

105TH CONGRESS  
1ST SESSION

# H. R. 406

To establish the Independent Commission on Medicare to make recommendations on how to best match the structure of the Medicare program with the funding made available for the program by Congress, to provide for expedited consideration in Congress of the Commission's recommendations, and to establish a default process for meeting Congressional spending targets for the Medicare program if Congress rejects the Commission's recommendations.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 9, 1997

Mr. ENGLISH of Pennsylvania (for himself, Mr. MCHALE, Mr. SAXTON, Mr. CANADY of Florida, Mr. GRAHAM, Mr. EHLERS, and Mr. LOBIONDO) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on Commerce, Rules, and the Budget, 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 establish the Independent Commission on Medicare to make recommendations on how to best match the structure of the Medicare program with the funding made available for the program by Congress, to provide for expedited consideration in Congress of the Commission's recommendations, and to establish a default process for meeting Congressional spending targets for the Medicare program if Congress rejects the Commission's recommendations.

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.**

4 This Act may be cited as the “Commission to Save  
5 Medicare Act of 1997”.

6 **TITLE I—INDEPENDENT**  
7 **COMMISSION ON MEDICARE**

8 **SEC. 101. ESTABLISHMENT OF COMMISSION.**

9 (a) IN GENERAL.—There is established a commission  
10 to be known as the Independent Commission on Medicare  
11 (hereinafter in this Act referred to as the “Commission”).

12 (b) MEMBERSHIP.—

13 (1) COMPOSITION.—The Commission shall be  
14 composed of 7 members appointed by the President,  
15 by and with the advice and consent of the Senate.

16 (2) CHAIR.—The President shall designate one  
17 of the members to chair the Commission.

18 (3) QUALIFICATIONS.—The membership of the  
19 Commission shall consist of individuals with national  
20 recognition for expertise in fields related to health  
21 care.

22 (c) TERMS.—

23 (1) IN GENERAL.—Except as provided in para-  
24 graphs (2) and (3), each member of the Commission  
25 shall be appointed for a term of 9 years.

1           (2) TERMS OF INITIAL APPOINTMENT.—As des-  
2           ignated by the President at the time of appointment,  
3           of the members first appointed—

4                   (A) 3 shall be appointed for a term of 3  
5           years; and

6                   (B) 3 shall be appointed for a term of 6  
7           years.

8           (3) VACANCIES.—Any member appointed to fill  
9           a vacancy occurring before the expiration of the  
10          term for which the member's predecessor was ap-  
11          pointed shall be appointed only for the remainder of  
12          that term. A vacancy in the Commission shall not  
13          affect its powers, but shall be filled in the manner  
14          in which the original appointment was made.

15          (4) EXCLUSIVE EMPLOYMENT.—During the  
16          term of appointment, members shall serve as em-  
17          ployees of the Federal Government and shall hold no  
18          other employment.

19          (5) COMPENSATION OF MEMBERS.—Each mem-  
20          ber of the Commission (other than the chair) shall  
21          receive an annual salary at the annual rate payable  
22          from time to time for level IV of the Executive  
23          Schedule. The chair of the Commission, during the  
24          period of service as chair, shall receive an annual

1 salary at the annual rate payable from time to time  
2 for level III of the Executive Schedule.

3 (6) REMOVAL.—A member of the Commission  
4 may be removed by the President only for neglect of  
5 duty or malfeasance in office.

6 (d) MEETINGS.—Each meeting of the Commission  
7 shall be open to the public, except that the Commission  
8 may meet in executive session to address matters relating  
9 to personnel and other internal matters of the Commission  
10 unrelated to the duties specified in section 102.

11 (e) STAFF.—

12 (1) IN GENERAL.—The Commission shall ap-  
13 point a Director, who shall be paid at a rate the  
14 Commission considers appropriate. The Director  
15 may appoint and fix the pay of such additional per-  
16 sonnel as the Director (with the approval of the  
17 Chair of the Commission) considers appropriate,  
18 without regard to provisions of title 5, United States  
19 Code, governing appointments in the competitive  
20 service.

21 (2) EXPERTS AND CONSULTANTS.—The Com-  
22 mission may procure temporary and intermittent  
23 services under section 3109(b) of title 5, United  
24 States Code.

