

108TH CONGRESS  
1ST SESSION

# H. R. 2070

To amend title XVIII of the Social Security Act to revitalize and improve the Medicare+Choice program.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 13, 2003

Mr. GREENWOOD (for himself, Mr. ISRAEL, and Mr. FOSSELLA) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Energy and 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 title XVIII of the Social Security Act to revitalize and improve 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 “Medicare+Choice Re-  
5       vitalization Act of 2003”.

6       **SEC. 2. MEDICARE+CHOICE IMPROVEMENTS.**

7       (a) EQUALIZING PAYMENTS BETWEEN FEE-FOR-  
8       SERVICE AND MEDICARE+CHOICE.—

4                           “(D) BASED ON 100 PERCENT OF FEE-  
5                           FOR-SERVICE COSTS.—

6                             “(i) IN GENERAL.—For 2004 and any  
7                             subsequent year, the adjusted average per  
8                             capita cost for the year involved, deter-  
9                             mined under section 1876(a)(4) for the  
10                            Medicare+Choice payment area for serv-  
11                            ices covered under parts A and B for indi-  
12                            viduals entitled to benefits under part A  
13                            and enrolled under part B who are not en-  
14                            rolled in a Medicare+Choice plan under  
15                            this part for the year.

1                   benefits under this title had not received  
2                   services from facilities of the Department  
3                   of Veterans Affairs or the Department of  
4                   Defense.”.

5                   (2) CONFORMING AMENDMENT.—Such section  
6                   is further amended, in the matter before subparagraph  
7                   (A), by striking “or (C)” and inserting “(C),  
8                   or (D)”.

9                   (b) REVISION OF BLEND.—

10                   (1) REVISION OF NATIONAL AVERAGE USED IN  
11                   CALCULATION                   OF                   BLEND.—Section  
12                   1853(c)(4)(B)(i)(II) of such Act (42 U.S.C. 1395w–  
13                   23(c)(4)(B)(i)(II)) is amended by inserting “who  
14                   (with respect to determinations for 2004 and any  
15                   subsequent year) are enrolled in a Medicare+Choice  
16                   plan” after “the average number of medicare bene-  
17                   ficiaries”.

18                   (2) CHANGE IN BUDGET NEUTRALITY.—Section  
19                   1853(c) of such Act (42 U.S.C. 1395w–23(c)) is  
20                   amended—

21                   (A) in paragraph (1)(A), by inserting “(for  
22                   a year before 2003)” after “multiplied”; and  
23                   (B) in paragraph (5), by inserting “(before  
24                   2003)” after “for each year”.

1           (c) REVISION IN MINIMUM PERCENTAGE IN-  
2 CREASE.—Section 1853(c)(1)(C) of such Act (42 U.S.C.  
3 1395w-23(c)(1)(C)) is amended by striking clause (iv)  
4 and inserting the following:

5                           “(iv) For 2002 and 2003, 102 percent  
6                           of the annual Medicare+Choice capitation  
7                           rate under this paragraph for the area for  
8                           the previous year.

9                           “(v) For 2004 and each succeeding  
10                          year, 104 percent of the annual  
11                          Medicare+Choice capitation rate under  
12                          this paragraph for the area for the pre-  
13                          vious year.”.

14           (d) INCLUSION OF COSTS OF DOD AND VA MILI-  
15 TARY FACILITY SERVICES TO MEDICARE-ELIGIBLE  
16 BENEFICIARIES IN CALCULATION OF MEDICARE+CHOICE  
17 PAYMENT RATES.—Section 1853(c)(3) of such Act (42  
18 U.S.C. 1395w-23(c)(3)) is amended—

19                          (1) in subparagraph (A), by striking “subpara-  
20                          graph (B)” and inserting “subparagraphs (B) and  
21                          (E)”, and

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

24                          “(E) INCLUSION OF COSTS OF DOD AND  
25                          VA MILITARY FACILITY SERVICES TO MEDICARE-

1           ELIGIBLE BENEFICIARIES.—In determining the  
2           area-specific Medicare+Choice capitation rate  
3           under subparagraph (A) for a year (beginning  
4           with 2004), the annual per capita rate of pay-  
5           ment for 1997 determined under section  
6           1876(a)(1)(C) shall be adjusted to include in  
7           the rate the Secretary's estimate, on a per cap-  
8           ita basis, of the amount of additional payments  
9           that would have been made in the area involved  
10           under this title if individuals entitled to benefits  
11           under this title had not received services from  
12           facilities of the Department of Defense or the  
13           Department of Veterans Affairs.”.

