

106TH CONGRESS
2D SESSION

H. R. 3690

To amend titles XVIII and XIX of the Social Security Act to assure the financial solvency of Medicare+Choice organizations and Medicaid managed care organizations.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 16, 2000

Mr. PASCRELL (for himself, Mr. GRAHAM, and Mr. KLINK) introduced the following bill; which was referred to the Committee on 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 titles XVIII and XIX of the Social Security Act to assure the financial solvency of Medicare+Choice organizations and Medicaid managed care organizations.

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 “HMO Solvency Act
5 of 2000”.

1 **SEC. 2. ASSURING THE SOLVENCY OF MEDICAID MANAGED**
2 **CARE ORGANIZATIONS.**

3 (a) MEDICAID PROGRAM.—Section 1932(b) of the
4 Social Security Act (42 U.S.C. 1396u–2(b)) is amended
5 by adding at the end the following new paragraph:

6 “(9) SOLVENCY-RELATED REQUIREMENTS.—

7 “(A) PERIODIC REPORTING.—Each med-
8 icaid managed care organization shall submit to
9 the State not less often than each quarter (or
10 such more frequent basis as a State may speci-
11 fy) such financial reports as may be necessary
12 to monitor the financial stability of the organi-
13 zation and provide an early warning of any risk
14 of insolvency. The State shall review the reports
15 so submitted and shall determine the appro-
16 priate course of action based upon such review.

17 “(B) AUDITS.—

18 “(i) PREAPPROVAL INDEPENDENT
19 AUDIT OF OPERATIONS.—Before a State
20 enters into a contract under section
21 1903(m) (on and after the effective date of
22 this subparagraph) with a medicaid man-
23 aged care organization, the organization
24 shall provide for such on-site audit as the
25 Secretary shall require to evaluate its in-
26 ternal structure upon which the organiza-

tion’s financial projections are based. Such audit shall be undertaken by an independent entity (which may be an appropriate State agency) with such qualifications as the Secretary shall specify. The audit shall include at least a review of the organization’s claims processing capability and utilization management and accounting functions and shall focus on the key business risks the organization is facing, including regulatory risks, competition, provider network, pricing, claims processing environment, reserves, and information system integrity.

“(ii) PERIODIC AUDITS UNDER A STATE AUDIT PLAN.—Each medicaid managed care organization shall provide for such periodic audits as the State shall require under an audit plan designed by the State and approved by the Secretary. The frequency of such audits shall take into account changes in subcontracting by, and ownership of, the organization.

“(C) MINIMUM NET WORTH IN CASH OR CASH EQUIVALENTS.—Each medicaid managed

1 care organization shall maintain, on an ongoing
2 basis, such minimum net worth (in cash or cash
3 equivalents) in such amount, form, and manner
4 as the State shall specify, consistent with guide-
5 lines established by the Secretary. The State
6 may permit the minimum net worth require-
7 ment to be met through a written guarantee by
8 a guarantor that meets such requirements as
9 the State shall specify consistent with such
10 guidelines.

11 “(D) APPROVAL OF CERTAIN SUB-
12 CONTRACTORS.—In the case of a medicaid man-
13 aged care organization that proposes to enter
14 into (on and after the effective date of this sub-
15 paragraph) a subcontract with another entity to
16 provide health care services to enrollees under
17 this title, to perform health care provider reim-
18 bursement under this title, or to carry out other
19 functions of the organization under this title
20 that have a direct impact on enrollees—

21 “(i) the organization shall provide no-
22 tice (and a copy of the contract) to the
23 State at least 90 days before the date it is
24 entered into; and

1 “(ii) before the subcontract takes ef-
2 fect, the organization shall provide for an
3 independent audit of the proposed subcon-
4 tractor to establish that the subcontractor
5 will be able to provide the services under
6 the subcontract and to guarantee its per-
7 formance financially in a manner satisfac-
8 tory to the State.

9 “(E) REPORTING OF SIGNIFICANT
10 CHANGES IN OWNERSHIP OR SCOPE OF OPER-
11 ATIONS.—Each medicaid managed care organi-
12 zation shall provide for such timely reports to
13 the State of such significant changes in the
14 ownership of the organization, or of the scope
15 of operations of the organization, including by
16 takeover or merger, as the State shall require
17 in order to appropriately assure the continuing
18 solvency of the organization after the date such
19 changes take effect.

20 “(F) FEDERAL SOLVENCY STANDARDS.—
21 Each medicaid managed care organization shall
22 comply with, and each State shall apply, such
23 additional solvency standards as the Secretary
24 may establish to carry out this paragraph.

