

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 2477
OFFERED BY MR. RUIZ OF CALIFORNIA**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Beneficiary Enrollment
3 Notification and Eligibility Simplification Act of 2020” or
4 the “BENES Act of 2020”.

**5 SEC. 2. BENEFICIARY ENROLLMENT NOTIFICATION AND
6 ELIGIBILITY SIMPLIFICATION.**

7 (a) ELIGIBILITY AND ENROLLMENT NOTICES.—

8 (1) AS PART OF SOCIAL SECURITY ACCOUNT
9 STATEMENT FOR INDIVIDUALS ATTAINING AGES 63
10 TO 65.—Section 1143(a) of the Social Security Act
11 (42 U.S.C. 1320b–13(a)) is amended by adding at
12 the end the following new paragraph:

13 “(4) MEDICARE ELIGIBILITY INFORMATION.—

14 “(A) IN GENERAL.—In the case of statements
15 provided on or after the date that is 2 years after
16 the date of the enactment of this paragraph to indi-
17 viduals who are attaining ages 63, 64, and 65, the

1 statement shall also include a notice containing the
2 information described in subparagraph (B).

3 “(B) CONTENTS OF NOTICE.—The notice re-
4 quired under subparagraph (A) shall include a clear,
5 simple explanation of—

6 “(i) eligibility for benefits under the Medi-
7 care program under title XVIII, and in par-
8 ticular benefits under part B of such title;

9 “(ii) the reasons a late enrollment penalty
10 for failure to timely enroll could be assessed
11 and how such late enrollment penalty is cal-
12 culated, in particular for benefits under such
13 part B;

14 “(iii) the availability of relief from the late
15 enrollment penalty and retroactive enrollment
16 under section 1837(h) (including as such sec-
17 tion is applied under sections 1818(c) and
18 1818A(c)(3)), with examples of circumstances
19 under which such relief may be granted and ex-
20 amples of circumstances under which such relief
21 would not be granted;

22 “(iv) coordination of benefits (including
23 primary and secondary coverage scenarios) pur-
24 suant to section 1862(b), in particular for bene-
25 fits under such part B; and

1 “(v) enrollment, eligibility, and coordina-
2 tion of benefits under title XVIII with respect
3 to populations, for whom there are special con-
4 siderations, such as residents of Puerto Rico
5 and veterans.

6 “(C) DEVELOPMENT OF NOTICE.—

7 “(i) IN GENERAL.—The Secretary, in co-
8 ordination with the Commissioner of Social Se-
9 curity, and taking into consideration informa-
10 tion collected pursuant to clause (ii), shall, not
11 later than 12 months after the last day of the
12 period for the request of information described
13 in clause (ii), develop the notice to be provided
14 pursuant to subparagraph (A).

15 “(ii) REQUEST FOR INFORMATION.—Not
16 later than 6 months after the date of the enact-
17 ment of this paragraph, the Secretary shall re-
18 quest written information, including rec-
19 ommendations, from stakeholders (including the
20 groups described in subparagraph (D)) on the
21 information to be included in the notice.

22 “(iii) NOTICE IMPROVEMENT.—Beginning
23 4 years after the date of the enactment of this
24 paragraph, and not less than once every 2 years

1 thereafter, the Secretary, in coordination with
2 the Commissioner of Social Security, shall—

3 “(I) review the content of the notice
4 to be provided under subparagraph (A);

5 “(II) request written information, in-
6 cluding recommendations on the notice
7 through a request for information process
8 as described in clause (ii); and

9 “(III) update and revise such notice
10 as the Secretary deems appropriate.

11 “(D) GROUPS.—For purposes of subparagraph
12 (C)(ii), the groups described in this subparagraph
13 include the following:

14 “(i) Individuals who are 60 years of age or
15 older.

16 “(ii) Veterans.

17 “(iii) Individuals with disabilities.

18 “(iv) Individuals with end stage renal dis-
19 ease.

20 “(v) Low-income individuals and families.

