

2024 -- S 2402

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2024

SENATE RESOLUTION

RESPECTFULLY URGING THE UNITED STATES CONGRESS TO PROTECT PATIENTS
AND TRADITIONAL MEDICARE FROM MEDICARE ADVANTAGE

Introduced By: Senators Ujifusa, Valverde, Murray, Lauria, Bell, Acosta, DiMario,
Miller, Mack, and Zurier

Date Introduced: February 12, 2024

Referred To: Senate Health & Human Services

1 WHEREAS, In 1965, the federal Social Security Amendments Act was passed,
2 establishing healthcare insurance programs for those over age 65 (Medicare) and those with
3 limited incomes (Medicaid); and

4 WHEREAS, Original Medicare coverage had gaps and un-capped co-insurance costs, but
5 instead of simply and directly improving original Medicare, private corporations were invited to
6 sell various supplemental and replacement plans for enrollee payments and guaranteed federal
7 subsidies; and

8 WHEREAS, Medicare today consists of a piecemeal program of federal and private
9 programs, namely: Part A (inpatient/hospital coverage), Part B (outpatient/medical coverage),
10 "Medigap" coverage (co-pays/deductibles, dental/vision/hearing), Part C (Medicare Advantage
11 plans), and Part D (prescription drug plans), and generally, enrollees can either choose Traditional
12 Medicare (TM), with federally run Parts A and B, and privately run Medigap and Part D plans, or
13 choose Medicare Advantage (MA) Part C private plans to completely replace TM; and

14 WHEREAS, Insurance companies selling MA plans aggressively market to Medicare
15 eligible people without full disclosure of TM costs and benefits compared to MA; and

16 WHEREAS, Today, over 50 percent of all eligible beneficiaries in Medicare are enrolled
17 in private MA insurance plans which cover mainly those over age 65, as well as others with
18 certain medical conditions; and

19 WHEREAS, States may only regulate MA plans in very limited ways because of federal

1 preemption and generally cannot regulate how MA plans market to potential enrollees; and

2 WHEREAS, The data show that privatized Medicare has not once yielded savings for the
3 program; conservative estimates by the Medicare Payment Advisory Commission (MedPAC), an
4 independent agency created to advise Congress on the Medicare program, show that payments to
5 MA plans over the past two decades have always been higher than they would have been for
6 patients in TM; and

7 WHEREAS, MA plans may offer low or no monthly premiums and cap out-of-pocket
8 expenses, but MA plans have been found to cost enrollees more than TM when enrollees become
9 seriously ill, such as when they get cancer or have extended hospital stays; and

10 WHEREAS, Although MA plans attract enrollees with extra benefits, like coverage for
11 dental, vision, or hearing, enrollees who use these benefits often end up paying for most of these
12 costs out-of-pocket; and

13 WHEREAS, Despite higher costs, MA plans generally spend less per patient and provide
14 worse coverage than TM; and

15 WHEREAS, Unlike TM, which gives enrollees freedom to go to virtually any doctor or
16 hospital in the country, MA provider networks are significantly narrower and geographically
17 limited; and

18 WHEREAS, Unlike TM, which covers physician's orders without requiring third-party
19 approval, MA plans require prior authorizations and have been found to improperly deny about
20 13 percent of prior authorization requests; and

21 WHEREAS, Beginning in 1965, original Medicare became the primary driver for greater
22 healthcare equality because the government required hospitals to desegregate before receiving
23 any Medicare funds; and

24 WHEREAS, Today, TM has exacerbated healthcare inequality by enrolling
25 disproportionately high numbers of disadvantaged populations (e.g., racial minorities, disabled
26 individuals, lower income individuals) into plans that offer worse coverage and care than TM;
27 and

28 WHEREAS, Retirees are forced into MA plans because about 65 percent of large
29 employers (200+ employees) require their retirees to accept a MA plan or lose their retirement
30 health benefits; and

