

104TH CONGRESS
1ST SESSION

S. 198

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 SENATE OF THE UNITED STATES

JANUARY 11 (legislative day, JANUARY 10), 1995

Mr. CHAFEE (for himself, Mrs. FEINSTEIN, Mrs. HUTCHISON, Mr. KOHL, and Mr. DORGAN) 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 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9 1990 (42 U.S.C. 1320c-3 note) is hereby repealed.

1 (2) CONFORMING AMENDMENT.—Section 4358
2 of such Act (42 U.S.C. 1320c-3 note) is amended by
3 redesignating subsection (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 of
3 the matters described in subparagraph (D), and

4 “(II) each enrollee prior to enrollment acknowl-
5 edges receipt of the explanation provided under
6 subclause (I); and

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

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

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

17 “(II) is not a policy providing benefits pursuant
18 to a contract under section 1876 or an approved
19 demonstration project described in section 603(c) of
20 the Social Security Amendments of 1983, section
21 2355 of the Deficit Reduction Act of 1984, or sec-
22 tion 9412(b) of the Omnibus Budget Reconciliation
23 Act of 1986, and

24 “(III) provides benefits which, when combined
25 with benefits which are available under this title, are

1 substantially similar to benefits under policies of-
2 fered to individuals who are not entitled to benefits
3 under this title.

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

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

15 “(i) The restrictions on payment under the pol-
16 icy for services furnished other than by or through
17 the network.

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

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

21 “(iv) The availability of a policy through the en-
22 tity that meets the 1991 Model NAIC Regulation or
23 1991 Federal Regulation without regard to this sub-
24 section and the premium charged for such policy.”.

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 the 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 (in this subsection re-
14 ferred to as the “NAIC”) makes changes in the 1991
15 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 “1995 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 (in this subsection as the “Secretary”) shall promulgate
6 a regulation and section 1882(g)(2)(A) of the Social Secu-
7 rity Act shall be applied in each State, effective for policies
8 issued to policyholders on and after the date specified in
9 paragraph (3), as if the reference to the Model Regulation
10 adopted in June 6, 1979, were a reference to the 1991
11 NAIC Model Regulation (as so defined) as changed by the
12 Secretary under this paragraph (such changed Regulation
13 referred to in this subsection as the “1995 Federal Regu-
14 lation”).

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 1995
20 NAIC Model Regulation or the 1995 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 1995 NAIC Model Regulation or the 1995 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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