

106TH CONGRESS  
2D SESSION

# S. 3029

To amend part C of title XVIII to stabilize the Medicare+Choice program by improving the methodology for the calculation of Medicare+Choice payment rates, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

SEPTEMBER 12, 2000

Mr. SANTORUM introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend part C of title XVIII to stabilize the Medicare+Choice program by improving the methodology for the calculation of Medicare+Choice payment rates, 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Medicare Beneficiaries’ Choice Stabilization Act of  
6 2000”.

7 (b) TABLE OF CONTENTS.—The table of contents of  
8 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Establishment of payment floor for Medicare+Choice payment rates after applying risk-adjustment methodology.
- Sec. 3. Change in application of budget neutrality adjustment for 2001 and 2002.
- Sec. 4. Increase in national per capita Medicare+Choice growth percentage in 2001 and 2002.
- Sec. 5. Increasing minimum payment amount.
- Sec. 6. Allowing movement to 50:50 percent blend in 2002.
- Sec. 7. Increased update for payment areas with only one or no Medicare+Choice contracts.
- Sec. 8. Permitting higher negotiated rates in certain Medicare+Choice payment areas below national average.
- Sec. 9. 10-year phase in of risk adjustment based on data from all settings.
- Sec. 10. Delay from July to November, 2000 in deadline for offering and withdrawing Medicare+Choice plans for 2001.
- Sec. 11. Miscellaneous regulatory changes.

1 **SEC. 2. ESTABLISHMENT OF PAYMENT FLOOR FOR**  
 2 **MEDICARE+CHOICE PAYMENT RATES AFTER**  
 3 **APPLYING RISK-ADJUSTMENT METHOD-**  
 4 **LOGY.**

5 (a) IN GENERAL.—Section 1853(c)(1) of the Social  
 6 Security Act (42 U.S.C. 1395w-23(c)(1)) is amended—

7 (1) in the matter preceding subparagraph (A),  
 8 by striking ‘or (C)’ and inserting ‘(C), or (D)’; and  
 9 (2) by adding at the end the following new sub-  
 10 paragraph:

11 “(D) DEMOGRAPHICALLY ADJUSTED FEE-  
 12 FOR-SERVICE PER CAPITA EXPENDITURES.—

13 “(i) IN GENERAL.—For 2001 and  
 14 each subsequent year, 90 percent of the  
 15 adjusted average per capita cost for the  
 16 year for the Medicare+Choice payment  
 17 area determined by the Secretary based

1           upon the rule specified under paragraph  
2           (4) of section 1876(a) and calculated with-  
3           out regard to the adjustment under para-  
4           graph (1)(C) of such section.

5           “(ii) SPECIAL RULE FOR RISK AD-  
6           JUSTMENT.—For purposes of applying risk  
7           adjustment to the payment amount deter-  
8           mined under this subparagraph for a de-  
9           mographic class, the risk adjustment for  
10          such demographic class shall be deter-  
11          mined under the methodology applied by  
12          the Secretary under section 1876(a)(4)  
13          without regard to subsection (a)(3) of this  
14          section.”.

15          (b) CONTINUATION OF COMPUTATION OF AAPCC  
16          DATA.—Section 1853(b) of such Act (42 U.S.C. 1395w-  
17          23(b)) is amended by adding at the end the following new  
18          paragraph:

19                 “(4) CONTINUED COMPUTATION AND PUBLICA-  
20                 TION OF COUNTY-SPECIFIC PER CAPITA FEE-FOR-  
21                 SERVICE EXPENDITURE INFORMATION.—Using the  
22                 most recent data available, the Secretary shall pro-  
23                 vide for the computation and publication, on an an-  
24                 nual basis at the time of publication of the annual  
25                 Medicare+Choice capitation rates, of information on

1 the level of the average annual per capita costs (de-  
2 scribed in section 1876(a)(4)) for each  
3 Medicare+Choice payment area.”.

4 **SEC. 3. ELIMINATION OF BUDGET NEUTRALITY ADJUST-**  
5 **MENT FOR 2001 AND 2002.**

6 Section 1853(c) of the Social Security Act (42 U.S.C.  
7 1395w-23(c)) is amended—

8 (1) in paragraph (1)(A) in the matter following  
9 clause (ii), by inserting “for a year (other than 2001  
10 or 2002)” after “multiplied”; and

11 (2) in paragraph (5), by inserting “(other than  
12 2001 or 2002)” after “for each year”.

13 **SEC. 4. INCREASE IN NATIONAL PER CAPITA**  
14 **MEDICARE+CHOICE GROWTH PERCENTAGE**  
15 **IN 2001 AND 2002.**

16 Section 1853(c)(6)(B) of the Social Security Act (42  
17 U.S.C. 1395w-23(c)(6)(B)) is amended—

18 (1) in clause (iv), by striking “for 2001, 0.5  
19 percentage points” and inserting “for 2001, 0 per-  
20 centage points”; and

21 (2) in clause (v), by striking “for 2002, 0.3 per-  
22 centage points” and inserting “for 2002, 0 percent-  
23 age points”.

