section 1837(i)(5)(D)).”.

(d) Effective Date.—

(1) In General.—The amendments made by 
this section shall take effect on the date of the en-
actment of this Act and shall apply to periods of 
COBRA continuation coverage before, on, or after 
such date.

(2) Special Enrollment Period.—No spe-
cial enrollment period under section 1837(i)(5)(B) of
the Social Security Act (42 U.S.C. 1395p(i)(5)(B))
shall begin before the first day of the first month
that begins at least 45 days after the date of the en-
actment of this Act.

(3) PREMIUMS.—The amendment made by sub-
section (c)(2) shall apply to premiums for months
beginning with the first month that begins at least
45 days after the date of the enactment of this Act.

SEC. 3. CONTINUOUS OPEN MEDICARE PART B ENROLL-
MENT.

(a) CONTINUOUS OPEN ENROLLMENT PERIOD.—
Section 1837 of the Social Security Act (42 U.S.C. 1395p)
is amended by adding at the end the following new sub-
section:

“(m)(1) There shall be a continuous open enrollment
period beginning on the first day of the first month in
which an individual first satisfies paragraph (1) or (2) of
section 1836, except that such continuous open enrollment
period shall not be available during the individual’s initial
enrollment period or a special enrollment period available
to the individual.

“(2) In the case of an individual seeking enrollment
under paragraph (1) during a general enrollment period
under subsection (e), the individual shall be enrolled under
such subsection and not under paragraph (1), unless the individual specifies otherwise.”.

(b) COVERAGE PERIOD.—Section 1838(a)(2) of such Act (42 U.S.C. 1395q(a)(2)) is amended—

(1) in subparagraph (E), by striking the semi-colon and inserting a comma; and

(2) by adding at the end the following new sub-
paragraph:

“(F) in the case of an individual who enrolls pursuant to subsection (m) of section 1837, the first day of the month following the month in which such individual so enrolls; or”.

(c) PREMIUM INCREASE.—Section 1839 of such Act (42 U.S.C. 1395r) is amended by adding at the end the following new subsection:

“(j) INCREASE IN PREMIUM BASED ON ENROLL-
MENT PURSUANT TO CONTINUOUS OPEN ENROLLMENT PERIOD.—In the case of an individual whose coverage pe-
riod began pursuant to a continuous open enrollment pe-
riod under section 1837(m), the monthly premium deter-
mined under subsection (a), adjusted in accordance with subsection (i), shall, in addition to the increase required by subsection (b), be increased by such amount as the Sec-
etary considers appropriate, taking into account any ad-
ditional actuarial cost to the insurance program estab-
lished under this part due to enrollment under such sec-

tion. Any increase under this subsection shall apply to all

premiums paid by the individual after enrollment pursuant

to such continuous open enrollment period.”.

(d) REPORT TO CONGRESS.—Not later than 180 days

after the date of the enactment of this Act, the Secretary

of Health and Human Services shall submit to Congress

a report describing—

(1) the average increase in premiums based on

enrollment in the insurance program established

under part B of title XVIII of the Social Security

Act pursuant to a continuous open enrollment period

under section 1837(m) of such Act, as added by sub-

section (a);

(2) any other regulations promulgated by the

Secretary with respect to such enrollment;

(3) the number and characteristics of individ-

uals choosing such enrollment; and

(4) any costs of such enrollment to such insur-

ance program that were not covered by the increases

in premiums described in the amendment made by

subsection (c).

(e) EFFECTIVE DATE.—The amendments made by

this section shall take effect on the date of the enactment

of this Act, except that no individual may enroll pursuant
to a continuous open enrollment period under the amend-
ment made by subsection (a) before the first day of the
first month that begins at least 45 days after the date
of the enactment of this Act.

SEC. 4. SPECIAL ENROLLMENT PERIODS TO CORRECT
ERROR, MISREPRESENTATION, OR INACTION
OF FEDERAL GOVERNMENT, GROUP HEALTH
PLAN, OR PLAN SPONSOR.

Section 1837(h) of the Social Security Act (42 U.S.C.
1395p(h)) is amended by inserting “or by an officer, em-
ployee, or agent of a group health plan, or of a plan spon-
sor (as such term is defined in section 3(16)(B) of the
Employee Retirement Income Security Act of 1974 (29
U.S.C. 1002(16)(B))) of a group health plan,” after “in-
strumentalities,”.

SEC. 5. COORDINATION OF MEDICARE PART B WITH AMER-
ICAN HEALTH BENEFIT EXCHANGES.

Section 1837 of the Social Security Act (42 U.S.C.
1395p), as amended by section 3(a), is further amended
by adding at the end the following new subsection:
“(n) The Secretary shall ensure appropriate coordi-
nation between the insurance program established under
this part and American Health Benefit Exchanges estab-
lished under section 1311(b) of the Patient Protection and
Affordable Care Act (Public Law 111–148), including en-
securing a smooth transition in enrollment from enrollment
in qualified health plans offered through Exchanges to en-
rollment under this part.”.

SEC. 6. GAO STUDY AND REPORT ON MEDICARE PART B EN-
ROLLMENT.

Not later than 2 years after the date of the enact-
ment of this Act, the Comptroller General of the United
States shall submit to Congress a report on enrollment
in the insurance program established under part B of title
XVIII of the Social Security Act (in this section referred
to as “Medicare part B”). The report shall include—

(1) a comprehensive evaluation of problems ex-
perienced by individuals with respect to enrollment
in Medicare part B, including the causes of such
problems and any geographic trends in the mani-
festation of such problems;

(2) an assessment of the number of people who
lack health insurance coverage because of such prob-
lems;

(3) an evaluation of efforts by the Centers for
Medicare & Medicaid Services and the Social Secu-

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(4) an evaluation of coordination of coverage for individuals with private health insurance who are also eligible for Medicare part B and ways to improve such coordination;

(5) an evaluation of the coordination between Medicare part B and American Health Benefit Exchanges required by the amendment made by section 5;

(6) an evaluation of the differences in regulations applicable to individuals who are eligible for Medicare part B based on age and individuals who are eligible based on disability, and ways to improve parity in the treatment of each such group of individuals that may be implemented in regulations and guidance; and

(7) an evaluation of efforts by the Centers for Medicare & Medicaid Services to provide equitable relief to individuals who suffered adverse consequences due to misinformation or a lack of information on enrollment in Medicare part B, and ways to improve the provision of such equitable relief.