

**SENATE CONCURRENT
RESOLUTION No. 50**

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED JANUARY 30, 2020

Sponsored by:

Senator JOSEPH F. VITALE

District 19 (Middlesex)

SYNOPSIS

Urges Congress and President to limit duration and amount of late enrollment penalties in Medicare Parts B and D.

CURRENT VERSION OF TEXT

As introduced.



1 **A CONCURRENT RESOLUTION** urging the Congress and President of
2 the United States to limit the duration and amount of late
3 enrollment penalties in Parts B and D of the federal Medicare
4 program.
5
6 **WHEREAS**, Medicare is the federal insurance program providing health
7 coverage for individuals age 65 and over and for certain individuals
8 with disabilities and consists of four parts, referred to as Parts A
9 through D; and
10 **WHEREAS**, Part B of the Medicare program covers a broad range of
11 medical services and supplies, including physician services,
12 laboratory services, durable medical equipment, and outpatient
13 hospital services; and
14 **WHEREAS**, Enrollment in Medicare Part B is voluntary, and enrollees
15 must pay a monthly premium for Part B coverage; and
16 **WHEREAS**, Older individuals receiving Social Security or Railroad
17 Retirement Board (RRB) benefits are automatically enrolled in
18 Medicare Part B at age 65, and individuals with disabilities who
19 have received Social Security or RRB cash payments for 24 months
20 are also automatically enrolled, although individuals in both groups
21 have the option of declining Part B coverage; and
22 **WHEREAS**, Older individuals who are not automatically enrolled in
23 Medicare Part B may sign up: during a seven-month-long initial
24 enrollment period that begins three months before the month in
25 which the individual turns 65; or during a subsequent general
26 enrollment period; and
27 **WHEREAS**, Certain Medicare Part B enrollees may be subject to late
28 enrollment penalties, including: individuals who do not apply for
29 Medicare Part B coverage during their initial enrollment periods or
30 who do not accept automatic enrollments in Medicare Part B but
31 who apply for Part B coverage at a later date; and individuals who
32 reenroll in Medicare Part B after earlier terminations of their Part B
33 coverage; and
34 **WHEREAS**, The Part B late enrollment penalty is a monthly premium
35 surcharge equal to 10 percent of an individual's monthly Part B
36 premium for each full 12 months of delay in enrollment or
37 reenrollment during which period the individual was eligible for
38 Medicare; and
39 **WHEREAS**, There is no upper limit on the total Part B late enrollment
40 penalty that may apply to an individual, and the penalty continues
41 to apply for the entire time that the individual is enrolled in
42 Medicare Part B; and
43 **WHEREAS**, Only certain individuals may be exempt from the Part B
44 late enrollment penalty, such as: working individuals with group
45 health coverage and their spouses; certain military retirees; certain
46 international volunteers; and individuals who based their non-
47 enrollment decision on incorrect information provided by a federal
48 representative; and

SCR50 VITALE

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1 **WHEREAS**, According to data from the federal Centers for Medicare &
2 Medicaid Services, the Medicare Part B premiums of enrollees
3 paying the Part B late enrollment penalty in 2018 were, on average,
4 about 28 percent higher than the premiums would have been if they
5 were not subject to the penalty; and
6 **WHEREAS**, Part D of the Medicare program provides optional
7 outpatient prescription drug coverage to persons enrolled in
8 Medicare, with Part D enrollees paying a monthly premium for
9 coverage; and
10 **WHEREAS**, All individuals enrolled in Medicare Part A or Medicare
11 Part B are eligible to enroll in a prescription drug plan under Part D,
12 with individuals enrolled in the traditional, federally administered
13 Medicare program obtaining drug coverage through private
14 prescription drug plans and individuals enrolled in a Medicare
15 Advantage managed care plan generally obtaining drug coverage
16 through a prescription drug plan offered by their Medicare
17 Advantage organization; and
18 **WHEREAS**, Beneficiaries can enroll in a Medicare Part D plan, or
19 change plan enrollment, when they first become eligible for
20 Medicare or during subsequent annual open enrollment periods; and
21 **WHEREAS**, Similar to Medicare Part B, individuals may sign up for
22 Medicare Part D during a seven-month-long initial enrollment
23 period that begins three months before the month of Medicare
24 eligibility; and
25 **WHEREAS**, A Medicare Part D enrollee may be subject to a late
26 enrollment penalty if: the individual does not enroll in Medicare
27 Part D during an initial enrollment period or reenrolls in Medicare
28 Part D after a break in Part D coverage; and there are 63 or more
29 consecutive days in a period of Part D non-enrollment during which
30 the individual does not otherwise maintain creditable prescription
31 drug coverage; and
32 **WHEREAS**, Creditable prescription drug coverage, also known as
33 “creditable coverage,” includes military coverage or retiree health
34 coverage offered by a former employer or union that pays at least as
35 much, on average, as Medicare’s standard prescription drug
36 coverage; and
37 **WHEREAS**, Certain Medicare Part D enrollees who qualify for low-
38 income subsidies to reduce or eliminate Part D out-of-pocket
39 expenses are not subject to the late enrollment penalty; and
40 **WHEREAS**, The Part D late enrollment penalty is a monthly premium
41 surcharge equal to one percent of a national base beneficiary
42 premium, which is \$32.74 in 2020 and is adjusted annually, for
43 each full, uncovered month that a person was eligible to join a
44 Medicare Part D drug plan and did not join; and
45 **WHEREAS**, There is no upper limit on the total Part D late enrollment
46 penalty that may apply to an individual, and the penalty continues
47 to apply for the entire time that the individual is enrolled in
48 Medicare Part D; and