1 **SEC. 5. INCREASING MINIMUM PAYMENT AMOUNT.**

2 (a) IN GENERAL.—Section 1853(c)(1)(B)(ii) of the  
3 Social Security Act (42 U.S.C. 1395w–23(c)(1)(B)(ii)) is  
4 amended—

5 (1) by striking “(ii) For a succeeding year” and  
6 inserting “(ii)(I) Subject to subclause (II), for a suc-  
7 ceeding year”; and

8 (2) by adding at the end the following new sub-  
9 clause:

10 “(II) For 2001 for any of the 50  
11 States and the District of Columbia,  
12 \$475.”.

13 (b) EFFECTIVE DATE.—The amendments made by  
14 subsection (a) apply to years beginning with 2001.

15 **SEC. 6. ALLOWING MOVEMENT TO 50:50 PERCENT BLEND IN**  
16 **2002.**

17 Section 1853(c)(2) of the Social Security Act (42  
18 U.S.C. 1395w–23(c)(2)) is amended—

19 (1) by striking the period at the end of sub-  
20 paragraph (F) and inserting a semicolon; and

21 (2) by adding after and below subparagraph  
22 (F) the following:

23 “except that a Medicare+Choice organization may  
24 elect to apply subparagraph (F) (rather than sub-  
25 paragraph (E)) for 2001 and for 2002.”.

1 **SEC. 7. INCREASED UPDATE FOR PAYMENT AREAS WITH**  
2 **ONLY ONE OR NO MEDICARE+CHOICE CON-**  
3 **TRACTS.**

4 (a) IN GENERAL.—Section 1853(c)(1)(C)(ii) of the  
5 Social Security Act (42 U.S.C. 1395w–23(c)(1)(C)(ii)) is  
6 amended—

7 (1) by striking “(ii) For a subsequent year”  
8 and inserting “(ii)(I) Subject to subclause (II), for  
9 a subsequent year”; and

10 (2) by adding at the end the following new sub-  
11 clause:

12 “(II) During 2001, 2002, 2003, 2004,  
13 and 2005, in the case of a  
14 Medicare+Choice payment area in which  
15 there is no more than one contract entered  
16 into under this part as of July 1 before the  
17 beginning of the year, 102.5 percent of the  
18 annual Medicare+Choice capitation rate  
19 under this paragraph for the area for the  
20 previous year.”.

21 (b) CONSTRUCTION.—The amendments made by sub-  
22 section (a) do not affect the payment of a first time bonus  
23 under section 1853(i) of the Social Security Act (42  
24 U.S.C. 1395w–23(i)).

1 **SEC. 8. PERMITTING HIGHER NEGOTIATED RATES IN CER-**  
 2 **TAIN MEDICARE+CHOICE PAYMENT AREAS**  
 3 **BELOW NATIONAL AVERAGE.**

4 Section 1853(c)(1) of the Social Security Act (42  
 5 U.S.C. 1395w-23(c)(1)) is amended—

6 (1) in the matter before subparagraph (A), by  
 7 striking “or (C)” and inserting “(C), or (D)”; and

8 (2) by adding at the end the following new sub-  
 9 paragraph:

10 “(D) PERMITTING HIGHER RATES  
 11 THROUGH NEGOTIATION.—

12 “(i) IN GENERAL.—For each year be-  
 13 ginning with 2004, in the case of a  
 14 Medicare+Choice payment area for which  
 15 the Medicare+Choice capitation rate under  
 16 this paragraph would otherwise be less  
 17 than the United States per capita cost  
 18 (USPCC), as calculated by the Secretary,  
 19 a Medicare+Choice organization may ne-  
 20 gotiate with the Secretary an annual per  
 21 capita rate that—

22 “(I) reflects an annual rate of in-  
 23 crease up to the rate of increase speci-  
 24 fied in clause (ii);

25 “(II) takes into account audited  
 26 current data supplied by the organiza-

1                   tion on its adjusted community rate  
2                   (as defined in section 1854(f)(3)); and

3                   “(III) does not exceed the United  
4                   States per capita cost, as projected by  
5                   the Secretary for the year involved.

6                   “(ii) MAXIMUM RATE DESCRIBED.—  
7                   The rate of increase specified in this clause  
8                   for a year is the rate of inflation in private  
9                   health insurance for the year involved, as  
10                  projected by the Secretary, and includes  
11                  such adjustments as may be necessary—

12                  “(I) to reflect the demographic  
13                  characteristics in the population under  
14                  this title; and

15                  “(II) to eliminate the costs of  
16                  prescription drugs.

17                  “(iii) ADJUSTMENTS FOR OVER OR  
18                  UNDER PROJECTIONS.—If subparagraph is  
19                  applied to an organization and payment  
20                  area for a year, in applying this subpara-  
21                  graph for a subsequent year the provisions  
22                  of paragraph (6)(C) shall apply in the  
23                  same manner as such provisions apply  
24                  under this paragraph.”.

