

107TH CONGRESS  
1ST SESSION

# H. R. 2127

To amend part C of title XVIII to require Medicare+Choice organizations to offer Medicare+Choice plans for a minimum period of three years, and to permit Medicare beneficiaries to enroll and disenroll from such plans at any time.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 12, 2001

Mr. BROWN of Ohio (for himself, Mr. STARK, Mr. LATOURETTE, Mr. GONZALEZ, Mr. KILDEE, and Mr. BRADY of Pennsylvania) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Energy and 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 part C of title XVIII to require Medicare+Choice organizations to offer Medicare+Choice plans for a minimum period of three years, and to permit Medicare beneficiaries to enroll and disenroll from such plans at any time.

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 “Medicare+Choice Ac-  
5 countability Act of 2001”.

1 **SEC. 2. EXTENSION OF INITIAL MEDICARE+CHOICE CON-**  
2 **TRACT PERIOD TO 3 YEARS.**

3 (a) REQUIREMENT FOR 3-YEAR CONTRACTS.—Sec-  
4 tion 1857(c)(1) of the Social Security Act (42 U.S.C.  
5 1395w-27(c)(1)) is amended—

6 (1) by redesignating the matter following the  
7 heading as subparagraph (A) and inserting “IN  
8 GENERAL.—” after “(A)”;

9 (2) in subparagraph (A), as so redesignated—

10 (A) by striking “a term of at least 1 year”  
11 and inserting “an initial term of at least 3  
12 years”; and

13 (B) by striking “from term to term” and  
14 inserting “for additional 3-year periods there-  
15 after”; and

16 (3) by adding at the end the following new sub-  
17 paragraphs:

18 “(B) LIMITATION ON MODIFICATION OF  
19 BENEFITS AND PREMIUMS DURING THE CON-  
20 TRACT PERIOD.—A Medicare+Choice organiza-  
21 tion under a contract with the Secretary under  
22 this section may not modify premiums and ben-  
23 efits under the Medicare+Choice plan offered  
24 by the organization for the duration of that  
25 contract unless the Secretary determines that

1 such modifications would increase the value of  
2 the coverage under the plan.

3 “(C) PROHIBITION ON WITHDRAWING  
4 FROM PARTS OF A SERVICE AREA.—A  
5 Medicare+Choice organization under a contract  
6 with the Secretary under this section may not  
7 withdraw from any part of the service area in  
8 which it offers a Medicare+Choice plan.”.

9 (b) PAYMENT AMOUNT.—Section 1853(c) of such Act  
10 (42 U.S.C. 1395w–23(c)) is amended to read as follows:

11 “(c) CALCULATION OF ANNUAL MEDICARE+CHOICE  
12 CAPITATION RATES.—

13 “(1) ADJUSTED AVERAGE PER CAPITA  
14 AMOUNT.—For purposes of this part, subject to  
15 paragraph (2), each annual Medicare+Choice capi-  
16 tation rate, for a Medicare+Choice payment area for  
17 a contract year consisting of a calendar year, is  
18 equal to the Secretary’s estimate of the adjusted av-  
19 erage per capita cost (as determined under section  
20 1876(a)(4)) for the payment area and contract year.

21 “(2) EXCLUSION OF MEDICAL EDUCATION  
22 COSTS.—In determining the amounts under para-  
23 graph (1), the Secretary shall not take into account  
24 payments attributable to—

1           “(A) graduate medical education payments  
2           under section 1886(h);

3           “(B) disproportionate share hospital pay-  
4           ments described in section 1886(d)(5)(F); or

5           “(C) indirect costs of medical education  
6           described in section 1886(d)(5)(B).”.

7           (c) SERVICE AREAS REQUIREMENTS.—Section 1852  
8 of such Act (42 U.S.C. 1395w–22) is amended by adding  
9 at the end the following new subsection:

10          “(m) SERVICE AREAS.—

11           “(1) DESIGNATION BY SECRETARY.—Taking  
12           into account factors such as commercial rating pat-  
13           terns, the Secretary shall designate geographic areas  
14           as service areas for purposes of this part. Such areas  
15           may be portions of a State or an entire State.

16           “(2) PROHIBITION ON COUNTIES BEING IN  
17           MULTIPLE SERVICE AREAS.—In no case may a coun-  
18           ty or equivalent area, or portion thereof, be included  
19           in more than one service area designated by the Sec-  
20           retary under paragraph (1).”.

