

118TH CONGRESS  
1ST SESSION

# S. 1703

To amend title XVIII of the Social Security Act to ensure Medicare-only PACE program enrollees have a choice of prescription drug plans under Medicare part D.

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IN THE SENATE OF THE UNITED STATES

MAY 18, 2023

Mr. CARPER (for himself and Mr. CASSIDY) introduced the following bill;  
which was read twice and referred to the Committee on Finance

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## A BILL

To amend title XVIII of the Social Security Act to ensure Medicare-only PACE program enrollees have a choice of prescription drug plans under Medicare part D.

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 “PACE Part D Choice  
5 Act of 2023”.

1 **SEC. 2. ENSURING MEDICARE-ONLY PACE PROGRAM EN-**  
 2 **ROLLEES HAVE A CHOICE OF PRESCRIPTION**  
 3 **DRUG PLANS UNDER MEDICARE PART D.**

4 Section 1860D–21(f) of the Social Security Act (42  
 5 U.S.C. 1395w–131(f)) is amended—

6 (1) in paragraph (1), by striking “and (3)” and  
 7 inserting “(3), and (4)”; and

8 (2) by adding at the end the following new  
 9 paragraph:

10 “(4) **ENSURING CHOICE OF PRESCRIPTION**  
 11 **DRUG PLANS.**—

12 “(A) **IN GENERAL.**—For plan years begin-  
 13 ning on or after January 1, 2025, subject to  
 14 the succeeding provisions of this paragraph, an  
 15 applicable PACE program enrollee may elect to  
 16 enroll in a qualified standalone prescription  
 17 drug plan, in accordance with rules established  
 18 by the Secretary pursuant to this paragraph,  
 19 while enrolled under a PACE program.

20 “(B) **DEFINITION OF APPLICABLE PACE**  
 21 **PROGRAM ENROLLEE; QUALIFIED STANDALONE**  
 22 **PRESCRIPTION DRUG PLAN.**—In this paragraph:

23 “(i) **APPLICABLE PACE PROGRAM EN-**  
 24 **ROLLEE.**—The term ‘applicable PACE pro-  
 25 gram enrollee’ means a part D eligible in-  
 26 dividual who—

1                   “(I) is not entitled to medical as-  
2                   sistance under title XIX; and

3                   “(II) is enrolled under a PACE  
4                   program offered by a PACE provider.

5                   “(ii) QUALIFIED STANDALONE PRE-  
6                   SCRIPTION DRUG PLAN.—The term ‘quali-  
7                   fied standalone prescription drug plan’  
8                   means, with respect to an applicable PACE  
9                   program enrollee, a prescription drug  
10                  plan—

11                  “(I) that is not an MA–PD plan;

12                  “(II) that is not operated by the  
13                  PACE program under which the indi-  
14                  vidual is enrolled; and

15                  “(III) for which the Secretary de-  
16                  termines, with respect to the applica-  
17                  ble PACE program enrollees enrolled  
18                  in a PACE program offered by such  
19                  PACE provider, that—

20                  “(aa) the estimated bene-  
21                  ficiary out-of-pocket costs (as de-  
22                  fined in clause (iii)) for the plan  
23                  year for qualified prescription  
24                  drug coverage under the plan is  
25                  equal to or less than the esti-

1 mated out-of-pocket costs for  
2 such coverage under the prescrip-  
3 tion drug plan offered by the  
4 PACE program in which the ap-  
5 plicable PACE program enrollee  
6 is enrolled; and

7 “(bb) the estimated total  
8 amount of Federal subsidies for  
9 the plan year for qualified pre-  
10 scription drug coverage under the  
11 plan (which may be estimated  
12 using data from the previous  
13 plan year) is equal to or less than  
14 the estimated subsidy amount for  
15 such coverage under the prescrip-  
16 tion drug plan offered by the  
17 PACE program in which the ap-  
18 plicable PACE program enrollee  
19 is enrolled.

20 “(iii) OUT-OF-POCKET COSTS DE-  
21 FINED.—In this paragraph, the term ‘out-  
22 of-pocket costs’ includes premiums imposed  
23 under a prescription drug plan and, in the  
24 case of coverage under a qualified stand-  
25 alone prescription drug plan, deductibles,

1           copayments, coinsurance, and other cost-  
2           sharing.

3           “(C) OUT-OF-POCKET COSTS.—In the case  
4           where an applicable PACE program enrollee  
5           elects to enroll in a qualified standalone pre-  
6           scription drug plan pursuant to this paragraph,  
7           the individual shall be responsible for any out-  
8           of-pocket costs imposed under the plan (includ-  
9           ing costs for nonformulary drugs) after the ap-  
10          plication of any subsidies under section 1860D–  
11          14 for an applicable PACE program enrollee  
12          who is a subsidy eligible individual (as defined  
13          in section 1860D–14(a)(3)).

