

115TH CONGRESS
2D SESSION

H. R. 5104

To amend title XVIII of the Social Security Act to provide for a special enrollment period under Medicare for individuals enrolled in COBRA continuation coverage, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 27, 2018

Mr. SCHRADER (for himself, Mr. CURBELO of Florida, Mr. THOMPSON of California, and Mr. BILIRAKIS) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means, and Education and the Workforce, 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 a special enrollment period under Medicare for individuals enrolled in COBRA continuation coverage, 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”.

1 **SEC. 2. TREATMENT UNDER MEDICARE OF INDIVIDUALS**
2 **TRANSITIONING FROM COBRA CONTINU-**
3 **ATION COVERAGE.**

4 (a) SPECIAL ENROLLMENT PERIOD FOR INDIVID-
5 UALS ENROLLED IN COBRA CONTINUATION COV-
6 ERAGE.—Section 1837(i) of the Social Security Act (42
7 U.S.C. 1395p(i)) is amended by adding at the end the fol-
8 lowing new paragraph:

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

10 “(i)(I) at the time the individual first sat-
11 isfies paragraph (1) or (2) of section 1836, is
12 enrolled in COBRA continuation coverage (as
13 defined in subparagraph (D)); or

14 “(II) is enrolled in COBRA continuation
15 coverage (and made such enrollment after at-
16 taining 65 years of age) and immediately prior
17 to such enrollment was an individual described
18 in paragraph (1) or (2) of this subsection; and

19 “(ii) has elected not to enroll (or to be
20 deemed enrolled) under this section during the
21 individual’s initial enrollment period;

22 there shall be a special enrollment period described
23 in subparagraph (B).

24 “(B) The special enrollment period referred to
25 in subparagraph (A) is the period that includes each

1 month during any part of which the individual is en-
 2 rolled in COBRA continuation coverage.

3 “(C) An individual may only enroll during the
 4 special enrollment period provided under subpara-
 5 graph (B) one time during the individual’s lifetime.

6 “(D) For purposes of this paragraph, the term
 7 ‘COBRA continuation coverage’ means continuation
 8 coverage—

9 “(i) under a COBRA continuation provi-
 10 sion (as defined in section 2791(d)(4) of the
 11 Public Health Service Act);

12 “(ii) pursuant to section 8905a of title 5,
 13 United States Code; or

14 “(iii) under a similar State program that
 15 provides comparable continuation coverage.”.

16 (b) COVERAGE PERIOD FOR INDIVIDUALS
 17 TRANSITIONING FROM COBRA CONTINUATION COV-
 18 ERAGE.—Section 1838(e) of the Social Security Act (42
 19 U.S.C. 1395q(e)) is amended—

20 (1) by striking “pursuant to section 1837(i)(3)
 21 or 1837(i)(4)(B)” and inserting the following: “pur-
 22 suant to—

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

24 (2) by redesignating paragraphs (1) and (2) as
 25 subparagraphs (A) and (B), respectively, and mov-

1 ing the indentation of each such subparagraph 2
2 ems to the right;

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

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

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

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

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

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

20 (d) UPDATING COBRA CONTINUATION COVERAGE
21 NOTIFICATIONS.—The Secretary of Labor, in consultation
22 with the Secretary of Health and Human Services, shall
23 update the COBRA continuation coverage election notice
24 and COBRA continuation coverage general notice required
25 under section 606 of the Employee Retirement Income Se-

1 curity Act of 1974 (29 U.S.C. 1166) to be given by an
2 employer to an employee eligible for COBRA continuation
3 coverage to include an explanation of how the Medicare
4 secondary payer rules under section 1862(b) of the Social
5 Security Act (42 U.S.C. 1395y(b)) apply with respect to
6 COBRA continuation coverage.

7 (e) EFFECTIVE DATE.—The amendments made by
8 this section shall take effect on the date of the enactment
9 of this Act and shall apply to periods of COBRA continu-
10 ation coverage beginning on or after such date.

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