S. 2351

At the request of Ms. COLLINS, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 2351, a bill to establish a Federal Interagency Committee on Emergency Medical Services and a Federal Interagency Committee on Emergency Medical Services Advisory Council, and for other purposes.

S. 2363

At the request of Mr. HATCH, the name of the Senator from Tennessee (Mr. ALEXANDER) was added as a cosponsor of S. 2363, a bill to revise and extend the Boys and Girls Clubs of America.

S. 2376

At the request of Mr. BUNNING, the names of the Senator from Illinois (Mr. FITZGERALD), the Senator from Pennsylvania (Mr. SANTORUM) and the Senator from Georgia (Mr. CHAMBLISS) were added as cosponsors of S. 2376, a bill to amend the Internal Revenue Code of 1986 to repeal the scheduled restrictions in the child tax credit, marriage penalty relief, and 10 percent rate bracket, and for other purposes.

S. RES. 349

At the request of Mr. KENNEDY, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. Res. 349, a resolution recognizing and honoring May 17, 2004, as the 50th anniversary of the Supreme Court decision in Brown v. Board of Education of Topeka.

AMENDMENT NO. 3114

At the request of Ms. CANTWELL, the names of the Senator from Massachusetts (Mr. KENNEDY), the Senator from Maryland (Mr. SARBANES), the Senator from New Jersey (Mr. CORZINE) and the Senator from New York (Mrs. CLINTON) were added as cosponsors of amendment No. 3114 proposed to S. 1637 , a bill to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes.

AMENDMENT NO. 3123

At the request of Ms. LANDRIEU, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of amendment No. 3123 proposed to S. 1637, a bill to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BINGAMAN (for himself, Mrs. LINCOLN, Mr. DASCHLE, Mr. LAUTENBERG, Ms. STABENOW, Mr. KENNEDY, and Mrs. CLINTON):

S. 2413. A bill to amend title XVIII of the Social Security Act to provide for the automatic enrollment of medicaid beneficiaries for prescription drug benefits under part D of such title, and for other purposes; to the Committee on Finance.

Mr. BINGAMAN. Mr. President, today I am introducing legislation entitled the ''Medicare Assurance of Rx Transitional Assistance Act of 2004'' with Senators LINCOLN, DASCHLE, LAUTENBERG, STABENOW, KENNEDY, and CLINTON. The bill would assure that all 700,000 low-income seniors and people with disabilities who are currently enrolled in a Medicare Savings Program (MSP) receive the $600 in transitional assistance in 2005 and 2006 available to them through passage of last year's Medicare prescription drug bill.

On April 2, 2004, I wrote a letter with 10 other senators to Health and Human Services Department Secretary Tommy Thompson urging his department to automatically enroll all MSP beneficiaries, which are those low-income people currently enrolled in State Medicaid programs to assist them with Medicare out-of-pocket expenses, into a Medicare drug discount card in order to receive the $600 subsidy available under the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA).

In light of the fact that there is growing evidence that the savings offered via the drug discount card may be either minimal or illusory, the only clear benefit is the $600 in transitional assistance that is offered to individuals whose income is less than $12,569 this year or to married couples whose income is less than $16,862. For those MSP beneficiaries who do not have prescription drug coverage, they clearly meet the income criteria under the act and their automatic enrollment is the only way to assure that they will receive the $600 subsidy that was intended for them.

When the prescription drug bill was passed, the administration claimed that they would enroll 65 percent of those eligible for the $600 in transitional assistance into the drug discount card. According to the Centers for Medicare and Medicaid Services, or CMS, the agency expects a total of 5 million of the 7 million eligible to enroll, including 29,000 of the estimated 45,000 in New Mexico who would be eligible. Under CMS's assumptions, these beneficiaries would save a total of $5 billion nationally and $35 million in New Mexico over the 2-year period.

Unfortunately, due to a poor advertising campaign which has been criticized by the General Accounting Office where ads have run in Capitol Hill newspapers such as Roll Call and The Hill, which are not normally subscribed to by low-income senior citizens or people with disabilities, very few people even know the $600 subsidy exists. According to a recent national survey by the Kaiser Family Foundation, only 18 percent of senior citizens are aware that the low-income transitional assistance program was included in the Medicare prescription drug bill. It is hard to believe that 65 percent of those eligible will enroll when less than one-fifth of them even know it exists.

Fortunately, CMS has already laid the groundwork for auto-enrollment, as just two weeks ago the agency issued guidance for how state pharmacy assistance programs, or SPAPs, can automatically enroll their members who have income below 135 percent of poverty in the low-income assistance. Second, CMS created a standardized enrollment form for low-income assistance to be accepted by all companies offering Medicare drug discount cards. Now, CMS can take a third step to automatically enroll MSP members who do not have prescription drug coverage.