14           (e)           ANNOUNCEMENT           OF           REVISED  
15           MEDICARE+CHOICE PAYMENT RATES.—Within 4 weeks  
16           after the date of the enactment of this Act, the Secretary  
17           shall determine, and shall announce (in a manner intended  
18           to provide notice to interested parties) Medicare+Choice  
19           capitation rates under section 1853 of the Social Security  
20           Act (42 U.S.C. 1395w–23) for 2004, revised in accordance  
21           with the provisions of this section.

22           (f) MEDPAC STUDY OF AAPCC.—  
23                (1) STUDY.—The Medicare Payment Advisory  
24                Commission shall conduct a study that assesses the  
25                method used for determining the adjusted average

1 per capita cost (AAPCC) under section 1876(a)(4)  
2 of the Social Security Act (42 U.S.C.  
3 1395mm(a)(4)). Such study shall examine—

(A) the bases for variation in such costs between different areas, including differences in input prices, utilization, and practice patterns;

(B) the appropriate geographic area for payment under the Medicare+Choice program under part C of title XVIII of such Act; and

10 (C) the accuracy of risk adjustment meth-  
11 ods in reflecting differences in costs of pro-  
12 viding care to different groups of beneficiaries  
13 served under such program.

21 (g) REPORT ON IMPACT OF INCREASED FINANCIAL  
22 ASSISTANCE TO MEDICARE+CHOICE PLANS.—Not later  
23 than July 1, 2004, the Secretary of Health and Human  
24 Services shall submit to Congress a report that describes  
25 the impact of additional financing provided under this Act

1 and other Acts (including the Medicare, Medicaid, and  
2 SCHIP Balanced Budget Refinement Act of 1999 and  
3 BIPA) on the availability of Medicare+Choice plans in  
4 different areas and its impact on lowering premiums and  
5 increasing benefits under such plans.

6 **SEC. 3. MAKING PERMANENT CHANGE IN**  
7 **MEDICARE+CHOICE REPORTING DEADLINES**  
8 **AND ANNUAL, COORDINATED ELECTION PE-**  
9 **RIOD.**

10 (a) CHANGE IN REPORTING DEADLINE.—Section  
11 1854(a)(1) of the Social Security Act (42 U.S.C. 1395w–  
12 24(a)(1)) is amended by striking “2002, 2003, and 2004  
13 (or July 1 of each other year)” and inserting “2002 and  
14 each subsequent year (or July 1 of each year before  
15 2002)”.

16 (b) DELAY IN ANNUAL, COORDINATED ELECTION  
17 PERIOD.—Section 1851(e)(3)(B) of such Act (42 U.S.C.  
18 1395w–21(e)(3)(B)) is amended by striking “and after  
19 2005, the month of November before such year and with  
20 respect to 2003, 2004, and 2005” and inserting “, the  
21 month of November before such year and with respect to  
22 2003 and any subsequent year”.

23 (c) ANNUAL ANNOUNCEMENT OF PAYMENT  
24 RATES.—Section 1853(b)(1) of such Act (42 U.S.C.  
25 1395w–23(b)(1)) is amended by striking “and after 2005

1 not later than March 1 before the calendar year concerned  
2 and for 2004 and 2005” and inserting “not later than  
3 March 1 before the calendar year concerned and for 2004  
4 and each subsequent year”.

5 (d) REQUIRING PROVISION OF AVAILABLE INFORMA-  
6 TION COMPARING PLAN OPTIONS.—The first sentence of  
7 section 1851(d)(2)(A)(ii) of such Act (42 U.S.C. 1395w–  
8 21(d)(2)(A)(ii)) is amended by inserting before the period  
9 the following: “to the extent such information is available  
10 at the time of preparation of materials for the mailing”.

**11 SEC. 4. AVOIDING DUPLICATIVE STATE REGULATION.**

12 (a) IN GENERAL.—Section 1856(b)(3) of the Social  
13 Security Act (42 U.S.C. 1395w–26(b)(3)) is amended to  
14 read as follows:

15 “(3) RELATION TO STATE LAWS.—The stand-  
16 ards established under this subsection shall super-  
17 sede any State law or regulation (other than State  
18 licensing laws or State laws relating to plan sol-  
19 vency) with respect to Medicare+Choice plans which  
20 are offered by Medicare+Choice organizations under  
21 this part.”.

