

111<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 5588

To amend title XVIII of the Social Security Act to provide for additional opportunities to enroll under part B of the Medicare Program, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 23, 2010

Mr. SCHRADER (for himself, Ms. SCHAKOWSKY, Ms. MATSUI, and Mr. LARSON of Connecticut) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, 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 provide for additional opportunities to enroll under part B of the Medicare Program, 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.**

4 This Act may be cited as the “Medicare Enrollment  
5 Protection Act of 2010”.

1 **SEC. 2. MEDICARE PART B SPECIAL ENROLLMENT PERIOD**  
2 **FOR INDIVIDUALS ENROLLED IN COBRA CON-**  
3 **TINUATION COVERAGE.**

4 (a) SPECIAL ENROLLMENT PERIOD.—Section  
5 1837(i) of the Social Security Act (42 U.S.C. 1395p(i))  
6 is amended by adding at the end the following new para-  
7 graph:

8 “(5)(A) In the case of an individual who—

9 “(i) at the time the individual first satisfies  
10 paragraph (1) or (2) of section 1836, is enrolled in  
11 COBRA continuation coverage, and

12 “(ii) has elected not to enroll (or to be deemed  
13 enrolled) under this section during the individual’s  
14 initial enrollment period,

15 there shall be a special enrollment period described  
16 in subparagraph (B).

17 “(B) The special enrollment period referred to in sub-  
18 paragraph (A) is the period including each month during  
19 any part of which the individual is enrolled in COBRA  
20 continuation coverage ending with the last day of the  
21 eighth consecutive month in which the individual is at no  
22 time so enrolled.

23 “(C) An individual may only enroll during the special  
24 enrollment period provided under subparagraph (B) one  
25 time during the individual’s lifetime.

1       “(D) For purposes of this paragraph, the term  
2 ‘COBRA continuation coverage’ means continuation cov-  
3 erage provided pursuant to part 6 of subtitle B of title  
4 I of the Employee Retirement Income Security Act of  
5 1974 (other than under section 609), title XXII of the  
6 Public Health Service Act, section 4980B of the Internal  
7 Revenue Code of 1986 (other than subsection (f)(1) of  
8 such section insofar as it relates to pediatric vaccines), or  
9 section 8905a of title 5, United States Code, or under a  
10 State program that provides comparable continuation cov-  
11 erage. Such term does not include coverage under a health  
12 flexible spending arrangement under a cafeteria plan with-  
13 in the meaning of section 125 of the Internal Revenue  
14 Code of 1986.”.

15       (b) COVERAGE PERIOD.—Section 1838(a)(2) of such  
16 Act (42 U.S.C. 1395q(a)(2)) is amended—

17           (1) in subparagraph (E), by striking the semi-  
18 colon and inserting a comma; and

19           (2) by adding at the end the following new sub-  
20 paragraph:

21           “(F) in the case of an individual who enrolls  
22 pursuant to subsection (i)(5) of section 1837, the  
23 first day of the month following the month in which  
24 the individual so enrolls; or”.

1 (c) NO INCREASE IN PREMIUM.—Section 1839(b) of  
2 such Act (42 U.S.C. 1395r(b)) is amended—

3 (1) in the first sentence, by inserting “, (i)(5),”  
4 after “subsection (i)(4)”; and

5 (2) in the second sentence, by inserting before  
6 the period at the end the following: “or months for  
7 which the individual can demonstrate that the indi-  
8 vidual was enrolled in COBRA continuation coverage  
9 (as such term is defined in section 1837(i)(5)(D)).”.

10 (d) EFFECTIVE DATE.—

11 (1) IN GENERAL.—The amendments made by  
12 this section shall take effect on the date of the en-  
13 actment of this Act and shall apply to periods of  
14 COBRA continuation coverage before, on, or after  
15 such date.

16 (2) SPECIAL ENROLLMENT PERIOD.—No spe-  
17 cial enrollment period under section 1837(i)(5)(B) of  
18 the Social Security Act (42 U.S.C. 1395p(i)(5)(B))  
19 shall begin before the first day of the first month  
20 that begins at least 45 days after the date of the en-  
21 actment of this Act.

22 (3) PREMIUMS.—The amendment made by sub-  
23 section (c)(2) shall apply to premiums for months  
24 beginning with the first month that begins at least  
25 45 days after the date of the enactment of this Act.

1 **SEC. 3. CONTINUOUS OPEN MEDICARE PART B ENROLL-**  
2 **MENT.**

3 (a) CONTINUOUS OPEN ENROLLMENT PERIOD.—  
4 Section 1837 of the Social Security Act (42 U.S.C. 1395p)  
5 is amended by adding at the end the following new sub-  
6 section:

7 “(m)(1) There shall be a continuous open enrollment  
8 period beginning on the first day of the first month in  
9 which an individual first satisfies paragraph (1) or (2) of  
10 section 1836, except that such continuous open enrollment  
11 period shall not be available during the individual’s initial  
12 enrollment period or a special enrollment period available  
13 to the individual.

14 “(2) In the case of an individual seeking enrollment  
15 under paragraph (1) during a general enrollment period  
16 under subsection (e), the individual shall be enrolled under  
17 such subsection and not under paragraph (1), unless the  
18 individual specifies otherwise.”.

19 (b) COVERAGE PERIOD.—Section 1838(a)(2) of such  
20 Act (42 U.S.C. 1395q(a)(2)) is amended—

21 (1) in subparagraph (F), as added by section  
22 2(b)(2), by striking the semicolon and inserting a  
23 comma; and

24 (2) by adding at the end the following new sub-  
25 paragraph:

1           “(G) in the case of an individual who enrolls  
2           pursuant to subsection (m) of section 1837, the first  
3           day of the month following the month in which such  
4           individual so enrolls; or”.

