

112TH CONGRESS
1ST SESSION

H. R. 1654

To amend title XVIII of the Social Security Act to provide for additional opportunities to enroll under part B of the Medicare Program, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 15, 2011

Mr. SCHRADER (for himself, Mr. KISSELL, Mr. LARSON of Connecticut, Ms. BALDWIN, Mr. KUCINICH, and Mr. FARR) 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 title XVIII of the Social Security Act to provide for additional opportunities to enroll under part B of the Medicare Program, and for other purposes.

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 Enrollment
5 Protection Act of 2011”.

1 **SEC. 2. MEDICARE PART B SPECIAL ENROLLMENT PERIOD**
2 **FOR INDIVIDUALS ENROLLED IN COBRA CON-**
3 **TINUATION COVERAGE.**

4 (a) SPECIAL ENROLLMENT PERIOD.—Section
5 1837(i) of the Social Security Act (42 U.S.C. 1395p(i))
6 is amended by adding at the end the following new para-
7 graph:

8 “(5)(A) In the case of an individual who—

9 “(i) at the time the individual first satisfies
10 paragraph (1) or (2) of section 1836, is enrolled in
11 COBRA continuation coverage (as defined in sub-
12 paragraph (D)), and

13 “(ii) has elected not to enroll (or to be deemed
14 enrolled) under this section during the individual’s
15 initial enrollment period,
16 there shall be a special enrollment period described
17 in subparagraph (B).

18 “(B) The special enrollment period referred to in sub-
19 paragraph (A) is the period including each month during
20 any part of which the individual is enrolled in COBRA
21 continuation coverage ending with the last day of the
22 eighth consecutive month in which the individual is at no
23 time so enrolled.

24 “(C) An individual may only enroll during the special
25 enrollment period provided under subparagraph (B) one
26 time during the individual’s lifetime.

1 “(D) For purposes of this paragraph, the term
2 ‘COBRA continuation coverage’ means continuation cov-
3 erage provided pursuant to part 6 of subtitle B of title
4 I of the Employee Retirement Income Security Act of
5 1974 (other than under section 609), title XXII of the
6 Public Health Service Act, section 4980B of the Internal
7 Revenue Code of 1986 (other than subsection (f)(1) of
8 such section insofar as it relates to pediatric vaccines), or
9 section 8905a of title 5, United States Code, or under a
10 State program that provides comparable continuation cov-
11 erage. Such term does not include coverage under a health
12 flexible spending arrangement under a cafeteria plan with-
13 in the meaning of section 125 of the Internal Revenue
14 Code of 1986.”.

15 (b) COVERAGE PERIOD.—Section 1838(e) of such
16 Act (42 U.S.C. 1395q(e)) is amended—

17 (1) by striking “pursuant to section 1837(i)(3)
18 or 1837(i)(4)(B)” and inserting the following:

19 “pursuant to—

20 “(1) section 1837(i)(3) or 1837(i)(4)(B)—”;

21 (2) by redesignating paragraphs (1) and (2) as
22 subparagraphs (A) and (B), respectively, and mov-
23 ing the indentation of each such subparagraph 2
24 ems to the right;

1 (3) by striking the period at the end of the sub-
2 paragraph (B), as so redesignated, and inserting “;
3 or”; and

4 (4) by adding at the end the following new
5 paragraph:

6 “(2) section 1837(i)(5), the coverage period
7 shall begin on the first day of the month following
8 the month in which the individual so enrolls.”.

9 (c) NO INCREASE IN PREMIUM.—Section 1839(b) of
10 such Act (42 U.S.C. 1395r(b)) is amended—

11 (1) in the first sentence, by inserting “, (i)(5),”
12 after “subsection (i)(4)”; and

13 (2) in the second sentence, by inserting before
14 the period at the end the following: “or months for
15 which the individual can demonstrate that the indi-
16 vidual was enrolled in COBRA continuation coverage
17 (as such term is defined in section 1837(i)(5)(D)).”.

18 (d) EFFECTIVE DATE.—

19 (1) IN GENERAL.—The amendments made by
20 this section shall take effect on the date of the en-
21 actment of this Act and shall apply to periods of
22 COBRA continuation coverage before, on, or after
23 such date.

24 (2) SPECIAL ENROLLMENT PERIOD.—No spe-
25 cial enrollment period under section 1837(i)(5)(B) of

1 the Social Security Act (42 U.S.C. 1395p(i)(5)(B))
2 shall begin before the first day of the first month
3 that begins at least 45 days after the date of the en-
4 actment of this Act.

5 (3) PREMIUMS.—The amendment made by sub-
6 section (c)(2) shall apply to premiums for months
7 beginning with the first month that begins at least
8 45 days after the date of the enactment of this Act.

9 **SEC. 3. CONTINUOUS OPEN MEDICARE PART B ENROLL-**
10 **MENT.**

11 (a) CONTINUOUS OPEN ENROLLMENT PERIOD.—
12 Section 1837 of the Social Security Act (42 U.S.C. 1395p)
13 is amended by adding at the end the following new sub-
14 section:

15 “(m)(1) There shall be a continuous open enrollment
16 period beginning on the first day of the first month in
17 which an individual first satisfies paragraph (1) or (2) of
18 section 1836, except that such continuous open enrollment
19 period shall not be available during the individual’s initial
20 enrollment period or a special enrollment period available
21 to the individual.

22 “(2) In the case of an individual seeking enrollment
23 under paragraph (1) during a general enrollment period
24 under subsection (e), the individual shall be enrolled under

1 such subsection and not under paragraph (1), unless the
2 individual specifies otherwise.”.

