

106TH CONGRESS
2D SESSION

H. R. 4087

To amend title XVIII of the Social Security Act to provide for payment of claims by health care providers against insolvent Medicare+Choice organizations, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 23, 2000

Mr. SALMON (for himself and Mr. SOUDER) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Commerce, 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 payment of claims by health care providers against insolvent Medicare+Choice organizations, 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Medicare+Choice Beneficiary Confidence Act of 2000”.

6 (b) TABLE OF CONTENTS.—The table of contents of
7 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Payment of claims against insolvent Medicare+Choice organizations.

“Sec. 1856A. Payment of claims against insolvent Medicare+Choice organizations.”.

Sec. 3. Improved communication regarding the solvency of Medicare+Choice organizations between HCFA and the States.

Sec. 4. Response by the Secretary to failure of Medicare+Choice organizations to provide prompt payment.

Sec. 5. Surety bond required of Medicare+Choice organizations.

1 **SEC. 2. PAYMENT OF CLAIMS AGAINST INSOLVENT**
2 **MEDICARE+CHOICE ORGANIZATIONS.**

3 (a) IN GENERAL.—Title XVIII of the Social Security
4 Act (42 U.S.C. 1395 et seq.) is amended by inserting after
5 section 1856 the following new section:

6 “PAYMENT OF CLAIMS AGAINST INSOLVENT
7 MEDICARE+CHOICE ORGANIZATIONS

8 “SEC. 1856A. (a) PAYMENT OF CLAIMS.—
9 “(1) INSOLVENT MEDICARE+CHOICE ORGANI-
10 ZATIONS.—

11 “(A) SUBMISSION OF UNPAID CLAIMS TO
12 HCFA.—If a statutory successor is appointed
13 for an insolvent Medicare+Choice organization,
14 such statutory successor shall submit to the
15 Secretary each valid unpaid clean claim (as de-
16 fined in section 1842(c)(2)(B)(i)) by a health
17 care provider for payment for any covered item
18 or service furnished before the date on which
19 such statutory successor was appointed to a
20 Medicare+Choice eligible individual enrolled in

1 a Medicare+Choice plan offered by such orga-
2 nization.

3 “(B) PAYMENTS FROM TRUST FUNDS.—
4 Not later than 30 days after a clean claim is
5 submitted under subparagraph (A), the Sec-
6 retary shall pay to the health care provider the
7 amount described in subparagraph (C) from the
8 Federal Hospital Insurance Trust Fund and
9 the Federal Supplementary Medical Insurance
10 Trust Fund in such proportion as the Secretary
11 determines appropriate.

12 “(C) AMOUNT DESCRIBED.—The amount
13 described in this subparagraph is as follows:

14 “(i) CONTRACTING PROVIDERS.—In
15 the case of a health care provider having
16 a written agreement with the insolvent
17 Medicare+Choice organization, the amount
18 that would have been paid to the health
19 care provider under such agreement for the
20 covered item or service.

21 “(ii) NONCONTRACTING PROVIDERS.—
22 In the case of a health care provider that
23 did not have a written agreement with the
24 insolvent Medicare+Choice organization,

3 “(2) ENROLLEES IN MEDICARE+CHOICE PLANS
4 OFFERED BY INSOLVENT MEDICARE+CHOICE ORGA-
5 NIZATIONS.—

8 "(b) HCFA A CREDITOR OF BANKRUPTCY OR RE-
9 CEIVERSHIP ESTATE.—

10 “(1) IN GENERAL.—The Secretary shall be
11 deemed to be a creditor of the estate of the insolvent
12 Medicare+Choice organization for any amount paid
13 under paragraph (1)(B) or (2)(A)(i) of subsection
14 (a) and not collected from a beneficiary under para-
15 graph (2)(A)(ii) of such subsection.

16 “(2) PRIORITY.—For purposes of applying
17 paragraph (1), the Secretary shall be given the same
18 priority that the health care provider paid under
19 paragraph (1)(B) would have been given if the
20 amount paid to such provider remained due and
21 owing.

22 "(c) DEFINITIONS.—In this section:

23 “(1) INSOLVENT MEDICARE+CHOICE ORGANI-
24 ZATION.—The term ‘insolvent Medicare+Choice or-

1 ganization' means a Medicare+Choice organization
2 for which—

3 “(A) a petition for bankruptcy has been
4 filed under title 11, United States Code;

5 “(B) a petition for receivership has been
6 filed on account of insolvency under State law;

7 or

8 “(C) any similar proceeding has com-
9 menced under State law.

10 “(2) HEALTH CARE PROVIDER.—The term
11 ‘health care provider’ means a provider or other per-
12 son that meets the applicable requirements of this
13 title and part A of title XI.”.

14 (b) EFFECTIVE DATE.—The amendment made by
15 subsection (a) shall—

16 (1) take effect on the date of enactment of this
17 Act; and

18 (2) apply with respect to Medicare+Choice or-
19 ganizations for which a statutory successor is ap-
20 pointed on or after November 1, 1999.