5           (c) PREMIUM INCREASE.—Section 1839 of such Act  
6 (42 U.S.C. 1395r) is amended by adding at the end the  
7 following new subsection:

8           “(j) INCREASE IN PREMIUM BASED ON ENROLL-  
9 MENT PURSUANT TO CONTINUOUS OPEN ENROLLMENT  
10 PERIOD.—In the case of an individual whose coverage pe-  
11 riod began pursuant to a continuous open enrollment pe-  
12 riod under section 1837(m), the monthly premium deter-  
13 mined under subsection (a), adjusted in accordance with  
14 subsection (i), shall, in addition to the increase required  
15 by subsection (b), be increased by such amount as the Sec-  
16 retary considers appropriate, taking into account any ad-  
17 ditional actuarial cost to the insurance program estab-  
18 lished under this part due to enrollment under such sec-  
19 tion. Any increase under this subsection shall apply to all  
20 premiums paid by the individual after enrollment pursuant  
21 to such continuous open enrollment period.”.

22           (d) REPORT TO CONGRESS.—Not later than 180 days  
23 after the date of the enactment of this Act, the Secretary  
24 of Health and Human Services shall submit to Congress  
25 a report describing—

1           (1) the average increase in premiums based on  
2 enrollment in the insurance program established  
3 under part B of title XVIII of the Social Security  
4 Act pursuant to a continuous open enrollment period  
5 under section 1837(m) of such Act, as added by sub-  
6 section (a);

7           (2) any other regulations promulgated by the  
8 Secretary with respect to such enrollment;

9           (3) the number and characteristics of individ-  
10 uals choosing such enrollment; and

11           (4) any costs of such enrollment to such insur-  
12 ance program that were not covered by the increases  
13 in premiums described in the amendment made by  
14 subsection (c).

15       (e) EFFECTIVE DATE.—The amendments made by  
16 this section shall take effect on the date of the enactment  
17 of this Act, except that no individual may enroll pursuant  
18 to a continuous open enrollment period under the amend-  
19 ment made by subsection (a) before the first day of the  
20 first month that begins at least 45 days after the date  
21 of the enactment of this Act.

1 **SEC. 4. SPECIAL ENROLLMENT PERIODS TO CORRECT**  
2 **ERROR, MISREPRESENTATION, OR INACTION**  
3 **OF FEDERAL GOVERNMENT, GROUP HEALTH**  
4 **PLAN, OR PLAN SPONSOR.**

5 Section 1837(h) of the Social Security Act (42 U.S.C.  
6 1395p(h)) is amended by inserting “or by an officer, em-  
7 ployee, or agent of a group health plan, or of a plan spon-  
8 sor (as such term is defined in section 3(16)(B) of the  
9 Employee Retirement Income Security Act of 1974 (29  
10 U.S.C. 1002(16)(B))) of a group health plan,” after “in-  
11 strumentalities,”.

12 **SEC. 5. COORDINATION OF MEDICARE PART B WITH AMER-**  
13 **ICAN HEALTH BENEFIT EXCHANGES.**

14 Section 1837 of the Social Security Act (42 U.S.C.  
15 1395p), as amended by section 3(a), is further amended  
16 by adding at the end the following new subsection:

17 “(n) The Secretary shall ensure appropriate coordi-  
18 nation between the insurance program established under  
19 this part and American Health Benefit Exchanges estab-  
20 lished under section 1311(b) of the Patient Protection and  
21 Affordable Care Act (Public Law 111–148), including en-  
22 suring a smooth transition in enrollment from enrollment  
23 in qualified health plans offered through Exchanges to en-  
24 rollment under this part.”.



1 **SEC. 6. GAO STUDY AND REPORT ON MEDICARE PART B EN-**  
2 **ROLLMENT.**

3 Not later than 2 years after the date of the enact-  
4 ment of this Act, the Comptroller General of the United  
5 States shall submit to Congress a report on enrollment  
6 in the insurance program established under part B of title  
7 XVIII of the Social Security Act (in this section referred  
8 to as “Medicare part B”). The report shall include—

9 (1) a comprehensive evaluation of problems ex-  
10 perience by individuals with respect to enrollment  
11 in Medicare part B, including the causes of such  
12 problems and any geographic trends in the mani-  
13 festation of such problems;

14 (2) an assessment of the number of people who  
15 lack health insurance coverage because of such prob-  
16 lems;

17 (3) an evaluation of efforts by the Centers for  
18 Medicare & Medicaid Services and the Social Secu-  
19 rity Administration to educate employers regarding  
20 the transition of employees from group health plans  
21 to Medicare part B;

22 (4) an evaluation of coordination of coverage  
23 for individuals with private health insurance who are  
24 also eligible for Medicare part B and ways to im-  
25 prove such coordination;

1           (5) an evaluation of the coordination between  
2 Medicare part B and American Health Benefit Ex-  
3 changes required by the amendment made by section  
4 5;

5           (6) an evaluation of the differences in regula-  
6 tions applicable to individuals who are eligible for  
7 Medicare part B based on age and individuals who  
8 are eligible based on disability, and ways to improve  
9 parity in the treatment of each such group of indi-  
10 viduals that may be implemented in regulations and  
11 guidance; and

12           (7) an evaluation of efforts by the Centers for  
13 Medicare & Medicaid Services to provide equitable  
14 relief to individuals who suffered adverse con-  
15 sequences due to misinformation or a lack of infor-  
16 mation on enrollment in Medicare part B, and ways  
17 to improve the provision of such equitable relief.

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