

109TH CONGRESS
1ST SESSION

H. R. 4410

To amend part D of title XVIII of the Social Security Act to extend the initial enrollment period for Medicare prescription drug benefits through May 15, 2008, to waive penalties for late enrollment before June 1, 2008, and to provide other additional beneficiary protections.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 18, 2005

Mr. LARSON of Connecticut (for himself, Ms. DELAURO, Mrs. MCCARTHY, Mr. DOYLE, Mr. STUPAK, Mr. WU, Mr. DOGGETT, Mr. McDERMOTT, Mr. JEFFERSON, Mr. BECERRA, Mr. CAPUANO, and Mr. RYAN of Ohio) 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

A BILL

To amend part D of title XVIII of the Social Security Act to extend the initial enrollment period for Medicare prescription drug benefits through May 15, 2008, to waive penalties for late enrollment before June 1, 2008, and to provide other 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Medicare Prescription
3 Drug Flexibility for Seniors Act of 2005”.

4 **SEC. 2. EXTENDED PERIODS OF INITIAL ENROLLMENT FOR**
5 **THE MEDICARE PRESCRIPTION DRUG BEN-**
6 **EFIT WITHOUT LATE ENROLLMENT PENALTY.**

7 (a) **EXTENDED INITIAL ENROLLMENT.**—Section
8 1860D–1(b)(1) of the Social Security Act (42 U.S.C.
9 1395w–101(b)(1)) is amended—

10 (1) in subparagraph (B)(iii), by inserting “sub-
11 paragraph (D) and” after “Subject to”; and

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

14 “(D) **EXTENSION OF INITIAL ENROLLMENT PE-**
15 **RIODS.**—For purposes of subparagraph (B)(iii), in
16 applying section 1851(e)(1), with respect to the an-
17 nual, coordinated election period—

18 “(i) for 2006, such period shall begin on
19 November 15, 2005, and end on November 14,
20 2006;

21 “(ii) for 2007, such period shall begin on
22 November 15, 2006, and end on November 14,
23 2007; and

24 “(iii) for 2008, such period shall begin on
25 November 15, 2007, and end on May 15,
26 2008.”.

1 (b) NO LATE ENROLLMENT PENALTIES FOR EN-
 2 ROLLMENT BEFORE JUNE 2008.—Section 1860D-
 3 13(b)(3)(B) of such Act (42 U.S.C. 1395w-113(b)(3)(B))
 4 is amended by inserting “(after May 2008)” after “any
 5 month”.

6 **SEC. 3. PERMITTING MEDICARE BENEFICIARIES EN-**
 7 **ROLLED UNDER PRESCRIPTION DRUG PLANS**
 8 **THAT CHANGE THEIR FORMULARIES TO EN-**
 9 **ROLL UNDER OTHER PLANS.**

10 Section 1860D-1(b)(3) of such Act (42 U.S.C.
 11 1395w-101(b)(3)) is amended by adding at the end the
 12 following new subparagraph:

13 “(F) ENROLLMENT UNDER PRESCRIPTION
 14 DRUG PLANS THAT CHANGE THEIR FORMULARIES.—
 15 In the case of a part D eligible individual who is en-
 16 rolled in a prescription drug plan that uses a for-
 17 mulary, if the plan removes a covered part D drug
 18 from its formulary or changes the preferred or tiered
 19 cost-sharing status of such a drug and the individual
 20 is adversely affected by such change, there shall be
 21 a 60-day special enrollment period beginning on the
 22 date on which the individual receives a notice of
 23 such removal or change.”.

1 **SEC. 4. CIVIL MONEY PENALTY APPLIED TO EMPLOYERS**
2 **WHO PROVIDE FALSE STATEMENTS WITH RE-**
3 **SPECT TO OFFERING DRUG COVERAGE THAT**
4 **IS MEDICARE CREDITABLE PRESCRIPTION**
5 **DRUG COVERAGE.**

6 Section 1860D–13(b)(6)(B) of such Act (42 U.S.C.
7 1395w–113(b)(6)(B)) is amended by adding at the end
8 the following new clause:

9 “(iii) CIVIL MONEY PENALTY FOR FALSE
10 STATEMENTS RELATED TO EMPLOYER-SPON-
11 SORED PRESCRIPTION DRUG COVERAGE.—In
12 the case of an entity that offers prescription
13 drug coverage as part of an employment-based
14 group health plan, the Secretary may impose a
15 civil money penalty in an amount not to exceed
16 \$10,000 for each false or misleading disclosure
17 made by such entity under clause (i). The pro-
18 visions of section 1128A (other than sub-
19 sections (a) and (b) and the second sentence of
20 subsection (f)) shall apply to a civil money pen-
21 alty under the previous sentence in the same
22 manner as such provisions apply to a penalty or
23 proceeding under section 1128A(a).”.

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