

107TH CONGRESS  
1ST SESSION

# S. 577

To limit the administrative expenses and profits of managed care entities  
to not more than 15 percent of premium revenues.

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IN THE SENATE OF THE UNITED STATES

MARCH 20, 2001

Mrs. FEINSTEIN introduced the following bill; which was read twice and  
referred to the Committee on Health, Education, Labor, and Pensions

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## A BILL

To limit the administrative expenses and profits of managed  
care entities to not more than 15 percent of premium  
revenues.

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 “Managed Care Integ-  
5       rity Act of 2001”.

6       **SEC. 2. LIMITATION OF ADMINISTRATIVE EXPENSES AND**  
7       **PROFITS OF MANAGED CARE ENTITIES.**

8       (a) APPLICATION TO MANAGED CARE ENTITIES.—

9               (1) IN GENERAL.—Notwithstanding any other  
10       provision of law, each health benefits plan offered by

1 a managed care entity shall ensure that, with re-  
 2 spect to a contract year, the actuarial value of the  
 3 aggregate benefits provided under the plan during  
 4 such year to enrollees is not less than 85 percent of  
 5 the aggregate amount of payments received from, or  
 6 on behalf of, such enrollees for such year.

7 (2) WAIVER OF REQUIREMENTS.—

8 (A) IN GENERAL.—The Secretary of  
 9 Health and Human Services may waive the re-  
 10 quirement of paragraph (1) for a 12-month pe-  
 11 riod with respect to a managed care entity if  
 12 the Secretary determines, based on the rec-  
 13 ommendations of the agency responsible for li-  
 14 censing such entity (or the health care plans of  
 15 such entity) in a State, that—

16 (i) the solvency of the entity is in  
 17 jeopardy; or

18 (ii) compliance with the requirement  
 19 would cause the entity to fail to meet the  
 20 solvency requirements required for licen-  
 21 sure in the State.

22 (B) RENEWALS.—The Secretary of Health  
 23 and Human Services may renew a waiver under  
 24 subparagraph (A), except that the no waiver

1           may be granted for a period in excess of 24  
2           months in any 36-month period.

3           (3) ADMINISTRATIVE COSTS.—

4                 (A) LIMITATION.—For purposes of this  
5           subsection, the costs associated with the man-  
6           agement and operation of a managed care plan  
7           (including the costs of compensation and per-  
8           sonnel fringe benefits, interest expenses, costs  
9           of occupancy of a facility, and marketing costs)  
10          shall not be included in determining the actu-  
11          arial value of the aggregate benefits provided  
12          under the plan.

13                (B) REGULATIONS.—The Secretary of  
14          Health and Human Services shall promulgate  
15          regulations to define “costs associated with the  
16          management and operation of a managed care  
17          plan” for purposes of subparagraph (A).

18                (4) DEFINITION.—For purposes of this sub-  
19          section, the term “managed care entity” shall  
20          include—

21                   (A) managed care entities providing health  
22          care coverage for individuals under a group  
23          health plan or individual health insurance cov-  
24          erage;

1 (B) medicaid managed care organizations  
 2 as defined in section 1903(m)(1)(A) of the So-  
 3 cial Security Act (42 U.S.C. 1396b(m)(1)(A));

4 (C) managed care entities that provide  
 5 health care coverage for individuals under the  
 6 Federal Employees Health Benefits Program  
 7 under chapter 89 of title 5, United States Code;  
 8 and

9 (D) managed care entities that provide  
 10 health care coverage for members of the armed  
 11 forces and their families under chapter 55 of  
 12 title 10, United States Code.

13 (5) EFFECTIVE DATE.—Paragraph (1) shall  
 14 apply to contract years beginning on or after Janu-  
 15 ary 1, 2002.

16 (6) ENFORCEMENT.—The Secretary of Health  
 17 and Human Services shall develop formal investiga-  
 18 tion and compliance procedures with respect to com-  
 19 plaints received by the Secretary concerning the fail-  
 20 ure of a health benefits plan to comply with the pro-  
 21 visions of this subsection. Under such procedures—

22 (A) the Secretary shall provide the plan  
 23 with the reasonable opportunity to develop and  
 24 implement a corrective action plan to correct

1 the deficiencies that were the basis of the com-  
 2 plaint received by the Secretary; and

3 (B) the Secretary shall provide the plan  
 4 with reasonable notice and opportunity for a  
 5 hearing (including the right to appeal an initial  
 6 decision) prior to applying the sanctions de-  
 7 scribed in subsection (c).

