

117TH CONGRESS
1ST SESSION

S. 2236

To amend title XVIII of the Social Security Act to provide an option for first responders age 50 to 64 who are separated from service due to retirement or disability to buy into Medicare.

IN THE SENATE OF THE UNITED STATES

JUNE 24, 2021

Mr. BROWN introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend title XVIII of the Social Security Act to provide an option for first responders age 50 to 64 who are separated from service due to retirement or disability to buy into Medicare.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Expanding Health
5 Care Options for Early Retirees Act”.

1 **SEC. 2. MEDICARE BUY-IN OPTION FOR FIRST RESPOND-**
 2 **ERS 50 TO 64 YEARS OF AGE WHO ARE SEPA-**
 3 **RATED FROM SERVICE DUE TO RETIREMENT**
 4 **OR DISABILITY.**

5 (a) IN GENERAL.—Title XVIII of the Social Security
 6 Act (42 U.S.C. 1395c et seq.) is amended by adding at
 7 the end the following new section:

8 “MEDICARE BUY-IN OPTION FOR FIRST RESPONDERS 50
 9 TO 64 YEARS OF AGE WHO ARE SEPARATED FROM
 10 SERVICE DUE TO RETIREMENT OR DISABILITY

11 “SEC. 1899C. (a) OPTION.—

12 “(1) IN GENERAL.—Every individual who meets
 13 the requirements described in paragraph (3) shall be
 14 eligible to enroll under this section.

15 “(2) PART A, B, AND D BENEFITS.—An indi-
 16 vidual enrolled under this section is entitled to the
 17 same benefits (and shall receive the same protec-
 18 tions) under this title as an individual who is enti-
 19 tled to benefits under part A and enrolled under
 20 parts B and D, including the ability to enroll in a
 21 Medicare Advantage plan that provides qualified pre-
 22 scription drug coverage (an MA–PD plan).

23 “(3) REQUIREMENTS FOR ELIGIBILITY.—The
 24 requirements described in this paragraph are the fol-
 25 lowing:

1 “(A) The individual is a resident of the
2 United States.

3 “(B) The individual is—

4 “(i) a citizen or national of the United
5 States; or

6 “(ii) an alien lawfully admitted for
7 permanent residence.

8 “(C) The individual is not otherwise enti-
9 tled to benefits under part A or eligible to en-
10 roll under part A or part B.

11 “(D) The individual has attained 50 years
12 of age but has not attained 65 years of age.

13 “(E) The individual is a qualified first re-
14 sponder (as defined in paragraph (4)(B)).

15 “(4) DEFINITIONS.—In this section:

16 “(A) FIRST RESPONDER.—The term ‘first
17 responder’ means—

18 “(i) a qualified law enforcement offi-
19 cer (as defined in section 926B(c) of title
20 18, United States Code);

21 “(ii) an employee described in clause
22 (i) of section 72(t)(10)(B) of the Internal
23 Revenue Code of 1986 who provides fire-
24 fighting services or emergency medical
25 services; or

1 “(iii) a Federal firefighter described
2 in section 8331(21) or 8401(14) of title 5,
3 United States Code.

4 “(B) QUALIFIED FIRST RESPONDER.—The
5 term ‘qualified first responder’ means a first re-
6 sponder who is separated from service due to
7 retirement or disability.

8 “(b) ENROLLMENT AND COVERAGE PERIODS.—

9 “(1) IN GENERAL.—The Secretary shall estab-
10 lish enrollment and coverage periods for individuals
11 who enroll under this section.

12 “(2) COORDINATION.—Such periods shall be es-
13 tablished in coordination with the enrollment and
14 coverage periods for plans offered under an Ex-
15 change established under title I of the Patient Pro-
16 tection and Affordable Care Act and plans under
17 parts C and D. If the Secretary determines appro-
18 priate, the Secretary may expand such enrollment
19 periods beyond the enrollment periods under such an
20 Exchange or under parts C and D.

21 “(3) BEGINNING OF COVERAGE AND SPECIAL
22 ENROLLMENT PERIODS.—The Secretary shall estab-
23 lish such periods so that coverage under this section
24 shall first begin on January 1 of the first year be-
25 ginning at least one year after the date of the enact-

ment of this section and shall include special enrollment periods, in accordance with section 155.420 of title 45 of the Code of Federal Regulations, that are applicable to qualified health plans offered through an Exchange.

“(c) PREMIUM.—

“(1) AMOUNT OF MONTHLY PREMIUMS.—The Secretary shall (beginning for the first year that begins more than 1 year after the date of enactment of this section) determine a monthly premium for all individuals enrolled under this section. Such monthly premium shall be equal to $\frac{1}{12}$ of the annual premium computed under paragraph (2)(B), which shall apply with respect to coverage provided under this section for any month in the succeeding year.

