

117TH CONGRESS
1ST SESSION

H. R. 4640

To amend title XVIII of the Social Security Act to provide for certain reforms with respect to medicare supplemental health insurance policies.

IN THE HOUSE OF REPRESENTATIVES

JULY 22, 2021

Mr. DOGGETT (for himself, Mr. BLUMENAUER, Mr. CARTWRIGHT, Ms. CHU, Mr. CLEAVER, Mr. COHEN, Mr. DEFazio, Mrs. DINGELL, Mr. EVANS, Mr. GRIJALVA, Mrs. HAYES, Ms. JOHNSON of Texas, Ms. KAPTUR, Mr. KHANNA, Ms. LEE of California, Mr. LEVIN of Michigan, Mr. LOWENTHAL, Mrs. CAROLYN B. MALONEY of New York, Mr. MFUME, Mr. NADLER, Ms. NORTON, Mr. PERLMUTTER, Ms. PORTER, Ms. SCHAKOWSKY, Ms. SEWELL, Ms. SPEIER, Mr. SUOZZI, Mr. TAKANO, Ms. TITUS, Mr. THOMPSON of California, Mr. TONKO, Ms. DELAURO, and Mrs. WATSON COLEMAN) 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 provide for certain reforms with respect to medicare supplemental health insurance policies.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Close the Medigap Act
3 of 2021”.

4 **SEC. 2. GUARANTEED ISSUE.**

5 (a) IN GENERAL.—Section 1882(s) of the Social Se-
6 curity Act (42 U.S.C. 1395ss(s)) is amended to read as
7 follows:

8 “(s)(1) Subject to paragraph (2), the issuer of a
9 medicare supplemental policy may not, in the case of an
10 individual entitled to benefits under part A and enrolled
11 under part B—

12 “(A) deny or condition the issuance or effective-
13 ness of a medicare supplemental policy, or discrimi-
14 nate in the pricing of the policy, because of health
15 status, claims experience, receipt of health care, or
16 medical condition;

17 “(B) exclude benefits based on a preexisting
18 condition;

19 “(C) provide any time period applicable to pre-
20 existing conditions, waiting periods, elimination peri-
21 ods, and probationary periods for any benefit;

22 “(D) deny or condition the issuance or effec-
23 tiveness of the policy (including the imposition of
24 any exclusion of benefits under the policy based on
25 a preexisting condition) or discriminate in the pric-
26 ing of the policy (including the adjustment of pre-

1 mium rates) of an individual on the basis of the ge-
2 netic information with respect to such individual;

3 “(E) deny or condition the issuance or effective-
4 ness of a medicare supplemental policy that is of-
5 fered and is available for issuance to new enrollees
6 by such issuer; or

7 “(F) establish any period limiting enrollment
8 under a medicare supplemental policy to such period
9 for any individual.

10 “(2) Paragraph (1) shall not apply to an individual
11 entitled to benefits under part A solely by reason of section
12 226A.

13 “(3) Nothing in this subsection or in subparagraphs
14 (A) or (B) of subsection (x)(2) shall be construed to limit
15 the ability of an issuer of a medicare supplemental policy
16 from, to the extent otherwise permitted under this title—

17 “(A) denying or conditioning the issuance or ef-
18 fectiveness of the policy or increasing the premium
19 for an employer based on the manifestation of a dis-
20 ease or disorder of an individual who is covered
21 under the policy; or

22 “(B) increasing the premium for any policy
23 issued to an individual based on the manifestation of
24 a disease or disorder of an individual who is covered
25 under the policy (in such case, the manifestation of

1 a disease or disorder in one individual cannot also
2 be used as genetic information about other group
3 members.”.

4 (b) OUTREACH PLAN.—

5 (1) IN GENERAL.—The Secretary of Health and
6 Human Services shall develop an outreach plan to
7 notify individuals entitled to benefits under part A
8 or enrolled under part B of title XVIII of the Social
9 Security Act (42 U.S.C. 1395 et seq.) of the effects
10 of the amendment made by subsection (a).

11 (2) CONSULTATION.—In implementing the out-
12 reach plan developed under paragraph (1), the Sec-
13 retary shall consult with consumer advocates, bro-
14 kers, insurers, the National Association of Insurance
15 Commissioners, and State Health Insurance Assist-
16 ance Programs.

17 (c) EFFECTIVE DATE; PHASE-IN AUTHORITY.—

18 (1) EFFECTIVE DATE.—Subject to paragraph
19 (2), the amendment made by subsection (a) shall
20 apply to medicare supplemental policies effective on
21 or after January 1, 2022.