21          (d) BENEFITS.—

22           (1) REQUIREMENT FOR UNIFORM BENEFITS  
23           FOR ALL ENROLLEES RESIDING IN THE SERVICE  
24           AREA.—

1 (A) IN GENERAL.—Section 1852(a) of  
2 such Act (42 U.S.C. 1395w-22(a)) is  
3 amended—

4 (i)(I) in paragraph (2)(C), by striking  
5 “may elect to” and inserting “shall”; and

6 (II) in the heading of such paragraph by  
7 striking “ELECTION OF” and inserting “RE-  
8 QUIREMENT FOR”; and

9 (ii) by adding at the end the following new  
10 paragraph:

11 “(6) REQUIREMENT FOR UNIFORM BENEFITS  
12 IN A SERVICE AREA.—

13 “(A) IN GENERAL.—Subject to subpara-  
14 graph (B), a Medicare+Choice plan shall pro-  
15 vide the same benefits to all enrollees in a serv-  
16 ice area (designated by the Secretary under  
17 subsection (m)).

18 “(B) ADAPTION BY HEALTH MAINTEN-  
19 NANCE ORGANIZATIONS.—In applying subpara-  
20 graph (A) in the case of a plan that is a health  
21 maintenance organization, if limitations in pro-  
22 vider contracts prevent the plan from maintain-  
23 ing the provider contracts in certain parts of a  
24 service area, the plan may establish a preferred  
25 provider network or fee-for-service plan in those

1 parts of the service area, but only if the cost-  
2 sharing applicable to such a network or plan is  
3 not established in a manner that discourages  
4 enrollment of residents in those parts of the  
5 service area.”.

6 (B) CONFORMING REPEAL OF AUTHORITY  
7 TO USE OF SEGMENTS OF SERVICE AREAS.—  
8 Section 1854 of such Act (42 U.S.C. 1395w-  
9 24) is amended by striking subsection (h).

10 (2) NO REQUIREMENT FOR SUPPLEMENTAL  
11 BENEFITS.—

12 (A) IN GENERAL.—Section 1854(f) of  
13 such Act (42 U.S.C. 1395w-24(f)) is amended  
14 by adding at the end the following new para-  
15 graph:

16 “(5) APPLICATION OF PROVISION.—The provi-  
17 sions of this subsection shall not apply for any year  
18 with respect to which a Medicare+Choice organiza-  
19 tion has entered into a 3-year contract with the Sec-  
20 retary under section 1857(c)(1).”.

21 (B) CONFORMING AMENDMENT.—Section  
22 1852(a)(1)(B) of such Act (42 U.S.C. 1395w-  
23 22(a)(1)(B)) is amended by inserting before the  
24 period the following: “for any year with respect  
25 to which a Medicare+Choice organization has

1 entered into a 3-year contract with the Sec-  
2 retary under section 1857(e)(1)”.

3 (e) EFFECTIVE DATE.—The amendments made by  
4 this section shall apply to contracts entered into on or  
5 after January 1, 2002.

6 **SEC. 3. CONTINUOUS OPEN ENROLLMENT AND**  
7 **DISENROLLMENT.**

8 (a) IN GENERAL.—Section 1851(e)(2) of the Social  
9 Security Act (42 U.S.C. 1395w-21(e)(2)) is amended to  
10 read as follows:

11 “(2) CONTINUOUS OPEN ENROLLMENT AND  
12 DISENROLLMENT.—Subject to paragraph (5), a  
13 Medicare+Choice eligible individual may change the  
14 election under subsection (a)(1) at any time.”.

15 (b) CONFORMING AMENDMENTS.—

16 (1) MEDICARE+CHOICE.—Section 1851(e) of  
17 such Act (42 U.S.C. 1395w-21(e)) is amended—

18 (A) in paragraph (4)—

19 (i) by striking “Effective as of Janu-  
20 ary 1, 2002, an” and inserting “An”;

21 (ii) by striking “other than during an  
22 annual, coordinated election period”;

23 (iii) by inserting “in a special election  
24 period for such purpose” after “make a  
25 new election under this section”; and

1 (iv) by striking the second sentence;

2 and

3 (B) in paragraphs (5)(B) and (6)(A), by  
4 striking “the first sentence of”.

5 (2) PERMITTING REENROLLMENT IN MEDIGAP  
6 WHEN M+C PLANS REDUCE BENEFITS.—

7 (A) IN GENERAL.—Clause (ii) of section  
8 1882(s)(3)(B) of such Act (42 U.S.C.  
9 1395ss(s)(3)(B)) is amended—

10 (i) by striking “under the first sen-  
11 tence of” each place it appears and insert-  
12 ing “during a special election period pro-  
13 vided for under”; and

14 (ii) by inserting “(including a reduc-  
15 tion in benefits offered under a  
16 Medicare+Choice plan from year to year)”  
17 after “section 1851(e)(4)”.

18 (B) CONFORMING AMENDMENT.—Clause  
19 (iii) of such section is amended—

20 (i) by striking “under the first sen-  
21 tence of” and inserting “during a special  
22 election period provided for under”; and

23 (ii) by inserting “(including a reduc-  
24 tion in benefits offered under a

1 Medicare+Choice plan from year to year)”  
2 after “section 1851(e)(4)”.

3 (c) EFFECTIVE DATE.—The amendments made by  
4 this section shall apply with respect to plan years begin-  
5 ning on or after January 1, 2002.

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