

115TH CONGRESS
1ST SESSION

S. 1909

To amend title XVIII of the Social Security Act to establish a system to educate individuals approaching Medicare eligibility, to simplify and modernize the eligibility enrollment process, and for other purposes.

IN THE SENATE OF THE UNITED STATES

OCTOBER 3, 2017

Mr. CASEY (for himself and Mr. YOUNG) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend title XVIII of the Social Security Act to establish a system to educate individuals approaching Medicare eligibility, to simplify and modernize the eligibility enrollment process, 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 “Beneficiary Enrollment
5 Notification and Eligibility Simplification Act of 2017” or
6 the “BENES Act of 2017”.

1 **SEC. 2. ELIGIBILITY AND ENROLLMENT NOTIFICATION.**

2 (a) NOTIFICATION REQUIREMENTS.—Section 1804
3 of the Social Security Act (42 U.S.C. 1395b–2) is amend-
4 ed by adding at the end the following new subsection:

5 “(d) ELIGIBILITY INFORMATION.—

6 “(1) COORDINATION OF NOTICE.—The Sec-
7 retary, in consultation with representatives of each
8 of the groups described in paragraph (2)(A), and in
9 coordination with the Commissioner of Social Secu-
10 rity and the Secretary of the Treasury, shall prepare
11 and distribute a notice, in accordance with this sub-
12 section, to potentially eligible Medicare individuals.

13 “(2) GROUPS FOR CONSULTATION.—

14 “(A) IN GENERAL.—For purposes of para-
15 graph (1), the groups described in this subpara-
16 graph include the following:

17 “(i) Individuals who are more than 60
18 years of age.

19 “(ii) Individuals with disabilities.

20 “(iii) Individuals with end stage renal
21 disease.

22 “(iv) Low-income individuals and fam-
23 ilies.

24 “(v) Employers (including human re-
25 sources professionals).

1 “(vi) States (including representatives
 2 of State-run Health Insurance Exchanges,
 3 Medicaid offices, and Departments of In-
 4 surance).

5 “(vii) State Health Insurance Assist-
 6 ance Programs.

7 “(viii) Health insurers.

8 “(ix) Health insurance agents and
 9 brokers.

10 “(x) Such other groups as specified by
 11 the Secretary.

12 “(B) NONAPPLICATION OF FACA.—The
 13 Federal Advisory Committee Act shall not apply
 14 to consultations made pursuant to paragraph
 15 (1) with groups described in subparagraph (A).

16 “(3) CONTENTS OF NOTICE.—The notice re-
 17 quired under paragraph (1) shall contain informa-
 18 tion on (including a clear, simple explanation of)—

19 “(A)(i) eligibility for benefits under this
 20 title, and in particular benefits under part B;

21 “(ii) the possibility of a late enrollment
 22 penalty for failure to timely enroll (including
 23 the availability of equitable relief); and

24 “(iii) how to access the Webpage described
 25 in paragraph (5); and

“(B) the need for coordination of benefits under part B (including secondary and primary coverage scenarios) imposed under this title, including the effects of enrollment in retiree health coverage; group health coverage; coverage under a group health plan provided by an employer pursuant to title XXII of the Public Health Service Act, section 4980B of the Internal Revenue Code of 1986, or title VI of the Employee Retirement Income Security Act of 1974; coverage under a qualified health plan offered through an Exchange established under title I of the Patient Protection and Affordable Care Act; and other widely available coverage which may be available to potentially eligible Medicare individuals.

“(4) TIMING OF NOTICE TO POTENTIAL ENROLLEES.—Beginning one year after the date of the enactment of this subsection, a notice required under paragraph (1) shall be mailed to each potentially eligible Medicare individual no less than two times in accordance with the following:

“(A) The notice shall be provided to such individual on the same schedule and in com-

1 bination with the individual’s Social Security
2 statement.

3 “(B) In the case that the individual does
4 not receive a Social Security statement, such
5 notice shall be mailed no later than 3 months
6 prior to the date of such individual’s initial en-
7 rollment period as provided under section 1837
8 and shall subsequently be provided to such indi-
9 vidual no later than one month prior to such
10 date.

