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105TH CONGRESS
2D SESSION

H. R. 3997

To amend title XVIII of the Social Security Act to require Medicare+Choice organizations to assure access to obstetrician-gynecologists and to assure continuity of care.

IN THE HOUSE OF REPRESENTATIVES

JUNE 4, 1998

Mr. STARK (for himself, Mr. CARDIN, Mr. KLECZKA, Mr. LEWIS of Georgia, and Mr. BECERRA) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Commerce, 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

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A BILL

To amend title XVIII of the Social Security Act to require Medicare+Choice organizations to assure access to obstetrician-gynecologists and to assure continuity of care.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Medicare Consumer Bill of Rights Conforming Act of 1998''.

SEC. 2. ASSURING ACCESS TO OBSTETRICIAN-GYNECOLOGISTS.

Section 1852(d) of the Social Security Act (42 U.S.C. 1395w–22(d)) is amended—

(1) by striking ''A Medicare+Choice organization'' and inserting ''Subject to paragraph (5), a Medicare+Choice organization'', and

(2) by adding at the end the following new paragraph:

''(5) ASSURING ACCESS TO OBSTETRICAL AND GYNECOLOGICAL CARE.—

''(A) IN GENERAL.—If a Medicare+Choice organization requires or provides for an enrollee to designate a participating primary care provider—

''(i) the organization shall permit such an individual to designate a participating physician who specializes in obstetrics and gynecology as the individual's primary care provider; and

''(ii) if such an individual has not designated such a provider as a primary care provider, the organization—

''(I) may not require authorization or a referral by the individual's primary care provider or otherwise for

coverage of routine gynecological care (such as preventive women's health examinations) and pregnancy-related services provided by a participating health care professional who specializes in obstetrics and gynecology to the extent such care is otherwise covered, and

''(II) may treat the ordering of other gynecological care by such a participating physician as the authorization of the primary care provider with respect to such care under the Medicare+Choice plan.

''(B) CONSTRUCTION.—Nothing in subparagraph (A)(ii)(II) shall waive any requirements of coverage relating to medical necessity or appropriateness with respect to coverage of gynecological care so ordered.''.

SEC. 3. ASSURING CONTINUITY OF CARE.

Section 1852 of the Social Security Act (42 U.S.C. 1395w–22) is amended by adding at the end the following new subsection:

''(l) ASSURING CONTINUITY OF CARE.—

''(1) IN GENERAL.—

''(A) TERMINATION OF PROVIDER.—If a contract between a Medicare+Choice organization and a health care provider is terminated (as defined in subparagraph (B)), or benefits or coverage provided by a health care provider are terminated because of a change in the terms of provider participation in a Medicare+Choice plan, and an individual who is an enrollee in the plan is undergoing a course of treatment from the provider at the time of such termination, the organization shall—

''(i) notify the individual on a timely basis of such termination, and

''(ii) subject to paragraph (3), permit the individual to continue or be covered with respect to the course of treatment with the provider during a transitional period (provided under paragraph (2)).

''(B) TERMINATION.—In this subsection, the term 'terminated' includes, with respect to a contract, the expiration or nonrenewal of the contract, but does not include a termination of the contract by the organization for failure to meet applicable quality standards or for fraud.

''(2) TRANSITIONAL PERIOD.—

"(A) IN GENERAL.—Except as provided in subparagraphs (B) through (D), the transitional period under this paragraph shall extend for at least 90 days from the date of the notice described in paragraph (1)(A)(i) of the provider's termination.

"(B) INSTITUTIONAL CARE.—The transitional period under this paragraph for institutional or inpatient care from a provider shall extend until the discharge or termination of the period of institutionalization and also shall include institutional care provided within a reasonable time of the date of termination of the provider status if the care was scheduled before the date of the announcement of the termination of the provider status under paragraph (1))(A)(i) or if the individual on such date was on an established waiting list or otherwise scheduled to have such care.

"(C) PREGNANCY.—If—

"(i) an enrollee has entered the second trimester of pregnancy at the time of a provider's termination of participation, and

''(ii) the provider was treating the pregnancy before date of the termination,

the transitional period under this paragraph with respect to provider's treatment of the pregnancy shall extend through the provision of post-partum care directly related to the delivery.

''(D) TERMINAL ILLNESS.—If—

''(i) an enrollee was determined to be terminally ill (as determined under section 1861(dd)(3)(A)) at the time of a provider's termination of participation, and

''(ii) the provider was treating the terminal illness before the date of termination,

the transitional period under this paragraph shall extend for the remainder of the individual's life for care directly related to the treatment of the terminal illness.

''(3) PERMISSIBLE TERMS AND CONDITIONS.—A Medicare+Choice organization may condition coverage of continued treatment by a provider under paragraph (1)(A)(ii) upon the provider agreeing to the following terms and conditions:

''(A) The provider agrees to accept reimbursement from the organization and individual involved (with respect to cost-sharing) at the rates applicable prior to the start of the transitional period as payment in full (or, in the case described in paragraph (1)(B), at the rates applicable under the replacement organization after the date of the termination of the contract with the organization) and not to impose cost-sharing with respect to the individual in an amount that would exceed the cost-sharing that could have been imposed if the contract referred to in paragraph (1)(A) had not been terminated.

''(B) The provider agrees to adhere to the quality assurance standards of the organization responsible for payment under subparagraph (A) and to provide to such organization necessary medical information related to the care provided.

''(C) The provider agrees otherwise to adhere to such organization's policies and procedures, including procedures regarding referrals and obtaining prior authorization and providing

services pursuant to a treatment plan (if any) approved by the organization.

''(4) CONSTRUCTION.—Nothing in this subsection shall be construed to require the coverage of benefits which would not have been covered if the provider involved remained a participating provider.''

SEC. 4. EFFECTIVE DATE.

The amendments made by this Act shall apply to Medicare+Choice organizations with respect to contracts with the Secretary of Health and Human Services for contract years beginning more than 90 days after the date of the enactment of this Act.

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