

104TH CONGRESS
1ST SESSION

H. R. 483

To amend title XVIII of the Social Security Act to permit medicare select policies to be offered in all States, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 11, 1995

Mrs. JOHNSON of Connecticut (for herself, Mr. POMEROY, Mr. THOMAS, Mr. GOSS, Mr. SHAYS, Mr. KOLBE, Mr. ROYCE, Mr. ARCHER, Mr. STUMP, Mr. BOEHLERT, Mr. HOUGHTON, Mr. PETRI, Mr. MILLER of Florida, Mr. ROHRABACHER, Mr. BARRETT of Wisconsin, Mrs. MEEK of Florida, Ms. WOOLSEY, Mr. MANZULLO, Mr. OBERSTAR, Mr. FORBES, Mr. BERMAN, Mr. TALENT, Mr. WALSH, Mr. BROWN of California, Mr. MINGE, Mr. DOOLEY, Mr. PETERSON of Florida, Mr. PORTER, Mr. YOUNG of Alaska, Mr. MARTINEZ, Mr. KLECZKA, Mr. ZIMMER, Mr. BAKER of California, Mr. HOBSON, Mr. FRANK of Massachusetts, Mr. MOORHEAD, Mr. FOX, Mr. FARR, and Mr. GREENWOOD) introduced the following bill; which was referred to the Committee on 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 permit medicare select policies to be offered in all States, 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,*

1 **SECTION 1. EXPANSION AND REVISION OF MEDICARE SE-**
2 **LECT POLICIES.**

3 (a) PERMITTING MEDICARE SELECT POLICIES IN
4 ALL STATES.—

5 (1) IN GENERAL.—Subsection (c) of section
6 4358 of the Omnibus Budget Reconciliation Act of
7 1990 is hereby repealed.

8 (2) CONFORMING AMENDMENT.—Section 4358
9 of such Act is amended by redesignating subsection
10 (d) as subsection (c).

11 (b) REQUIREMENTS OF MEDICARE SELECT POLI-
12 CIES.—Section 1882(t)(1) of the Social Security Act (42
13 U.S.C. 1395ss(t)(1)) is amended to read as follows:

14 “(1)(A) If a medicare supplemental policy meets the
15 1991 NAIC Model Regulation or 1991 Federal Regulation
16 and otherwise complies with the requirements of this sec-
17 tion except that—

18 “(i) the benefits under such policy are re-
19 stricted to items and services furnished by certain
20 entities (or reduced benefits are provided when items
21 or services are furnished by other entities), and

22 “(ii) in the case of a policy described in sub-
23 paragraph (C)(i)—

24 “(I) the benefits under such policy are not
25 one of the groups or packages of benefits de-
26 scribed in subsection (p)(2)(A),

1 “(II) except for nominal copayments im-
2 posed for services covered under part B of this
3 title, such benefits include at least the core
4 group of basic benefits described in subsection
5 (p)(2)(B), and

6 “(III) an enrollee’s liability under such pol-
7 icy for physician’s services covered under part
8 B of this title is limited to the nominal
9 copayments described in subclause (II),

10 the policy shall nevertheless be treated as meeting those
11 standards if the policy meets the requirements of subpara-
12 graph (B).

13 “(B) A policy meets the requirements of this sub-
14 paragraph if—

15 “(i) full benefits are provided for items and
16 services furnished through a network of entities
17 which have entered into contracts or agreements
18 with the issuer of the policy;

19 “(ii) full benefits are provided for items and
20 services furnished by other entities if the services are
21 medically necessary and immediately required be-
22 cause of an unforeseen illness, injury, or condition
23 and it is not reasonable given the circumstances to
24 obtain the services through the network;

25 “(iii) the network offers sufficient access;

1 “(iv) the issuer of the policy has arrangements
2 for an ongoing quality assurance program for items
3 and services furnished through the network;

4 “(v)(I) the issuer of the policy provides to each
5 enrollee at the time of enrollment an explanation of
6 the matters described in subparagraph (D), and

7 “(II) each enrollee prior to enrollment acknowl-
8 edges receipt of the explanation provided under
9 subclause (I); and

10 “(vi) the issuer of the policy makes available to
11 individuals, in addition to the policy described in this
12 subsection, any policy (otherwise offered by the is-
13 suer to individuals in the State) that meets the 1991
14 Model NAIC Regulation or 1991 Federal Regulation
15 and other requirements of this section without re-
16 gard to this subsection.

