

106TH CONGRESS  
2D SESSION

# H. R. 4236

To amend part C of title XVIII of the Social Security Act to improve payments under the Medicare+Choice Program.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 11, 2000

Mr. FOLEY (for himself, Mrs. KELLY, Mr. COOK, Mr. BASS, and Mr. CANADY of Florida) 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

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## A BILL

To amend part C of title XVIII of the Social Security Act to improve payments under the Medicare+Choice Program.

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 “Seniors Health Choice  
5 Preservation Act of 2000”.

1 **SEC. 2. APPLICATION OF BUDGET NEUTRALITY PRINCIPLE**  
2 **TO THE NEW MEDICARE+CHOICE RISK AD-**  
3 **JUSTMENT METHODOLOGY.**

4 (a) IN GENERAL.—Section 1853(a)(3) of the Social  
5 Security Act (42 U.S.C. 1395w–23(a)(3)) is amended by  
6 adding at the end the following new subparagraph:

7 “(E) IMPLEMENTATION IN A BUDGET NEU-  
8 TRAL MANNER.—The methodology under this  
9 paragraph shall be designed and implemented  
10 in a manner so that it does not result in any  
11 material change in the aggregate level of ex-  
12 penditures under this title compared to the level  
13 that would have occurred if such methodology  
14 had not been implemented (and if the previous  
15 risk adjustment methodology used in 1998 had  
16 continued to be implemented).”.

17 (b) EFFECTIVE DATE.—The amendment made by  
18 subsection (a) takes effect on the date of the enactment  
19 of this Act and applies to payments for months beginning  
20 on or after January 2001.

21 **SEC. 3. CHANGES TO HEALTH-STATUS RISK ADJUSTMENT.**

22 (a) IMPLEMENTATION OF HEALTH-STATUS RISK AD-  
23 JUSTMENT THROUGH NEGOTIATED RULEMAKING.—Sec-  
24 tion 1853(c) of the Social Security Act (42 U.S.C. 1395w–  
25 23(c)) is further amended by adding at the end the fol-  
26 lowing new paragraph:

1           “(4) IMPLEMENTATION OF HEALTH-STATUS  
2 RISK ADJUSTMENT THROUGH NEGOTIATED RULE-  
3 MAKING.—

4           “(A) IN GENERAL.—The Secretary shall  
5 establish, using a negotiated rulemaking process  
6 under subchapter III of chapter 5 of title 5,  
7 United States Code, and on an expedited basis,  
8 health-status related risk adjustors described in  
9 paragraph (3).

10          “(B) APPOINTMENT OF COMMITTEE.—In  
11 appointing negotiated rulemaking committee  
12 under section 565(a) of such title, the Secretary  
13 shall include representatives of  
14 Medicare+Choice organizations, providers, the  
15 Medicare Payment Advisory Commission, the  
16 Academy of Actuaries, the Department of  
17 Health and Human Services, and representa-  
18 tives of organizations with expertise in data pri-  
19 vacy issues.

20          “(C) FACTORS TO CONSIDER.—The health  
21 status risk adjustment methodology shall be  
22 based on the health status of Medicare+Choice  
23 enrollees. In evaluating alternative approaches,  
24 the committee and the Secretary shall weigh the  
25 costs of implementing risk adjustment methods

1           against their benefits in terms of predictive  
2           power.

3           “(D) DEADLINES.—

4                   “(i) COMMITTEE APPOINTMENT.—The  
5           Secretary shall provide for the appoint-  
6           ment of the negotiated rulemaking com-  
7           mittee under subparagraph (B) by not  
8           later than 6 months after the date of the  
9           enactment of this paragraph.

10                   “(ii) REPORTING DEADLINE.—The  
11           committee shall submit its recommenda-  
12           tions to the Secretary by not later than  
13           December 31, 2001.

14           “(E) SUPERSEDING OTHER PROVISIONS.—  
15           Regulations promulgated by the Secretary pur-  
16           suant to recommendations of the committee  
17           shall supersede the regulations implemented  
18           under paragraph (3).”.

19           (b) LIMITING PHASE-IN OF CURRENT HEALTH-STA-  
20           TUS RISK ADJUSTMENT METHODOLOGY.—Section  
21           1853(a)(3)(C)(ii)(II) of such Act (42 U.S.C. 1395w-  
22           23(a)(3)(C)(ii)(II)), as amended by section 511(a) of the  
23           Medicare, Medicaid, and SCHIP Balanced Budget Refine-  
24           ment Act of 1999 (113 Stat. 1501A–380), as enacted into  
25           law by section 1000(a)(6) of Public Law 106–113, is

1 amended by striking “not more than 20 percent of such  
 2 capitation rate in 2002” and inserting “not more than 10  
 3 percentage points more than the percent of  $\frac{1}{12}$  of the an-  
 4 nual Medicare+Choice capitation rate that it applied to  
 5 in the previous year, except as may be provided for under  
 6 paragraph (4)”.

