

111TH CONGRESS
1ST SESSION

H. R. 4020

To enable States to establish reinsurance programs or high risk pools to ensure that high risk individuals are able to access health insurance.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 4, 2009

Mr. BURGESS (for himself, Mr. DEAL of Georgia, Mr. PITTS, Mr. BUYER, and Mr. BLUNT) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To enable States to establish reinsurance programs or high risk pools to ensure that high risk individuals are able to access health insurance.

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 “Guaranteed Access to
5 Health Insurance Act of 2009”.

6 **SEC. 2. ENSURING AFFORDABILITY FOR ALL THROUGH**
7 **SPECIAL POOLING OF THE COST OF HIGH**
8 **RISK INDIVIDUALS.**

9 (a) STATE REQUIREMENT.—

1 (1) IN GENERAL.—Not later than 2 years after
2 the date of the enactment of this Act, each State is
3 encouraged to ensure that an adequate financial
4 backstop exists to mitigate the cost of high risk indi-
5 viduals in the State, through establishing either—

6 (A) a qualified State reinsurance program
7 described in subsection (b); or

8 (B) a qualifying State high risk pool de-
9 scribed in subsection (c)(1).

10 (2) PREFERENCE.—Beginning 3 years after the
11 date of the enactment of this Act, in the case of a
12 competitive grant for which the only eligible entities
13 are States, the Secretary, in awarding such grant to
14 a State, shall give preference to any State with a
15 program that meets the requirements of paragraph
16 (1)(A).

17 (b) QUALIFIED STATE REINSURANCE PROGRAM.—

18 (1) IN GENERAL.—For purposes of this section,
19 the term “qualified State reinsurance program”
20 means a program operated by a State or a State au-
21 thorized program that provides reinsurance for
22 health insurance coverage offered in the individual,
23 small group market, or in both markets.

24 (2) FORM OF PROGRAM.—A qualified State re-
25 insurance program may provide reinsurance—

1 (A) on a prospective or retrospective basis;

2 (B) that protects health insurance issuers
3 against the annual aggregate spending of their
4 enrollees; and

5 (C) that provides purchase protection
6 against individual catastrophic costs.

7 (c) QUALIFYING STATE HIGH RISK POOL.—

8 (1) IN GENERAL.—A qualifying State high risk
9 pool described in this subsection means a section
10 2745 qualified high risk pool that meets the fol-
11 lowing requirements:

12 (A) The high risk pool does not have a life-
13 time coverage cap.

14 (B) The high risk pool incorporates appli-
15 cable Federal or State programs (such as cov-
16 erage under title XIX of the Social Security
17 Act) for eligible low-income individuals.

18 (C) The high risk pool provides a variety
19 of types of coverage, including at least one high
20 deductible health plan that is combined with a
21 health savings account.

22 (D) The high risk pool eliminates any
23 waiting list and pre-existing condition exclu-
24 sionary periods so that all eligible residents who

1 are seeking coverage through the pool can re-
2 ceive coverage through the pool.

3 (E) The high risk pool allows for coverage
4 of individuals who, but for the 24-month dis-
5 ability waiting period under section 226(b) of
6 the Social Security Act, would be eligible for
7 Medicare during the period of such waiting pe-
8 riod.

9 (F) The high risk pool must not charge
10 participants more than 150 percent of the aver-
11 age premium in the individual market for
12 health insurance coverage in that State.

13 (G) The high risk pool conducts education
14 and outreach initiatives so that residents and
15 insurance brokers understand that the pool is
16 available to eligible residents.

17 (2) USE OF FUNDS FOR THE TRANSITION.—A
18 State may use any funding sources available to it as
19 of the date of the enactment of this Act to transition
20 from operating a section 2745 high risk pool, to op-
21 erating a qualified State reinsurance program de-
22 scribed in paragraph (1).

23 (3) FUNDING SOURCE.—The high risk pool de-
24 scribed in this subsection is also encouraged to have

1 stable funding source that is not solely dependent on
2 an appropriation from the State legislature.