“(2) ANNUAL PREMIUM.—

“(A) COMBINED PER CAPITA AVERAGE FOR ALL MEDICARE BENEFITS.—The Secretary shall estimate the average, annual per capita amount for benefits and administrative expenses that will be payable under parts A, B, and D (including, as applicable, under part C) in the year for all individuals enrolled under this section.

“(B) ANNUAL PREMIUM.—The annual premium under this subsection for months in a

1 year is equal to the average, annual per capita
 2 amount estimated under subparagraph (A) for
 3 the year.

4 “(3) INCREASED PREMIUM FOR CERTAIN PART
 5 C AND D PLANS.—Nothing in this section shall pre-
 6 clude an individual from choosing a Medicare Advan-
 7 tage plan or a prescription drug plan which requires
 8 the individual to pay an additional amount (because
 9 of supplemental benefits or because it is a more ex-
 10 pensive plan). In such case the individual would be
 11 responsible for the increased monthly premium.

12 “(d) PAYMENT OF PREMIUMS.—

13 “(1) IN GENERAL.—Premiums for enrollment
 14 under this section shall be paid to the Secretary at
 15 such times, and in such manner, as the Secretary
 16 determines appropriate.

17 “(2) DEPOSIT.—Amounts collected by the Sec-
 18 retary under this section shall be deposited in the
 19 Federal Hospital Insurance Trust Fund and the
 20 Federal Supplementary Medical Insurance Trust
 21 Fund (including the Medicare Prescription Drug Ac-
 22 count within such Trust Fund) in such proportion
 23 as the Secretary determines appropriate.

24 “(e) NOT ELIGIBLE FOR MEDICARE COST-SHARING
 25 ASSISTANCE.—An individual enrolled under this section

1 shall not be treated as enrolled under any part of this title
 2 for purposes of obtaining medical assistance for Medicare
 3 cost-sharing or otherwise under title XIX.

4 “(f) TREATMENT IN RELATION TO THE AFFORDABLE
 5 CARE ACT.—

6 “(1) SATISFACTION OF INDIVIDUAL MAN-
 7 DATE.—For purposes of applying section 5000A of
 8 the Internal Revenue Code of 1986, the coverage
 9 provided under this section constitutes minimum es-
 10 sential coverage under subsection (f)(1)(A)(i) of
 11 such section 5000A.

12 “(2) ELIGIBILITY FOR PREMIUM ASSISTANCE.—
 13 Coverage provided under this section—

14 “(A) shall be treated as coverage under a
 15 qualified health plan in the individual market
 16 enrolled in through the Exchange where the in-
 17 dividual resides for all purposes of section 36B
 18 of the Internal Revenue Code of 1986 other
 19 than subsection (c)(2)(B) thereof; and

20 “(B) shall not be treated as eligibility for
 21 other minimum essential coverage for purposes
 22 of subsection (c)(2)(B) of such section 36B.

23 The Secretary shall determine the applicable second
 24 lowest cost silver plan which shall apply to coverage

1 under this section for purposes of section 36B of
2 such Code.

3 “(3) ELIGIBILITY FOR COST-SHARING SUB-
4 SIDIES.—For purposes of applying section 1402 of
5 the Patient Protection and Affordable Care Act (42
6 U.S.C. 18071)—

7 “(A) coverage provided under this section
8 shall be treated as coverage under a qualified
9 health plan in the silver level of coverage in the
10 individual market offered through an Exchange;
11 and

12 “(B) the Secretary shall be treated as the
13 issuer of such plan.

14 “(4) MEDICAID MANAGED CARE.—States are
15 prohibited from buying their Medicaid beneficiaries
16 ages 50 to 64 into Medicare under this section, and
17 individuals otherwise eligible for enrollment under a
18 State plan under title XIX are prohibited from cov-
19 erage under this title pursuant to enrollment under
20 this section. The preceding sentence shall not apply
21 to Medicaid beneficiaries whose Medicaid coverage or
22 eligibility does not meet the definition of minimum
23 essential coverage under a government-sponsored
24 program under section 1.5000A–2 of title 26, Code
25 of Federal Regulations (or any successor regulation).

1 “(5) COORDINATION WITH MARKET REFORMS,
 2 ETC.—Notwithstanding Treasury Notice 2015–17,
 3 no provision of law shall prevent an employer from
 4 maintaining an arrangement under which the em-
 5 ployer pays or reimburses any portion of the pre-
 6 miums for coverage under this section for retired
 7 employees of the employer, or prevent such payment
 8 or reimbursement from being excluded from the
 9 gross income of the individual enrolled in such cov-
 10 erage for purposes of the Internal Revenue Code of
 11 1986.

