

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2025

SENATE RESOLUTION

RESPECTFULLY URGING THE UNITED STATES CONGRESS TO PROTECT PATIENTS
AND TRADITIONAL MEDICARE FROM MEDICARE ADVANTAGE

Introduced By: Senators Ujifusa, Lawson, Valverde, Euer, Pearson, Ciccone, Murray,
DiMario, and Lauria

Date Introduced: January 23, 2025

Referred To: Senate Health & Human Services

1 WHEREAS, In 1965, the federal Social Security Amendments Act was passed,
2 establishing healthcare insurance programs for those over age 65 (Medicare) and those with
3 limited incomes (Medicaid); and

4 WHEREAS, Original Medicare coverage had gaps and un-capped co-insurance costs, but
5 instead of simply and directly improving original Medicare, private corporations were invited to
6 sell various supplemental and replacement plans for enrollee payments and guaranteed federal
7 subsidies; and

8 WHEREAS, Medicare today consists of a piecemeal program of federal and private
9 programs, namely: Part A (inpatient/hospital coverage), Part B (outpatient/medical coverage),
10 "Medigap" coverage (co-pays/deductibles), Part C (Medicare Advantage plans), and Part D
11 (prescription drug plans), and generally, enrollees can either choose Traditional Medicare (TM),
12 with federally run Parts A and B, and privately run Medigap and Part D plans, or choose
13 Medicare Advantage (MA) Part C private plans to completely replace TM; and

14 WHEREAS, Insurance companies selling MA plans aggressively market to Medicare
15 eligible people without full disclosure of TM costs and benefits compared to MA; and

16 WHEREAS, In 2024, fifty-four percent of all eligible beneficiaries in Medicare are
17 enrolled in private MA insurance plans which cover mainly those over age 65, as well as others
18 with certain medical conditions; and

19 WHEREAS, States may only regulate MA plans in very limited ways because of federal

1 preemption and generally cannot regulate how MA plans market to potential enrollees; and

2 WHEREAS, The data show that privatized Medicare has not once yielded savings for the
3 program; conservative estimates by the Medicare Payment Advisory Commission (MedPAC), an
4 independent agency created to advise Congress on the Medicare program, show that payments to
5 MA plans over the past two decades have always been higher than they would have been for
6 patients in TM; and

7 WHEREAS, MA plans may offer low or no monthly premiums and cap out-of-pocket
8 expenses, but MA plans have been found to cost enrollees more than TM when enrollees become
9 seriously ill, such as when they get cancer or have extended hospital stays; and

10 WHEREAS, Although MA plans attract enrollees with extra benefits, like coverage for
11 dental, vision, or hearing, enrollees who use these benefits often end up paying for most of these
12 costs out-of-pocket; and

13 WHEREAS, Despite higher payments, MA plans generally spend less per patient and
14 provide worse coverage than TM; and

15 WHEREAS, Unlike TM, which gives enrollees freedom to go to virtually any doctor or
16 hospital in the country, MA provider networks are significantly narrower and geographically
17 limited; and

18 WHEREAS, Unlike TM, which covers physician's orders without requiring third-party
19 approval, MA plans require prior authorizations and have been found to improperly deny about
20 13 percent of prior authorization requests; and

21 WHEREAS, Beginning in 1965, original Medicare became the primary driver for greater
22 healthcare equality because the government required hospitals to desegregate before receiving
23 any Medicare funds; and

24 WHEREAS, Today, MA has exacerbated healthcare inequality by enrolling
25 disproportionately high numbers of disadvantaged populations (e.g., racial minorities, disabled
26 individuals, lower income individuals) into plans that often offer worse coverage and care than
27 TM; and

28 WHEREAS, Retirees are forced into MA plans because about 53 percent of large
29 employers (200+ employees) require their retirees to accept a MA plan or lose their retirement
30 health benefits; and

31 WHEREAS, Barriers to switching to Traditional Medicare, including lack of "guaranteed
32 issue" protections, waits for "open enrollment," insurers denying or charging steep prices for
33 Medigap Part D drug plans, etc., keep MA enrollees trapped in MA plans; and