1 **SEC. 3. IMPROVED COMMUNICATION REGARDING THE SOL-**2 **VENCY OF MEDICARE+CHOICE ORGANIZA-**3 **TIONS BETWEEN HCFA AND THE STATES.**

4 (a) IN GENERAL.—Section 1857(d) of the Social Se-
5 curity Act (42 U.S.C. 1395w-27(d)) is amended by adding
6 at the end the following new paragraph:

7 “(6) NOTIFICATION OF STATES.—Each contract
8 under this section shall provide that in the case that
9 the Secretary determines, based on any information
10 obtained under this subsection, that a
11 Medicare+Choice organization may not be able to
12 bear the risk of potential financial losses (as de-
13 scribed in paragraph (2)(B)(i)), the Secretary shall,
14 within a reasonable period of time—

15 “(A) notify each State in which the
16 Medicare+Choice organization provides any
17 covered item or service of such determination;
18 and

19 “(B) provide each such State with the in-
20 formation obtained under this subsection on
21 which the determination is based.”.

22 (b) EFFECTIVE DATE.—The amendment made by
23 subsection (a) shall—

24 (1) take effect on the date of enactment of this
25 Act; and

4 SEC. 4. RESPONSE BY THE SECRETARY TO FAILURE OF
5 MEDICARE+CHOICE ORGANIZATIONS TO PRO-
6 VIDE PROMPT PAYMENT.

7 (a) IN GENERAL.—Section 1857(f) of the Social Se-
8 curity Act (42 U.S.C. 1395w–27(f)) is amended by adding
9 at the end the following new paragraph:

10 “(3) SECRETARY REQUIRED TO BYPASS NON-
11 COMPLYING ORGANIZATION.—

12 “(A) IN GENERAL.—In the case of a
13 Medicare+Choice eligible organization which
14 the Secretary determines, after notice and op-
15 portunity for a hearing, that—

21 the Secretary shall provide for direct payment
22 of the amounts owed to providers and suppliers
23 (or, in the case of a Medicare+Choice private
24 fee-for-service plan, amounts owed to the enroll-
25ees) for covered services and supplies furnished

1 to individuals enrolled under this part under the
2 contract.

3 “(B) OFFSET.—If the Secretary provides
4 for direct payments under subparagraph (A),
5 the Secretary shall provide for an appropriate
6 reduction in the amount of payments otherwise
7 made to the organization under this part to re-
8 flect the amount of the Secretary’s payments
9 (and the Secretary’s costs in making the pay-
10 ments).”.

11 (b) EFFECTIVE DATE.—The amendment made by
12 subsection (a) shall—

13 (1) take effect on the date of enactment of this
14 Act; and

15 (2) apply with respect to contracts entered into
16 or renewed on or after the date of enactment of this
17 Act.

18 **SEC. 5. SURETY BOND REQUIRED OF MEDICARE+CHOICE**
19 **ORGANIZATIONS.**

20 (a) IN GENERAL.—Section 1857(e) of the Social Se-
21 curity Act (42 U.S.C. 1395w-27(e)) is amended by adding
22 at the end the following new paragraph:

23 “(3) SURETY BOND.—

1 “(A) IN GENERAL.—Each Medicare+Choice
2 organization shall provide the Secretary with a
3 surety bond—

4 “(i) effective for a period of 4 years
5 (as specified by the Secretary) or in the
6 case of a change in the ownership or con-
7 trol of the agency (as determined by the
8 Secretary) during or after such 4-year pe-
9 riod, an additional period of time that the
10 Secretary determines appropriate, such ad-
11 ditional period not to exceed 4 years from
12 the date of such change in ownership or
13 control;

14 “(ii) in a form specified by the Sec-
15 retary; and

16 “(iii) for a year in the period de-
17 scribed in clause (i) in an amount that is
18 equal to the lesser of \$500,000 or 10 per-
19 cent of the aggregate amount of payments
20 to the agency under this title and title XIX
21 for that year, as estimated by the Sec-
22 retary.

23 “(B) ADDITIONAL REQUIREMENTS.—Each
24 Medicare+Choice organization shall meet such
25 additional requirements (including conditions

1 relating to bonding or establishing of escrow ac-
2 counts as the Secretary finds necessary for the
3 financial security of the program) as the Sec-
4 retary finds necessary for the effective and effi-
5 cient operation of the program.

6 “(C) WAIVER.—The Secretary may waive
7 the requirement of a surety bond under sub-
8 paragraph (A) in the case of an organization
9 that provides a comparable surety bond under
10 State law.

11 “(D) FORFEITURE.—If a Medicare+Choice
12 organization forfeits a surety bond provided
13 under subparagraph (A), the Secretary shall
14 use the proceeds from such forfeiture for the
15 benefit of beneficiaries, providers, and suppliers
16 under this title.”.

17 (b) EFFECTIVE DATE.—The amendment made by
18 subsection (a) shall—

19 (1) take effect on the date of enactment of this
20 Act; and

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