

112TH CONGRESS  
1ST SESSION

# H. R. 103

To amend the Social Security Act to improve choices available to Medicare eligible seniors by permitting them to elect (instead of regular Medicare benefits) to receive a voucher for a health savings account, for premiums for a high deductible health insurance plan, or both and by suspending Medicare late enrollment penalties between ages 65 and 70.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 5, 2011

Mrs. BLACKBURN (for herself, Mr. ROE of Tennessee, Mr. PENCE, Mr. SESSIONS, and Mr. PAUL) 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

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## A BILL

To amend the Social Security Act to improve choices available to Medicare eligible seniors by permitting them to elect (instead of regular Medicare benefits) to receive a voucher for a health savings account, for premiums for a high deductible health insurance plan, or both and by suspending Medicare late enrollment penalties between ages 65 and 70.

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 “Health Care Choices  
3 for Seniors Act”.

4 **SEC. 2. FINDINGS.**

5 Congress finds the following:

6 (1) The Social Security Administration’s Pro-  
7 gram Operations Manual System section III  
8 00801.002, titled “Waiver of Hospital Insurance  
9 Entitlement by Monthly Beneficiary”, provides that  
10 an individual who does not sign up for part A of the  
11 Medicare program when the individual signs up for  
12 social security benefits will lose such benefits, re-  
13 gardless of the desire of the individual to not partici-  
14 pate in the Medicare program because of religious or  
15 philosophical reasons or a preference to have private  
16 health insurance.

17 (2) As part of the Medicare Prescription Drug,  
18 Improvement, and Modernization Act of 2003 (Pub-  
19 lic Law 108–173), Congress increased health insur-  
20 ance options by authorizing health savings accounts  
21 into which individuals may make annual contribu-  
22 tions of not more than \$2,650 and families may  
23 make such contributions of not more than \$5,250  
24 that are allowable as deductions for income tax pur-  
25 poses. Seniors are not allowed to deduct contribu-  
26 tions to their health savings account after the date

1 of the entitlement of such seniors to Medicare bene-  
2 fits.

3 (3) Section 1802(b) of the Social Security Act  
4 (42 U.S.C. 1395a(b)), added by section 4507 of the  
5 Balanced Budget Act of 1997, states that a Medi-  
6 care beneficiary may only enter into a private con-  
7 tract with a physician for an item or service if no  
8 claim for payment under title XVIII of such Act will  
9 be submitted. In the case of such contract, the phy-  
10 sician must sign an affidavit that acknowledges such  
11 contract and that provides that the physician will  
12 not submit a claim, and will forgo reimbursement,  
13 under such title for an item or service provided to  
14 any Medicare beneficiary for a period of two years.

15 **SEC. 3. AUTHORITY TO ELECT VOUCHER PROGRAM IN-**  
16 **STEAD OF MEDICARE PART A ENTITLEMENT.**

17 (a) IN GENERAL.—Section 226 of the Social Security  
18 Act (42 U.S.C. 426) is amended by adding at the end the  
19 following new subsections:

20 “(k) WAIVER OF ENTITLEMENT AND ELECTION OF  
21 VOUCHER PROGRAM.—

22 “(1) IN GENERAL.—Notwithstanding the pre-  
23 vious provisions of this section, the Secretary shall  
24 establish a procedure under which an individual oth-  
25 erwise entitled under subsection (a) to benefits

1 under part A of title XVIII may waive such entitle-  
2 ment and be automatically enrolled in the Medicare  
3 Alternative Voucher Program established under sub-  
4 section (1) if—

5 “(A) at the time such waiver is made the  
6 individual—

7 “(i) has a health savings account de-  
8 scribed in subsection (d) of section 223 of  
9 the Internal Revenue Code of 1986 (26  
10 U.S.C. 223); and

11 “(ii) is enrolled under a high deduct-  
12 ible health plan, as defined in subsection  
13 (c)(1) of such section; and

14 “(B) the individual makes such waiver dur-  
15 ing the initial enrollment period described in  
16 section 1837(d).

17 “(2) TREATMENT UNDER THE INTERNAL REV-  
18 ENUE CODE OF 1986.—An individual who waives en-  
19 titlement under paragraph (1) shall not be treated  
20 as entitled to benefits under title XVIII for purposes  
21 of section 223(b)(7) of the Internal Revenue Code of  
22 1986.

23 “(3) INELIGIBILITY FOR PART B OR D BENE-  
24 FITS.—An individual shall not be eligible for benefits  
25 under part B or D of title XVIII during the period

1 for which the individual waives entitlement under  
2 part A of such title under paragraph (1).

3 “(4) TERMINATION OF WAIVER AND REENROLL-  
4 MENT UNDER MEDICARE PROGRAM.—The Secretary  
5 shall establish a procedure under which an individual  
6 who waives entitlement under paragraph (1) may  
7 terminate such waiver during an annual period that  
8 shall be the same as the annual general enrollment  
9 period described in section 1837(e). For purposes of  
10 applying parts B and D of title XVIII, such indi-  
11 vidual shall be treated as if the individual were enti-  
12 tled to benefits under part A of such title as of the  
13 date such individual terminates the waiver under  
14 this paragraph. An individual who has terminated  
15 such a waiver may not subsequently make such a  
16 waiver.

17 “(1) MEDICARE ALTERNATIVE VOUCHER PRO-  
18 GRAM.—

19 “(1) ESTABLISHMENT OF PROGRAM.—The Sec-  
20 retary shall establish a program to be known as the  
21 Medicare Alternative Voucher Program (in this sub-  
22 section referred to as the ‘voucher program’) con-  
23 sistent with this subsection.