Although I believe CMS has the authority to take this third step on its own, the legislation I am introducing today would clarify and ensure low-income seniors and people with disabilities receive the transitional assistance promised them by the Administration and Congress. As the Medicare Rights Center asks, ''Given their definite eligibility and clear need for help to pay for their prescription drugs, why not save these people and the government the hassle of application and automatically enroll them?''

Some in CMS have argued that this might somehow limit the ''choice'' of a low-income Medicare beneficiary. this stated concern is inaccurate, however. As the Medicare Rights Center adds, ''Nothing would prevent members of MSPs from voluntarily enrolling in the low-income assistance and picking a drug discount card before automatic enrollment began. Even once enrolled in the transitional assistance, individuals would enjoy access to the same broad range of prescription drugs, since the $600 in annual assistance is not limited to the medicines on any specific card's formulary.''

As for the value of having the ''choice'' of choosing among the 73 competing drug cards, that is far less valuable than insuring that people get the $600 subsidy. According to a story in this morning's New York Times entitled ''73 Options for Medicare Plan Fuel Chaos, Not Prescriptions,'' that highlights that for many retirees the plethora of discount cards is complicated, overwhelming, and not too helpful. Florence Daniels, an 85 year-old retired engineer, says she cannot use the government website to compare drug costs because she cannot afford a computer. She said, ''I'm trying to absorb all the information, but it's ridiculous. Not just ridiculous, it's scary. If there was a single card and it was administered by Medicare, and it got the cost of drugs down—wonderful, marvelous. But with these cards, the only thing we know is that we'll have to pay money to other people to administer what we can get and can't get.''

The interim final rule made available on December 10, 2003, describes a process where low-income Medicare beneficiaries will have to apply for assistance with one of the newly established drug discount cards. There are a number of low-income seniors and people with disabilities that are very sick, have cognitive and mental illnesses, and do not have access to or comfort with the Internet. Many will wrongly slip through the cracks and fail to get the $600 subsidy that they could benefit from unless we act.

In such cases, if an individual has not enrolled for whatever reason, it begs the question as to what ''choice'' automatic enrollment would take away at that point? Many low-income seniors or the disabled will not even be aware of the drug cards or the $600 subsidy for which they qualify.

As a result, by mid-August, either CMS or the states should take the affirmative step of automatically enrolling them into the program. If we fail to assist them in this manner, what is really lost is not ''choice'' but the $1,200 in real prescription drug assistance that they qualify for and could receive. As a Kaiser Family Foundation study last year indicated, Medicare beneficiaries with no drug coverage were nearly three times more likely than people with drug coverage to forego needed prescription drugs.

While CMS has estimated that 65 percent of the eligible low-income beneficiaries will sign up, that goal will not be met unless some proactive steps are taken. Our goal should be to leave none of our Nation's low-income seniors and people with disabilities behind. Anything less should be considered unacceptable.

While some of the proponents of the drug discount card have been critical of those that have questioned whether the drug discount card offers real discounts, they needlessly have tried to make this a partisan issue when it is not. There are legitimate and important public policy questions as to how effective the prescription drug discount card will be.

However, no matter whether you think the card offers real savings or not, everybody should be able to agree on the point that the $600 subsidy should be provided to as many low-income Medicare beneficiaries as possible.

As a result, I once again call upon the Administration to take this important step itself. If it fails to do so, I hope that congressional leadership will see fit to move this legislation as quickly as possible. There is over $1 billion in prescription drug assistance for many of our Nation's most vulnerable citizens at stake.

I ask unanimous consent that the text of the April 2, 2004, letter to Secretary Thompson, today's New York Times article I cited in my statement, and the text of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, April 2, 2004.

Hon. TOMMY THOMPSON,
Secretary, Department of Health and Human Services, Washington, DC.

DEAR MR. SECRETARY: As the Administration prepared to implement the new prescription drug card, we urge CMS to use a combination of provisions in the new Medicare prescription drug law to make an immediate, major and dramatic improvement in the level of help for low-income Medicare beneficiaries.

Specifically, we urge you to use the authority in the new law to automatically enroll all current Medicare Savings Program (MSP) beneficiaries (QMB, SLMB, and QI–1 individuals) in the transitional assistance and special transitional assistance programs, thus making these individuals automatically eligible for the $600 per year in low-income discount card assistance without requiring a separate time-consuming and inefficient enrollment process. Under this proposal, the current MSP beneficiaries would be told about the new discount cards serving their area and asked to make a selection by mailing a postcard back. If the MSP beneficiary does not make a selection, they can be assigned at random to a plan serving their area.

