

103D CONGRESS  
1ST SESSION

# H. R. 2770

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

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IN THE HOUSE OF REPRESENTATIVES

JULY 28, 1993

Mrs. JOHNSON of Connecticut (for herself and Mr. POMEROY) introduced the following bill; which was referred to the Committee on Energy and Commerce

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## 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,*

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

5 (a) PERMITTING MEDICARE SELECT POLICIES IN  
6 ALL STATES.—

7 (1) IN GENERAL.—Subsection (c) of section  
8 4358 of the Omnibus Budget Reconciliation Act of  
9 1990 (hereafter referred to as “OBRA-1990”) is  
10 hereby repealed.

1           (2) CONFORMING AMENDMENT.—Section 4358  
2 of OBRA–1990 is amended by redesignating sub-  
3 section (d) as subsection (c).

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

7           “(1)(A) If a medicare supplemental policy meets the  
8 1991 NAIC Model Regulation or 1991 Federal Regulation  
9 and otherwise complies with the requirements of this sec-  
10 tion except that—

11           “(i) the benefits under such policy are re-  
12 stricted to items and services furnished by certain  
13 entities (or reduced benefits are provided when items  
14 or services are furnished by other entities), and

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

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

20           “(II) except for nominal copayments im-  
21 posed for services covered under part B of this  
22 title, such benefits include at least the core  
23 group of basic benefits described in subsection  
24 (p)(2)(B), and

1           “(III) an enrollee’s liability under such pol-  
2           icy for physician’s services covered under part  
3           B of this title is limited to the nominal  
4           copayments described in subclause (II),  
5 the policy shall nevertheless be treated as meeting those  
6 standards if the policy meets the requirements of subpara-  
7 graph (B).

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

10           “(i) full benefits are provided for items and  
11           services furnished through a network of entities  
12           which have entered into contracts or agreements  
13           with the issuer of the policy,

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

20           “(iii) the network offers sufficient access,

21           “(iv) the issuer of the policy has arrangements  
22           for an ongoing quality assurance program for items  
23           and services furnished through the network,

1           “(v)(I) the issuer of the policy provides to each  
2           enrollee at the time of enrollment an explanation  
3           of—

4                   “(aa) the restrictions on payment under  
5                   the policy for services furnished other than by  
6                   or through the network,

7                   “(bb) out of area coverage under the  
8                   policy,

9                   “(cc) the policy’s coverage of emergency  
10                  services and urgently needed care, and

11                  “(dd) the availability of a policy through  
12                  the entity that meets the 1991 Model NAIC  
13                  Regulation or 1991 Federal Regulation without  
14                  regard to this subsection and the premium  
15                  charged for such policy, and

16           “(II) each enrollee prior to enrollment acknowl-  
17           edges receipt of the explanation provided under  
18           subclause (I), and

19           “(vi) the issuer of the policy makes available to  
20           individuals, in addition to the policy described in this  
21           subsection, any policy (otherwise offered by the is-  
22           suer to individuals in the State) that meets the 1991  
23           Model NAIC Regulation or 1991 Federal Regulation  
24           and other requirements of this section without re-  
25           gard to this subsection.

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

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

4 “(II) is not a policy or plan providing benefits  
5 pursuant to a contract under section 1876 or an ap-  
6 proved demonstration project described in section  
7 603(c) of the Social Security Amendments of 1983,  
8 section 2355 of the Deficit Reduction Act of 1984,  
9 or section 9412(b) of the Omnibus Budget Reconcili-  
10 ation Act of 1986, and

11 “(III) provides benefits which, when combined  
12 with benefits which are available under this title, are  
13 substantially similar to benefits under policies of-  
14 fered to individuals who are not entitled to benefits  
15 under this title.

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

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

4 (1) by striking “(1) Each” and inserting  
5 “(1)(A) Except as provided in subparagraph (B),  
6 each”;

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

9 (3) by adding at the end the following new sub-  
10 paragraph:

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

16 “(ii) If an individual described in clause (i)  
17 moves to a geographic area where an issuer de-  
18 scribed in clause (i), or where an affiliate of such is-  
19 suer, is issuing medicare supplemental policies, such  
20 individual must be permitted to enroll in any medi-  
21 care supplemental policy offered by such issuer or  
22 affiliate that provides benefits comparable to or less  
23 than the benefits provided in the policy being can-  
24 celed or nonrenewed. An individual whose coverage  
25 is canceled or nonrenewed under this subparagraph

1 shall, as part of the notice of termination or  
2 nonrenewal, be notified of the right to enroll in other  
3 medicare supplemental policies offered by the issuer  
4 or its affiliates.

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

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

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

12 (2) by redesignating subparagraphs (A), (B),  
13 (C), and (D) as clauses (i), (ii), (iii), and (iv), re-  
14 spectively;

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

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

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

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

22 (5) by adding at the end the following new sub-  
23 paragraph:

24 “(B) If the Secretary determines that an issuer of  
25 a policy approved under paragraph (1) has made a mis-

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

10 **SEC. 2. EFFECTIVE DATES.**

11 (a) NAIC STANDARDS.—If, within 6 months after  
12 the date of the enactment of this Act, the National Asso-  
13 ciation of Insurance Commissioners (hereafter in this sub-  
14 section referred to as the “NAIC”) makes changes in the  
15 1991 NAIC Model Regulation (as defined in section  
16 1882(p)(1)(A) of the Social Security Act) to incorporate  
17 the additional requirements imposed by the amendments  
18 made by section 1, section 1882(g)(2)(A) of such Act shall  
19 be applied in each State, effective for policies issued to  
20 policyholders on and after the date specified in paragraph  
21 (3), as if the reference to the Model Regulation adopted  
22 on June 6, 1979, were a reference to the 1991 NAIC  
23 Model Regulation (as so defined) as changed under this  
24 paragraph (such changed Regulation referred to in this  
25 subsection as the “1994 NAIC Model Regulation”).

1           (b) SECRETARY STANDARDS.—If the NAIC does not  
2 make changes in the 1991 NAIC Model Regulation (as  
3 so defined) within the 6-month period specified in sub-  
4 section (a), the Secretary of Health and Human Services  
5 (hereafter in this subsection as the “Secretary”) shall pro-  
6 mulgate a regulation and section 1882(g)(2)(A) of the So-  
7 cial Security Act shall be applied in each State, effective  
8 for policies issued to policyholders on and after the date  
9 specified in paragraph (3), as if the reference to the Model  
10 Regulation adopted in June 6, 1979, were a reference to  
11 the 1991 NAIC Model Regulation (as so defined) as  
12 changed by the Secretary under this paragraph (such  
13 changed Regulation referred to in this subsection as the  
14 “1994 Federal Regulation”).

15           (c) DATE SPECIFIED.—

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

19                   (A) the date the State adopts the 1994  
20 NAIC Model Regulation or the 1994 Federal  
21 Regulation; or

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

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

4                   (A) requiring State legislation (other than  
5                   legislation appropriating funds) in order for  
6                   medicare supplemental policies to meet the  
7                   1994 NAIC Model Regulation or the 1994 Fed-  
8                   eral Regulation, but

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

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

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