

106TH CONGRESS
1ST SESSION

S. 1459

To amend title XVIII of the Social Security Act to protect the right of a medicare beneficiary enrolled in a Medicare+Choice plan to receive services at a skilled nursing facility selected by that individual.

IN THE SENATE OF THE UNITED STATES

JULY 29, 1999

Mr. MACK (for himself, Mrs. FEINSTEIN, Mr. HELMS, and Mr. ROBB) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend title XVIII of the Social Security Act to protect the right of a medicare beneficiary enrolled in a Medicare+Choice plan to receive services at a skilled nursing facility selected by that individual.

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 Return To
5 Home Act of 1999”.

1 **SEC. 2. ENSURING CHOICE FOR SKILLED NURSING FACIL-**
 2 **ITY SERVICES UNDER THE**
 3 **MEDICARE+CHOICE PROGRAM.**

4 (a) IN GENERAL.—Section 1852 of the Social Secu-
 5 rity Act (42 U.S.C. 1395w–22) is amended by adding at
 6 the end the following:

7 “(1) ENSURING CHOICE OF SKILLED NURSING FA-
 8 CILITY SERVICES.—

9 “(1) COVERAGE OF SERVICES PROVIDED AT A
 10 SNF LOCATED IN ENROLLEE’S CONTINUING CARE
 11 RETIREMENT COMMUNITY OR AT A SNF IN WHICH
 12 ENROLLEE PREVIOUSLY RESIDED.—Subject to para-
 13 graph (2), a Medicare+Choice organization may not
 14 deny coverage for any service provided to an enrollee
 15 of a Medicare+Choice plan (offered by such organi-
 16 zation) by—

17 “(A) a skilled nursing facility located with-
 18 in the continuing care retirement community in
 19 which the enrollee resided prior to being admit-
 20 ted to a hospital; or

21 “(B) a skilled nursing facility in which the
 22 enrollee resided immediately prior to being ad-
 23 mitted to a hospital.

24 The requirement described in the preceding sentence
 25 shall apply whether or not the Medicare+Choice or-

1 ganization has a contract with such skilled nursing
2 facility to provide such services.

3 “(2) REQUIRED FACTORS.—Paragraph (1) shall
4 not apply unless the following factors exist:

5 “(A) The Medicare+Choice organization
6 would be required to provide reimbursement for
7 the service under the Medicare+Choice plan in
8 which the individual is enrolled if the skilled
9 nursing facility was under contract with the
10 Medicare+Choice organization.

11 “(B) The individual—

12 “(i) had a contractual or other right
13 to return, after hospitalization, to the con-
14 tinuing care retirement community de-
15 scribed in paragraph (1)(A) or the skilled
16 nursing facility described in paragraph
17 (1)(B); and

18 “(ii) elects to receive services from the
19 skilled nursing facility after the hos-
20 pitalization, whether or not, in the case of
21 a skilled nursing facility described in para-
22 graph (1)(A), the individual resided in
23 such facility before entering the hospital.

1 “(C) The skilled nursing facility has the
2 capacity to provide the services the individual
3 requires.

4 “(D) The skilled nursing facility agrees to
5 accept substantially similar payment under the
6 same terms and conditions that apply to simi-
7 larly situated skilled nursing facilities that are
8 under contract with the Medicare+Choice orga-
9 nization.

10 “(3) COVERAGE OF SNF SERVICES TO PREVENT
11 HOSPITALIZATION.—A Medicare+Choice organiza-
12 tion may not deny payment for services provided to
13 an enrollee of a Medicare+Choice plan (offered by
14 such organization) by a skilled nursing facility in
15 which the enrollee resides, without a preceding hos-
16 pital stay, regardless of whether the
17 Medicare+Choice organization has a contract with
18 such facility to provide such services, if—

19 “(A) the Medicare+Choice organization
20 has determined that the service is necessary to
21 prevent the hospitalization of the enrollee; and

22 “(B) the factors specified in subpara-
23 graphs (A), (C), and (D) of paragraph (2)
24 exist.

1 “(4) COVERAGE OF SERVICES PROVIDED IN SNF
 2 WHERE SPOUSE RESIDES.—A Medicare+Choice or-
 3 ganization may not deny payment for services pro-
 4 vided to an enrollee of a Medicare+Choice plan (of-
 5 fered by such organization) by a skilled nursing fa-
 6 cility in which the enrollee resides, regardless of
 7 whether the Medicare+Choice organization has a
 8 contract with such facility to provide such services,
 9 if the spouse of the enrollee is a resident of such fa-
 10 cility and the factors specified in subparagraphs (A),
 11 (C), and (D) of paragraph (2) exist.

12 “(5) SKILLED NURSING FACILITY MUST MEET
 13 MEDICARE PARTICIPATION REQUIREMENTS.—This
 14 subsection shall not apply unless the skilled nursing
 15 facility involved meets all applicable participation re-
 16 quirements under this title.

17 “(6) PROHIBITIONS.—A Medicare+Choice or-
 18 ganization offering a Medicare+Choice plan may
 19 not—

20 “(A) deny to an individual eligibility, or
 21 continued eligibility, to enroll or to renew cov-
 22 erage under such plan, solely for the purpose of
 23 avoiding the requirements of this subsection;

24 “(B) provide monetary payments or re-
 25 bates to enrollees to encourage such enrollees to

1 accept less than the minimum protections avail-
2 able under this subsection;

3 “(C) penalize or otherwise reduce or limit
4 the reimbursement of a health care provider or
5 organization because such provider or organiza-
6 tion provided services to the individual in ac-
7 cordance with this subsection; or

8 “(D) provide incentives (monetary or oth-
9 erwise) to a health care provider or organiza-
10 tion to induce such provider or organization to
11 provide care to a participant or beneficiary in a
12 manner inconsistent with this subsection.

13 “(7) COST-SHARING.—Nothing in this sub-
14 section shall be construed as preventing a
15 Medicare+Choice organization offering a
16 Medicare+Choice plan from imposing deductibles,
17 coinsurance, or other cost-sharing for services cov-
18 ered under this subsection if such deductibles, coin-
19 surance, or other cost-sharing would have applied if
20 the skilled nursing facility in which the enrollee re-
21 ceived such services was under contract with the
22 Medicare+Choice organization.

23 “(8) NONPREEMPTION OF STATE LAW.—The
24 provisions of this subsection shall not be construed
25 to preempt any provision of State law that affords

1 greater protections to beneficiaries with regard to
 2 coverage of items and services provided by a skilled
 3 nursing facility than is afforded by such provisions
 4 of this subsection.

5 “(9) DEFINITIONS.—In this subsection:

6 “(A) CONTINUING CARE RETIREMENT
 7 COMMUNITY.—The term ‘continuing care retire-
 8 ment community’ means an organization that
 9 provides or arranges for the provision of hous-
 10 ing and health-related services to an older per-
 11 son under an agreement.

12 “(B) SKILLED NURSING FACILITY.—The
 13 term ‘skilled nursing facility’ has the meaning
 14 given such term in section 1819(a).”.

15 (b) EFFECTIVE DATE.—The amendments made by
 16 this section shall apply with respect to contracts entered
 17 into or renewed on or after the date of enactment of this
 18 Act.

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