Despite years of work and millions of dollars spent on outreach, the level of participation in the MSP programs is very low. The millions of eligible low-income Medicare beneficiaries who are not enrolled in the MSP program miss out on the Part A and Part B deductible, co-pay, and premium assistance provided by these MSP programs. In 2004, this assistance is worth a minimum of $799 and for Qualified Medicare Beneficiaries who live on incomes under 100 percent of the poverty level, it can easily be worth much more than that.

The interim final rule made available on December 10, 2003, describes a system where low-income Medicare beneficiaries will have to apply for assistance with one of the new endorsed discount card companies. This is a population of seniors and people with disabilities that is often very sick, that often has cognitive and mental illnesses, and that often does not have access to or comfort with the Internet. In short, it is a very difficult population to reach out to and enroll in a new program.

By automatically enrolling the MSP population, about 700,000 individuals will be immediately enrolled. The millions of dollars in outreach, education, and paperwork expenses thus saved can be used to target and outreach to: (1) those eligible beneficiaries not currently in the MSP programs; and (2) to the 2.5 million low-income who live on incomes below 135 percent of poverty but who do not qualify for MSP. Hopefully, when those eligible for the MSP who are not currently enrolled are signing up for the prescription drug discount card program, they can also be enrolled in the MSP.

Mr. Secretary, you have estimated that 65 percent of the eligible beneficiaries will sign up for the low-income assistance. You goal should be to leave none of our nation's low-income seniors and people with disabilities behind. Anything less should be considered unacceptable.

Thank you for your consideration of this important request.

Sincerely,

Jeff Bingaman, John F. Kerry, Joseph I. Lieberman, Debbie Stabenow, Charles E. Schumer, Tom Harkin, Blanche L. Lincoln, Ron Wyden, Christopher J. Dodd, Hillary Rodham Clinton, Barbara A. Mikulski.

[From the New York Times, May 12, 2004]

73 OPTIONS FOR MEDICARE PLAN FUEL CHAOS, NOT PRESCRIPTIONS

(By John Leland)

When Mildred Fruhling and her husband lost their prescription drug coverage in 2001, they suddenly faced drug bills of $7,000 a year. Mrs. Fruhling, now 76, began scrambling to find discounts on the Internet, by mail order, from Canada and through free samples from her doctors.

''It's the only way I can continue to have some ease in my retirement,'' she said.

Last week, when the federal government rolled out a new discount drug program, Mrs. Fruhling studied her options with the same thoroughness. What she found, she said, was confusion: 73 competing drug discounts cards, each providing different savings on different medications, and all subject to change.

''I personally feel I can do better on my own,'' she said. But she added, ''At this point, I don't think anyone can make an evaluation.''

Even before they go into effect on June 1, the cards—which are approved by Medicare but offered by various companies and organizations—have been the subject of heated political debate, and AARP advertising campaign about how confusing they are and anxious speculation from those they are supposed to help. Among retirees of different income groups interviewed last week, the initial reaction was incomprehension.

''Even the person who came to explain it to us didn't understand it,'' said Mary Shen, 77, at the Whittaker Senior Center on Manhattan's Lower East Side. ''It's not fair to expect seniors, who have enough difficulties already, to have to figure this out.''

Shirley Brauner, 75, pushed a metal walker through the center's lunchroom. ''All I've got to say is they confuse the elderly, including me,'' she said. ''I'm furious. They're taking advantage of the seniors. How can the seniors understand it?''

The prescription drug discount cards are a prelude to the Medicare Prescription Drug, Improvement and Modernization Act, which will provide broad drug coverage starting in 2006. The federal government projects that 7.3 million of Medicare's 41 million participants will sign up for the cards.

Those who wish to do so, however, face the daunting task of choosing the right card.

''What it's like is a bunch of confusion,'' said Katharine Roberts, 77, who said she had not been to a movie in six years, in part because of her drug expenses. ''You might find you really need three cards, and you can only choose one.''

The cards are a 19-month stopgap measure to provide discounts of 10 percent to 25 percent for Medicare participants who have no other prescription drug coverage. In addition, low-income participants are eligible for subsidies of $600 a year.

The Department of Health and Human Services approved 28 companies or organizations to issue cards; among them are AARP, insurance companies and health maintenance organizations. Cards cost up to $30 a year. Each card provides different discounts on different drugs, and is accepted by different pharmacies. Participants can choose only one.

