

108TH CONGRESS  
2D SESSION

# H. R. 3702

To amend title XVIII of the Social Security Act, as amended by the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, to provide additional beneficiary protections.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 20, 2004

Mr. CARDIN introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, 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, as amended by the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, to provide additional beneficiary protections.

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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Preserving Medicare for All Act of 2004”.

6 (b) TABLE OF CONTENTS.—The table of contents of  
7 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Authority to negotiate prices.
- Sec. 3. Guaranteed prescription drug benefits.
- Sec. 4. Full reimbursement for qualified retiree prescription drug plans.
- Sec. 5. Repeal of Comparative Cost Adjustment (CCA) program.
- Sec. 6. Repeal of MA Regional Plan Stabilization Fund.
- Sec. 7. Repeal of cost containment provisions.

**1 SEC. 2. AUTHORITY TO NEGOTIATE PRICES.**

2 Subsection (i) of section 1860D–11, as added by sec-  
 3 tion 101 of the Medicare Prescription Drug, Improvement,  
 4 and Modernization Act of 2003 (Public Law 108–173),  
 5 is repealed.

**6 SEC. 3. GUARANTEED PRESCRIPTION DRUG BENEFITS.**

7 (a) IN GENERAL.—Section 1860D–3 of the Social  
 8 Security Act, as added by section 101 of the Medicare Pre-  
 9 scription Drug, Improvement, and Modernization Act of  
 10 2003 (Public Law 108–173), is amended to read as fol-  
 11 lows:

12 “ACCESS TO A CHOICE OF QUALIFIED PRESCRIPTION  
 13 DRUG COVERAGE

14 “SEC. 1860D–3. (a) ASSURING ACCESS TO A CHOICE  
 15 OF COVERAGE.—

16 “(1) CHOICE OF AT LEAST THREE PLANS IN  
 17 EACH AREA.—The Secretary shall ensure that each  
 18 part D eligible individual has available, consistent  
 19 with paragraph (2), a choice of enrollment in—

20 “(A) a nationwide prescription drug plan  
 21 offered by the Secretary in accordance with  
 22 subsection (b); and

1 “(B) at least 2 qualifying plans (as defined  
2 in paragraph (3)) in the area in which the indi-  
3 vidual resides, at least one of which is a pre-  
4 scription drug plan.

5 “(2) REQUIREMENT FOR DIFFERENT PLAN  
6 SPONSORS.—The requirement in paragraph (1)(B) is  
7 not satisfied with respect to an area if only one enti-  
8 ty offers all the qualifying plans in the area.

9 “(3) QUALIFYING PLAN DEFINED.—For pur-  
10 poses of this section, the term ‘qualifying plan’  
11 means—

12 “(A) a prescription drug plan;

13 “(B) an MA–PD plan described in section  
14 1851(a)(2)(A)(i) that provides—

15 “(i) basic prescription drug coverage;

16 or

17 “(ii) qualified prescription drug cov-  
18 erage that provides supplemental prescrip-  
19 tion drug coverage so long as there is no  
20 MA monthly supplemental beneficiary pre-  
21 mium applied under the plan, due to the  
22 application of a credit against such pre-  
23 mium of a rebate under section  
24 1854(b)(1)(C); or

1           “(C) a nationwide prescription drug plan  
2           offered by the Secretary in accordance with  
3           subsection (b).

4           “(b) HHS AS PDP SPONSOR FOR A NATIONWIDE  
5           PRESCRIPTION DRUG PLAN.—

6           “(1) IN GENERAL.—The Secretary, through the  
7           Administrator of the Centers for Medicare & Med-  
8           icaid Services, shall take such steps as may be nec-  
9           essary to qualify and serve as a PDP sponsor and  
10          to offer a prescription drug plan that offers basic  
11          prescription drug coverage throughout the United  
12          States. Such a plan shall be in addition to, and not  
13          in lieu of, other prescription drug plans offered  
14          under this part.

15          “(2) PREMIUM; SOLVENCY; AUTHORITIES.—In  
16          carrying out paragraph (1), the Secretary—

17               “(A) shall establish a premium in the  
18               amount of \$35 for months in 2006 and, for  
19               months in subsequent years, in the amount  
20               specified in this paragraph for months in the  
21               previous year increased by the annual percent-  
22               age increase described in section 1860D–  
23               2(b)(6) (relating to growth in medicare pre-  
24               scription drug costs per beneficiary) for the  
25               year involved;

1 “(B) is deemed to have met any applicable  
2 solvency and capital adequacy standards; and

3 “(C) shall exercise such authorities (includ-  
4 ing the use of regional or other pharmaceutical  
5 benefit managers) as the Secretary determines  
6 necessary to offer the prescription drug plan in  
7 the same or a comparable manner as is the case  
8 for prescription drug plans offered by private  
9 PDP sponsors.