7 (c) ELIMINATION OF REQUIREMENT TO REPORT EN-  
 8 COUNTER DATA.—The Secretary of Health and Human  
 9 Services shall immediately discontinue all activity related  
 10 to requiring Medicare+Choice organizations, under part  
 11 C of title XVIII of the Social Security Act, to submit en-  
 12 counter data for sites other than hospital inpatient depart-  
 13 ments, before final regulations are promulgated imple-  
 14 menting the health-status risk adjustment methodology  
 15 developed under the amendment made by subsection (a).

16 **SEC. 4. ADDITIONAL FLOOR FOR ANNUAL INCREASE IN**  
 17 **MEDICARE+CHOICE CAPITATION RATES.**

18 Section 1853(c)(3)(C) of the Social Security Act (42  
 19 U.S.C. 1395w–23(c)(3)(C)) is amended—

20 (1) in clause (ii), by inserting “(before 2002)”  
 21 after “For a subsequent year”; and

22 (2) by adding at the end the following new  
 23 clause:

24 “(iii) For 2002 and each subsequent  
 25 year, the greater of (I) 102 percent of the

annual Medicare+Choice capitation rate under this paragraph for the area for the previous year, or (II) such rate for the previous year increased by the national per capita Medicare+Choice growth percentage, described in paragraph (6)(A) for the succeeding year.”.

**SEC. 5. PAYMENT OF ADDITIONAL DRUG INFLATION DIFFERENTIAL FOR MEDICARE+CHOICE PLANS OFFERING QUALIFIED PRESCRIPTION DRUG COVERAGE.**

(a) IN GENERAL.—Section 1853 of the Social Security Act (42 U.S.C. 1395w–23) is amended—

(1) in subsection (a)(1)(A), by striking “and (i)” and inserting “(i), and (j)”; and

(2) by adding at the end the following new subsection:

“(j) PAYMENT OF ADDITIONAL DRUG INFLATION DIFFERENTIAL FOR MEDICARE+CHOICE PLANS OFFERING QUALIFIED PRESCRIPTION DRUG COVERAGE.—

“(1) IN GENERAL.—In the case of a Medicare+Choice plan that offers qualified prescription drug coverage (as defined in paragraph (2))) in a year and that meets the conditions described in paragraph (3), the annual Medicare+Choice capita-

1       tion rate otherwise applied under this section shall  
2       be increased by the percentage specified in para-  
3       graph (4).

4               “(2) QUALIFIED PRESCRIPTION DRUG COV-  
5       ERAGE DEFINED.—In this subsection, the term  
6       ‘qualified prescription drug coverage’ means cov-  
7       erage for outpatient prescription drugs under  
8       which—

9               “(A) there is no deductible applicable; and

10              “(B) there is either no limitation to the  
11              amount of benefits available in a year or any  
12              such limitation is not less than \$1,500.

13       Nothing in this paragraph shall be construed as pre-  
14       venting a Medicare+Choice plan offering qualified  
15       prescription drug coverage from imposing a copay-  
16       ment or other cost-sharing, other than a deductible.

17              “(3) CONDITIONS.—The conditions described in  
18       this paragraph with respect to a Medicare+Choice  
19       plan for months in a year are as follows:

20              “(A) NO SEPARATE PREMIUM.—There is  
21       no separate premium established for qualified  
22       prescription drug coverage under the plan.

23              “(B) LIMIT ON PREMIUMS.—The adjusted  
24       community rate proposal shall include a certifi-  
25       cation that the percentage increase in the cost

of drug benefits does not exceed 150 percent of the Secretary's estimate of the percentage specified in paragraph (4), adjusted to fairly reflect changes in the benefits provided.

“(4) DIFFERENTIAL PERCENTAGE.—The percentage specified in this paragraph for a Medicare+Choice plan for months in a year is equal to the product of the following:

“(A) DRUG INFLATION DIFFERENTIAL.—

The number of percentage points by which—

“(i) the annual rate of inflation for prescription drug coverage under Medicare+Choice plans (as estimated by the Secretary for the year), exceeds

“(ii) the percentage increase in the annual Medicare+Choice capitation rate applicable to the plan under subsection (a) (not taking into account this subsection) for the year involved.

“(B) PROPORTION OF TOTAL VALUE REPRESENTED BY DRUG COVERAGE.—The ratio of—

“(i) the average per capita actuarial value of the qualified prescription drug coverage under the plan for the year; to



1                   “(ii) the actuarial value of all benefits  
2                   under the plan for the year.

3       In no case shall the percentage under this paragraph  
4       be less than 0.

5           “(5) TREATMENT.—The percentage increase in  
6       payment effected under this subsection shall be  
7       taken into account in applying section 1854(f) (re-  
8       lating to additional benefits) and such payment in-  
9       crease is subject to adjustment for risk factors  
10      under subsection (a) in the same manner as the pay-  
11      ment described in such subsection.

12          “(6) CONSTRUCTION.—Nothing in this sub-  
13      section shall be construed as requiring a  
14      Medicare+Choice plan to provide qualified or other  
15      prescription drug coverage.”.

16      (b) EFFECTIVE DATE.—The amendments made by  
17      subsection (a) apply to payment for months beginning  
18      with January 2002.

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