24 “(2) AUTOMATIC ENROLLMENT.—An individual  
25 who waives entitlement under subsection (k)(1) shall

1 be enrolled in the voucher program for the period  
2 during which such waiver is in effect.

3 “(3) AMOUNT OF VOUCHER.—

4 “(A) AMOUNT BASED ON AGE COHORT.—

5 “(i) IN GENERAL.—Subject to clause  
6 (ii), for each month that an individual  
7 within an age cohort is enrolled in the  
8 voucher program, the Secretary shall pro-  
9 vide a voucher to such individual in an  
10 amount that is equal to the monthly actu-  
11 arial rate for that month computed under  
12 section 1818(d)(1) multiplied by the age  
13 cohort adjustment factor for such age co-  
14 hort under subparagraph (B).

15 “(ii) MONTHLY LIMIT.—The amount  
16 of a voucher provided to an individual for  
17 a month may not exceed \$200.

18 “(B) AGE COHORT ADJUSTMENT FAC-  
19 TOR.—For each age cohort the Secretary shall  
20 determine an age cohort adjustment factor  
21 equal to the ratio of—

22 “(i) the monthly actuarial rate de-  
23 scribed in section 1818(d)(1) as deter-  
24 mined by the Secretary for individuals in  
25 such age cohort, to

1                   “(ii) the monthly actuarial rate de-  
2                   scribed in such section.

3                   “(C) AGE COHORT DEFINED.—For pur-  
4                   poses of this paragraph, an ‘age cohort’ means  
5                   a group of individuals whose age falls within a  
6                   span of five consecutive years, consistent with  
7                   the following:

8                   “(i) The first such span begins at age  
9                   65.

10                  “(ii) Other spans follow consecutively.

11                  “(4) PERMISSIBLE USE OF VOUCHER.—A  
12                  voucher under paragraph (3) may be used only for  
13                  the following purposes:

14                  “(A) As a contribution into a health sav-  
15                  ings account established by such individual, as  
16                  described in subsection (k)(1)(A).

17                  “(B) For payment of premiums for enroll-  
18                  ment of such individual under a high deductible  
19                  health plan described in such subsection.

20                  “(5) EFFECT OF SUBSEQUENT TERMINATION  
21                  OF WAIVER.—If an individual terminates a waiver  
22                  under subsection (k)(3), the enrollment of such indi-  
23                  vidual in the voucher program shall be terminated  
24                  on the date on which the termination becomes effec-  
25                  tive.”.

1 (b) AMENDMENT OF INTERNAL REVENUE CODE OF  
2 1986.—Paragraph (7) of section 223(b) of the Internal  
3 Revenue Code of 1986 (relating to Medicare eligible indi-  
4 viduals) is amended to read as follows:

5 “(7) MEDICARE ELIGIBLE INDIVIDUALS.—

6 “(A) IN GENERAL.—The limitation under  
7 this subsection for any month with respect to  
8 an individual shall be zero for any month such  
9 individual is entitled to benefits under title  
10 XVIII of the Social Security Act.

11 “(B) MEDICARE ALTERNATIVE VOUCHER  
12 PROGRAM.—In the case of an individual who is  
13 enrolled in the Medicare Alternative Voucher  
14 Program under section 226(l) of the Social Se-  
15 curity Act, the applicable limitation under sub-  
16 paragraphs (A) and (B) of paragraph (2) shall  
17 be increased by the amount of the voucher de-  
18 scribed in paragraph (3) of such section which  
19 is contributed to a health savings account of  
20 such individual.”.

21 (c) EFFECTIVE DATE.—

22 (1) IN GENERAL.—The amendment made by  
23 subsection (a) shall take effect on the date that is  
24 six months after the date of the enactment of this  
25 Act and shall apply to an individual who becomes



1 entitled to benefits under part A of title XVIII of  
2 the Social Security Act on or after such date of the  
3 enactment.

4 (2) AMENDMENT OF INTERNAL REVENUE CODE  
5 OF 1986.—The amendment made by subsection (b)  
6 shall apply to months ending after the date referred  
7 to in paragraph (1), in taxable years ending after  
8 such date.

9 **SEC. 4. SUSPENSION OF MEDICARE LATE ENROLLMENT**  
10 **PENALTIES BETWEEN AGES 65 AND 70.**

11 (a) PART B.—The second sentence of section 1839(b)  
12 of the Social Security Act (42 U.S.C. 1395r(b)) is amend-  
13 ed by inserting before the period the following: “and there  
14 shall not be taken into account (for individuals not entitled  
15 to benefits under section 226A) any month during any  
16 part of which the individual attained age 65 and has not  
17 attained age 70”.

18 (b) PART D.—

19 (1) IN GENERAL.—Section 1860D–13(b)(7)(A)  
20 of such Act (42 U.S.C. 1395w–113(b)(7)(A)) is  
21 amended by adding at the end the following sen-  
22 tence: “For purposes of the preceding sentence, in  
23 the case of an individual not entitled to benefits  
24 under part A under section 226A, a continuous pe-  
25 riod of eligibility shall not include any month during

1 any part of which the individual attained age 65 and  
2 has not attained age 70.”.

3 (2) CONFORMING AMENDMENT.—Section  
4 1860D–1(b)(6)(A) of such Act (42 U.S.C. 1395w–  
5 101(b)(6)(A)) is amended by inserting after “para-  
6 graph (2)” the following: “, but excluding the period  
7 between 65 and 70 years of age”.

8 (c) EFFECTIVE DATE.—The amendments made by  
9 this section shall apply to individuals who attain 65 years  
10 of age in a month after the month in which this Act is  
11 enacted.

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