To help people sort through the options, Medicare and a company called DestinationRx set up a database on its Web site, medicare.gov, that lists the prices charged under various plans for whatever medications a user types in. People can get similar help by telephone at 1–800–

MEDICAR. But some providers complained that the prices on the site were inaccurate, and some cards are not listed at all.

For many retirees, it is too much.

''I'm 85, do I have to go through this nonsense?'' asked Florence Daniels, a retired engineer who said she received less than $1,000 a month from Social Security, of which she paid $179 a month for supplemental medical insurance. She gets drugs through a New York State program, which provides any prescription for $20 or less. To make ends meet and afford her drugs, she said she bought used clothing and put off buying new glasses. Some of her friends travel by bus to Canada to buy drugs; others do without, she said.

Ms. Daniels did not use the government Web site to compare drug cards, in part because she cannot afford a computer. ''I'm trying to absorb all the information, but it's ridiculous,'' she said. ''Not just ridiculous, it's scary. If there was a single card and it was administered by Medicare, and it got the cost of drugs down—wonderful, marvelous. But with these cards, the only thing we know is that we'll have to pay money to other people to administer what we can get and can't get.''

The discount program, which is financed largely by the cards' sponsors, reflects the Bush administration's desire to open Medicare to market principles without allowing participants to import drugs from other countries, which many Democrats favored.

Mark B. McClellan, an administrator at the Center for Medicare and Medicaid Services, said the complexity of the plan encouraged competition. ''We're seeing more plans offering better benefits,'' he said, estimating that people will be able to save 15 percent or more using the cards.

But the complexity of choices will keep many people away from the program, said Marilyn Moon, director of health at the American Institutes for Research, a nonprofit research organization in Washington.

Often, the discount provided by the cards is not as good as what people can get from existing state programs, union plans or consumer groups, said Robert M. Hayes, president of the Medicare Rights Center, a nonprofit organization that helps individuals with Medicare problems.

Sydney Bild, 81, a retired doctor in Chicago, compared the discount cards with the prices he paid ordering his drugs by mail from Canada. Dr. Bild pays $4,000 to $5,000 a year for five medications. When he checked the government Web site, he said the best plans were about 50 percent to 60 percent higher than what he was paying.

But Dr. Bild said his main objection to the new plans was that companies could change prices on drugs, or change the drugs covered. Medicare requires plans to cover only one drug in each of 209 common categories. Consumers can change cards only once a year. Committing to a card is ''like love—it's a something thing,'' Dr. Bild said. ''What if I chose one? They could drop my drugs two weeks later.''

Companies began soliciting customers for their discount drug cards last week. When the first pamphlets arrived at Beverly Lowy's home in New York City, Ms. Lowy said, she looked at them carefully. She does not have drug coverage and last year spent about $3,000 on prescription drugs. But the more brochures she reads, Ms. Lowy said, the less clear things became.

''You really have to be a rocket scientists,'' Ms. Lowy, 71, said. ''It takes time, energy, and you don't even save money. I thought, 'This one is offering this, this one is offering that.' Finally I decided this isn't for me.''

At the Leonard Covello Senior Center in East Harlem, the new cards seemed opaque. Ramon Velez, 72, a retired taxi driver, said he had watched AARP advertisements in which people read the dense language on the federal Medicare bill.

''I was laughing at the people in the ads, but it's true,'' Mr. Velez said. ''Everyone's confused.''

Mr. Velez received $763 a month from Social Security, and often skips his psoriasis medication because he cannot afford the $45 co-payment under this Blue Cross/Blue Shield plan. He wondered if the new drug cards could save him money.

''But it's very confusing,'' he said. ''I'd go to the Social Security office to ask about the cards, but I don't think they'd know.''

Alejandro Sierra, 67, a retired barber, paced around the center's pool table. Mr. Sierra takes six medications for diabetes and complications from cataracts and colon cancer, and sometimes skips a medication because he cannot afford it.

''I'm interested in the cards,'' he said. ''But I can't figure it out on the computer, because I can't see.''

Carlos Lopez, the director of the center, said the cards had so far produced little but anxiety. Mr. Lopez asked participants to bring any applications to him before signing them, and warned them about people selling phony cards.

''They're not nervous, but concerned,'' he said. ''They feel, why now? Why do I suddenly need a card for medications?''

S. 2413

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Medicare Assurance of Rx Transitional Assistance Act of 2004''.

SEC. 2. AUTOMATIC ENROLLMENT OF MEDICAID BENEFICIARIES ELIGIBLE FOR MEDICARE PRESCRIPTION DRUG BENEFITS.