21 “(vi) Employers (including human re-
22 sources professionals).

23 “(vii) States (including representatives of
24 State-run Health Insurance Exchanges, Med-
25 icaid offices, and Departments of Insurance).

1 “(viii) State Health Insurance Assistance
2 Programs.

3 “(ix) Health insurers.

4 “(x) Health insurance agents and brokers.

5 “(xi) Such other groups as specified by the
6 Secretary.

7 “(E) POSTING OF NOTICE ON WEBSITES.—The
8 Commissioner of Social Security and the Secretary
9 shall post the notice being required under subpara-
10 graph (A) in a prominent location on their respective
11 Department Internet website.

12 “(F) NO EFFECT ON OBLIGATION TO MAIL
13 STATEMENTS.—Nothing in this paragraph shall be
14 construed to relieve the Commissioner of Social Se-
15 curity from any requirement under subsection (c),
16 including the requirement to mail a statement on an
17 annual basis to each eligible individual who is not re-
18 ceiving benefits under title II and for whom a mail-
19 ing address can be determined through such meth-
20 ods as the Commissioner determines to be appro-
21 priate.”.

22 “(2) INDIVIDUALS IN MEDICARE WAITING PE-
23 RIOD.—Title XI of the Social Security Act is amend-
24 ed by inserting after section 1144 the following new
25 section:

1 “MEDICARE ENROLLMENT NOTIFICATION AND ELIGI-
2 BILITY NOTICES FOR INDIVIDUALS IN MEDICARE
3 WAITING PERIOD

4 “SEC. 1144A. (a) NOTICES.—

5 “(1) IN GENERAL.—The Commissioner of So-
6 cial Security shall distribute the notice to be pro-
7 vided pursuant to section 1143(a)(4), as may be
8 modified under paragraph (2), to individuals in the
9 24-month waiting period under section 226(b) of
10 this Act.

11 “(2) AUTHORITY TO MODIFY NOTICE.—The
12 Secretary, in coordination with the Commissioner of
13 Social Security, may modify the notice to be distrib-
14 uted under paragraph (1) as necessary to take into
15 account the individuals described in such paragraph.

16 “(3) POSTING OF NOTICE ON WEBSITES.—The
17 Commissioner of Social Security and the Secretary
18 shall post the notice required under paragraph (1)
19 in a prominent location on their respective Depart-
20 ment Internet website.

21 “(b) TIMING.—Beginning 2 years after the date of
22 the enactment of this section, a notice required under sub-
23 section (a)(1) shall be mailed to an individual not fewer
24 than 2 times in accordance with the following:

1 “(1) The notice shall be provided to such indi-
2 vidual not later than 3 months prior to the date on
3 which such individual’s enrollment period begins as
4 provided under section 1837.

5 “(2) The notice shall subsequently be provided
6 to such individual not later than 1 month prior to
7 such date.”.

8 (b) BENEFICIARY ENROLLMENT SIMPLIFICATION.—

9 (1) EFFECTIVE DATE OF COVERAGE.—Section
10 1838(a) of the Social Security Act (42 U.S.C.
11 1395q(a)) is amended—

12 (A) by amending paragraph (2) to read as
13 follows:

14 “(2)(A) in the case of an individual who enrolls
15 pursuant to subsection (d) of section 1837 before
16 the month in which he first satisfies paragraph (1)
17 or (2) of section 1836, the first day of such month,

18 “(B) in the case of an individual who first sat-
19 isfies such paragraph in a month beginning before
20 January 2022 and who enrolls pursuant to such
21 subsection (d)—

22 “(i) in such month in which he first satis-
23 fies such paragraph, the first day of the month
24 following the month in which he so enrolls,

1 “(ii) in the month following such month in
2 which he first satisfies such paragraph, the first
3 day of the second month following the month in
4 which he so enrolls, or

5 “(iii) more than one month following such
6 month in which he satisfies such paragraph, the
7 first day of the third month following the
8 month in which he so enrolls,

