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113TH CONGRESS
1ST SESSION

H. R. 2753

To amend title XVIII of the Social Security Act to improve Medicare Advantage, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 19, 2013

Mrs. BLACK 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 improve Medicare Advantage, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Securing Care for Seniors Act of 2013''.

SEC. 2. REINSTATEMENT OF 3-MONTH OPEN ENROLLMENT AND DISENROLLMENT PERIOD FOR MEDICARE ADVANTAGE.

Section 1851(e)(2) of the Social Security Act (42 U.S.C. 1395w–1(e)(2)) is amended—

(1) in subparagraph (C), by inserting ''and ending with 2013'' after ''(beginning with 2011''; and

(2) by adding at the end the following new subparagraph:

''(F) CONTINUOUS OPEN ENROLLMENT AND DISENROLLMENT FOR FIRST 3 MONTHS IN SUBSEQUENT YEARS.—

''(i) IN GENERAL.—Subject to subparagraph (D), at any time during the first 3 months of a year (beginning with 2014), or, if the individual first becomes a Medicare Advantage eligible individual during a year after 2014, during the first 3 months of such year in which the individual is a Medicare Advantage eligible individual, a Medicare Advantage eligible individual may change the election under subsection (a)(1).

''(ii) LIMITATION OF ONE CHANGE DURING OPEN ENROLLMENT PERIOD EACH YEAR.—An individual may exercise the

right under clause (i) only once during the applicable 3-month period described in such clause in each year. The limitation under this clause shall not apply to changes in elections effected during an annual, coordinated election period under paragraph (3) or during a special election period under paragraph (4).

''(iii) APPLICATION TO PART D FOR INDIVIDUALS CHANGING ENROLLMENT FROM MA TO FEE-FOR-SERVICE.—The previous provisions of this subparagraph shall only apply with respect to changes in enrollment in a prescription drug plan under part D in the case of an individual who, previous to such change in enrollment, is enrolled in a Medicare Advantage plan.''.

SEC. 3. PERMITTING INCENTIVES FOR PARTICIPATION IN HEALTH CARE IMPROVEMENT PROGRAMS.

(a) IN GENERAL.—Section 1859 of the Social Security Act (42 U.S.C. 1395w–28) is amended by adding at the end the following new subsection:

''(h) PERMITTING MA ORGANIZATIONS TO PROVIDE INCENTIVES FOR PARTICIPATION IN HEALTH CARE IMPROVEMENT PROGRAMS.—

''(1) IN GENERAL.—An MA organization may offer to individuals enrolled in an MA plan offered by such organization one or more incentive programs that are designed to improve the health care of such individuals by providing one or more incentives, such as the reducing or waiving of copayment amounts, that reward individuals for participation in such a program, if—

''(A) the incentive program meets the requirements described in paragraph (2); and

''(B) the MA organization provides to the Secretary such information on participation and performance in the incentive program as the Secretary may specify.

''(2) REQUIREMENTS.—The requirements described in this paragraph, with respect to an incentive program offered by an MA organization to individuals enrolled in an MA plan offered by such organization, are as follows:

''(A) INCENTIVE ONLY UPON COMPLETION OF PROGRAM.—In the case of a program that consists of multiple sessions or other multiple activities, any incentive offered under the program is offered only upon completion of all such sessions or activities.

''(B) NONDISCRIMINATION.—Participation in the program is offered to all such individuals.

''(C) NO CASH OR MONETARY INCENTIVE.—

''(i) IN GENERAL.—No incentive under the program is in the form of cash or any other monetary rebate.

''(ii) CONSTRUCTION.—Nothing in clause (i) may be construed as preventing the offering of an incentive in the form of a reduction or waiver of copayment amounts or deductibles.

''(3) WAIVER AUTHORITY.—The Secretary may waive such requirements of this title and title XI, except for sections 1128A, 1128B(b), and 1877, as may be necessary to carry out the purposes of the program established under this subsection.

''(4) PROGRAM NOT TAKEN INTO ACCOUNT FOR BID AMOUNT.—The program may not be taken into account for purposes of the monthly bid amount submitted by the organization under section 1854(a)(6) and provisions relating to the monthly bid amount.

''(5) ENCOURAGEMENT TO PARTICIPATE IN ACTIVITIES OFFERED BY CERTAIN PERSONS OR ENTI-

TIES.—An MA organization may, as part of an incentive program offered by such organization to individuals under this subsection, require or otherwise encourage such individuals to participate in activities designed to improve the health care of such individuals that are offered by persons or entities specified by such organization, such as persons or entities that the organization has identified as performing well on quality metrics identified by the organization.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect for plan years beginning on or after the date of the enactment of this Act.

