

108TH CONGRESS
2D SESSION

S. 2300

To amend the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 to eliminate privatization of the medicare program and to reduce excessive payments to health maintenance organizations and other private sector insurance plans.

IN THE SENATE OF THE UNITED STATES

APRIL 7, 2004

Mr. KENNEDY (for himself, Mr. BINGAMAN, Mrs. BOXER, Mr. PRYOR, Mr. HOLLINGS, Mr. CORZINE, Mr. EDWARDS, Ms. MIKULSKI, Mr. LAUTENBERG, Mr. DURBIN, and Ms. STABENOW) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 to eliminate privatization of the medicare program and to reduce excessive payments to health maintenance organizations and other private sector insurance plans.

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 “Defense of Medicare Act”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Application of risk adjustment reflecting characteristics for the entire medicare population in payments to Medicare Advantage organizations.
- Sec. 3. Annual Medicare Advantage capitation rate at 100 percent of fee-for-service rate with a hold harmless.
- Sec. 4. Elimination of MA Regional Plan Stabilization Fund (slush fund).
- Sec. 5. Repeal of premium support program.
- Sec. 6. Requiring two prescription drug plans to avoid Federal fallback.

3 **SEC. 2. APPLICATION OF RISK ADJUSTMENT REFLECTING**
 4 **CHARACTERISTICS FOR THE ENTIRE MEDI-**
 5 **CARE POPULATION IN PAYMENTS TO MEDI-**
 6 **CARE ADVANTAGE ORGANIZATIONS.**

7 Effective January 1, 2005, in applying risk adjust-
 8 ment factors to payments to organizations under section
 9 1853 of the Social Security Act (42 U.S.C. 1395w–23),
 10 the Secretary of Health and Human Services shall ensure
 11 that payments to such organizations are adjusted based
 12 on such factors to ensure that the health status of the
 13 enrollee is reflected in such adjusted payments, including
 14 adjusting for the difference between the health status of
 15 the enrollee and individuals enrolled under the original
 16 medicare fee-for-service program under parts A and B of
 17 title XVIII of such Act. Payments to such organizations
 18 must, in aggregate, reflect such differences.

1 **SEC. 3. ANNUAL MEDICARE ADVANTAGE CAPITATION RATE**
 2 **AT 100 PERCENT OF FEE-FOR-SERVICE RATE**
 3 **WITH A HOLD HARMLESS.**

4 Section 1853(c)(1) of the Social Security Act (42
 5 U.S.C. 1395w-23(c)(1)), as amended by section 211 of
 6 the Medicare Prescription Drug, Improvement, and Mod-
 7 ernization Act of 2003 (Public Law 108-173; 117 Stat.
 8 2176) is amended—

9 (1) in subparagraph (B), by adding at the end
 10 the following new clause:

11 “(v) For 2005 and each subsequent
 12 year, the amount specified in clause (iv)
 13 for the area for 2004.”; and

14 (2) in subparagraph (C)(v), in the matter pre-
 15 ceding subclause (I), by striking “and each suc-
 16 ceeding year”.

17 **SEC. 4. ELIMINATION OF MA REGIONAL PLAN STABILIZA-**
 18 **TION FUND (SLUSH FUND).**

19 Subsection (e) of section 1858 of the Social Security
 20 Act, as added by section 221(c) of the Medicare Prescrip-
 21 tion Drug, Improvement, and Modernization Act of 2003
 22 (Public Law 108-173), is repealed.

23 **SEC. 5. REPEAL OF PREMIUM SUPPORT PROGRAM.**

24 Effective as if included in the enactment of the Medi-
 25 care Prescription Drug, Improvement, and Modernization
 26 Act of 2003 (Public Law 108-173), subtitle E of title II

1 of such Act is repealed and any provisions of law amended
2 by such subtitle are restored as if such subtitle had not
3 been enacted.

4 **SEC. 6. REQUIRING TWO PRESCRIPTION DRUG PLANS TO**
5 **AVOID FEDERAL FALLBACK.**

6 Section 1860D–3(a) of the Social Security Act, as
7 added by section 101(a) of the Medicare Prescription
8 Drug, Improvement, and Modernization Act of 2003, is
9 amended—

10 (1) in paragraph (1)—

11 (A) by striking “qualifying plans (as de-
12 fined in paragraph (3))” and inserting “pre-
13 scription drug plans”; and

14 (B) by striking “, at least one of which is
15 a prescription drug plan”;

16 (2) in paragraph (2), by striking “qualifying
17 plans” and inserting “prescription drug plans”; and

18 (3) by striking paragraph (3).

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