10 “(c) FLEXIBILITY IN RISK ASSUMED.—In order to  
11 ensure access pursuant to subsection (a) in an area the  
12 Secretary may approve limited risk plans under section  
13 1860D–11(f) for the area.”.

14 (b) CONFORMING AMENDMENT.—Section 1860D–11  
15 of the Social Security Act, as added by section 101 of the  
16 Medicare Prescription Drug, Improvement, and Mod-  
17 ernization Act of 2003 (Public Law 108–173), is amended  
18 by striking subsection (g).

19 **SEC. 4. FULL REIMBURSEMENT FOR QUALIFIED RETIREE**  
20 **PRESCRIPTION DRUG PLANS.**

21 (a) ELIMINATION OF TRUE OUT-OF-POCKET LIM-  
22 ITATION.—Section 1860D–2(b)(4)(C)(ii) of the Social Se-  
23 curity Act, as added by section 101(a) of the Medicare  
24 Prescription Drug, Improvement, and Modernization Act  
25 of 2003 (Public Law 108–173), is amended—

1           (1) by inserting “under a qualified retiree pre-  
 2           scription drug plan (as defined in section 1860D–  
 3           22(a)(2)),” after “under section 1860D–14,”; and

4           (2) by inserting “, under such a qualified re-  
 5           tiree prescription drug plan,” after “(other than  
 6           under such section” .

7           (b) EQUALIZATION OF SUBSIDIES.—Notwithstanding  
 8           any other provision of law, the Secretary of Health and  
 9           Human Services shall provide for such increase in the spe-  
 10          cial subsidy payment amounts under section 1860D–  
 11          22(a)(3) of the Social Security Act, as added by section  
 12          101(a) of the Medicare Prescription Drug, Improvement,  
 13          and Modernization Act of 2003 (Public Law 108–173),  
 14          as may be appropriate to provide for payments in the ag-  
 15          gregate equivalent to the payments that would have been  
 16          made under section 1860D–15 of such Act if the individ-  
 17          uals were not enrolled in a qualified retiree prescription  
 18          drug plan. In making such computation, the Secretary  
 19          shall not take into account the application of the amend-  
 20          ments made by section 1202 of the Medicare Prescription  
 21          Drug, Improvement, and Modernization Act of 2003.

22       **SEC. 5. REPEAL OF COMPARATIVE COST ADJUSTMENT**  
 23               **(CCA) PROGRAM.**

24           Subtitle E of title II of the Medicare Prescription  
 25          Drug, Improvement, and Modernization Act of 2003 (Pub-

1 lie Law 108–173), and the amendments made by such  
 2 subtitle, are repealed.

3 **SEC. 6. REPEAL OF MA REGIONAL PLAN STABILIZATION**  
 4 **FUND.**

5 (a) IN GENERAL.—Section 1858 of the Social Secu-  
 6 rity Act, as added by section 221(c) of the Medicare Pre-  
 7 scription Drug, Improvement, and Modernization Act of  
 8 2003 (Public Law 108–173), is amended—

9 (1) by striking subsection (e);

10 (2) by redesignating subsections (f), (g), and  
 11 (h) as subsections (e), (f), and (g), respectively; and

12 (3) in subsection (e), as so redesignated, by  
 13 striking “subject to subsection (e),”.

14 (b) CONFORMING AMENDMENT.—Section 1851(i)(2)  
 15 of the Social Security Act (42 U.S.C. 1395w–21(i)(2)), as  
 16 amended by section 221(d)(5) of the Medicare Prescrip-  
 17 tion Drug, Improvement, and Modernization Act of 2003  
 18 (Public Law 108–173), is amended by striking “1858(h)”  
 19 and inserting “1858(g)”.

20 **SEC. 7. REPEAL OF COST CONTAINMENT PROVISIONS.**

21 Subtitle A of title VIII of the Medicare Prescription  
 22 Drug, Improvement, and Modernization Act of 2003 (Pub-  
 23 lie Law 108–173) is repealed and any provisions of law

- 1 amended by such subtitle are restored as if such subtitle
- 2 had not been enacted.