(a) AUTOMATIC ENROLLMENT OF BENEFICIARIES RECEIVING MEDICAL ASSISTANCE FOR MEDICARE COST-SHARING UNDER MEDICAID.—Section 1860D–14(a)(3)(B)(v) (42 U.S.C. 1395w–114(a)(3)(B)(v)) is amended to read as follows:

''(v) TREATMENT OF MEDICAID BENEFICIARIES.—Subject to subparagraph (F), the Secretary shall provide that part D eligible individuals who are—

''(I) full-benefit dual eligible individuals (as defined in section 1935(c)(6)) or who are recipients of supplemental security income benefits under title XVI shall be treated as subsidy eligible individuals described in paragraph (1); and

''(II) not described in subclause (I), but who are determined for purposes of the State plan under title XIX to be eligible for medical assistance under clause (i), (iii), or (iv) of section 1902(a)(10)(E), shall be treated as being determined to be subsidy eligible individuals described in paragraph (1).''.

(b) ASSURANCE OF TRANSITIONAL ASSISTANCE UNDER DRUG DISCOUNT CARD PROGRAM.—

(1) IN GENERAL.—Section 1860D–31(b)(2)(A) of the Social Security Act (42 U.S.C. 1395w–141(b)(2)(A)) is amended by adding at the end the following new sentence: ''Subject to subparagraph (B), each discount card eligible individual who is described in section 1860D–14(a)(3)(B)(v) shall be considered to be a transitional assistance eligible individual.''.

(2) AUTOMATIC ENROLLMENT OF MEDICAID BENEFICIARIES.—Section 1860D–31(c)(1) of the Social Security Act (42 U.S.C. 1395w–141(c)(1)) is amended by adding at the end the following new subparagraph:

''(F) AUTOMATIC ENROLLMENT OF CERTAIN BENEFICIARIES.—

''(i) IN GENERAL.—Subject to clause (ii), the Secretary shall—

''(I) enroll each discount card eligible individual who is described in section 1860D–14(a)(3)(B)(v), but who has not enrolled in an endorsed discount card program as of August 15, 2004, in an endorsed discount card program selected by the Secretary that serves residents of the State in which the individual resides; and

''(II) notwithstanding paragraphs (2) and (3) of subsection (f), automatically determine that such individual is a transitional assistance eligible individual (including whether such individual is a special transitional assistance eligible individual) without requiring any self-certification or subjecting such individual to any verification under such paragraphs.

''(ii) OPT-OUT.—The Secretary shall not enroll an individual under clause (i) if the individual notifies the Secretary that such individual does not wish to be enrolled and be determined to be a transitional assistance eligible individual under such clause before the individual is so enrolled.''.

(3) NOTICE OF ELIGIBILITY FOR TRANSITIONAL ASSISTANCE.—Section 1860D–31(d) of the Social Security Act (42 U.S.C. 1395w–141(d)) is amended by adding at the end the following new paragraph:

''(4) NOTICE OF ELIGIBILITY TO MEDICAID BENEFICIARIES.—Not later than July 15, 2004, each State or the Secretary (at the option of each State) shall mail to each discount card eligible individual who is described in section 1860D–14(a)(3)(B)(v), but who has not enrolled in an endorsed discount card program as of July 1, 2004, a notice stating that—

''(A) such individual is eligible to enroll in an endorsed discount card program and to receive transitional assistance under subsection (g);

''(B) if such individual does not enroll before August 15, 2004, such individual will automatically enrolled in an endorsed discount card program selected by the Secretary unless the individual notifies the Secretary that such individual does not wish to be so enrolled;

''(C) if the individual is enrolled in an endorsed discount card program during 2004, the individual will be permitted to change enrollment under subsection (c)(1)(C)(ii) for 2005; and

''(D) there is no obligation to use the endorsed discount card program or transitional assistance when purchasing prescription drugs.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of section 101 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173; 117 Stat. 2071).

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 357—DESIGNATING THE WEEK OF AUGUST 8 THROUGH AUGUST 14, 2004, AS ''NATIONAL HEALTH CENTER WEEK''

Mr. CAMPBELL (for himself, Mr. DURBIN, Mr. BOND, Mr. HOLLINGS, Mr. KERRY, Mr. BUNNING, Mr. BIDEN, Mrs. MURRAY, Mrs. LINCOLN, Ms. LANDRIEU, Mr. GRASSLEY, Mr. DOMENICI, Ms. COLLINS, Mr. BURNS, Mr. INHOFE, Mr. TALENT, Mr. BENNETT, Mr. JOHNSON, Mr. LUGAR, Ms. CANTWELL, Mr. CRAPO, Mr. DASCHLE, Mr. DAYTON, Mr. CORZINE, Mr. KENNEDY, Mrs. FEINSTEIN, Mr.