

AMENDMENT TO H.R. 9770
OFFERED BY MR. SCHWEIKERT OF ARIZONA

At the end of the bill (before the short title), insert the following:

1 REFORMING MEDICARE ADVANTAGE

2 SEC. _____. (a) REQUIREMENT TO USE CAPITATED
3 PAYMENTS.—Section 1852 of the Social Security Act (42
4 U.S.C. 1395w–22) is amended by adding at the end the
5 following new subsection:

6 “(o) REQUIREMENT TO USE CAPITATED PAY-
7 MENTS.—

8 “(1) IN GENERAL.—Subject to paragraph (2)
9 and section 1853(p), for plan years beginning on or
10 after January 1, 2028, a Medicare Advantage plan
11 may only pay for benefits furnished under such plan
12 on a capitated basis.

13 “(2) EXCEPTIONS.—Paragraph (1) shall not
14 apply in the case of the following MA plans for a
15 plan year:

16 “(A) An MA plan that was made available
17 in such area during the preceding plan year, ex-
18 cept that the only individuals eligible to enroll
19 in such plan shall be individuals who were en-

1 rolled in such plan during such preceding plan
2 year.

3 “(B) A specialized MA plan for special
4 needs individuals.”.

5 (b) PAYMENT MODIFICATIONS.—

6 (1) REDUCING BLENDED BENCHMARK.—Sec-
7 tion 1853(j)(1)(A) of the Social Security Act (42
8 U.S.C. 1395w–23(j)(1)(A)) is amended by inserting
9 “(or, beginning with 2028, 75 percent of $\frac{1}{12}$ of such
10 blended benchmark amount)” after “for the area for
11 the year)”.

12 (2) RISK ADJUSTMENT MODIFICATIONS.—Sec-
13 tion 1853(a)(3) of the Social Security Act (42
14 U.S.C. 1395w–23(a)(3)) is amended by adding at
15 the end the following new subparagraph:

16 “(E) RISK ADJUSTMENT REQUIREMENTS
17 FOR HEALTH STATUS.—Beginning January 1,
18 2028, risk adjustment for health status shall be
19 determined—

20 “(i) using only diagnoses documented
21 on claims from face-to-face or telehealth
22 visits;

23 “(ii) without using any diagnoses ob-
24 tained for chart reviews or stand-alone
25 health risk assessments; and

1 “(iii) using diagnoses from a 2-year
2 period preceding the year for which such
3 adjustment is made.”.

4 (3) ELIMINATING QUALITY BENCHMARK IN-
5 CREASES.—Section 1853(o) of the Social Security
6 Act (42 U.S.C. 1395w–23(o)) is amended by adding
7 at the end the following new paragraph:

8 “(8) NONAPPLICATION OF INCREASE TO QUALI-
9 FIED MA PLANS.—No increase to the applicable per-
10 centage under subsection (n)(2)(B) shall be made
11 under this subsection for a plan for plan years be-
12 ginning on or after January 1, 2028.”.

13 (4) STOP-LOSS PAYMENTS.—Section 1853 of
14 the Social Security Act (42 U.S.C. 1395w–23) is
15 amended by adding at the end the following new
16 subsection:

17 “(p) STOP-LOSS PAYMENTS.—

18 “(1) IN GENERAL.—For years beginning on or
19 after January 1, 2028, the Secretary may establish
20 stop-loss payment for Medicare Advantage plans
21 that experience significantly higher expenditures
22 compared to the risk-adjusted expected expenditures
23 of such plans.

1 “(2) REQUIREMENTS.—Any payment described
2 in paragraph (1) shall be based on encounter data
3 subject to audit by the Secretary.

4 “(3) ADJUSTMENTS.—The Secretary may make
5 such payment adjustments under this part as the
6 Secretary determines necessary to ensure that this
7 paragraph is implemented in a budget-neutral man-
8 ner.”.

9 (c) AUTOMATIC ENROLLMENT; PLAN CHANGE LIM-
10 TATIONS.—Part C of title XVIII of the Social Security
11 Act (42 U.S.C. 1395w–21 et seq.) is amended by adding
12 at the end the following new section:

13 **“SEC. 1859A. AUTOMATIC ENROLLMENT; PLAN CHANGE**
14 **LIMITATIONS.**

15 “(a) AUTOMATIC ENROLLMENT.—

16 “(1) IN GENERAL.—Notwithstanding any other
17 provision of this title, for plan years beginning on or
18 after January 1, 2028, the Secretary shall provide
19 for the automatic enrollment of each individual enti-
20 tled to benefits under part A and enrolled under
21 part B into the MA plan with the lowest premium
22 available to such individual.

23 “(2) SPECIAL RULE IF MULTIPLE LOW-COST
24 PLANS AVAILABLE.—In the case that multiple MA
25 plans are available at the lowest premium applicable

1 under this part for a plan year for an individual, the
2 Secretary shall provide for the automatic enrollment
3 of individuals described in paragraph (1) among
4 such plans in a manner determined appropriate by
5 the Secretary.

6 “(3) OPT OUT.—The Secretary shall provide
7 each individual automatically enrolled into a quali-
8 fied MA plan under this subsection with an oppor-
9 tunity to decline such enrollment.

10 “(b) MANDATORY CONTINUOUS ENROLLMENT.—

11 “(1) IN GENERAL.—Notwithstanding any other
12 provision of this title, except as provided in para-
13 graph (2), in the case of an individual who enrolls
14 in an MA plan for a plan year beginning on or after
15 January 1, 2028, such individual may not, for the
16 3-year period beginning on the date such individual
17 so enrolls in such MA plan—

18 “(A) enroll in any other MA plan under
19 this part; or

20 “(B) elect to receive benefits under this
21 title through traditional fee-for-service Medicare
22 under part A or B.

23 “(2) EXCEPTIONS.—Paragraph (1) shall not
24 apply in the case of an individual who experiences a

1 hardship event (such as a serious illness (as speci-
2 fied by the Secretary)).”.

3 (d) REQUIRED INCLUSION OF HOSPICE CARE.—Sec-
4 tion 1852 of the Social Security Act (42 U.S.C. 1395w-
5 22) is amended—

6 (1) in subsection (a)(1)(B)(i), by inserting “(ex-
7 cept in the case of an MA plan offered in a plan
8 year beginning on or after January 1, 2028)” after
9 “hospice care”; and

10 (2) in subsection (m)(6), by inserting “(except
11 in the case of an MA plan offered in a plan year be-
12 ginning on or after January 1, 2028)” after “hos-
13 pice care”.

14 (e) STARK EXCEPTION.—Section 1877(b) of the So-
15 cial Security Act (42 U.S.C. 1395nn(b)) is amended by
16 adding at the end the following new paragraph:

17 “(6) EXCEPTION FOR CERTAIN SERVICES FUR-
18 NISHED UNDER MA PLANS.—In the case of des-
19 ignated health services consisting of durable medical
20 equipment or covered part D drugs, if such services
21 are furnished under an MA plan.”.