22 (2) PHASE-IN AUTHORITY.—

23 (A) IN GENERAL.—Subject to subpara-
24 graph (B), the Secretary of Health and Human
25 Services may phase in the implementation of

1 the amendment made under subsection (a)
2 (with such phase-in beginning on or after Janu-
3 ary 1, 2022) in such manner as the Secretary
4 determines appropriate in order to minimize
5 any adverse impact on individuals enrolled
6 under a medicare supplemental policy.

7 (B) PHASE-IN PERIOD MAY NOT EXCEED 5
8 YEARS.—The Secretary of Health and Human
9 Services shall ensure that the amendment made
10 by subsection (a) is fully implemented by not
11 later than January 1, 2027.

12 **SEC. 3. MEDICAL LOSS RATIO.**

13 Section 1882(r)(1)(A) of the Social Security Act (42
14 U.S.C. 1395ss(r)(1)(A)) is amended—

15 (1) by inserting “and periodically reviewed”
16 after “developed”; and

17 (2) by striking “policy, at least 75 percent of
18 the aggregate amount of premiums collected in the
19 case of group policies and at least 65 percent in the
20 case of individual policies; and” and inserting the
21 following: “policy—

22 “(i) with respect to periods beginning be-
23 fore January 1, 2022, at least 75 percent of the
24 aggregate amount of premiums collected in the

1 case of group policies and at least 65 percent
2 in the case of individual policies; and

3 “(ii) with respect to periods beginning on
4 or after January 1, 2022, a percent of the ag-
5 gregate amount of premiums collected that, in
6 the case of group policies or individual policies,
7 as applicable, is equal to or greater than both—

8 “(I) the applicable percent specified in
9 clause (i) with respect to such policies; and

10 “(II) such percent as the National As-
11 sociation of Insurance Commissioners may
12 recommend to the Secretary with respect
13 to such policies for purposes of this para-
14 graph; and”.

15 **SEC. 4. LIMITATIONS ON PRICING DISCRIMINATION.**

16 (a) IN GENERAL.—Section 1882 of the Social Secu-
17 rity Act (42 U.S.C. 1395ss), as amended by section 6, is
18 further amended by adding at the end the following new
19 subsection:

20 “(aa) DEVELOPMENT OF NEW STANDARDS RELAT-
21 ING TO PRICING DISCRIMINATION.—

22 “(1) IN GENERAL.—The Secretary shall request
23 the National Association of Insurance Commis-
24 sioners to review and revise the standards for all
25 benefit packages under subsection (p)(1), including

1 the core benefit package, in order to provide cov-
2 erage consistent with paragraph (2). Such revisions
3 shall be made consistent with the rules applicable
4 under subsection (p)(1)(E) (with the reference to the
5 ‘1991 NAIC Model Regulation’ deemed a reference
6 to the NAIC Model Regulation as most recently up-
7 dated by the National Association of Insurance
8 Commissioners to reflect previous changes in law
9 and the reference to ‘date of enactment of this sub-
10 section’ deemed a reference to the date of enactment
11 of this subsection).

12 “(2) CHANGES IN COST-SHARING DESCRIBED.—
13 Under the revised standards, coverage shall not be
14 available under a Medicare supplemental insurance
15 policy unless the issuer of the policy, in addition to
16 conforming to the other applicable requirements of
17 this section—

18 “(A) does not discriminate in the pricing
19 of the policy because of the age of the indi-
20 vidual to whom the policy is issued;

21 “(B) does not, to an extent that jeopard-
22 izes the access to such policy for individuals
23 who are eligible to participate in the program
24 under this title because the individuals are indi-
25 viduals described in paragraph (2) or (3) of sec-

1 Medicare & Medicaid Services (or a successor website), the
2 Secretary shall, with respect to such website and in ac-
3 cordance with subsection (f)—

4 “(1) make available on such website—

5 “(A) access to provider networks in order
6 to provide to individuals entitled to benefits
7 under part A or enrolled under part B informa-
8 tion to assist such individuals in understanding
9 the restrictions on providers and potential costs
10 entailed by their decisions regarding enrollment
11 under parts A and B, under part C, and in
12 medicare supplemental policies under section
13 1882;

14 “(B) a review of out-of-pocket expendi-
15 tures, including deductibles, copayments, coin-
16 surance, monthly premiums, and estimated an-
17 nual out-of-pocket costs, displayed overall and
18 by components, based on the best available in-
19 formation as determined by the Secretary; and

20 “(C) during the period prior to January 1,
21 2025, information regarding the rules that, in
22 each State, pertain to guaranteed issue of medi-
23 care supplemental health insurance policies
24 prior to implementation of the provisions of the
25 Close the Medigap Act of 2021 and, in the case

1 that a State has no such rules pertaining to
2 guaranteed issue of such policies, clear lan-
3 guage explaining the implications of such lack
4 of rules for individuals with pre-existing condi-
5 tions;