34 WHEREAS, Medicare Advantage plans have achieved higher revenues by taking actions

1 that do not benefit enrollees, including:

2 (1) Gaming risk pools by marketing to younger, healthier enrollees ("cherry-picking")
3 and incentivizing older, sicker beneficiaries to leave ("lemon-dropping");

4 (2) "Upcoding" to make patients seem sicker than they really are to increase
5 reimbursements from the federal government;

6 (3) Using "utilization management" tools such as prior authorizations, step therapy
7 protocols and artificial intelligence (AI) algorithms to delay or prevent medically necessary care;

8 (4) Delaying or refusing payments to hospitals so that they are increasingly not accepting
9 Medicare Advantage patients; and

10 (5) Gaming contract construction to maximize quality payments under the star rating
11 system; and

12 WHEREAS, Most MA plans are sold by large insurers that have multiple related
13 businesses, such as pharmacy benefit managers, and those related businesses can account for
14 about 20 percent to 70 percent of spending, parent companies can circumvent Medicare limits on
15 profits; and

16 WHEREAS, Dozens of fraud lawsuits, inspector general audits and investigations by
17 watchdog groups have shown that major health insurers have exploited the program to inflate
18 their profits by billions of dollars; and

19 WHEREAS, Insurers typically earn twice as much gross profit from their MA plans than
20 from other types of insurance and private MA insurers have more than doubled their profit
21 margins per enrollee; and

22 WHEREAS, Estimated amounts overpaid to MA (between \$83 billion and \$127 billion in
23 2024) are more than the amounts needed to totally eliminate Medicare Part B premiums, or fund
24 the entire Medicare Part D prescription drug program, or establish dental, hearing, and vision
25 coverage for Medicare and Medicaid enrollees; and

26 WHEREAS, There is a growing bi-partisan effort by federal legislators and the Centers
27 for Medicare and Medicaid Services (CMS) to protect patients from the kind of MA problems
28 noted above; now, therefore be it

29 RESOLVED, That this Senate of the State of Rhode Island hereby recognizes the need
30 for the United States government to prioritize patients over corporate profits and protect and
31 expand traditional Medicare and hereby respectfully urges Senator Jack Reed, Senator Sheldon
32 Whitehouse, Congressman Seth Magaziner, and Congressman Gabe Amo to support and pass
33 legislation, and ask the U.S. Department of Health and Human Services Secretary and Centers for
34 Medicare and the Medicaid Services Administrator to take immediate administrative actions,

1 including to:

2 (1) Require MA plans to retain and provide information, contracts, documents, and
3 financial data that allows transparency for and accountability to taxpayers and enrollees;

4 (2) Conduct more MA plan audits to identify overpayments and fraud;

5 (3) Strictly regulate MA marketing to require full disclosure to potential enrollees of
6 risks, disadvantages, and possible future costs;

7 (4) Reduce incentives or requirements for historically disadvantaged groups to accept an
8 inferior MA plan over TM;

9 (5) Prohibit MA plans from taking actions that increase their profits without increasing
10 healthcare services, including upcoding, risk pool "cherry-picking" and "lemon-dropping", and
11 using utilization management that improperly denies or delays medically necessary care and
12 timely payments to providers;

13 (6) Prohibit MA plans from limiting coverage for beneficiaries seeking expert specialty
14 care by imposing overly narrow provider networks;

15 (7) Require employers that offer retirement benefits to give employees the option to
16 enroll in TM;

17 (8) Work with the Justice Department to prosecute and recover improper payments; and

18 (9) Redirect funds that currently go towards enriching MA plans to instead go towards
19 protecting and expanding traditional Medicare; and be it further

20 RESOLVED, That the Secretary of State be and hereby is authorized and directed to
21 transmit duly certified copies of this resolution to the Clerk of the United States House of
22 Representatives, the Clerk of the United States Senate, and to members of the Rhode Island
23 Delegation to the United States Congress.

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