

118TH CONGRESS
2D SESSION

S. 4682

To amend the Patient Protection and Affordable Care Act to establish a public health insurance option, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 11 (legislative day, JULY 10), 2024

Mr. WHITEHOUSE (for himself and Mr. BROWN) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To amend the Patient Protection and Affordable Care Act to establish a public health insurance option, and for other purposes.

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 “Consumer Health Op-
5 tions and Insurance Competition Enhancement Act” or
6 the “CHOICE Act”.

7 **SEC. 2. PUBLIC HEALTH INSURANCE OPTION.**

8 (a) IN GENERAL.—Part 2 of subtitle D of title I of
9 the Patient Protection and Affordable Care Act (42

1 U.S.C. 18031 et seq.) is amended by adding at the end
 2 the following:

3 **“SEC. 1314. PUBLIC HEALTH INSURANCE OPTION.**

4 “(a) ESTABLISHMENT.—

5 “(1) IN GENERAL.—For plans years beginning
 6 on or after January 1, 2026, the Secretary shall es-
 7 tablish, and provide for the offering through the Ex-
 8 changes of, a qualified health plan (in this section
 9 referred to as the ‘public health insurance option’)
 10 that provides value, choice, competition, and stability
 11 of affordable, high-quality coverage throughout the
 12 United States in accordance with this section.

13 “(2) PRIMARY RESPONSIBILITY.—In designing
 14 the public health insurance option, the primary re-
 15 sponsibility of the Secretary shall be to create an af-
 16 fordable health plan without compromising quality
 17 or access to care.

18 “(b) ADMINISTERING THE PUBLIC HEALTH INSUR-
 19 ANCE OPTION.—

20 “(1) OFFERED THROUGH EXCHANGES.—

21 “(A) EXCLUSIVE TO EXCHANGES.—The
 22 public health insurance option shall be offered
 23 exclusively by the Secretary through the Ex-
 24 changes and not by a health insurance issuer.

1 “(B) ENSURING A LEVEL PLAYING
 2 FIELD.—Except as otherwise provided under
 3 this section, the public health insurance option
 4 shall comply with requirements under this title,
 5 and title XXVII of the Public Health Service
 6 Act, that are applicable to health plans offered
 7 through the Exchanges, including requirements
 8 related to benefits, benefit levels, provider net-
 9 works, notices, consumer protections, and cost-
 10 sharing.

11 “(C) PROVISION OF BENEFIT LEVELS.—
 12 The public health insurance option shall offer
 13 bronze, silver, and gold plans.

14 “(2) ADMINISTRATIVE CONTRACTING.—

15 “(A) AUTHORITIES.—The Secretary may
 16 enter into contracts for the purpose of per-
 17 forming administrative functions (including
 18 functions described in subsection (a)(4) of sec-
 19 tion 1874A of the Social Security Act) with re-
 20 spect to the public health insurance option in
 21 the same manner as the Secretary may enter
 22 into contracts under subsection (a)(1) of such
 23 section. The Secretary shall have the same au-
 24 thority with respect to the public health insur-
 25 ance option as the Secretary has under such

subsection (a)(1) and subsection (b) of section 1874A of the Social Security Act with respect to title XVIII of such Act.

“(B) TRANSFER OF INSURANCE RISK.—

Any contract under this paragraph shall not involve the transfer of insurance risk from the Secretary to the entity entering into such contract with the Secretary.

“(3) STATE ADVISORY COUNCIL.—

“(A) ESTABLISHMENT.—A State may es-

tablish a public or nonprofit entity to serve as the State Advisory Council to provide recommendations to the Secretary on the operations and policies of the public health insurance option offered through the Exchange operating in the State.

“(B) RECOMMENDATIONS.—A State Advi-

sory Council established under subparagraph (A) shall provide recommendations on at least the following:

“(i) Policies and procedures to integrate quality improvement and cost containment mechanisms into the health care delivery system.

1 “(ii) Mechanisms to facilitate public
2 awareness of the availability of the public
3 health insurance option.

4 “(iii) Alternative payment models and
5 value-based insurance design under the
6 public health insurance option that encour-
7 age quality improvement and cost control.

8 “(C) MEMBERS.—The members of any
9 State Advisory Council shall be representatives
10 of the public and include health care consumers
11 and health care providers.

12 “(D) APPLICABILITY OF RECOMMENDA-
13 TIONS.—The Secretary may apply the rec-
14 ommendations of a State Advisory Council to
15 the public health insurance option in that State,
16 in any other State, or in all States.

17 “(4) DATA COLLECTION.—The Secretary shall
18 collect such data as may be required—

19 “(A) to establish rates for premiums and
20 health care provider reimbursement under sub-
21 section (c); and

22 “(B) for other purposes under this section,
23 including to improve quality, and reduce racial,
24 ethnic, and other disparities, in health and
25 health care.

1 “(c) FINANCING THE PUBLIC HEALTH INSURANCE
2 OPTION.—

3 “(1) PREMIUMS.—

4 “(A) ESTABLISHMENT.—The Secretary
5 shall establish geographically adjusted premium
6 rates for the public health insurance option—

7 “(i) in a manner that complies with
8 the requirement for premium rates under
9 subparagraph (C) and considers the data
10 collected under subsection (b)(4); and

11 “(ii) at a level sufficient to fully fi-
12 nance—

13 “(I) the costs of health benefits
14 provided by the public health insur-
15 ance option; and

16 “(II) administrative costs related
17 to operating the public health insur-
18 ance option.

19 “(B) CONTINGENCY MARGIN.—In estab-
20 lishing premium rates under subparagraph (A),
21 the Secretary shall include an appropriate
22 amount for a contingency margin.