6 “(2) not later than January 1, 2020, and peri-
7 odically thereafter, perform a review of such website
8 in order to ensure that such website makes available
9 to individuals entitled to benefits under part A or
10 enrolled under part B the information that the Sec-
11 retary determines is necessary for such individuals
12 to make informed choices regarding their options
13 under the program under this title; and

14 “(3) not later than 12 months after the last
15 day of each period for the request for information
16 under subsection (e), update such website, taking
17 into consideration the information collected pursuant
18 to such subsection, to clarify the presentation of con-
19 sumer options for medicare supplemental health in-
20 surance policy options, including by presenting such
21 information in a manner calculated to be understood
22 by the average consumer and in a manner that—

23 “(A) improves consumer access to informa-
24 tion regarding the applicable premiums under

1 such policy options as of the date on which such
2 website is so updated;

3 “(B) facilitates consumers’ ability to com-
4 pare and sort policy options and premium infor-
5 mation across plan offerings in a given location;

6 “(C) clarifies and explains differences in
7 policy value;

8 “(D) rates and explains the financial sta-
9 bility of issuers of such policies;

10 “(E) provides data on the inflation rate of
11 different policies;

12 “(F) provides information regarding the
13 guaranteed issue requirements that apply to
14 medicare supplemental health insurance policies
15 under section 1882(s)(3); and

16 “(G) includes such general information as
17 is determined by the Secretary to be necessary
18 for individuals entitled to benefits under part A
19 or enrolled under part B to understand costs
20 under MA plans available pursuant to part C
21 and prescription drug plans available pursuant
22 to part D.

23 “(e) Not later than 6 months after the date of the
24 enactment of this subsection and beginning on December
25 7 of each year thereafter, the Secretary of Health and

1 Human Services shall provide an opportunity for public
2 comment during which the Secretary requests informa-
3 tion, including recommendations, from stakeholders re-
4 garding potential improvements to the presentation of
5 medicare supplemental health insurance policy options
6 under section 1882 on the Medicare plan finder internet
7 website of the Centers for Medicare & Medicaid Services
8 (or a successor website).

9 “(f) With respect to any information that the Sec-
10 retary makes available on the Medicare plan finder inter-
11 net website of the Centers for Medicare & Medicaid Serv-
12 ices (or a successor website) pursuant to subsection (d),
13 the Secretary shall, prior to making such information
14 available—

15 “(1) provide, in consultation with the National
16 Association of Insurance Commissioners, an oppor-
17 tunity for consumer testing of such information;

18 “(2) share the results of such consumer testing
19 of such information with interested stakeholders;
20 and

21 “(3) provide a 60-day public comment period
22 with respect to such information.”.

1 **SEC. 6. RESTORING ACCESS TO FIRST-DOLLAR MEDIGAP**
2 **COVERAGE.**

3 Section 1882 of the Social Security Act (42 U.S.C.
4 1395ss) is amended by striking subsection (z).

5 **SEC. 7. BROKER TRANSPARENCY.**

6 Section 1128G of the Social Security Act (42 U.S.C.
7 1320a–7h) is amended—

8 (1) in subsection (e)(1)(A), by striking “2011,”
9 and inserting “2011 (or, with respect to information
10 required to be submitted under subsection (f)(1), not
11 later than six months after the date of the enact-
12 ment of such subsection),”; and

13 (2) by adding at the end the following new sub-
14 section:

15 “(f) APPLICATION TO MEDIGAP INSURANCE BRO-
16 KERS.—

17 “(1) IN GENERAL.—Beginning not later than
18 12 months after the date of enactment of this sub-
19 section, each issuer of a medicare supplemental
20 health insurance policy shall annually submit to the
21 Secretary a report regarding payments or other
22 transfers of value made during the previous year to
23 agents, brokers, and other third parties representing
24 such policy. Each such report shall include the fol-
25 lowing information, with respect to such a payment
26 or other transfer of value:

1 “(A) The name of the recipient of the pay-
2 ment or other transfer of value.

3 “(B) The business address of the recipient.

4 “(C) The amount of the payment or other
5 transfer of value.

6 “(D) The dates on which the payment or
7 transfer of value was provided.

8 “(E) A description of the form of the pay-
9 ment or transfer of value.

10 “(F) Any other categories of information
11 the Secretary determines appropriate.

12 “(2) APPLICATION OF TRANSPARENCY SYS-
13 TEM.—The provisions of subsections (b) through (d)
14 shall apply to an issuer described in paragraph (1),
15 information required to be reported under such
16 paragraph, and agents, brokers, and other third par-
17 ties described in such paragraph in the same manner
18 and to the same extent as such provisions apply to
19 an applicable manufacturer, information required to
20 be reported under subsection (a), and a covered re-
21 cipient.”.

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