22 (b) EFFECTIVE DATE.—The amendment made by  
23 subsection (a) shall take effect on the date of the enact-  
24 ment of this Act.

1 **SEC. 5. SPECIALIZED MEDICARE+CHOICE PLANS FOR SPE-**  
2 **CIAL NEEDS BENEFICIARIES.**

3 (a) TREATMENT AS COORDINATED CARE PLAN.—  
4 Section 1851(a)(2)(A) of the Social Security Act (42  
5 U.S.C. 1395w–21(a)(2)(A)) is amended by adding at the  
6 end the following new sentence: “Specialized  
7 Medicare+Choice plans for special needs beneficiaries (as  
8 defined in section 1859(b)(4)) may be any type of coordi-  
9 nated care plan.”.

10 (b) SPECIALIZED MEDICARE+CHOICE PLAN FOR  
11 SPECIAL NEEDS BENEFICIARIES DEFINED.—Section  
12 1859(b) of such Act (42 U.S.C. 1395w–29(b)) is amended  
13 by adding at the end the following new paragraph:

14 “(4) SPECIALIZED MEDICARE+CHOICE PLANS  
15 FOR SPECIAL NEEDS BENEFICIARIES.—

16 “(A) IN GENERAL.—The term ‘specialized  
17 Medicare+Choice plan for special needs bene-  
18 ficiaries’ means a Medicare+Choice plan that  
19 exclusively serves special needs beneficiaries (as  
20 defined in subparagraph (B)).

21 “(B) SPECIAL NEEDS BENEFICIARY.—The  
22 term ‘special needs beneficiary’ means a  
23 Medicare+Choice eligible individual who—

24 “(i) is institutionalized (as defined by  
25 the Secretary);

1                         “(ii) is entitled to medical assistance  
2                         under a State plan under title XIX;  
3                         “(iii) is residing in a Continuing Care  
4                         Retirement Community (as defined in sec-  
5                         tion 1852(l)(4)(B); or  
6                         “(iv) meets such requirements as the  
7                         Secretary may determine would benefit  
8                         from enrollment in such a specialized  
9                         Medicare+Choice plan described in sub-  
10                        paragraph (A) for individuals with severe  
11                        or disabling chronic conditions.”.

12                        (c) RESTRICTION ON ENROLLMENT PERMITTED.—  
13                        Section 1859 of such Act (42 U.S.C. 1395w-29) is  
14                        amended by adding at the end the following new sub-  
15                        section:

16                        “(f) RESTRICTION ON ENROLLMENT FOR SPECIAL-  
17                        IZED MEDICARE+CHOICE PLANS FOR SPECIAL NEEDS  
18                        BENEFICIARIES.—In the case of a specialized  
19                        Medicare+Choice plan (as defined in subsection (b)(4)),  
20                        notwithstanding any other provision of this part and in  
21                        accordance with regulations of the Secretary and for peri-  
22                        ods before January 1, 2007, the plan may restrict the en-  
23                        rollment of individuals under the plan to individuals who  
24                        are within one or more classes of special needs bene-  
25                        ficiaries.”.

1       (d) REPORT TO CONGRESS.—Not later than Decem-  
2 ber 31, 2006, the Medicare Benefits Administrator shall  
3 submit to Congress a report that assesses the impact of  
4 specialized Medicare+Choice plans for special needs bene-  
5 ficiaries on the cost and quality of services provided to  
6 enrollees. Such report shall include an assessment of the  
7 costs and savings to the medicare program as a result of  
8 amendments made by subsections (a), (b), and (c).

9       (e) EFFECTIVE DATES.—

10           (1) IN GENERAL.—The amendments made by  
11 subsections (a), (b), and (c) shall take effect upon  
12 the date of the enactment of this Act.

13           (2) DEADLINE FOR ISSUANCE OF REQUIRE-  
14 MENTS FOR SPECIAL NEEDS BENEFICIARIES; TRAN-  
15 SITION.—No later than 6 months after the date of  
16 the enactment of this Act, the Secretary of Health  
17 and Human Services shall issue final regulations to  
18 establish requirements for special needs beneficiaries  
19 under section 1859(b)(4)(B)(iii) of the Social Secu-  
20 rity Act, as added by subsection (b).

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