23 “(C) VARIATIONS IN PREMIUM RATES.—
24 The premium rate charged for the public health
25 insurance option may not vary except as pro-

vided under section 2701 of the Public Health
Service Act.

“(2) HEALTH CARE PROVIDER PAYMENT RATES
FOR ITEMS AND SERVICES.—

“(A) IN GENERAL.—

“(i) RATES NEGOTIATED BY THE SEC-
RETARY.—Not later than January 1, 2025,
and except as provided in clause (ii), the
Secretary shall, through a negotiated
agreement with health care providers, es-
tablish rates for reimbursing health care
providers for providing the benefits covered
by the public health insurance option.

“(ii) MEDICARE REIMBURSEMENT
RATES.—If the Secretary and health care
providers are unable to reach a negotiated
agreement on a reimbursement rate, the
Secretary shall reimburse providers at
rates determined for equivalent items and
services under the original medicare fee-
for-service program under parts A and B
of title XVIII of the Social Security Act.

“(iii) FOR NEW SERVICES.—The Sec-
retary shall modify reimbursement rates
described in clause (ii) in order to accom-

1 moderate payments for services, such as
2 well-child visits, that are not otherwise cov-
3 ered under the original medicare fee-for-
4 service program.

5 “(B) PRESCRIPTION DRUGS.—Any pay-
6 ment rate under this subsection for a prescrip-
7 tion drug shall be at a rate negotiated by the
8 Secretary. If the Secretary is unable to reach a
9 negotiated agreement on such a reimbursement
10 rate, the Secretary shall use rates determined
11 for equivalent drugs paid for under the original
12 medicare fee-for-service program. The Secretary
13 shall modify such rates in order to accommo-
14 date payments for drugs that are not otherwise
15 covered under the original medicare fee-for-
16 service program.

17 “(3) ACCOUNT.—

18 “(A) ESTABLISHMENT.—There is estab-
19 lished in the Treasury of the United States an
20 account for the receipts and disbursements at-
21 tributable to the operation of the public health
22 insurance option, including the start-up funding
23 under subparagraph (C) and appropriations au-
24 thorized under subparagraph (D).

“(B) PROHIBITION OF STATE IMPOSITION OF TAXES.—Section 1854(g) of the Social Security Act shall apply to receipts and disbursements described in subparagraph (A) in the same manner as such section applies to payments or premiums described in such section.

“(C) START-UP FUNDING.—

“(i) AUTHORIZATION OF FUNDING.—

There are authorized to be appropriated such sums as may be necessary to establish the public health insurance option and cover 90 days of claims reserves based on projected enrollment.

“(ii) AMORTIZATION OF START-UP

FUNDING.—The Secretary shall provide for the repayment of the startup funding provided under clause (i) to the Treasury in an amortized manner over the 10-year period beginning on January 1, 2026.

“(D) ADDITIONAL AUTHORIZATION OF APPROPRIATIONS.—To carry out paragraph (2) of subsection (b), there are authorized to be appropriated such sums as may be necessary.

“(d) HEALTH CARE PROVIDER PARTICIPATION.—

“(1) PROVIDER PARTICIPATION.—

1 “(A) IN GENERAL.—The Secretary shall
 2 establish conditions of participation for health
 3 care providers under the public health insurance
 4 option.

5 “(B) LICENSURE OR CERTIFICATION.—
 6 The Secretary shall not allow a health care pro-
 7 vider to participate in the public health insur-
 8 ance option unless such provider is appro-
 9 priately licensed or certified under State law.

10 “(2) ESTABLISHMENT OF A PROVIDER NET-
 11 WORK.—

12 “(A) MEDICARE AND MEDICAID PARTICI-
 13 PATING PROVIDERS.—A health care provider
 14 that is a participating provider of services or
 15 supplier under the Medicare program under
 16 title XVIII of the Social Security Act or under
 17 a State Medicaid plan under title XIX of such
 18 Act is a participating provider in the public
 19 health insurance option unless the health care
 20 provider opts out of participating in the public
 21 health insurance option through a process es-
 22 tablished by the Secretary.

23 “(B) ADDITIONAL PROVIDERS.—The Sec-
 24 retary shall establish a process to allow health
 25 care providers not described in subparagraph

1 (A) to become participating providers in the
2 public health insurance option.”.

3 (b) CONFORMING AMENDMENTS.—

4 (1) TREATMENT AS A QUALIFIED HEALTH
5 PLAN.—Section 1301(a) of the Patient Protection
6 and Affordable Care Act (42 U.S.C. 18021(a)) is
7 amended—

8 (A) in paragraph (1)(C), by inserting “ex-
9 cept in the case of the public health insurance
10 option established under section 1314,” before
11 “is offered by”;

12 (B) in paragraph (2)—

13 (i) in the paragraph heading, by in-
14 serting “, THE PUBLIC HEALTH INSUR-
15 ANCE OPTION,” before “AND”; and

16 (ii) by inserting “the public health in-
17 surance option under section 1314,” before
18 “and a multi-State plan”; and

19 (C) by adding at the end the following:

20 “(5) PUBLIC HEALTH INSURANCE OPTION.—
21 The term ‘qualified health plan’ shall include the
22 public health insurance option established under sec-
23 tion 1314.”.

24 (2) LEVEL PLAYING FIELD.—Section 1324(a)
25 of the Patient Protection and Affordable Care Act

1 (42 U.S.C. 18044(a)) is amended by inserting “the
2 public health insurance option under section 1314,”
3 before “or a multi-State qualified health plan”.

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