12 “(g) GUARANTEED ISSUE OF MEDIGAP POLICIES
 13 UPON FIRST ENROLLMENT AND EACH SUBSEQUENT EN-
 14 ROLLMENT.—In the case of an individual who enrolls
 15 under this section (including an individual who was pre-
 16 viously enrolled under this section), paragraphs (2)(A),
 17 (2)(D), (3)(B)(ii), and (3)(B)(vi) of section 1882(s)—

18 “(1) shall be applied by substituting ‘50’ for
 19 ‘65’;

20 “(2) if the individual was enrolled under this
 21 section and subsequently disenrolls, shall apply each
 22 time the individual subsequently reenrolls under this
 23 section as if the individual had attained 50 years of
 24 age on the date of such reenrollment (and as if the

1 individual had never previously enrolled in a Medi-
2 care supplemental policy); and

3 “(3) shall be applied as if this section had not
4 been enacted (and as if the individual had never pre-
5 viously enrolled in a Medicare supplemental policy)
6 when the individual attains 65 years of age.

7 “(h) OVERSIGHT.—There is established an advisory
8 committee to be known as the ‘Medicare Buy In Oversight
9 Board’ to monitor and oversee the implementation of this
10 section, including the experience of the individuals enroll-
11 ing under this section. The Medicare Buy In Oversight
12 Board shall have members that include representatives of
13 insurers, actuaries, consumer advocacy organizations, and
14 individuals representing the first responder community,
15 and shall make periodic recommendations for the con-
16 tinual improvement of the implementation of this section
17 as well as the relationship of enrollment under this section
18 to other health care programs.

19 “(i) OUTREACH AND ENROLLMENT.—

20 “(1) IN GENERAL.—During the period that be-
21 gins on January 1, 2022, and ends on December 31,
22 2024, the Secretary shall award grants to eligible
23 entities for the following purposes:

24 “(A) OUTREACH AND ENROLLMENT.—To
25 carry out outreach, public education activities,

1 and enrollment activities to raise awareness of
 2 the availability of, and encourage, enrollment
 3 under this section.

4 “(B) ASSISTING INDIVIDUALS’ TRANSITION
 5 UNDER THIS SECTION.—To provide assistance
 6 to individuals to enroll under this section.

7 “(C) RAISING AWARENESS OF PREMIUM
 8 ASSISTANCE AND COST-SHARING REDUC-
 9 TIONS.—To distribute fair and impartial infor-
 10 mation concerning enrollment under this section
 11 and the availability of premium assistance tax
 12 credits under section 36B of the Internal Rev-
 13 enue Code of 1986 and cost-sharing reductions
 14 under section 1402 of the Patient Protection
 15 and Affordable Care Act, and to assist eligible
 16 individuals in applying for such tax credits and
 17 cost-sharing reductions.

18 “(2) ELIGIBLE ENTITIES.—

19 “(A) IN GENERAL.—In this subsection, the
 20 term ‘eligible entity’ means—

21 “(i) a State;

22 “(ii) a nonprofit community-based or-
 23 ganization; or

24 “(iii) a nonprofit first responder orga-
 25 nization.

1 “(B) ENROLLMENT AGENTS.—Such term
2 includes a licensed independent insurance agent
3 or broker that has an arrangement with a
4 State, nonprofit community-based organization,
5 or nonprofit first responder organization to en-
6 roll eligible individuals under this section.

7 “(C) EXCLUSIONS.—Such term does not
8 include an entity that—

9 “(i) is a health insurance issuer; or

10 “(ii) receives any consideration, either
11 directly or indirectly, from any health in-
12 surance issuer in connection with the en-
13 rollment of any individuals under this sec-
14 tion.

15 “(3) PRIORITY.—In awarding grants under this
16 subsection, the Secretary shall give priority to
17 awarding grants to States or eligible entities in
18 States that have geographic rating areas at risk of
19 having no qualified health plans in the individual
20 market.

21 “(4) FUNDING.—For purposes of carrying out
22 this subsection, there is appropriated to the Sec-
23 retary, out of any moneys in the Treasury not other-
24 wise appropriated, such sums as are necessary for

1 calendar year 2022 and for each subsequent cal-
2 endar year.

3 “(j) NO EFFECT ON BENEFITS FOR INDIVIDUALS
4 OTHERWISE ELIGIBLE OR ON TRUST FUNDS.—The Sec-
5 retary shall implement the provisions of this section in
6 such a manner to ensure that such provisions—

7 “(1) have no effect on the benefits under this
8 title for individuals who are entitled to, or enrolled
9 for, such benefits other than through this section;
10 and

11 “(2) have no negative impact on the Federal
12 Hospital Insurance Trust Fund or the Federal Sup-
13 plementary Medical Insurance Trust Fund (includ-
14 ing the Medicare Prescription Drug Account within
15 such Trust Fund).

16 “(k) CONSULTATION.—In promulgating regulations
17 to implement this section, the Secretary shall consult with
18 interested parties, including groups representing bene-
19 ficiaries, health care providers, employers, insurance com-
20 panies, and organizations representing first responders.”.

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