1           (3) STAFF OF FEDERAL AGENCIES.—Upon re-  
2           quest of the Director, the head of any Federal de-  
3           partment or agency may detail, on a reimbursable  
4           basis, any of the personnel of that department or  
5           agency to the Commission to assist it in carrying out  
6           its duties under this Act.

7           (f) POWERS.—

8           (1) HEARINGS AND SESSIONS.—The Commis-  
9           sion may, for the purpose of carrying out its duties  
10          under this Act, hold hearings, sit and act at times  
11          and places, take testimony, and receive evidence as  
12          the Commission considers appropriate. The Commis-  
13          sion may administer oaths or affirmations to wit-  
14          nesses appearing before it.

15          (2) POWERS OF MEMBERS AND AGENTS.—Any  
16          member or agent of the Commission may, if author-  
17          ized by the Commission, take any action which the  
18          Commission is authorized to take by this section.

19          (3) OBTAINING OFFICIAL DATA.—The Commis-  
20          sion may secure directly from any department or  
21          agency of the United States information necessary  
22          to enable it to carry out this Act. Upon request of  
23          the Chair of the Commission, the head of that de-  
24          partment or agency shall furnish that information to  
25          the Commission.

1           (4) GIFTS, BEQUESTS, AND DEVISES.—The  
2           Commission may accept, use, and dispose of gifts,  
3           bequests, or devises of services or property, both real  
4           and personal, for the purpose of aiding or facilitat-  
5           ing the work of the Commission. Gifts, bequests, or  
6           devises of money and proceeds from sales of other  
7           property received as gifts, bequests, or devises shall  
8           be deposited in the Treasury and shall be available  
9           for disbursement upon order of the Chair of the  
10          Commission.

11          (5) MAILS.—The Commission may use the  
12          United States mails in the same manner and under  
13          the same conditions as other departments and agen-  
14          cies of the United States.

15          (6) ADMINISTRATIVE SUPPORT SERVICES.—  
16          Upon the request of the Commission, the Adminis-  
17          trator of General Services shall provide to the Com-  
18          mission, on a reimbursable basis, the administrative  
19          support services necessary for the Commission to  
20          carry out its duties under this Act.

21 **SEC. 102. DUTIES OF THE COMMISSION.**

22          (a) IN GENERAL.—The Commission shall—

23                (1) transmit to Congress and the President  
24                during December of each year (beginning with 1997)

1 a report on the aspects of the Medicare program  
2 specified in subsection (b); and

3 (2) transmit to Congress during July of each  
4 year (beginning with 1998) a report containing spe-  
5 cific recommendations on the matters specified in  
6 subsection (c).

7 (b) ASPECTS OF MEDICARE.—

8 (1) IN GENERAL.—The report transmitted pur-  
9 suant to subsection (a)(1) during December of a  
10 year shall include information on the following:

11 (A) The total outlays made under the med-  
12 icare program for each of the 10 most recently  
13 completed fiscal years.

14 (B) Projections of the outlays under such  
15 program for the fiscal year beginning on Octo-  
16 ber 1 of the next calendar year and each of the  
17 4 succeeding fiscal years, on an aggregate and  
18 a per capita basis.

19 (C) Projections of the actuarial value of  
20 the package of benefits provided to medicare  
21 beneficiaries for each of the fiscal years speci-  
22 fied in subparagraph (B), on an aggregate and  
23 a per capita basis.

24 (D) A comparison of each of the projec-  
25 tions made under subparagraph (B) for a fiscal

1 year with the projections made for the year  
2 under subparagraph (C).

3 (E) The health status of medicare bene-  
4 ficiaries, the access of beneficiaries to health  
5 services covered under the medicare program,  
6 and the utilization of such services by bene-  
7 ficiaries.

8 (F) Methods to improve the methodologies  
9 used to determine the payments made under  
10 the medicare program to or on behalf of medi-  
11 care beneficiaries (including the use of risk ad-  
12 justment in the determination of the amount of  
13 such payments) and methods to encourage effi-  
14 ciency and cost-effectiveness in the delivery of  
15 health care services.

16 (G) Such other matters as the Commission  
17 determines to be appropriate.