17 “(C)(i) A policy described in this subparagraph—

18 “(I) is offered by an eligible organization (as
19 defined in section 1876(b)),

20 “(II) is not a policy providing benefits pursuant
21 to a contract under section 1876 or an approved
22 demonstration project described in section 603(c) of
23 the Social Security Amendments of 1983, section
24 2355 of the Deficit Reduction Act of 1984, or sec-

1 tion 9412(b) of the Omnibus Budget Reconciliation
2 Act of 1986, and

3 “(III) provides benefits which, when combined
4 with benefits which are available under this title, are
5 substantially similar to benefits under policies of-
6 fered to individuals who are not entitled to benefits
7 under this title.

8 “(ii) In making a determination under subclause (III)
9 of clause (i) as to whether certain benefits are substan-
10 tially similar, there shall not be taken into account, except
11 in the case of preventive services, benefits provided under
12 policies offered to individuals who are not entitled to bene-
13 fits under this title which are in addition to the benefits
14 covered by this title and which are benefits an entity must
15 provide in order to meet the definition of an eligible orga-
16 nization under section 1876(b)(1).

17 “(D) The matters described in this subparagraph,
18 with respect to a policy, are as follows:

19 “(i) The restrictions on payment under the pol-
20 icy for services furnished other than by or through
21 the network.

22 “(ii) Out of area coverage under the policy.

23 “(iii) The policy’s coverage of emergency serv-
24 ices and urgently needed care.

1 “(iv) The availability of a policy through the en-
2 tity that meets the 1991 Model NAIC Regulation or
3 1991 Federal Regulation without regard to this sub-
4 section and the premium charged for such policy.”.

5 (c) RENEWABILITY OF MEDICARE SELECT POLI-
6 CIES.—Section 1882(q)(1) of the Social Security Act (42
7 U.S.C. 1395ss(q)(1)) is amended—

8 (1) by striking “(1) Each” and inserting
9 “(1)(A) Except as provided in subparagraph (B),
10 each”;

11 (2) by redesignating subparagraphs (A) and
12 (B) as clauses (i) and (ii), respectively; and

13 (3) by adding at the end the following new sub-
14 paragraph:

15 “(B)(i) Except as provided in clause (ii), in the
16 case of a policy that meets the requirements of sub-
17 section (t), an issuer may cancel or nonrenew such
18 policy with respect to an individual who leaves the
19 service area of such policy.

20 “(ii) If an individual described in clause (i)
21 moves to a geographic area where an issuer de-
22 scribed in clause (i), or where an affiliate of such is-
23 suer, is issuing medicare supplemental policies, such
24 individual must be permitted to enroll in any medi-
25 care supplemental policy offered by such issuer or

1 affiliate that provides benefits comparable to or less
2 than the benefits provided in the policy being can-
3 celed or nonrenewed. An individual whose coverage
4 is canceled or nonrenewed under this subparagraph
5 shall, as part of the notice of termination or
6 nonrenewal, be notified of the right to enroll in other
7 medicare supplemental policies offered by the issuer
8 or its affiliates.

9 “(iii) For purposes of this subparagraph, the
10 term ‘affiliate’ shall have the meaning given such
11 term by the 1991 NAIC Model Regulation.”.

