

108TH CONGRESS  
2D SESSION

# H. R. 4437

To amend part D of title XVIII of the Social Security Act to provide for low-income beneficiaries in the Medicare savings programs automatic enrollment and eligibility for low-income subsidies under the Medicare transitional and permanent prescription drug programs.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 20, 2004

Mr. DINGELL (for himself, Mr. RANGEL, Mr. WAXMAN, Mr. STARK, Mr. BROWN of Ohio, Ms. PELOSI, Mr. MARKEY, Mr. TOWNS, Mr. PALLONE, Mr. RUSH, Mr. STUPAK, Mr. ENGEL, Mr. WYNN, Ms. MCCARTHY of Missouri, Mr. STRICKLAND, Mrs. CAPPS, Mr. JOHN, Mr. ALLEN, Mr. DAVIS of Florida, Mr. BECERRA, Mr. McNULTY, Mr. DOGGETT, Mr. MATSUI, Mr. SANDLIN, and Mr. DEUTSCH) 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 part D of title XVIII of the Social Security Act to provide for low-income beneficiaries in the Medicare savings programs automatic enrollment and eligibility for low-income subsidies under the Medicare transitional and permanent prescription drug programs.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2       This Act may be cited as the “Medicare Prescription  
3 Drug Low-Income Assistance Act of 2004”.

4 **SEC. 2. ASSURANCE OF ASSISTANCE FOR LOW-INCOME**  
5 **BENEFICIARIES IN MEDICARE SAVINGS PRO-**  
6 **GRAMS UNDER MEDICARE PRESCRIPTION**  
7 **DRUG DISCOUNT CARD AND TRANSITIONAL**  
8 **ASSISTANCE PROGRAM.**

9       (a) **AUTOMATIC ENROLLMENT.**—

10           (1) **IN GENERAL.**—Section 1860D–31(c)(1) of  
11 the Social Security Act (42 U.S.C. 1395w–  
12 141(c)(1)) is amended by adding at the end the fol-  
13 lowing new subparagraph:

14                   “(F) **AUTOMATIC ENROLLMENT OF CER-**  
15 **TAIN LOW-INCOME BENEFICIARIES IN MEDI-**  
16 **CARE SAVINGS PROGRAMS.**—

17                           “(i) **NOTICE OF ELIGIBILITY.**—Not  
18 later than 45 days after the date an indi-  
19 vidual described in clause (ii) is first eligi-  
20 ble to enroll in an endorsed discount card  
21 program under this section, each State or  
22 the Secretary (at the option of each State)  
23 shall mail to each individual described in  
24 clause (ii), a notice stating the following:

25                                   “(I) Such individual is eligible to  
26 enroll in an endorsed discount card

1 program and to receive transitional  
2 assistance under subsection (g).

3 “(II) If such individual does not  
4 enroll before 30 days after the date of  
5 the notice, such individual will be  
6 automatically enrolled in an endorsed  
7 discount card program selected by the  
8 Secretary unless the individual noti-  
9 fies the Secretary that such individual  
10 does not wish to be so enrolled.

11 “(III) If such individual is auto-  
12 matically enrolled in an endorsed dis-  
13 count card program selected by the  
14 Secretary, the individual may enroll in  
15 another endorsed discount card pro-  
16 gram selected by the individual during  
17 the 60-day period beginning on the  
18 date of such automatic enrollment.

19 “(IV) If the individual is enrolled  
20 in an endorsed discount card program  
21 during 2004, the individual will be  
22 permitted to change enrollment under  
23 subsection (c)(1)(C)(ii) for 2005.

24 “(V) There is no obligation to  
25 use the endorsed discount card pro-

gram or transitional assistance when purchasing prescription drugs.