31 WHEREAS, Barriers to switching to Traditional Medicare, including lack of "guaranteed
32 issue" protections, waits for "open enrollment," insurers denying or charging steep prices for
33 Medigap Part D drug plans, etc., keep MA enrollees trapped in MA plans; and

34 WHEREAS, Medicare Advantage plans have achieved higher revenues by taking actions

1 that do not benefit enrollees, including:

2 (1) Gaming risk pools by marketing to younger, healthier enrollees ("cherry-picking")
3 and incentivizing older, sicker beneficiaries to leave ("lemon-dropping");

4 (2) "Upcoding" to make patients seem sicker than they really are to increase
5 reimbursements from the federal government;

6 (3) Using "utilization management" tools such as prior authorizations, step therapy
7 protocols and artificial intelligence (AI) algorithms to delay or prevent medically necessary care;
8 and

9 (4) Delaying or refusing payments to hospitals so that they are increasingly not accepting
10 Medicare Advantage patients; and

11 WHEREAS, Most MA plans are sold by large insurers that have multiple related
12 businesses, such as pharmacy benefit managers, and those related businesses can account for
13 about 20 percent to 70 percent of spending, parent companies can circumvent Medicare limits on
14 profits; and

15 WHEREAS, Dozens of fraud lawsuits, inspector general audits and investigations by
16 watchdog groups have shown that major health insurers have exploited the program to inflate
17 their profits by billions of dollars; and

18 WHEREAS, Insurers typically earn twice as much gross profit from their MA plans than
19 from other types of insurance and private MA insurers have more than doubled their profit
20 margins per enrollee; and

21 WHEREAS, Estimated amounts overpaid to MA (as much as \$140 billion annually) are
22 more than the amounts needed to totally eliminate Medicare Part B premiums, or fund the entire
23 Medicare Part D prescription drug program, or establish dental, hearing, and vision coverage for
24 Medicare and Medicaid enrollees; and

25 WHEREAS, There is a growing bi-partisan effort by federal legislators and the centers
26 for Medicare and Medicaid Services (CMS) to protect patients from the kind of MA problems
27 noted above; now, therefore be it

28 RESOLVED, That this Senate of the State of Rhode Island hereby recognizes the need
29 for the United States government to prioritize patients over corporate profits and protect and
30 expand traditional Medicare and hereby respectfully urges Senator Jack Reed, Senator Sheldon
31 Whitehouse, Congressman Seth Magaziner, and Congressman Gabe Amo to support and pass
32 legislation, and ask U.S. Department of Health and Human Services Secretary Xavier Becerra and
33 Centers for Medicare and Medicaid Services Administrator Chiquita Brooks-LaSure to take
34 immediate administrative actions, including to:

1 (1) Require MA plans to retain and provide information, contracts, documents, and
2 financial data that allows transparency for and accountability to taxpayers and enrollees;

3 (2) Conduct more MA plan audits to identify overpayments and fraud;

4 (3) Strictly regulate MA marketing to require full disclosure to potential enrollees of
5 risks, disadvantages, and possible future costs;

6 (4) Ensure that historically disadvantaged groups are not incentivized or forced to accept
7 an inferior MA plan over TM;

8 (5) Prohibit MA plans from taking actions that increase their profits without increasing
9 healthcare services, including upcoding, risk pool "cherry-picking" and "lemon-dropping, and
10 using utilization management that improperly denies or delays medically necessary care and
11 timely payments to providers;

12 (6) Require MA plans to cover services from any medical provider that accepts
13 Medicare's approved rate;

14 (7) Require employers that offer retirement benefits to give employees the option to
15 enroll in TM;

16 (8) Work with the Justice Department to prosecute and recover improper payments; and

17 (9) Redirect funds that currently go towards enriching MA plans to instead go towards
18 protecting and expanding traditional Medicare; and be it further

19 RESOLVED, That the Secretary of State be and hereby is authorized and directed to
20 transmit duly certified copies of this resolution to the Clerk of the United States House of
21 Representatives, the Clerk of the United States Senate, and to members of the Rhode Island
22 Delegation to the United States Congress.

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