

118TH CONGRESS
1ST SESSION

H. R. 5518

To amend title XVIII of the Social Security Act to require individuals the choice to opt in to enrollment in employer group waiver plans under Medicare Advantage.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 14, 2023

Mr. TORRES of New York (for himself and Ms. MALLIOTAKIS) 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

A BILL

To amend title XVIII of the Social Security Act to require individuals the choice to opt in to enrollment in employer group waiver plans under Medicare Advantage.

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 “Right to Medicare
5 Act”.

1 **SEC. 2. SENSE OF CONGRESS; PURPOSE.**

2 (a) SENSE OF CONGRESS.—It is the sense of Con-
3 gress that seniors have the right to choose between tradi-
4 tional Medicare or Medicare Advantage.

5 (b) PURPOSE.—The purpose of this Act is to ensure
6 that:

7 (1) Public and private employers are prohibited
8 from involuntarily forcing seniors to shift from
9 Medicare to Medicare Advantage.

10 (2) Employers are required to offer an opt-in
11 option to shift from traditional Medicare to Medicare
12 Advantage.

13 (3) If an employee or retiree does not respond
14 to the opt-in ask, that shall be viewed as opting out
15 from shifting to Medicare Advantage. This requires
16 the employer to continue paying for their traditional
17 Medicare coverage.

18 **SEC. 3. REQUIRING OPT-IN FOR ENROLLMENT IN EM-**
19 **PLOYER GROUP WAIVER PLANS UNDER**
20 **MEDICARE ADVANTAGE.**

21 Section 1857(i) of the Social Security Act (42 U.S.C.
22 1395w–27(i)) is amended—

23 (1) in paragraph (1), by inserting “, subject to
24 paragraph (3),” after “the Secretary may”;

25 (2) in paragraph (2), by inserting “, subject to
26 paragraph (3),” after “the Secretary may”; and

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

3 “(3) OPT-IN REQUIREMENT.—For plan years
4 beginning on or after the date of the enactment of
5 the Right to Medicare Act, with respect to an MA
6 plan described in paragraph (1) or paragraph (2),
7 the Secretary may not waive or modify any require-
8 ment that an individual described in either such
9 paragraph affirmatively elect to enroll in such plan
10 before such individual is so enrolled.”.

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