“(ii) INDIVIDUALS BENEFITING FROM AUTOMATIC ENROLLMENT.—An individual described in this clause is a discount card eligible individual who—

“(I) is a recipient of supplemental security income benefits under title XVI, or is determined to be eligible for medical assistance under title XIX solely by reason of clause (i), (iii), or (iv) of section 1902(a)(10)(E); and

“(II) has not enrolled in an endorsed discount card program as of the date that is 30 days after the date the individual is first eligible to enroll in such a program.

“(iii) AUTOMATIC ENROLLMENT.—The Secretary shall enroll each individual described in clause (ii), who has not enrolled in an endorsed discount card program or provided notice to the Secretary under clause (iv) as of the end of the 30-day period beginning on the date of the no-

1           tice to the individual under clause (i), in  
2           an endorsed discount card program se-  
3           lected by the Secretary that serves resi-  
4           dents of the State in which the individual  
5           resides.

6           “(iv) OPT-OUT.—Clause (iii) shall not  
7           apply to an individual if the individual no-  
8           tifies the Secretary before the end of the  
9           30-day period described in such clause that  
10          the individual does not wish to be auto-  
11          matically enrolled under such clause.

12          “(v) 60-DAY GRACE PERIOD TO  
13          CHANGE CARD PROGRAM.—The Secretary  
14          shall permit each individual who is auto-  
15          matically enrolled under clause (iii) to  
16          elect, during the 60-day period that begins  
17          on the date the individual is so enrolled, to  
18          enroll in a different endorsed discount card  
19          program selected by such individual. Such  
20          a change shall be treated as an exceptional  
21          case for purposes of subparagraph  
22          (C)(iii).”.

23          (b) PROVISION OF TRANSITIONAL ASSISTANCE.—

1           (1) IN GENERAL.—Section 1860D–31(b) of  
2       such Act (42 U.S.C. 1395w–141(b)) is amended by  
3       adding at the end the following new paragraph:

4           “(5) SPECIAL RULE FOR CERTAIN LOW-INCOME  
5       BENEFICIARIES IN MEDICARE SAVINGS PROGRAMS.—

6           “(A) IN GENERAL.—Except as provided in  
7       subparagraph (C), individuals described in sub-  
8       section (c)(1)(F)(ii) shall be treated as transi-  
9       tional assistance eligible individuals.

10          “(B) SPECIAL TRANSITIONAL ASSISTANCE  
11       ELIGIBLE INDIVIDUALS.—Except as provided in  
12       subparagraph (C), such individuals who are re-  
13       cipients of supplemental security income bene-  
14       fits under title XVI or determined to be eligible  
15       for medical assistance under title XIX solely by  
16       reason of clause (i), (iii), or (iv) of section  
17       1902(a)(10)(E) shall be treated as special tran-  
18       sitional assistance eligible individuals.

19          “(C) APPLICATION OF DISQUALIFICATION  
20       FOR INDIVIDUALS WITH PRESCRIPTION DRUG  
21       COVERAGE.—The Secretary shall not apply sub-  
22       paragraphs (A) and (B) in the case of an indi-  
23       vidual if the Secretary finds that there is reason  
24       to believe that the individual is described in

1 paragraph (2)(B) (relating to individuals with  
2 certain prescription drug coverage).”.

3 (2) WAIVER OF SELF-CERTIFICATION AND  
4 VERIFICATION.—Section 1860D–31(f) of such Act  
5 (42 U.S.C. 1395w–141(f)) is amended by adding at  
6 the end the following new paragraph:

7 “(5) SPECIAL RULE FOR CERTAIN LOW-INCOME  
8 BENEFICIARIES IN MEDICARE SAVINGS PROGRAMS.—  
9 The provisions of paragraphs (2) and (3) shall not  
10 apply to individuals who are treated as transitional  
11 assistance eligible individuals under subsection  
12 (b)(5).”.

13 (c) EFFECTIVE DATE.—The amendments made by  
14 this section shall take effect as if included in the enact-  
15 ment of section 101 of the Medicare Prescription Drug,  
16 Improvement, and Modernization Act of 2003 (Public Law  
17 108–173; 117 Stat. 2071).