18 (2) ACTUARIAL VALUE DEFINED.—For pur-  
19 poses of projecting the actuarial value of the pack-  
20 age of benefits provided to medicare beneficiaries  
21 under paragraph (1)(C), the Commission shall deter-  
22 mine actuarial value by measuring the costs of re-  
23 sources used to provide health care services covered  
24 under the medicare program and adjusting such  
25 costs to take into account—



1 (A) inflation in the costs of health care  
2 services and all costs generally;

3 (B) demographic changes in the population  
4 of beneficiaries, including population growth,  
5 age distribution, health status, and access to  
6 care;

7 (C) changes in the mix and intensity of  
8 services provided to beneficiaries and the sites  
9 at which services are furnished;

10 (D) scientific and technological advances;

11 (E) the quality of care provided, including  
12 the effect on quality of the overutilization of  
13 services and other factors;

14 (F) other factors affecting the demand of  
15 beneficiaries for services; and

16 (G) such other factors as the Commission  
17 considers appropriate.

18 (c) RECOMMENDATIONS ON CONTROLLING OUT-  
19 LAYS.—The report transmitted to Congress pursuant to  
20 subsection (a)(2) during July of a year shall include spe-  
21 cific recommendations on changes in the medicare pro-  
22 gram, including changes in eligibility, benefits (including  
23 the mode of delivery of such benefits), cost-sharing, or  
24 payments made to or on behalf of beneficiaries, sufficient  
25 to ensure that total outlays for the program for the fiscal

1 year beginning on the following October 1 do not exceed  
 2 the limit established for that fiscal year under section 201,  
 3 except that such recommendations may not include  
 4 changes relating to the payment of payroll taxes for fi-  
 5 nancing the program.

6 **SEC. 103. EXPEDITED CONGRESSIONAL CONSIDERATION**  
 7 **OF RECOMMENDATIONS.**

8 (a) **IN GENERAL.**—The recommendations submitted  
 9 by the Commission under section 102(c) for a fiscal year  
 10 shall take effect if a joint resolution (described in sub-  
 11 section (b)) approving such recommendations is enacted,  
 12 in accordance with the provisions of subsection (c), before  
 13 the first day of the fiscal year.

14 (b) **JOINT RESOLUTION OF APPROVAL.**—A joint res-  
 15 olution described in this subsection means only a joint res-  
 16 olution which is introduced within the 10-day period be-  
 17 ginning on the date on which the Commission submits rec-  
 18 ommendations under section 102(c) and—

19 (1) which does not have a preamble;

20 (2) the matter after the resolving clause of  
 21 which is as follows: “That Congress approves the  
 22 recommendations of the Independent Commission on  
 23 Medicare concerning methods to control outlays  
 24 under the medicare program for fiscal year  
 25 , as submitted by the Commission on

1                   .”, the first blank space being filled  
2           in with the appropriate fiscal year and the second  
3           blank space being filled in with the appropriate date;  
4           and

5           (3) the title of which is as follows: “Joint reso-  
6           lution approving recommendations of the Independ-  
7           ent Commission on Medicare concerning methods to  
8           control outlays under the medicare program for fis-  
9           cal year           , as submitted by the Commission  
10          on           .”, the first blank space being  
11          filled in with the appropriate fiscal year and the sec-  
12          ond blank space being filled in with the appropriate  
13          date.

14          (c) PROCEDURES FOR CONSIDERATION OF RESOLU-  
15          TION OF APPROVAL.—Subject to subsection (d), the provi-  
16          sions of section 2908 (other than subsection (a)) of the  
17          Defense Base Closure and Realignment Act of 1990 shall  
18          apply to the consideration of a joint resolution described  
19          in subsection (b) in the same manner as such provisions  
20          apply to a joint resolution described in section 2908(a)  
21          of such Act.

22          (d) SPECIAL RULES.—For purposes of applying sub-  
23          section (c) with respect to such provisions—

24                  (1) any reference to the Committee on Armed  
25          Services of the House of Representatives shall be

1 deemed a reference to an appropriate Committee of  
2 the House of Representatives (specified by the  
3 Speaker of the House of Representatives at the time  
4 of submission of recommendations by the Commis-  
5 sion under section 102(c)) and any reference to the  
6 Committee on Armed Services of the Senate shall  
7 be deemed a reference to an appropriate Committee  
8 of the Senate (specified by the majority leader of  
9 the Senate at the time of submission of rec-  
10 ommendations by the Commission under section  
11 102(c)); and

12 (2) any reference to the date on which the  
13 President transmits a report shall be deemed a ref-  
14 erence to the date on which the Commission submits  
15 recommendations under section 102(c).