11 “(5) CREATION OF A CENTRALIZED ENROLL-
12 MENT WEBPAGE.—The information contained in no-
13 tices required under this subsection shall be made
14 available through a new Webpage to be maintained
15 by the Secretary. Such Webpage shall include both
16 Social Security and Medicare online tools in a co-
17 ordinated and organized manner, and shall also con-
18 tain, or link to, such other eligibility tools, services,
19 notices (including with respect to the availability of
20 equitable relief), and other information as deter-
21 mined by the Secretary, in consultation with groups
22 described in paragraph (2) for the purposes of being
23 available to potentially eligible Medicare individuals.

24 “(6) INTERAGENCY COORDINATION.—Beginning
25 not later than 2 months after the date of the enact-

1 ment of this subsection, the Secretary, along with
2 the Secretary of the Treasury and the Commissioner
3 of the Social Security Administration, shall under-
4 take all necessary action and coordination to identify
5 potentially eligible individuals and in order to pro-
6 vide such individuals with notifications under this
7 subsection in accordance with paragraph (4).

8 “(7) NOTIFICATION IMPROVEMENT.—The Sec-
9 retary shall, no less than once every fiscal year, re-
10 view the content of the notices required under this
11 subsection and the practices of providing such no-
12 tices to individuals, and shall update and revise such
13 notices and practices as the Secretary deems appro-
14 priate.

15 “(8) POTENTIALLY ELIGIBLE MEDICARE INDIVIDUAL
16 DEFINED.—For purposes of this subsection,
17 the term ‘potentially eligible Medicare individual’
18 means an individual, with respect to a month, who
19 is expected to satisfy the description in paragraph
20 (1) or (2) of section 1836 during such month or
21 during any of the subsequent 11 months.”.

22 (b) DISCLOSURE AUTHORITY.—Section 6103(l) of
23 the Internal Revenue Code of 1986 is amended by adding
24 at the end the following new paragraph:

1 “(23) DISCLOSURE OF RETURN INFORMATION
2 TO CARRY OUT ELIGIBILITY NOTIFICATION REQUIRE-
3 MENTS FOR CERTAIN PROGRAMS.—

4 “(A) IN GENERAL.—The Secretary, upon
5 request from the Secretary of Health and
6 Human Services, shall disclose to officers, em-
7 ployees, and contractors of the Department of
8 Health and Human Services and the Social Se-
9 curity Administration return information of any
10 taxpayer who is a potentially eligible Medicare
11 individual (as defined in section 1804(d)(8) of
12 the Social Security Act). Such return informa-
13 tion shall be limited to—

14 “(i) taxpayer identity information
15 with respect to such taxpayer, including
16 the age and address or other location of
17 such taxpayer,

18 “(ii) the filing status of such tax-
19 payer,

20 “(iii) such other information as is pre-
21 scribed by the Secretary of Health and
22 Human Services by regulation as might in-
23 dicate whether the taxpayer is eligible for
24 coverage under such title, and

1 “(iv) the taxable year with respect to
 2 which the preceding information relates or,
 3 if applicable, the fact that such informa-
 4 tion is not available.

5 “(B) RESTRICTION ON USE OF DISCLOSED
 6 INFORMATION.—Return information disclosed
 7 under subparagraph (A) may be used by offi-
 8 cers, employees, and contractors of the Depart-
 9 ment of Health and Human Services or the So-
 10 cial Security Administration only for the pur-
 11 poses of, and to the extent necessary in, estab-
 12 lishing potential eligibility for benefits under
 13 title XVIII of the Social Security Act.”.

14 (c) COMPUTER MATCHING AGREEMENT.—Not later
 15 than 6 months after the date of the enactment of this Act,
 16 the Secretary of Health and Human Services, the Sec-
 17 retary of the Treasury, and the Commissioner of Social
 18 Security shall enter into a computer matching agreement
 19 pursuant to section 552a(o) of title 5 of the United States
 20 Code for the purposes of implementing section 1804(d) of
 21 the Social Security Act, as added by subsection (a), and
 22 section 6103(l)(23) of the Internal Revenue Code of 1986,
 23 as added by subsection (b).

24 (d) REPORT TO CONGRESS.—Not later than 4 years
 25 after the date of the enactment of this Act, the Secretary

1 of Health and Human Services, the Secretary of the
 2 Treasury, and the Commissioner of Social Security shall
 3 submit to Congress a report on the process taken by the
 4 relevant agencies in implementing the notice requirement
 5 under subsection (d) of section 1804 of the Social Security
 6 Act (42 U.S.C. 1395b–2), as added by subsection (a) of
 7 this section, the status of notices created pursuant to such
 8 section, and an evaluation of the effect of such notices on
 9 enrollment under title XVIII of the Social Security Act.
 10 Such report shall be made publicly available.

