

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 2564
OFFERED BY M . _____**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Medicare Enrollment
3 Protection Act”.

**4 SEC. 2. TREATMENT UNDER MEDICARE OF INDIVIDUALS
5 TRANSITIONING FROM COBRA CONTINU-
6 ATION COVERAGE.**

7 (a) SPECIAL ENROLLMENT PERIOD FOR INDIVID-
8 UALS ENROLLED IN COBRA CONTINUATION COV-
9 ERAGE.—Section 1837(i) of the Social Security Act (42
10 U.S.C. 1395p(i)) is amended by adding at the end the fol-
11 lowing new paragraph:

12 “(5)(A) In the case of an individual who—

13 “(i) at the time the individual first satis-
14 fies paragraph (1) or (2) of section 1836, is en-
15 rolled in COBRA continuation coverage (as de-
16 fined in subparagraph (D)); or

17 “(ii) is enrolled in COBRA continuation
18 coverage and immediately prior to such enroll-

1 ment was an individual described in paragraph
2 (1) or (2) of this subsection;
3 there shall be a special enrollment period de-
4 scribed in subparagraph (B).

5 “(B) The special enrollment period referred to
6 in subparagraph (A) is the period that includes—

7 “(i) each month during any part of which
8 the individual is enrolled in COBRA continu-
9 ation coverage; and

10 “(ii) the 2-month period beginning with
11 the first month following the last month during
12 any part of which such individual is so enrolled.

13 “(C) An individual may only enroll during the
14 special enrollment period provided under subpara-
15 graph (A) one time during the individual’s lifetime.

16 “(D) For purposes of this paragraph, the term
17 ‘COBRA continuation coverage’ means continuation
18 coverage beginning on or after January 1, 2023—

19 “(i) under a COBRA continuation provi-
20 sion (as defined in section 2791(d)(4) of the
21 Public Health Service Act);

22 “(ii) pursuant to section 8905a of title 5,
23 United States Code; or

24 “(iii) under a similar State law that pro-
25 vides comparable continuation coverage.”.

1 (b) COVERAGE PERIOD FOR INDIVIDUALS
2 TRANSITIONING FROM COBRA CONTINUATION COV-
3 ERAGE.—Section 1838(e) of the Social Security Act (42
4 U.S.C. 1395q(e)) is amended—

5 (1) by striking “pursuant to section 1837(i)(3)
6 or 1837(i)(4)(B)” and inserting the following: “pur-
7 suant to—

8 “(1) section 1837(i)(3) or 1837(i)(4)(B)—”;

9 (2) by redesignating paragraphs (1) and (2) as
10 subparagraphs (A) and (B), respectively, and mov-
11 ing the indentation of each such subparagraph 2
12 ems to the right;

13 (3) by striking the period at the end of the sub-
14 paragraph (B), as so redesignated, and inserting “;
15 or”; and

16 (4) by adding at the end the following new
17 paragraph:

18 “(2) section 1837(i)(5), the coverage period
19 shall begin on the first day of the month following
20 the month in which the individual so enrolls.”.

21 (c) NO INCREASE IN PREMIUM.—Section 1839(b) of
22 such Act (42 U.S.C. 1395r(b)) is amended—

23 (1) in the first sentence, by inserting “, (i)(5),”
24 after “subsection (i)(4)”; and

1 (2) in the second sentence, by inserting before
2 the period at the end the following: “or months for
3 which the individual can demonstrate that the indi-
4 vidual was enrolled in COBRA continuation coverage
5 (as such term is defined in section 1837(i)(5)(D)).”.

6 (d) COORDINATION OF BENEFITS.—Section
7 1862(b)(1)(A) of the Social Security Act (42 U.S.C.
8 1395y(b)(1)(A)) is amended by adding at the end the fol-
9 lowing new clause:

10 “(vi) COORDINATION OF BENEFITS
11 WITH COBRA.—Notwithstanding any other
12 provision of law, in the case that an indi-
13 vidual is enrolled in COBRA continuation
14 coverage (as defined in section
15 1837(i)(5)(D)) and the individual is eligi-
16 ble for but not enrolled in coverage under
17 part B, such COBRA continuation cov-
18 erage shall not reduce or terminate bene-
19 fits under such COBRA continuation cov-
20 erage with respect to the individual on the
21 basis that the individual is eligible for cov-
22 erage under part B or otherwise take into
23 account such eligibility. Such benefits
24 under such COBRA continuation coverage
25 shall be provided to such an individual as

1 if such individual were not so eligible for
2 coverage under part B. Nothing in the pre-
3 ceding 2 sentences shall require the provi-
4 sion of such COBRA continuation coverage
5 to an individual enrolled in coverage under
6 part B or prohibit the termination of such
7 continuation coverage or reduction of bene-
8 fits under such continuation coverage in
9 the case of an individual who enrolls under
10 part B.”.

11 (e) UPDATING COBRA CONTINUATION COVERAGE
12 NOTIFICATIONS.—By not later than January 1, 2023, the
13 Secretary of Labor, in consultation with the Secretary of
14 Health and Human Services, shall update the COBRA
15 continuation coverage election notice and COBRA con-
16 tinuation coverage general notice required under section
17 606 of the Employee Retirement Income Security Act of
18 1974 (29 U.S.C. 1166) to be given by an employer to an
19 employee eligible for COBRA continuation coverage (as
20 defined in section 1837(i)(5)(D) of the Social Security
21 Act, as added by subsection (a)) to include an explanation
22 of how the Medicare secondary payer rules under section
23 1862(b) of the Social Security Act (42 U.S.C. 1395y(b)),

- 1 including as amended by subsection (d), apply with respect
- 2 to COBRA continuation coverage (as so defined).