1 “(G) APPLICATION OF CERTAIN REQUIRE-
2 MENTS TO CONTROLLING ORGANIZATIONS AND
3 ENTITIES.—In the case of a medicaid managed
4 care organization that is substantially owned or
5 controlled by another organization or entity,
6 subparagraphs (A), (C), (E), and (as appro-
7 priate) (F) shall apply to such other organiza-
8 tion or entity as well as to the medicaid man-
9 aged care organization.”.

10 (b) EFFECTIVE DATE.—

11 (1) IN GENERAL.—Subject to paragraph (2),
12 the amendment made by subsection (a) applies as of
13 such date (not later than 6 months after the date
14 of the enactment of this Act) as the Secretary of
15 Health and Human Services shall specify.

16 (2) TRANSITION.—The Secretary—

17 (A) may delay the effective date of such
18 amendment in the case of a State that requires
19 the enactment of legislation (other than legisla-
20 tion appropriating funds) in order for the State
21 medicaid plan under title XIX of the Social Se-
22 curity Act to meet the additional requirements
23 imposed by such amendment; and

24 (B) may permit medicaid managed care or-
25 ganizations that are operating as of the effec-

1 tive date of such amendment such additional
 2 time as might be appropriate to meet the addi-
 3 tional requirement of section 1932(b)(9)(C) of
 4 the Social Security Act (relating to minimum
 5 net worth), as added by such amendment.

6 **SEC. 3. ASSURING THE SOLVENCY OF MEDICARE+CHOICE**
 7 **ORGANIZATIONS.**

8 (a) APPLICATION TO MEDICARE+CHOICE ORGANIZA-
 9 TIONS.—Section 1855 of the Social Security Act (42
 10 U.S.C. 1395w–25) is amended by adding at the end the
 11 following new subsection:

12 “(e) SOLVENCY-RELATED REQUIREMENTS.—

13 “(1) IN GENERAL.—Except as provided in this
 14 subsection, the requirements of section 1932(b)(9)
 15 shall apply to Medicare+Choice organizations in the
 16 same manner as they apply to medicaid managed
 17 care organizations except that, for purposes of this
 18 subsection, any reference in such section to a State,
 19 title XIX, or a contract under section 1903(m) is
 20 deemed a reference to the Secretary, this title, and
 21 a contract under section 1857, respectively.

22 “(2) RECOGNITION OF STATE ENFORCE-
 23 MENT.—Insofar as the Secretary finds that a State
 24 under section 1932(b)(9) is applying to a
 25 Medicare+Choice organization the requirements of

1 such section and the organization meets such re-
2 quirements, the Secretary shall deem the organiza-
3 tion as meeting the comparable requirements that
4 would otherwise be imposed under paragraph (1).

5 “(3) RELATION TO OTHER REQUIREMENTS.—

6 The Secretary shall waive the application of a re-
7 quirement of paragraph (1) to an organization inso-
8 far as the Secretary finds that the application of the
9 requirement would be duplicative of other, similar
10 requirements of this part and would not provide
11 greater protection to Medicare+Choice enrollees.”.

12 (b) APPLICATION TO OTHER ORGANIZATIONS PRO-
13 VIDING MEDICARE BENEFITS ON A CAPITATED BASIS.—

14 The Secretary of Health and Human Services shall pro-
15 vide for the application of the requirement of section
16 1855(e) of the Social Security Act (as added by subsection
17 (a)) to organizations (other than Medicare+Choice orga-
18 nizations) that receive payment on a capitated basis for
19 provision of services under title XVIII of the Social Secu-
20 rity Act.

21 (c) EFFECTIVE DATE.—The Secretary of Health and
22 Human Services shall implement the amendment made by
23 subsection (a) and shall implement subsection (b) in a
24 manner similar to the manner in which the amendment

1 made by section 2(a) becomes effective under paragraphs
2 (1) and (2)(B) of section 2(b).

3 **SEC. 4. REPORT ON PROTECTION OF HEALTH CARE PRO-**
4 **VIDERS IN CASE OF PLAN INSOLVENCY.**

5 The Secretary of Health and Human Services shall
6 report to Congress, not later than 1 year after the date
7 of the enactment of this Act, on—

8 (1) the steps States are taking to guaranty
9 that, in the event of insolvency of a medicaid man-
10 aged care organization that offers coverage under
11 the medicaid program or a Medicare+Choice organi-
12 zation that offers a Medicare+Choice plan, health
13 care providers will be protected from financial losses;
14 and

15 (2) what additional steps the Secretary deems
16 appropriate for States or the Federal Government to
17 take to protect health care providers in the event of
18 such an insolvency.

○