14          “(D) REQUIREMENTS FOR PACE PRO-  
15          GRAMS.—

16                 “(i) EDUCATING AND HELPING EN-  
17                 ROLL BENEFICIARIES INTO A PART D PLAN  
18                 OPTION.—A PACE program shall be re-  
19                 quired to provide—

20                         “(I) information to all applicable  
21                         PACE program enrollees who are en-  
22                         rolled under the PACE program re-  
23                         garding the option to enroll in a quali-  
24                         fied standalone prescription drug plan  
25                         under this paragraph; and

1                   “(II) upon request of an applica-  
2                   ble PACE program enrollee, coun-  
3                   seling and coordination to assist appli-  
4                   cable PACE program enrollees in  
5                   making decisions regarding the selec-  
6                   tion of qualified standalone prescrip-  
7                   tion drug plans available to them.

8                   “(ii) MONITORING DRUG UTILIZATION,  
9                   ADHERENCE, AND SPEND.—A PACE pro-  
10                  gram shall be required to monitor drug  
11                  utilization, medication adherence, and drug  
12                  spending (through claims data shared pur-  
13                  suant to subparagraph (F) and otherwise)  
14                  throughout the year with respect to any  
15                  applicable PACE program enrollee who  
16                  elects to enroll in a qualified standalone  
17                  prescription drug plan under this para-  
18                  graph in order to coordinate with the PDP  
19                  sponsor of such plan regarding the drug  
20                  benefits offered by the plan, including  
21                  upon request of an applicable PACE pro-  
22                  gram enrollee the filing of any grievances  
23                  or appeals with the plan on behalf of the  
24                  applicable PACE program enrollee.

1           “(E) DISENROLLMENT.—An applicable  
2 PACE program enrollee may disenroll from the  
3 qualified standalone prescription drug plan  
4 elected by such applicable PACE program en-  
5 rollee under subparagraph (A) if the enrollee  
6 changes medication during the plan year or can  
7 demonstrate an unexpected increase in out-of-  
8 pocket costs post enrollment.

9           “(F) CLAIMS SHARING.—In the case where  
10 an applicable PACE program enrollee enrolls in  
11 a qualified standalone prescription drug plan,  
12 the PACE program in which the individual is  
13 enrolled and the PDP sponsor of the qualified  
14 standalone prescription drug plan shall share  
15 claims data with each other with respect to the  
16 applicable PACE program enrollee as needed to  
17 support care management for the applicable  
18 PACE program enrollee (including for purposes  
19 of monitoring and coordination required under  
20 subparagraph (D)(ii)) and for purposes of com-  
21 prehensive risk adjustment under section  
22 1894(d). Such data shall be shared without the  
23 need for any formal or informal request of the  
24 PACE program in which the individual is en-  
25 rolled or the PDP sponsor of the qualified

1 standalone prescription drug plan in which the  
2 applicable PACE program enrollee is enrolled.

3 “(G) RULE OF CONSTRUCTION.—The au-  
4 thority established under this paragraph for an  
5 applicable PACE program enrollee to elect to  
6 enroll in a qualified standalone prescription  
7 drug plan shall not be construed as permitting  
8 an applicable PACE program enrollee to enroll  
9 in a prescription drug plan that is not a quali-  
10 fied standalone prescription drug plan.

11 “(H) RELATION TO PACE STATUTES.—

12 “(i) IN GENERAL.—The authority pro-  
13 vided under this paragraph for an applica-  
14 ble PACE program enrollee to elect to en-  
15 roll in a qualified standalone prescription  
16 drug plan shall apply notwithstanding sub-  
17 section (a)(1)(B)(i) of section 1894 and  
18 such other provisions of sections 1894 and  
19 1934 as the Secretary determines may con-  
20 flict with the authority provided for under  
21 this paragraph, including subsections  
22 (a)(2)(B), (b)(1)(A)(i), (b)(1)(C),  
23 (f)(2)(B)(ii), and (f)(2)(B)(v) of such sec-  
24 tions.



1                   “(ii) CLARIFICATION ON PAYMENT  
2                   FOR PART D DRUG COVERAGE.—Insofar as  
3                   an applicable PACE program enrollee is  
4                   enrolled in a qualified standalone prescrip-  
5                   tion drug plan under this paragraph, the  
6                   PACE program shall not be entitled to  
7                   payment under section 1894(d) for the  
8                   provision of qualified prescription drug  
9                   coverage under such standalone prescrip-  
10                  tion drug plan with respect to such appli-  
11                  cable PACE program enrollee.”.

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