18 **SEC. 3. ASSURANCE OF ASSISTANCE FOR LOW-INCOME**  
19 **BENEFICIARIES IN MEDICARE SAVINGS PRO-**  
20 **GRAMS UNDER QUALIFIED PRESCRIPTION**  
21 **DRUG COVERAGE.**

22 (a) AUTOMATIC ENROLLMENT.—Section 1860D–  
23 1(b)(1)(C) of the Social Security Act (42 U.S.C. 1395w–  
24 101(b)(1)(C)) is amended—

1           (1) by designating the matter beginning with  
2           “The process established” as a clause (i) with the  
3           heading “IN GENERAL.—” and an appropriate in-  
4           dentation;

5           (2) by striking “a full-benefit dual eligible indi-  
6           vidual (as defined in section 1935(c)(6)) who has  
7           failed to enroll in a prescription drug plan or an  
8           MA–PD plan” and inserting “described in clause  
9           (ii)”; and

10          (3) by adding at the end the following new  
11          clauses:

12                       “(ii) INDIVIDUALS COVERED.—An in-  
13                       dividual described in this clause is an indi-  
14                       vidual who—

15                       “(I) is a full-benefit dual eligible  
16                       individual (as defined in section  
17                       1935(c)(6)), is a recipient of supple-  
18                       mental security income benefits under  
19                       title XVI, or is determined to be eligi-  
20                       ble for medical assistance under title  
21                       XIX solely by reason of clause (i),  
22                       (iii), or (iv) of section 1902(a)(10)(E);  
23                       and



1 “(II) has failed to enroll in a pre-  
 2 scription drug plan or an MA–PD  
 3 plan.

4 “(iii) APPLICATION OF NOTICE, OPT-  
 5 OUT, AND GRACE PERIOD IN CHANGE IN  
 6 ENROLLMENT PROVISIONS.—In carrying  
 7 out this subparagraph, the Secretary shall  
 8 provide for the application of notice and  
 9 change in enrollment provisions with re-  
 10 spect to enrollment in prescription drug  
 11 plans and MA–PD plans similar to those  
 12 provided under clauses (i), (iv), and (v) of  
 13 section 1860D–31(c)(1)(F) with respect to  
 14 enrollment in endorsed discount card pro-  
 15 grams.”.

16 (b) PROVISION OF PREMIUM AND COST-SHARING  
 17 SUBSIDIES.—Section 1860D–14(a)(3)(B)(v) of such Act  
 18 (42 U.S.C. 1395w–114(a)(3)(B)(v)) is amended to read  
 19 as follows:

20 “(v) TREATMENT OF MEDICAID BENE-  
 21 FICIARIES AND LOW-INCOME BENE-  
 22 FICIARIES IN MEDICARE SAVINGS PRO-  
 23 GRAMS.—Subject to subparagraph (F), the  
 24 Secretary shall provide that the following  
 25 individuals who are part D eligible individ-

1 uals shall be treated as being determined  
2 to be subsidy eligible individuals described  
3 in paragraph (1):

4 “(I) Full-benefit dual eligible in-  
5 dividuals (as defined in section  
6 1935(c)(6)).

7 “(II) Individuals who are recipi-  
8 ents of supplemental security income  
9 benefits under title XVI.

10 “(III) Individuals who are deter-  
11 mined to be eligible for medical assist-  
12 ance under title XIX solely by reason  
13 of clause (i), (iii), or (iv) of section  
14 1902(a)(10)(E).”.

15 (c) EFFECTIVE DATE.—The amendments made by  
16 this section shall take effect as if included in the enact-  
17 ment of section 101 of the Medicare Prescription Drug,  
18 Improvement, and Modernization Act of 2003 (Public Law  
19 108–173; 117 Stat. 2071).

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