

## House Concurrent Resolution No. 5013

By Representatives Sutton, Neighbor, Bryce, W. Carpenter, Francis, Hoheisel, Howe, Hoyer, Humphries, Long, Minnix, Resman, C. Smith, Wasinger and White

3-12

1 A CONCURRENT RESOLUTION urging Congress to give state  
2 insurance regulators authority over Medicare Advantage plans.

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4 WHEREAS, On July 30, 1965, President Lyndon B. Johnson signed  
5 Medicare into law to be administered by the Federal Government; and  
6 WHEREAS, The Kansas legislature in 1981 passed a statute requiring the  
7 Kansas Insurance Commissioner to regulate and establish specific  
8 standards for Medicare supplement policies delivered or issued for  
9 delivery in the state of Kansas; and

10 WHEREAS, The Balanced Budget Act of 1997 created Medicare Part C,  
11 known now as Medicare Advantage; and

12 WHEREAS, The Medicare Prescription Drug, Improvement, and  
13 Modernization Act of 2003, also known as the Medicare  
14 Modernization Act, created Medicare Part D but also limited the  
15 authority of states to oversee Medicare Advantage plans; and

16 WHEREAS, Since the implementation of the Medicare Modernization  
17 Act and because of the lack of state oversight, state departments of  
18 insurance, state health insurance programs and consumer advocacy  
19 organizations have reported patterns of overly aggressive, deceptive  
20 and abusive marketing and sales practices in the Medicare private plan  
21 marketplace; and

22 WHEREAS, There have been complaints made to the state insurance  
23 departments, including Kansas, regarding misrepresentations in the  
24 marketing and sales of Medicare Advantage plans, particularly Private  
25 Fee-for-Service plans, including misrepresentations about provider  
26 networks, provider acceptance of plans, reimbursements, benefits,  
27 premiums and other features; and

28 WHEREAS, The sale of Medicare Advantage plans often involves  
29 aggressive sales tactics that include the attempt to sell additional non-  
30 Medicare related products to seniors and vulnerable adults; and

31 WHEREAS, The State of Kansas, along with the other 49 states, are  
32 unable to assist consumers in such matters, because their hands are  
33 tied due to the passage of the Medicare Modernization Act; and

34 WHEREAS, The Centers for Medicare and Medicaid Services, which are  
35 charged with the regulation of Medicare Advantage plans, have failed

1 in their duty to regulate the advertising of Medicare Advantage plans  
2 and protect the most vulnerable Kansans: Now, therefore,

3 *Be it resolved by the House of Representatives of the State of Kansas, the*  
4 *Senate concurring therein:* That we urge Congress to give state  
5 insurance regulators authority over Medicare Advantage plans,  
6 because state-based regulation is more efficient and effective at  
7 protecting the citizens of Kansas; and

8 *Be it further resolved:* That we urge Congress to conclude that states are  
9 better equipped to oversee Medicare plans and protect vulnerable  
10 populations from abusive and fraudulent marketing and advertising of  
11 Medicare Advantage plans, just as they oversee other health plans; and

12 *Be it further resolved:* That we urge Congress to pass legislation that  
13 allows states to enforce their own marketing and consumer disclosure  
14 laws and regulations on Medicare plans; and

15 *Be it further resolved:* That the Secretary of State shall send enrolled  
16 copies of this resolution to the Speaker of the United States House of  
17 Representatives, the President Pro Tempore of the United States  
18 Senate and the Kansas Department of Insurance.  
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