SEC. 4. COST SHARING VARIATION PERMITTED TO ENCOURAGE USE OF HIGH QUALITY PROVIDERS.

Section 1852 of the Social Security Act (42 U.S.C. 1395w–22) is amended—

(1) in subsection (a)(1)(B)—

(A) in clause (i), by striking ''clause (iii)'' and inserting ''clauses (iii) and (vi)''; and

(B) by adding at the end the following new clause:

''(vi) COST SHARING VARIATION PERMITTED TO ENCOURAGE USE OF HIGH

QUALITY PROVIDERS.—Notwithstanding subsection (b), an MA plan offered by an MA organization may, through mechanisms such as value based insurance design (VBID) practices, vary cost-sharing for the purpose of encouraging enrollees to use providers that such organization has identified as performing well on quality metrics identified by the organization. Any such variation on cost-sharing by an MA organization must occur on an annual basis. An MA organization may not vary cost-sharing pursuant to this paragraph during a plan year.''; and

(2) in subsection (b)(2), by striking ''A Medicare+Choice'' and inserting ''Subject to subsection (a)(1)(B)(vi), a Medicare Advantage''.

SEC. 5. IMPROVEMENTS TO RISK ADJUSTMENT SYSTEM.

Section 1853(a)(1)(C) of the Social Security Act (42 U.S.C. 1395w–23(a)(1)(C)) is amended by adding at the end the following new clauses:

''(iv) REVISION OF RISK ADJUSTMENT SYSTEM TO ACCOUNT FOR CHRONIC CONDITIONS AND TWO YEARS OF DIAGNOSTIC DATA.—

"(I) IN GENERAL.—The Secretary shall evaluate and, as the Secretary determines appropriate, revise for 2017 and periodically thereafter the risk adjustment system under this subparagraph so that a risk score under such system, with respect to an individual, takes into account the number of chronic conditions with which the individual has been diagnosed, and at least two years of diagnostic data including such data obtained during health risk assessments regarding the individual, to the extent that two years of such data are available.

"(II) PERIODIC REPORTING TO CONGRESS.—With respect to plan years beginning in 2017 and every third year thereafter, the Secretary shall submit to Congress a report on the most recent revisions (if any) made under subclause (I).

"(v) NO CHANGES TO ADJUSTMENT FACTORS THAT PREVENT ACTIVITIES CON-

SISTENT WITH NATIONAL HEALTH POLICY GOALS.—In making any changes to the adjustment factors, including adjustment for health status under paragraph (3), the Secretary shall ensure that the changes do not prevent MA organizations from performing or undertaking activities that are consistent with national health policy goals, including activities to promote early detection and better care coordination, the use of health risk assessments, care plans, and programs to slow the progression of chronic diseases.

''(vi) OPPORTUNITY FOR REVIEW AND PUBLIC COMMENT REGARDING CHANGES TO ADJUSTMENT FACTORS.—For any changes to adjustment factors effective for 2015 and subsequent years, in addition to providing notice of such changes in the announcement under subsection (b)(2), the Secretary shall provide an opportunity for review of proposed changes and a public comment period of not less than 60 days before implementing such changes.''.

SEC. 6. IMPROVEMENTS TO MA 5-STAR QUALITY RATING SYSTEM.

Section 1853(o)(4) of the Social Security Act (42 U.S.C. 1395w–23(o)(4)) is amended by adding at the end the following new subparagraph:

"(C) PLANS WITH DISPROPORTIONATELY HIGH ENROLLMENT OF INDIVIDUALS WITH COMPLEX HEALTH CARE NEEDS.—

"(i) IN GENERAL.—The Secretary shall take such steps as are necessary to ensure that the 5-star rating system described in subparagraph (A)—

"(I) does not disadvantage a plan that enrolls a disproportionately high proportion of enrollees who are full-benefit dual eligible individuals (as defined in section 1935(c)(6)), subsidy eligible individuals (as defined in section 1860D–14(a)(3)), or other individuals with complex health care needs such as individuals with multiple conditions; and

"(II) allows adjustments to account for differences in socioeconomic and demographic characteristics of en-

rollees and geographic variation in health outcomes.

"(D) ANNOUNCEMENT OF CHANGES TWO YEARS PRIOR TO END OF PERFORMANCE PERIOD.—The Secretary may not implement any change in the 5-star rating system described in subparagraph (A) with respect to any performance period used as part of such system unless the Secretary announces such change at least one year prior to the beginning of any such period.".

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