16 **SEC. 104. NO TERMINATION OF COMMISSION.**

17 Section 14(a)(2)(B) of the Federal Advisory Commit-  
18 tee Act (5 U.S.C. App.; relating to the termination of advi-  
19 sory committees) shall not apply to the Commission.

1 **TITLE II—CONTROLLING OUT-**  
2 **LAYS UNDER MEDICARE PRO-**  
3 **GRAM**

4 **SEC. 201. ESTABLISHMENT OF ANNUAL LIMITS ON OUT-**  
5 **LAYS.**

6 Not later than April 15 of each year (beginning with  
7 1998), Congress shall in the concurrent resolution on the  
8 budget for the fiscal year beginning on the following Octo-  
9 ber 1 establish a limit on total outlays to be made under  
10 the medicare program for the fiscal year.

11 **SEC. 202. ENFORCEMENT OF LIMITS THROUGH SEQUES-**  
12 **TRATION.**

13 (a) IN GENERAL.—Part C of the Balanced Budget  
14 and Emergency Deficit Control Act of 1985 (2 U.S.C. 900  
15 et seq.) is amended by inserting after section 252 the fol-  
16 lowing new section:

17 **“SEC. 252A. SEQUESTRATION WITH RESPECT TO MEDICARE.**

18 “(a) SEQUESTRATION.—If, with respect to a fiscal  
19 year (beginning with fiscal year 1999), Congress has not  
20 enacted a joint resolution under section 103(b) of the  
21 Commission to Save Medicare Act of 1997 before the first  
22 day of the fiscal year, there shall be a sequestration to  
23 eliminate any budgetary excess in the medicare program  
24 as described in subsection (b).

25 “(b) ELIMINATING A BUDGETARY EXCESS.—

1           “(1) IN GENERAL.—Outlays under the medicare  
2           program shall be reduced during a fiscal year as  
3           provided by paragraph (2), as necessary to eliminate  
4           any amount by which estimated outlays under the  
5           program in the year exceed the limit for such out-  
6           lays established for the year by Congress pursuant  
7           to section 201 of the Commission to Save Medicare  
8           Act of 1997.

9           “(2) REDUCTIONS DESCRIBED.—In carrying  
10          out paragraph (1), the President shall—

11                 “(A) reduce payments made under the  
12                 medicare program by a uniform percentage suf-  
13                 ficient to reduce 50 percent of the amount de-  
14                 scribed in paragraph (1); and

15                 “(B) increase premiums, deductibles, co-  
16                 payments, and coinsurance required to be paid  
17                 under the program by a uniform percentage  
18                 sufficient to reduce 50 percent of the amount  
19                 described in paragraph (1).

20          “(c) PART-YEAR APPROPRIATIONS AND OMB ESTI-  
21          MATES.—Paragraphs (4) and (7) of section 251(a) shall  
22          apply to sequestration of amounts under this section in  
23          the same manner as those paragraphs apply to discre-  
24          tionary appropriations and sequestrations under that sec-  
25          tion.

1       “(d) COORDINATION WITH OTHER SEQUESTRA-  
2 TION.—

3           “(1) IN GENERAL.—Reductions under sub-  
4 section (b) for a fiscal year shall supersede any re-  
5 duction otherwise made under section 252 or 253.

6           “(2) REPORTS.—On the dates specified in sec-  
7 tion 254(a), OMB and CBO shall issue preview, up-  
8 date, and final reports on medicare sequestration  
9 under this section. Such reports shall specify—

10                  “(A) the estimated amount described in  
11 subsection (b)(1) for the fiscal year;

12                  “(B) the estimated uniform percentage de-  
13 scribed in subsection (b)(2)(A) of the fiscal  
14 year; and

15                  “(C) the estimated uniform percentage de-  
16 scribed in subsection (b)(2)(B) of the fiscal  
17 year.

18           “(3) RULES FOR APPLICATION OF REDUC-  
19 TIONS.—The provisions of section 256(d) shall apply  
20 to reductions under this section.”.

21       (b) CLERICAL AMENDMENT.—The table of contents  
22 for part C of the Balanced Budget and Emergency Deficit  
23 Control Act of 1985 (2 U.S.C. 900 et seq.) is amended

- 1 by inserting after the item relating to section 252 the fol-
- 2 lowing:

“Sec. 252A. Sequestration with respect to medicare.”.

