

105TH CONGRESS  
2D SESSION

# H. R. 3997

To amend title XVIII of the Social Security Act to require Medicare+Choice organizations to assure access to obstetrician-gynecologists and to assure continuity of care.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 4, 1998

Mr. STARK (for himself, Mr. CARDIN, Mr. KLECZKA, Mr. LEWIS of Georgia, and Mr. BECERRA) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on 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 title XVIII of the Social Security Act to require Medicare+Choice organizations to assure access to obstetrician-gynecologists and to assure continuity of care.

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 “Medicare Consumer  
5 Bill of Rights Conforming Act of 1998”.

1 **SEC. 2. ASSURING ACCESS TO OBSTETRICIAN-GYNE-**  
2 **COLOGISTS.**

3 Section 1852(d) of the Social Security Act (42 U.S.C.  
4 1395w-22(d)) is amended—

5 (1) by striking “A Medicare+Choice organiza-  
6 tion” and inserting “Subject to paragraph (5), a  
7 Medicare+Choice organization”, and

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

10 “(5) ASSURING ACCESS TO OBSTETRICAL AND  
11 GYNECOLOGICAL CARE.—

12 “(A) IN GENERAL.—If a Medicare+Choice  
13 organization requires or provides for an enrollee  
14 to designate a participating primary care pro-  
15 vider—

16 “(i) the organization shall permit such  
17 an individual to designate a participating  
18 physician who specializes in obstetrics and  
19 gynecology as the individual’s primary care  
20 provider; and

21 “(ii) if such an individual has not des-  
22 ignated such a provider as a primary care  
23 provider, the organization—

24 “(I) may not require authoriza-  
25 tion or a referral by the individual’s  
26 primary care provider or otherwise for

1 coverage of routine gynecological care  
2 (such as preventive women’s health  
3 examinations) and pregnancy-related  
4 services provided by a participating  
5 health care professional who special-  
6 izes in obstetrics and gynecology to  
7 the extent such care is otherwise cov-  
8 ered, and

9 “(II) may treat the ordering of  
10 other gynecological care by such a  
11 participating physician as the author-  
12 ization of the primary care provider  
13 with respect to such care under the  
14 Medicare+Choice plan.

15 “(B) CONSTRUCTION.—Nothing in sub-  
16 paragraph (A)(ii)(II) shall waive any require-  
17 ments of coverage relating to medical necessity  
18 or appropriateness with respect to coverage of  
19 gynecological care so ordered.”.

20 **SEC. 3. ASSURING CONTINUITY OF CARE.**

21 Section 1852 of the Social Security Act (42 U.S.C.  
22 1395w–22) is amended by adding at the end the following  
23 new subsection:

24 “(1) ASSURING CONTINUITY OF CARE.—

25 “(1) IN GENERAL.—

1           “(A) TERMINATION OF PROVIDER.—If a  
2 contract between a Medicare+Choice organiza-  
3 tion and a health care provider is terminated  
4 (as defined in subparagraph (B)), or benefits or  
5 coverage provided by a health care provider are  
6 terminated because of a change in the terms of  
7 provider participation in a Medicare+Choice  
8 plan, and an individual who is an enrollee in the  
9 plan is undergoing a course of treatment from  
10 the provider at the time of such termination,  
11 the organization shall—

12                   “(i) notify the individual on a timely  
13 basis of such termination, and

14                   “(ii) subject to paragraph (3), permit  
15 the individual to continue or be covered  
16 with respect to the course of treatment  
17 with the provider during a transitional pe-  
18 riod (provided under paragraph (2)).

19           “(B) TERMINATION.—In this subsection,  
20 the term ‘terminated’ includes, with respect to  
21 a contract, the expiration or nonrenewal of the  
22 contract, but does not include a termination of  
23 the contract by the organization for failure to  
24 meet applicable quality standards or for fraud.

25           “(2) TRANSITIONAL PERIOD.—

1           “(A) IN GENERAL.—Except as provided in  
2           subparagraphs (B) through (D), the transi-  
3           tional period under this paragraph shall extend  
4           for at least 90 days from the date of the notice  
5           described in paragraph (1)(A)(i) of the provid-  
6           er’s termination.

7           “(B) INSTITUTIONAL CARE.—The transi-  
8           tional period under this paragraph for institu-  
9           tional or inpatient care from a provider shall  
10          extend until the discharge or termination of the  
11          period of institutionalization and also shall in-  
12          clude institutional care provided within a rea-  
13          sonable time of the date of termination of the  
14          provider status if the care was scheduled before  
15          the date of the announcement of the termi-  
16          nation of the provider status under paragraph  
17          (1)(A)(i) or if the individual on such date was  
18          on an established waiting list or otherwise  
19          scheduled to have such care.

20          “(C) PREGNANCY.—If—

21                 “(i) an enrollee has entered the sec-  
22                 ond trimester of pregnancy at the time of  
23                 a provider’s termination of participation,  
24                 and

1           “(ii) the provider was treating the  
2           pregnancy before date of the termination,  
3           the transitional period under this paragraph  
4           with respect to provider’s treatment of the  
5           pregnancy shall extend through the provision of  
6           post-partum care directly related to the deliv-  
7           ery.

8           “(D) TERMINAL ILLNESS.—If—

9           “(i) an enrollee was determined to be  
10           terminally ill (as determined under section  
11           1861(dd)(3)(A)) at the time of a provider’s  
12           termination of participation, and

13           “(ii) the provider was treating the ter-  
14           minal illness before the date of termi-  
15           nation,

16           the transitional period under this paragraph  
17           shall extend for the remainder of the individ-  
18           ual’s life for care directly related to the treat-  
19           ment of the terminal illness.

20           “(3) PERMISSIBLE TERMS AND CONDITIONS.—

21           A Medicare+Choice organization may condition cov-  
22           erage of continued treatment by a provider under  
23           paragraph (1)(A)(ii) upon the provider agreeing to  
24           the following terms and conditions:

1           “(A) The provider agrees to accept reim-  
2           bursement from the organization and individual  
3           involved (with respect to cost-sharing) at the  
4           rates applicable prior to the start of the transi-  
5           tional period as payment in full (or, in the case  
6           described in paragraph (1)(B), at the rates ap-  
7           plicable under the replacement organization  
8           after the date of the termination of the contract  
9           with the organization) and not to impose cost-  
10          sharing with respect to the individual in an  
11          amount that would exceed the cost-sharing that  
12          could have been imposed if the contract referred  
13          to in paragraph (1)(A) had not been termi-  
14          nated.

15          “(B) The provider agrees to adhere to the  
16          quality assurance standards of the organization  
17          responsible for payment under subparagraph  
18          (A) and to provide to such organization nec-  
19          essary medical information related to the care  
20          provided.

21          “(C) The provider agrees otherwise to ad-  
22          here to such organization’s policies and proce-  
23          dures, including procedures regarding referrals  
24          and obtaining prior authorization and providing

1 services pursuant to a treatment plan (if any)  
2 approved by the organization.

3 “(4) CONSTRUCTION.—Nothing in this sub-  
4 section shall be construed to require the coverage of  
5 benefits which would not have been covered if the  
6 provider involved remained a participating provider.”

7 **SEC. 4. EFFECTIVE DATE.**

8 The amendments made by this Act shall apply to  
9 Medicare+Choice organizations with respect to contracts  
10 with the Secretary of Health and Human Services for con-  
11 tract years beginning more than 90 days after the date  
12 of the enactment of this Act.

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