

106TH CONGRESS  
1ST SESSION

# S. 378

To provide for the non-preemption of State prescription drug benefit laws  
in connection with Medicare+Choice plans.

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IN THE SENATE OF THE UNITED STATES

FEBRUARY 4, 1999

Mr. KENNEDY (for himself and Mr. KERRY) introduced the following bill;  
which was read twice and referred to the Committee on Finance

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## A BILL

To provide for the non-preemption of State prescription drug  
benefit laws in connection with Medicare+Choice plans.

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. NON-PREEMPTION OF STATE PRESCRIPTION**

4                       **DRUG COVERAGE MANDATES IN CASE OF AP-**

5                       **PROVED STATE MEDIGAP WAIVERS.**

6       (a) IN GENERAL.—Section 1856(b)(3) of the Social  
7       Security Act (42 U.S.C. 1395w–26(b)(3)) is amended—

8               (1) in subparagraph (A), by striking “The  
9       standards” and inserting “Subject to subparagraph

10       (C), the standards”, and

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

3           “(C) CONTINUATION OF STATE PRESCRIP-  
4 TION DRUG LAWS.—Subparagraph (A) shall not  
5 supersede any State law that requires the com-  
6 prehensive coverage of prescription drugs or  
7 any regulation that carries out such a law, if—

8           “(i) the State has a waiver in effect  
9 under section 1882(p)(6)(A) with respect  
10 to requiring such coverage under medicare  
11 supplemental policies; or

12           “(ii) the Secretary provides for a  
13 waiver for the State to impose such a re-  
14 quirement under section 1882(p)(6)(B).”.

15       (b) MEDIGAP WAIVER.—Section 1882(p)(6) of such  
16 Act (42 U.S.C. 1395ss(p)(6)) is amended—

17           (1) by inserting “(A)” after “(6)”, and

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

20       “(B) The Secretary also may waive the application  
21 of the standards described in paragraph (1)(A)(i) for a  
22 State to include comprehensive prescription drug coverage  
23 among the benefits required for all medicare supplemental  
24 policies.”.

1       (c) EFFECTIVE DATE.—The amendments made by  
2 this section take effect on the date of the enactment of  
3 this Act.

