

Suspend the Rules And Pass the Bill, H.R. 2582, With Amendments

(The amendments strike all after the enacting clause and insert a new text and a new title)

114TH CONGRESS
1ST SESSION

H. R. 2582

To amend title XVIII of the Social Security Act to improve the risk adjustment under the Medicare Advantage program, to delay the authority to terminate Medicare Advantage contracts for MA plans failing to achieve minimum quality ratings, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 29, 2015

Mr. BUCHANAN (for himself, Mr. RANGEL, Mrs. BLACKBURN, Mrs. BLACK, Mr. BLUMENAUER, Mr. GUTHRIE, and Mr. LOEBSACK) 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 improve the risk adjustment under the Medicare Advantage program, to delay the authority to terminate Medicare Advantage contracts for MA plans failing to achieve minimum quality ratings, and for other purposes.

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 “Seniors’ Health Care
3 Plan Protection Act of 2015”.

4 **SEC. 2. DELAY IN AUTHORITY TO TERMINATE CONTRACTS**
5 **FOR MEDICARE ADVANTAGE PLANS FAILING**
6 **TO ACHIEVE MINIMUM QUALITY RATINGS.**

7 (a) FINDINGS.—Consistent with the studies provided
8 under the IMPACT Act of 2014 (Public Law 113–185),
9 it is the intent of Congress—

10 (1) to continue to study and request input on
11 the effects of socioeconomic status and dual-eligible
12 populations on the Medicare Advantage STARS rat-
13 ing system before reforming such system with the
14 input of stakeholders; and

15 (2) pending the results of such studies and
16 input, to provide for a temporary delay in authority
17 of the Centers for Medicare & Medicaid Services
18 (CMS) to terminate Medicare Advantage plan con-
19 tracts solely on the basis of performance of plans
20 under the STARS rating system.

21 (b) DELAY IN MA CONTRACT TERMINATION AU-
22 THORITY FOR PLANS FAILING TO ACHIEVE MINIMUM
23 QUALITY RATINGS.—Section 1857(h) of the Social Secu-
24 rity Act (42 U.S.C. 1395w–27(h)) is amended by adding
25 at the end the following new paragraph:

1 “(3) DELAY IN CONTRACT TERMINATION AU-
2 THORITY FOR PLANS FAILING TO ACHIEVE MINIMUM
3 QUALITY RATING.—The Secretary may not termi-
4 nate a contract under this section with respect to
5 the offering of an MA plan by a Medicare Advantage
6 organization solely because the MA plan has failed
7 to achieve a minimum quality rating under the 5-
8 star rating system established under section 1853(o)
9 during the period beginning on the date of the en-
10 actment of this paragraph and through the end of
11 plan year 2018.”.

12 **SEC. 3. IMPROVEMENTS TO MA RISK ADJUSTMENT SYSTEM.**

13 Section 1853(a)(1)(C) of the Social Security Act (42
14 U.S.C. 1395w-23(a)(1)(C)) is amended by adding at the
15 end the following new clauses:

16 “(iv) EVALUATION AND SUBSEQUENT
17 REVISION OF THE RISK ADJUSTMENT SYS-
18 TEM TO ACCOUNT FOR CHRONIC CONDI-
19 TIONS AND OTHER FACTORS FOR THE
20 PURPOSE OF MAKING THE RISK ADJUST-
21 MENT SYSTEM MORE ACCURATE, TRANS-
22 PARENT, AND REGULARLY UPDATED.—

23 “(I) REVISION BASED ON NUM-
24 BER OF CHRONIC CONDITIONS.—The
25 Secretary shall revise for 2017 and

1 periodically thereafter, the risk adjust-
2 ment system under this subparagraph
3 so that a risk score under such sys-
4 tem, with respect to an individual,
5 takes into account the number of
6 chronic conditions with which the in-
7 dividual has been diagnosed.

8 “(II) EVALUATION OF DIF-
9 FERENT RISK ADJUSTMENT MOD-
10 ELS.—The Secretary shall evaluate
11 the impact of including two years of
12 data to compare the models used to
13 determine risk scores for 2013 and
14 2014 under such system.

15 “(III) EVALUATION AND ANAL-
16 YSIS ON CHRONIC KIDNEY DISEASE
17 (CKD) CODES.—The Secretary shall
18 evaluate the impact of removing the
19 diagnosis codes related to chronic kid-
20 ney disease in the 2014 risk adjust-
21 ment model and conduct an analysis
22 of best practices of MA plans to slow
23 disease progression related to chronic
24 kidney disease.

1 “(IV) EVALUATION AND REC-
2 COMMENDATIONS ON USE OF ENCOUN-
3 TER DATA.—The Secretary shall
4 evaluate the impact of including 10
5 percent of encounter data in com-
6 puting payment for 2016 and the
7 readiness of the Centers for Medicare
8 & Medicaid Services to incorporate en-
9 counter data in risk scores. In con-
10 ducting such evaluation, the Secretary
11 shall use data collected as encounter
12 data on or after January 1, 2012,
13 shall analyze such data for accuracy
14 and completeness and issue rec-
15 ommendations for improving such ac-
16 curacy and completeness, and shall
17 not increase the percentage of such
18 encounter data used unless the Sec-
19 retary releases the data publicly, indi-
20 cates how such data will be weighted
21 in computing the risk scores, and en-
22 sures that the data reflects the degree
23 and cost of care coordination under
24 MA plans.