1 **SEC. 9. 10-YEAR PHASE IN OF RISK ADJUSTMENT BASED ON**  
2 **DATA FROM ALL SETTINGS.**

3 Section 1853(a)(3)(C)(ii) of the Social Security Act  
4 (42 U.S.C. 1395w-23(c)(1)(C)(ii)) is amended—

5 (1) by striking the period at the end of sub-  
6 clause (II) and inserting a semicolon; and

7 (2) by adding after and below subclause (II) the  
8 following:

9 “and, beginning in 2004, insofar as such  
10 risk adjustment is based on data from all  
11 (or substantially all) settings, the method-  
12 ology shall be phased in equal increments  
13 over a 10 year period, beginning with 2004  
14 or (if later) the first year in which such  
15 data is used.”.

16 **SEC. 10. DELAY FROM JULY TO NOVEMBER, 2000 IN DEAD-**  
17 **LINE FOR OFFERING AND WITHDRAWING**  
18 **MEDICARE+CHOICE PLANS FOR 2001.**

19 Notwithstanding any other provision of law, the dead-  
20 line for a Medicare+Choice organization to withdraw the  
21 offering of a Medicare+Choice plan under part C of title  
22 XVIII of the Social Security Act (or otherwise to submit  
23 information required for the offering of such a plan) for  
24 2001 is delayed from July 1, 2000, to November 1, 2000,  
25 and any such organization that provided notice of with-  
26 drawal of such a plan during 2000 before the date of the

1 enactment of this Act may rescind such withdrawal at any  
2 time before November 1, 2000.

3 **SEC. 11. MISCELLANEOUS REGULATORY CHANGES.**

4 (a) PROHIBITION ON REQUIREMENT TO SUBMIT EN-  
5 COUNTER DATA.—Section 1853(a)(3)(B) of the Social Se-  
6 curity Act (42 U.S.C. 1395w–23(a)(3)(B)) is amended—

7 (1) by designating the matter following “DATA  
8 COLLECTION” as a clause (i) with appropriate inden-  
9 tation and the heading “IN GENERAL”; and

10 (2) by adding at the end the following new  
11 clauses:

12 “(ii) ISSUANCE OF DATA SUBMISSION  
13 REQUIREMENTS.—The Secretary may not  
14 require under clause (i) the submission of  
15 encounter data to support a risk adjust-  
16 ment methodology based on all (or sub-  
17 stantially all) settings until a reasonable  
18 time after the Secretary issues the com-  
19 plete requirements for data submission.  
20 Such requirements shall be limited to the  
21 minimum data elements necessary to sup-  
22 port the risk adjustment methodology.  
23 Such system shall be designed to accept  
24 the required minimum data elements in a  
25 form and manner compatible with

1 Medicare+Choice organizations’ oper-  
2 ations.

3 “(iii) EVALUATION.—In issuing such  
4 data submission requirements, the Sec-  
5 retary must include an evaluation by an  
6 outside, independent actuary of whether  
7 the proposed data elements are the min-  
8 imum necessary to support the risk adjust-  
9 ment methodology.”.

10 (b) POST-STABILIZATION GUIDELINES.—Section  
11 1852(d)(2) of such Act (42 U.S.C. 1395w–22(d)(2)) is  
12 amended by adding at the end the following: “In pre-  
13 scribing such guidelines—

14 “(A) post-stabilization care shall be limited  
15 to care related to treatment of the condition  
16 that precipitated the provision of emergency  
17 services; and

18 “(B) the provider of emergency services is  
19 not authorized to provide post-stabilization care  
20 unless—

21 “(i) the Medicare+Choice organiza-  
22 tion has been notified as soon as prac-  
23 ticable, but not later than 2 hours after  
24 stabilization, in advance of the request to  
25 provide such care;

1           “(ii) the organization has either ap-  
2           proved the request or not responded to  
3           such request within a reasonable period (of  
4           at least 3 hours) after it has been notified;  
5           and

6           “(iii) the emergency services provider  
7           maintains a written documentation con-  
8           cerning the notice and the organization’s  
9           response to such notice.”.

10       (c) ENROLLMENT PROCESS.—

11           (1) ALLOWING ON-LINE ENROLLMENT.—Sec-  
12           tion 1851(c)(2) of such Act (42 U.S.C. 1395w-  
13           21(c)(2)) is amended by adding at the end the fol-  
14           lowing:

15           “(C) ON-LINE APPLICATIONS.—Such proc-  
16           ess shall permit the filing of appropriate elec-  
17           tion forms under subparagraphs (A) and (B) to  
18           be done through electronic means (including use  
19           of the Internet).”.

20           (2) MORATORIUM ON CHANGES IN  
21           MEDICARE+CHOICE ENROLLMENT RULES.—The  
22           Secretary of Health and Human Services shall not  
23           make any changes in the enrollment and  
24           disenrollment instructions and related materials (in-  
25           cluding operational policy letters and evidence of

1 coverage) under the Medicare+Choice program  
2 under part C of title XVIII of the Social Security  
3 Act between the date of the enactment of this Act  
4 and January 1, 2002, except as may be specifically  
5 and only required to comply with a change in  
6 statute.

○