8 (b) MEDICARE+CHOICE ORGANIZATIONS.—

9 (1) IN GENERAL.—Section 1852 of the Social  
 10 Security Act (42 U.S.C. 1395w–22) is amended by  
 11 adding at the end the following new subsection:

12 “(l) REQUIREMENT RELATING TO THE PROVISION OF  
 13 BENEFITS.—

14 “(1) IN GENERAL.—Each Medicare+Choice  
 15 plan offered by a Medicare+Choice organization  
 16 shall ensure that, with respect to a contract year,  
 17 the actuarial value of the aggregate benefits pro-  
 18 vided under the plan during such year to  
 19 Medicare+Choice eligible individuals enrolled in the  
 20 plan is not less than 85 percent of the aggregate  
 21 amount of payments received from, or on behalf of,  
 22 such individuals for such year.

23 “(2) WAIVER OF REQUIREMENT.—

24 “(A) IN GENERAL.—The Secretary may  
 25 waive the requirement under paragraph (1) for

1 a 12-month period with respect to a  
 2 Medicare+Choice plan offered by a  
 3 Medicare+Choice organization, if the Secretary  
 4 determines, based, except for an organization  
 5 with a waiver under section 1855(a)(2), on the  
 6 recommendations of the agency responsible for  
 7 licensing such plan in a State, that—

8 “(i) the solvency of the  
 9 Medicare+Choice organization is in jeop-  
 10 ardy; or

11 “(ii) compliance with the requirement  
 12 would cause the Medicare+Choice organi-  
 13 zation to fail to meet the solvency require-  
 14 ments required for licensure in the State  
 15 or under this part.

16 “(B) RENEWALS.—The Secretary may  
 17 renew a waiver under subparagraph (A), except  
 18 that no waiver may be granted for a period in  
 19 excess of 24 months in any 36-month period.

20 “(3) ADMINISTRATIVE COSTS.—

21 “(A) LIMITATION.—For purposes of this  
 22 subsection, the costs associated with the man-  
 23 agement and operation of a Medicare+Choice  
 24 plan (including the costs of compensation and  
 25 personnel fringe benefits, interest expenses,

costs of occupancy of a facility, and marketing costs) shall not be included in determining the actuarial value of the aggregate benefits provided under the plan.

“(B) REGULATIONS.—The Secretary shall promulgate regulations to define ‘costs associated with the management and operation of a manages care plan’ for purposes of subparagraph (A).

“(4) ENFORCEMENT.—The Secretary may terminate a contract with a Medicare+Choice organization under section 1857 in accordance with formal investigation and compliance procedures established by the Secretary under which—

“(A) the Secretary provides the organization with the reasonable opportunity to develop and implement a corrective action plan to correct the deficiencies that were the basis of the Secretary’s determination under this paragraph; and

“(B) the Secretary provides the organization with reasonable notice and opportunity for hearing (including the right to appeal an initial decision) before terminating the contract.”.

1           (2) EFFECTIVE DATE.—The amendment made  
2       by paragraph (1) shall apply to contract years begin-  
3       ning on or after January 1, 2002.

4       (c) SANCTIONS.—

5           (1) IN GENERAL.—If the Secretary of Health  
6       and Human Services determines that a health bene-  
7       fits plan or a Medicare+Choice organization fails  
8       substantially to comply with the provision of this Act  
9       or section 1852(l) of the Social Security Act the Sec-  
10      retary may provide, in addition to any other rem-  
11      edies authorized by law, for any of the remedies de-  
12      scribed in paragraph (2).

13          (2) REMEDIES.—The remedies described in this  
14      paragraph are—

15           (A) civil money penalties of not more than  
16           \$25,000 for each determination under para-  
17           graph (1) or, with respect to such a determina-  
18           tion involving misrepresentation or falsifying in-  
19           formation, of not more than \$100,000 for each  
20           such determination; and

21           (B) with respect to Medicare+Choice  
22      organizations—

23           (i) suspension of enrollment of indi-  
24           viduals under part C of title XVIII of the  
25           Social Security Act after the date the Sec-

1           retary notifies the organization of a deter-  
2           mination under paragraph (1) and until  
3           the Secretary is satisfied that the basis for  
4           such determination has been corrected and  
5           is not likely to recur; or

6           (ii) suspension of payment to the or-  
7           ganization under such part for individuals  
8           enrolled after the date the Secretary noti-  
9           fies the organization of a determination  
10          under paragraph (1) and until the Sec-  
11          retary is satisfied that the basis for such  
12          determination has been corrected and is  
13          not likely to recur.

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