3 (b) COVERAGE PERIOD.—Section 1838(a)(2) of such
4 Act (42 U.S.C. 1395q(a)(2)) is amended—

5 (1) in subparagraph (E), by striking the semi-
6 colon and inserting a comma; and

7 (2) by adding at the end the following new sub-
8 paragraph:

9 “(F) in the case of an individual who enrolls
10 pursuant to subsection (m) of section 1837, the first
11 day of the month following the month in which such
12 individual so enrolls; or”.

13 (c) PREMIUM INCREASE.—Section 1839 of such Act
14 (42 U.S.C. 1395r) is amended by adding at the end the
15 following new subsection:

16 “(j) INCREASE IN PREMIUM BASED ON ENROLL-
17 MENT PURSUANT TO CONTINUOUS OPEN ENROLLMENT
18 PERIOD.—In the case of an individual whose coverage pe-
19 riod began pursuant to a continuous open enrollment pe-
20 riod under section 1837(m), the monthly premium deter-
21 mined under subsection (a), adjusted in accordance with
22 subsection (i), shall, in addition to the increase required
23 by subsection (b), be increased by such amount as the Sec-
24 retary considers appropriate, taking into account any ad-
25 ditional actuarial cost to the insurance program estab-

1 lished under this part due to enrollment under such sec-
2 tion. Any increase under this subsection shall apply to all
3 premiums paid by the individual after enrollment pursuant
4 to such continuous open enrollment period.”.

5 (d) REPORT TO CONGRESS.—Not later than 180 days
6 after the date of the enactment of this Act, the Secretary
7 of Health and Human Services shall submit to Congress
8 a report describing—

9 (1) the average increase in premiums based on
10 enrollment in the insurance program established
11 under part B of title XVIII of the Social Security
12 Act pursuant to a continuous open enrollment period
13 under section 1837(m) of such Act, as added by sub-
14 section (a);

15 (2) any other regulations promulgated by the
16 Secretary with respect to such enrollment;

17 (3) the number and characteristics of individ-
18 uals choosing such enrollment; and

19 (4) any costs of such enrollment to such insur-
20 ance program that were not covered by the increases
21 in premiums described in the amendment made by
22 subsection (c).

23 (e) EFFECTIVE DATE.—The amendments made by
24 this section shall take effect on the date of the enactment
25 of this Act, except that no individual may enroll pursuant

1 to a continuous open enrollment period under the amend-
2 ment made by subsection (a) before the first day of the
3 first month that begins at least 45 days after the date
4 of the enactment of this Act.

5 **SEC. 4. SPECIAL ENROLLMENT PERIODS TO CORRECT**
6 **ERROR, MISREPRESENTATION, OR INACTION**
7 **OF FEDERAL GOVERNMENT, GROUP HEALTH**
8 **PLAN, OR PLAN SPONSOR.**

9 Section 1837(h) of the Social Security Act (42 U.S.C.
10 1395p(h)) is amended by inserting “or by an officer, em-
11 ployee, or agent of a group health plan, or of a plan spon-
12 sor (as such term is defined in section 3(16)(B) of the
13 Employee Retirement Income Security Act of 1974 (29
14 U.S.C. 1002(16)(B))) of a group health plan,” after “in-
15 strumentalities,”.

16 **SEC. 5. COORDINATION OF MEDICARE PART B WITH AMER-**
17 **ICAN HEALTH BENEFIT EXCHANGES.**

18 Section 1837 of the Social Security Act (42 U.S.C.
19 1395p), as amended by section 3(a), is further amended
20 by adding at the end the following new subsection:

21 “(n) The Secretary shall ensure appropriate coordi-
22 nation between the insurance program established under
23 this part and American Health Benefit Exchanges estab-
24 lished under section 1311(b) of the Patient Protection and
25 Affordable Care Act (Public Law 111–148), including en-

1 suring a smooth transition in enrollment from enrollment
2 in qualified health plans offered through Exchanges to en-
3 rollment under this part.”.

4 **SEC. 6. GAO STUDY AND REPORT ON MEDICARE PART B EN-**
5 **ROLLMENT.**

6 Not later than 2 years after the date of the enact-
7 ment of this Act, the Comptroller General of the United
8 States shall submit to Congress a report on enrollment
9 in the insurance program established under part B of title
10 XVIII of the Social Security Act (in this section referred
11 to as “Medicare part B”). The report shall include—

12 (1) a comprehensive evaluation of problems ex-
13 perienceed by individuals with respect to enrollment
14 in Medicare part B, including the causes of such
15 problems and any geographic trends in the mani-
16 festation of such problems;

17 (2) an assessment of the number of people who
18 lack health insurance coverage because of such prob-
19 lems;

20 (3) an evaluation of efforts by the Centers for
21 Medicare & Medicaid Services and the Social Secu-
22 rity Administration to educate employers regarding
23 the transition of employees from group health plans
24 to Medicare part B;

1 (4) an evaluation of coordination of coverage
2 for individuals with private health insurance who are
3 also eligible for Medicare part B and ways to im-
4 prove such coordination;

5 (5) an evaluation of the coordination between
6 Medicare part B and American Health Benefit Ex-
7 changes required by the amendment made by section
8 5;

9 (6) an evaluation of the differences in regula-
10 tions applicable to individuals who are eligible for
11 Medicare part B based on age and individuals who
12 are eligible based on disability, and ways to improve
13 parity in the treatment of each such group of indi-
14 viduals that may be implemented in regulations and
15 guidance; and

16 (7) an evaluation of efforts by the Centers for
17 Medicare & Medicaid Services to provide equitable
18 relief to individuals who suffered adverse con-
19 sequences due to misinformation or a lack of infor-
20 mation on enrollment in Medicare part B, and ways
21 to improve the provision of such equitable relief.

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