1 “(V) CONDUCT OF EVALUA-
2 TIONS.—Evaluations and analyses
3 under subclause (II) through (IV)
4 shall include an actuarial opinion
5 from the Chief Actuary of the Centers
6 for Medicare & Medicaid Services
7 about the reasonableness of the meth-
8 ods, assumptions, and conclusions of
9 such evaluations and analyses. The
10 Secretary shall consult with the Medi-
11 care Payment Advisory Commission
12 and accept and consider comments of
13 stakeholders, such as managed care
14 organizations and beneficiary groups,
15 on such evaluation and analyses. The
16 Secretary shall complete such evalua-
17 tions and analyses in a manner that
18 permits the results to be applied for
19 plan years beginning with the second
20 plan year that begins after the date of
21 the enactment of this clause.

22 “(VI) IMPLEMENTATION OF RE-
23 VISIONS BASED ON EVALUATIONS.—If
24 the Secretary determines, based on
25 such an evaluation or analysis, that

1 revisions to the risk adjustment sys-
2 tem to address the matters described
3 in any of subclauses (II) through (IV)
4 would make the risk adjustment sys-
5 tem under this subparagraph better
6 reflect and appropriately weight for
7 the population that is served by the
8 plan, the Secretary shall, beginning
9 with 2017, and periodically thereafter,
10 make such revisions.

11 “(VII) PERIODIC REPORTING TO
12 CONGRESS.—With respect to plan
13 years beginning with 2017 and every
14 third year thereafter, the Secretary
15 shall submit to Congress a report on
16 the most recent revisions (if any)
17 made under this clause, including the
18 evaluations conducted under sub-
19 clauses (II) through (IV).

20 “(v) NO CHANGES TO ADJUSTMENT
21 FACTORS THAT PREVENT ACTIVITIES CON-
22 SISTENT WITH NATIONAL HEALTH POLICY
23 GOALS.—In making any changes to the ad-
24 justment factors, including adjustment for
25 health status under paragraph (3), the

1 Secretary shall ensure that the changes do
2 not prevent Medicare Advantage organiza-
3 tions from performing or undertaking ac-
4 tivities that are consistent with national
5 health policy goals, including activities to
6 promote early detection and better care co-
7 ordination, the use of health risk assess-
8 ments, care plans, and programs to slow
9 the progression of chronic diseases.

10 “(vi) OPPORTUNITY FOR REVIEW AND
11 PUBLIC COMMENT REGARDING CHANGES
12 TO ADJUSTMENT FACTORS.—For changes
13 to adjustment factors effective for 2017
14 and subsequent years, in addition to pro-
15 viding notice of such changes in the an-
16 nouncement under subsection (b)(2), the
17 Secretary shall provide an opportunity for
18 review of proposed changes of not less than
19 60 days and a public comment period of
20 not less than 30 days before implementing
21 such changes.”.

22 **SEC. 4. SENSE OF CONGRESS RELATING TO MEDICARE AD-**
23 **VANTAGE STAR RATING SYSTEM.**

24 It is the sense of Congress that—

1 (1) the Centers for Medicare & Medicaid Serv-
2 ices has inadvertently created a star rating system
3 under section 1853(o)(4) of the Social Security Act
4 (42 U.S.C. 1395w-23(o)(4)) for Medicare Advan-
5 tage plans that lacks proper accounting for the so-
6 cioeconomic status of enrollees in such plans and the
7 extent to which such plans serve individuals who are
8 also eligible for medical assistance under title XIX
9 of such Act; and

10 (2) Congress will work with the Centers for
11 Medicare & Medicaid Services and stakeholders, in-
12 cluding beneficiary groups and managed care organi-
13 zations, to ensure that such rating system properly
14 accounts for the socioeconomic status of enrollees in
15 such plans and the extent to which such plans serve
16 such individuals described in paragraph (1).

17 **SEC. 5. SENSE OF CONGRESS RELATING TO MEDICARE AD-**
18 **VANTAGE RISK ADJUSTMENT.**

19 It is the sense of Congress that—

20 (1) the Secretary of Health and Human Serv-
21 ices should periodically monitor and improve the
22 Medicare Advantage risk adjustment model to en-
23 sure that it accurately accounts for beneficiary risk,
24 including for those individuals with complex chronic
25 comorbid conditions;

1 (2) the Secretary should closely examine the
2 current Medicare Advantage risk adjustment meth-
3 odology to ensure that plans enrolling beneficiaries
4 with the greatest health care needs receive adequate
5 reimbursement to deliver high-quality care and other
6 services to help beneficiaries avoid costly complica-
7 tions and further progression of chronic conditions
8 and to the extent data indicate this to be the case,
9 the Secretary should make necessary adjustment to
10 the risk adjustment methodology; and

11 (3) the Secretary should reconsider the imple-
12 mentation of changes in the Medicare Advantage
13 risk adjustment methodology finalized for 2016 and
14 to use to the extent appropriate the methodology fi-
15 nalized in 2015 for one additional year.

Amend the title so as to read: “A bill To amend title XVIII of the Social Security Act to delay the authority to terminate Medicare Advantage contracts for MA plans failing to achieve minimum quality ratings, to make improvements to the Medicare Adjustment risk adjustment system, and for other purposes.”.