11 **SEC. 3. BENEFICIARY MEDICARE PART B ENROLLMENT PE-**
 12 **RIODS AND EFFECTIVE DATE OF COVERAGE.**

13 (a) EFFECTIVE DATES.—Section 1838(a) of the So-
 14 cial Security Act (42 U.S.C. 1395q(a)) is amended—

15 (1) by amending paragraph (2) to read as fol-
 16 lows:

17 “(2)(A) in the case of an individual who enrolls
 18 pursuant to subsection (d) of section 1837 before
 19 the month in which he first satisfies paragraph (1)
 20 or (2) of section 1836, the first day of such month,

21 “(B) in the case of an individual not described
 22 in subparagraph (A) who first satisfies such para-
 23 graph in a month beginning before January 2019
 24 and who enrolls—

1 “(i) pursuant to such subsection (d) in
2 such month in which he first satisfies such
3 paragraph, the first day of the month following
4 the month in which he so enrolls,

5 “(ii) pursuant to such subsection (d) in the
6 month following such month in which he first
7 satisfies such paragraph, the first day of the
8 second month following the month in which he
9 so enrolls, or

10 “(iii) pursuant to such subsection (d) more
11 than one month following such month in which
12 he satisfies such paragraph, the first day of the
13 third month following the month in which he so
14 enrolls,

15 “(C) in the case of an individual not described
16 in subparagraph (A) who enrolls pursuant to sub-
17 section (e) of section 1837 in a month beginning be-
18 fore January 2019, the July 1 following the month
19 in which he so enrolls,

20 “(D) in the case of an individual not described
21 in subparagraph (A) who first satisfies such para-
22 graph in a month beginning on or after January 1,
23 2019, and who enrolls pursuant to such subsection
24 (d) in such month in which he first satisfies such
25 paragraph or in any subsequent month, the first day

1 of the month following the month in which he so en-
2 rolls, or

3 “(E) in the case of an individual not described
4 in subparagraph (A) who enrolls pursuant to sub-
5 section (e) of section 1837 in a month beginning on
6 or after October 15, 2018, the first day of the
7 month following the month in which he so enrolls.”;
8 and

9 (2) by amending paragraph (3) to read as fol-
10 lows:

11 “(3)(A) in the case of an individual who is
12 deemed to have enrolled on or before the last day of
13 the third month of his initial enrollment period be-
14 ginning before January 1, 2019, the first day of the
15 month in which he first meets the applicable require-
16 ments of section 1836 or July 1, 1973, whichever is
17 later, or

18 “(B) in the case of an individual who is deemed
19 to have enrolled on or after the first day of the
20 fourth month of his initial enrollment period begin-
21 ning before January 1, 2019, as prescribed under
22 subparagraphs (B)(i), (B)(ii), (B)(iii), and (C) of
23 paragraph (2) of this subsection.”.

1 (b) GENERAL AND SPECIAL ENROLLMENT PERI-
 2 ODS.—Section 1837(e) of the Social Security Act (42
 3 U.S.C. 1395p(e)) is amended to read as follows:

4 “(e) ENROLLMENT PERIODS.—

5 “(1) FOR COVERAGE DURING YEARS BEFORE
 6 2019.—There shall be a general enrollment period
 7 during the period beginning on January 1 and end-
 8 ing on March 31 of each year before 2019.

9 “(2) FOR COVERAGE DURING YEARS BEGINNING
 10 WITH 2019.—For 2019 and each subsequent year:

11 “(A) IN GENERAL.—Subject to subpara-
 12 graph (B), there shall be a general enrollment
 13 period beginning on October 15 of the previous
 14 year through December 31 of such previous
 15 year.

16 “(B) EXCEPTIONAL CIRCUMSTANCES.—
 17 The Secretary shall establish special enrollment
 18 periods in the case of a potentially eligible
 19 Medicare individual (as defined in section
 20 1804(d)(8)) who meets such exceptional condi-
 21 tions as the Secretary may provide.”.

22 (c) TECHNICAL CORRECTION.—Section 1839(b) of
 23 the Social Security Act (42 U.S.C. 1395r(b)) is amended

- 1 by striking “close of the enrollment period” each place it
- 2 appears and inserting “close of the month”.