1 **WHEREAS**, There are significant differences among Medicare Part D
2 plans in terms of benefit design, drugs included on plan
3 formularies, applicable cost-sharing for particular drugs, pharmacy
4 networks, and monthly premiums, and new beneficiaries may
5 require significant time and research to navigate the complex
6 system of health plans and make informed choices regarding their
7 Part D coverage; and

8 **WHEREAS**, The decision of whether to enroll in Medicare Part B may
9 present similarly complex decisions involving the relationship
10 between Part B coverage and health coverage provided by a current
11 or former employer, the costs of monthly Part B premiums, and the
12 tradeoffs of enrolling in Part B upon initial eligibility or deferring
13 enrollment; and

14 **WHEREAS**, Some new Medicare beneficiaries may also struggle with
15 barriers to accessing information and making timely decisions
16 regarding coverage through Medicare Parts B and D, such as:
17 limited Internet access or limited technological skills; low literacy
18 or limited English proficiency; age-related changes in vision,
19 hearing, or cognition; stroke, Alzheimer’s disease, Parkinson’s
20 disease, or other conditions that might reduce an individual’s ability
21 to obtain, understand, and act upon relevant information; or
22 isolation from family members or friends who might assist with
23 research and decision making; and

24 **WHEREAS**, Beneficiaries who do not enroll in Medicare Parts B and D
25 in a timely manner due to these barriers, complex personal or
26 financial circumstances, or other factors beyond their control should
27 not be unduly penalized by potentially large late enrollment
28 penalties that are imposed in perpetuity; and

29 **WHEREAS**, The Medicare Parts B and D late enrollment penalties were
30 designed to create strong incentives for all eligible beneficiaries to
31 enroll in the programs, thereby spreading program costs across a
32 broad pool of beneficiaries and preventing a situation known as
33 “adverse selection,” whereby the disproportionate enrollment of
34 more costly, less healthy beneficiaries would cause dramatically
35 increased program costs; and

36 **WHEREAS**, Adverse selection might continue to be prevented, with
37 less harmful financial impacts on late enrollees, if the late
38 enrollment penalties were retained but were limited in duration and
39 amount; and

40 **WHEREAS**, This Legislature wishes to provide relief to Medicare
41 enrollees facing late enrollment penalties while continuing to
42 address the problem of adverse selection in Medicare Parts B and D
43 by urging the Congress and President of the United States to amend
44 federal Medicare law to limit the duration and amount of any late
45 enrollment penalties applying to individuals receiving health
46 coverage through Medicare Parts B and D; now, therefore,

1 **BE IT RESOLVED** *by the Senate of the State of New Jersey (the*
2 *General Assembly concurring):*

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4 1. This Legislature respectfully urges the Congress and
5 President of the United States to enact legislation amending Title
6 XVIII of the federal Social Security Act (42 U.S.C. s.1395 et seq.)
7 to limit the duration and amount of any late enrollment penalties
8 applying to individuals receiving health coverage through Part B or
9 Part D of the federal Medicare program.

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11 2. Copies of this resolution, as filed with the Secretary of State,
12 shall be transmitted by the Clerk of the General Assembly or the
13 Secretary of the Senate to the presiding officers of the United States
14 Congress, every member of the United States Congress elected from
15 this State, and the President of the United States.

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STATEMENT

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20 This concurrent resolution respectfully urges the Congress and
21 President of the United States to enact legislation limiting the
22 duration and amount of any late enrollment penalties applying to
23 individuals receiving health coverage through Part B or Part D of
24 the federal Medicare program.

25 Medicare Part B provides coverage for medical services and
26 supplies, including physician services, laboratory services, durable
27 medical equipment, and outpatient hospital services. Enrollment in
28 Medicare Part B is voluntary and enrollees must pay a monthly
29 premium. Certain Part B enrollees may be subject to late
30 enrollment penalties, including: individuals who do not apply for
31 Part B coverage during their initial enrollment periods or who do
32 not accept automatic enrollments; and individuals who reenroll after
33 earlier terminations of Part B coverage. The Part B late enrollment
34 penalty is a surcharge equal to 10 percent of an individual's
35 monthly Part B premium for each full 12 months of delay in
36 enrollment or reenrollment during which the individual was eligible
37 for Medicare.

38 Medicare Part D provides outpatient prescription drug coverage
39 to persons enrolled in Medicare. As with Medicare Part B,
40 enrollment in Medicare Part D is voluntary and requires a monthly
41 premium. A Part D enrollee may be subject to a late enrollment
42 penalty if: the individual does not enroll during an initial enrollment
43 period or reenrolls after a break in Part D coverage; and there are 63
44 or more consecutive days in the period of Part D non-enrollment
45 during which the individual does not otherwise maintain certain
46 "creditable" prescription drug coverage. The Part D late enrollment
47 penalty is a surcharge equal to one percent of an annually adjusted,
48 national base beneficiary premium for each full, uncovered month

1 that the person was eligible to join a Medicare Part D drug plan and
2 did not join.

3 The late enrollment penalties for Medicare Parts B and D have
4 no upper limit and apply for the entire time that an individual is
5 enrolled in the programs. Although the late enrollment penalties
6 were intended to encourage a broad pool of individuals to enroll in
7 both programs, in order to prevent problems of “adverse selection”
8 arising from disproportionate enrollments of less healthy, more
9 costly individuals, some Medicare enrollees may struggle with
10 significant barriers to accessing information and making timely
11 decisions regarding coverage under Parts B and D.

12 This resolution urges the Congress and President to alter the
13 Medicare program so that late enrollment penalties are retained but
14 limited in duration and amount, thereby continuing to prevent
15 adverse selection while mitigating the financial impacts of late
16 enrollment penalties on Medicare enrollees.