

1 Title: To amend title XVIII of the Social Security Act to ensure Medicare-only PACE program  
2 enrollees have a choice of prescription drug plans under Medicare part D.  
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5 Be it enacted by the Senate and House of Representatives of the United States of America in  
6 Congress assembled,

7 **SECTION 1. SHORT TITLE.**

8 This Act may be cited as the “PACE Part D Choice Act of 2023”.

9 **SEC. 2. ENSURING MEDICARE-ONLY PACE PROGRAM**  
10 **ENROLLEES HAVE A CHOICE OF PRESCRIPTION DRUG**  
11 **PLANS UNDER MEDICARE PART D.**

12 Section 1860D–21(f) of the Social Security Act (42 U.S.C. 1395w–131(f)) is amended—

13 (1) in paragraph (1), by striking “and (3)” and inserting “(3), and (4)”; and

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

15 “(4) ENSURING CHOICE OF PRESCRIPTION DRUG PLANS.—

16 “(A) IN GENERAL.—For plan years beginning on or after January 1, 2025, subject to  
17 the succeeding provisions of this paragraph, an applicable PACE program enrollee  
18 may elect to enroll in a qualified standalone prescription drug plan, in accordance with  
19 rules established by the Secretary pursuant to this paragraph, while enrolled under a  
20 PACE program.

21 “(B) DEFINITION OF APPLICABLE PACE PROGRAM ENROLLEE; QUALIFIED STANDALONE  
22 PRESCRIPTION DRUG PLAN.—In this paragraph:

23 “(i) APPLICABLE PACE PROGRAM ENROLLEE.—The term ‘applicable PACE  
24 program enrollee’ means a part D eligible individual who—

25 “(I) is not entitled to medical assistance under title XIX; and

26 “(II) is enrolled under a PACE program offered by a PACE provider.

27 “(ii) QUALIFIED STANDALONE PRESCRIPTION DRUG PLAN.—The term ‘qualified  
28 standalone prescription drug plan’ means, with respect to an applicable PACE  
29 program enrollee, a prescription drug plan—

30 “(I) that is not an MA–PD plan;

31 “(II) that is not operated by the PACE program under which the individual  
32 is enrolled; and

33 “(III) for which the Secretary determines, with respect to the applicable  
34 PACE program enrollees enrolled in a PACE program offered by such  
35 PACE provider, that—

36 “(aa) the estimated beneficiary out-of-pocket costs (as defined in  
37 clause (iii)) for the plan year for qualified prescription drug coverage

1 under the plan is equal to or less than the estimated out-of-pocket costs  
2 for such coverage under the prescription drug plan offered by the PACE  
3 program in which the applicable PACE program enrollee is enrolled;  
4 and

5 “(bb) the estimated total amount of Federal subsidies for the plan  
6 year for qualified prescription drug coverage under the plan (which may  
7 be estimated using data from the previous plan year) is equal to or less  
8 than the estimated subsidy amount for such coverage under the  
9 prescription drug plan offered by the PACE program in which the  
10 applicable PACE program enrollee is enrolled.

11 “(iii) OUT-OF-POCKET COSTS DEFINED.—In this paragraph, the term ‘out-of-  
12 pocket costs’ includes premiums imposed under a prescription drug plan and, in  
13 the case of coverage under a qualified standalone prescription drug plan,  
14 deductibles, copayments, coinsurance, and other cost-sharing.

15 “(C) OUT-OF-POCKET COSTS.—In the case where an applicable PACE program  
16 enrollee elects to enroll in a qualified standalone prescription drug plan pursuant to this  
17 paragraph, the individual shall be responsible for any out-of-pocket costs imposed  
18 under the plan (including costs for nonformulary drugs) after the application of any  
19 subsidies under section 1860D–14 for an applicable PACE program enrollee who is a  
20 subsidy eligible individual (as defined in section 1860D–14(a)(3)).

21 “(D) REQUIREMENTS FOR PACE PROGRAMS.—

22 “(i) EDUCATING AND HELPING ENROLL BENEFICIARIES INTO A PART D PLAN  
23 OPTION.—A PACE program shall be required to provide—

24 “(I) information to all applicable PACE program enrollees who are  
25 enrolled under the PACE program regarding the option to enroll in a  
26 qualified standalone prescription drug plan under this paragraph; and

27 “(II) upon request of an applicable PACE program enrollee, counseling  
28 and coordination to assist applicable PACE program enrollees in making  
29 decisions regarding the selection of qualified standalone prescription drug  
30 plans available to them.

31 “(ii) MONITORING DRUG UTILIZATION, ADHERENCE, AND SPEND.—A PACE  
32 program shall be required to monitor drug utilization, medication adherence, and  
33 drug spending (through claims data shared pursuant to subparagraph (F) and  
34 otherwise) throughout the year with respect to any applicable PACE program  
35 enrollee who elects to enroll in a qualified standalone prescription drug plan under  
36 this paragraph in order to coordinate with the PDP sponsor of such plan regarding  
37 the drug benefits offered by the plan, including upon request of an applicable  
38 PACE program enrollee the filing of any grievances or appeals with the plan on  
39 behalf of the applicable PACE program enrollee.

40 “(E) DISENROLLMENT.—An applicable PACE program enrollee may disenroll from  
41 the qualified standalone prescription drug plan elected by such applicable PACE  
42 program enrollee under subparagraph (A) if the enrollee changes medication during the  
43 plan year or can demonstrate an unexpected increase in out-of-pocket costs post

1 enrollment.

2 “(F) CLAIMS SHARING.—In the case where an applicable PACE program enrollee  
3 enrolls in a qualified standalone prescription drug plan, the PACE program in which  
4 the individual is enrolled and the PDP sponsor of the qualified standalone prescription  
5 drug plan shall share claims data with each other with respect to the applicable PACE  
6 program enrollee as needed to support care management for the applicable PACE  
7 program enrollee (including for purposes of monitoring and coordination required  
8 under subparagraph (D)(ii)) and for purposes of comprehensive risk adjustment under  
9 section 1894(d). Such data shall be shared without the need for any formal or informal  
10 request of the PACE program in which the individual is enrolled or the PDP sponsor of  
11 the qualified standalone prescription drug plan in which the applicable PACE program  
12 enrollee is enrolled.

13 “(G) RULE OF CONSTRUCTION.—The authority established under this paragraph for  
14 an applicable PACE program enrollee to elect to enroll in a qualified standalone  
15 prescription drug plan shall not be construed as permitting an applicable PACE  
16 program enrollee to enroll in a prescription drug plan that is not a qualified standalone  
17 prescription drug plan.

18 “(H) RELATION TO PACE STATUTES.—

19 “(i) IN GENERAL.—The authority provided under this paragraph for an  
20 applicable PACE program enrollee to elect to enroll in a qualified standalone  
21 prescription drug plan shall apply notwithstanding subsection (a)(1)(B)(i) of  
22 section 1894 and such other provisions of sections 1894 and 1934 as the Secretary  
23 determines may conflict with the authority provided for under this paragraph,  
24 including subsections (a)(2)(B), (b)(1)(A)(i), (b)(1)(C), (f)(2)(B)(ii), and  
25 (f)(2)(B)(v) of such sections.

26 “(ii) CLARIFICATION ON PAYMENT FOR PART D DRUG COVERAGE.—Insofar as an  
27 applicable PACE program enrollee is enrolled in a qualified standalone  
28 prescription drug plan under this paragraph, the PACE program shall not be  
29 entitled to payment under section 1894(d) for the provision of qualified  
30 prescription drug coverage under such standalone prescription drug plan with  
31 respect to such applicable PACE program enrollee.”