12 (d) CIVIL MONEY PENALTY.—Section 1882(t)(2) of
13 the Social Security Act (42 U.S.C. 1395ss(t)(2)) is
14 amended—

15 (1) by striking “(2)” and inserting “(2)(A)”;

16 (2) by redesignating subparagraphs (A), (B),
17 (C), and (D) as clauses (i), (ii), (iii), and (iv), re-
18 spectively;

19 (3) in clause (iv), as so redesignated—

20 (A) by striking “paragraph (1)(E)(i)” and
21 inserting “paragraph (1)(B)(v)(I), and

22 (B) by striking “paragraph (1)(E)(ii)” and
23 inserting “paragraph (1)(B)(v)(II)”;

24 (4) by striking “the previous sentence” and in-
25 serting “this subparagraph”; and

1 (5) by adding at the end the following new sub-
2 paragraph:

3 “(B) If the Secretary determines that an issuer of
4 a policy approved under paragraph (1) has made a mis-
5 representation to the Secretary or has provided the Sec-
6 retary with false information regarding such policy, the
7 issuer is subject to a civil money penalty in an amount
8 not to exceed \$100,000 for each such determination. The
9 provisions of section 1128A (other than the first sentence
10 of subsection (a) and other than subsection (b)) shall
11 apply to a civil money penalty under this subparagraph
12 in the same manner as such provisions apply to a penalty
13 or proceeding under section 1128A(a).”.

14 **SEC. 2. EFFECTIVE DATES.**

15 (a) NAIC STANDARDS.—If, within 6 months after
16 the date of the enactment of this Act, the National Asso-
17 ciation of Insurance Commissioners (in this subsection re-
18 ferred to as the “NAIC”) makes changes in the 1991
19 NAIC Model Regulation (as defined in section
20 1882(p)(1)(A) of the Social Security Act) to incorporate
21 the additional requirements imposed by the amendments
22 made by section 1, section 1882(g)(2)(A) of such Act shall
23 be applied in each State, effective for policies issued to
24 policyholders on and after the date specified in paragraph
25 (3), as if the reference to the Model Regulation adopted

1 on June 6, 1979, were a reference to the 1991 NAIC
2 Model Regulation (as so defined) as changed under this
3 paragraph (such changed Regulation referred to in this
4 subsection as the “1995 NAIC Model Regulation”).

5 (b) SECRETARY STANDARDS.—If the NAIC does not
6 make changes in the 1991 NAIC Model Regulation (as
7 so defined) within the 6-month period specified in sub-
8 section (a), the Secretary of Health and Human Services
9 (in this subsection as the “Secretary”) shall promulgate
10 a regulation and section 1882(g)(2)(A) of the Social Secu-
11 rity Act shall be applied in each State, effective for policies
12 issued to policyholders on and after the date specified in
13 paragraph (3), as if the reference to the Model Regulation
14 adopted in June 6, 1979, were a reference to the 1991
15 NAIC Model Regulation (as so defined) as changed by the
16 Secretary under this paragraph (such changed Regulation
17 referred to in this subsection as the “1995 Federal Regu-
18 lation”).

19 (c) DATE SPECIFIED.—

20 (1) IN GENERAL.—Subject to paragraph (2),
21 the date specified in this subsection for a State is
22 the earlier of—

23 (A) the date the State adopts the 1995
24 NAIC Model Regulation or the 1995 Federal
25 Regulation; or

1 (B) 1 year after the date the NAIC or the
2 Secretary first adopts such regulations.

3 (2) ADDITIONAL LEGISLATIVE ACTION RE-
4 QUIRED.—In the case of a State which the Secretary
5 identifies, in consultation with the NAIC, as—

6 (A) requiring State legislation (other than
7 legislation appropriating funds) in order for
8 medicare supplemental policies to meet the
9 1995 NAIC Model Regulation or the 1995 Fed-
10 eral Regulation, but

11 (B) having a legislature which is not
12 scheduled to meet in 1995 in a legislative ses-
13 sion in which such legislation may be consid-
14 ered,

15 the date specified in this subsection is the first day
16 of the first calendar quarter beginning after the
17 close of the first legislative session of the State legis-
18 lature that begins on or after January 1, 1995. For
19 purposes of the previous sentence, in the case of a
20 State that has a 2-year legislative session, each year
21 of such session shall be deemed to be a separate reg-
22 ular session of the State legislature.

○