9 “(C) in the case of an individual who first satis-
10 fies such paragraph in a month beginning on or
11 after January 1, 2022, and who enrolls pursuant to
12 such subsection (d) in such month in which he first
13 satisfies such paragraph or in any subsequent month
14 of his initial enrollment period, the first day of the
15 month following the month in which he so enrolls, or

16 “(D) in the case of an individual who enrolls
17 pursuant to subsection (e) of section 1837 in a
18 month beginning—

19 “(i) before January 1, 2022, the July 1
20 following the month in which he so enrolls; or

21 “(ii) on or after January 1, 2022, the first
22 day of the month following the month in which
23 he so enrolls; or”); and

24 (B) by amending paragraph (3) to read as
25 follows:

1 “(3) in the case of an individual who is deemed
2 to have enrolled—

3 “(A) on or before the last day of the third
4 month of his initial enrollment period, the first
5 day of the month in which he first meets the
6 applicable requirements of section 1836 or July
7 1, 1973, whichever is later, or

8 “(B) on or after the first day of the fourth
9 month of his initial enrollment period, and
10 where such month begins—

11 “(i) before January 1, 2022, as pre-
12 scribed under subparagraphs (B)(i),
13 (B)(ii), (B)(iii), and (D)(i) of paragraph
14 (2), or

15 “(ii) on or after January 1, 2022, as
16 prescribed under subparagraphs (C) and
17 (D)(ii) of paragraph (2).”.

18 (2) SPECIAL ENROLLMENT PERIODS FOR EX-
19 CEPTIONAL CIRCUMSTANCES.—

20 (A) ENROLLMENT.—Section 1837 of the
21 Social Security Act (42 U.S.C. 1395p) is
22 amended by adding at the end the following
23 new subsection:

24 “(m) Beginning January 1, 2022, the Secretary may
25 establish special enrollment periods in the case of individ-

1 uals who meet such exceptional conditions as the Secretary
2 may provide, such as individuals who reside in an area
3 with an emergency or disaster as determined by the Sec-
4 retary.”.

5 (B) COVERAGE PERIOD.—Section 1838 of
6 the Social Security Act (42 U.S.C. 1395q) is
7 amended by adding at the end the following
8 new subsection:

9 “(g) Notwithstanding subsection (a), in the case of
10 an individual who enrolls during a special enrollment pe-
11 riod pursuant to section 1837(m), the coverage period
12 shall begin on a date the Secretary provides in a manner
13 consistent (to the extent practicable) with protecting con-
14 tinuity of health benefit coverage.”.

15 (C) CONFORMING AMENDMENT.—Section
16 1839(b) of the Social Security Act (42 U.S.C.
17 1395r(b)) is amended, in the first sentence, by
18 striking “or (l)” and inserting “, (l), or (m)”.

19 (3) TECHNICAL CORRECTION.—Section 1839(b)
20 of the Social Security Act (42 U.S.C. 1395r(b)) is
21 amended by adding at the end the following new
22 sentence: “For purposes of determining any increase
23 under this subsection for individuals whose enroll-
24 ment occurs on or after January 1, 2022, the second
25 sentence of this subsection shall be applied by sub-

1 stituting ‘close of the month’ for ‘close of the enroll-
2 ment period’ each place it appears.”.

3 (4) REPORT.—Not later than January 1, 2022,
4 the Secretary of Health and Human Services shall
5 submit to the Committee on Ways and Means and
6 Committee on Energy and Commerce of the House
7 of Representatives and the Committee on Finance
8 and Special Committee on Aging of the Senate a re-
9 port including recommendations on how to align ex-
10 isting Medicare enrollment periods under title XVIII
11 of the Social Security Act, including the general en-
12 rollment period under part B of such title and the
13 annual, coordinated election period under the Medi-
14 care Advantage program under part C of such title
15 and under the prescription drug program under part
16 D of such title. Such recommendations shall be con-
17 sistent with the goals of maximizing coverage con-
18 tinuity and choice and easing beneficiary transition.