3 (d) RELATION TO SECTION 2745.—Section 2745 of
4 the Public Health Service Act is amended—

5 (1) in subsection (a)(2)—

6 (A) in subparagraph (A), strike “40” and
7 insert “30”; and

8 (B) add at the end the following new sub-
9 paragraph:

10 “(D) An amount equal to 10 percent of
11 such appropriated amount for the fiscal year
12 shall be allotted among qualifying States that
13 apply for such a grant so that the amount allot-
14 ted to a State bears the same ratio to such ap-
15 propriated amount as the amount of funds con-
16 tributed to the operation of the qualified high
17 risk pool of the State by funding sources other
18 than grants under this subsection.”; and

19 (2) in subsection (g)(1)—

20 (A) in subparagraph (A), by striking “The
21 term” and inserting “Subject to subparagraph
22 (B), the term”; and

23 (B) by adding at the end the following new
24 subparagraph:

1 “(B) UPDATED DEFINITION.—Beginning
2 on the last day of the 2-year period beginning
3 in the date of the enactment of the Guaranteed
4 Access to Health Insurance Act of 2009, the
5 term ‘qualified high risk pool’ means—

6 “(i) a pool that meets the require-
7 ments of subparagraph (A) of this para-
8 graph and the requirements of section
9 2(c)(1) of such Act; or

10 “(ii) a qualified State reinsurance pro-
11 gram as such term is defined in section
12 2(b) of such Act.”.

13 (e) WAIVERS.—

14 (1) IN GENERAL.—In order to accommodate
15 new and innovative programs, the Secretary may
16 waive such requirements of this section for qualified
17 State reinsurance programs and for qualifying State
18 high risk pools as the Secretary deems appropriate.

19 (2) COVERAGE OF HIGH RISK INDIVIDUALS.—
20 The Secretary may waive the requirement under
21 subsection (a)(1) in the case of a State that dem-
22 onstrates, to the satisfaction of the Secretary, that
23 the State has provided an adequate financial back-
24 stop to mitigate the cost of high risk individuals in
25 the State in a manner that is better than, as deter-

1 mined by the Secretary, the requirements under
2 such subsection.

3 (f) SEED GRANTS TO STATES.—The Secretary shall
4 provide, from the funds appropriated, a grant of up to
5 \$5,000,000 to each State that has not created a qualified
6 high risk pool as of the date of enactment of this Act.
7 Such grants shall be made in the same manner, for the
8 same purpose, but are in addition to, grants to States
9 made under Section 2745(a) of the Public Health Service
10 Act.

11 (g) VERIFICATION OF CITIZENSHIP OR ALIEN QUALI-
12 FICATION.—

13 (1) IN GENERAL.—Only citizens and nationals
14 of the United States shall be eligible to participate
15 in a qualifying State high risk pool or qualifying
16 State reinsurance program receiving funding under
17 this section.

18 (2) GRANT CONDITIONS.—As a condition of re-
19 ceiving grants under this section, the Secretary shall
20 require any State that applies to receive grant fund-
21 ing under this section to certify to the satisfaction
22 of the Secretary that such State requires all appli-
23 cants for coverage in a qualifying State high risk to
24 pool or a qualifying State reinsurance program to
25 provide satisfactory documentation of such citizen-

1 ship or nationality and identity in a manner con-
2 sistent with section 1903(x) of the Social Security
3 Act. The Secretary shall keep sufficient records such
4 that a determination of citizenship or nationality has
5 to be made once for any individual.

6 (h) DEFINITIONS.—In this section:

7 (1) The terms “health insurance coverage” and
8 “health insurance issuer” have the meanings given
9 such terms in section 2791 of the Public Health
10 Service Act.

11 (2) The term “section 2745 qualified high risk
12 pool” has the meaning given the term “qualified
13 high risk pool” under section 2745(g)(1) of the Pub-
14 lic Health Service Act as such section is in effect on
15 the date of the enactment of this Act.

16 (3) The term “Secretary” means Secretary of
17 Health and Human Services.

18 (4) The term “State” has the meaning given
19 such term for purposes of title XIX of the Social Se-
20 curity Act.

21 (i) AUTHORIZATION OF APPROPRIATIONS.—For the
22 purposes of carrying out section 2745 of the Public Health
23 Service Act and this section, in addition to any other
24 amounts authorized to be appropriated, there is author-
25 ized to be appropriated, \$20,000,000,000 beginning with

1 2010. Any funds that are authorized under this subsection
2 that are used for purposes of carrying out section 2745
3 of the Public Health Service Act shall be allocated to the
4 allotments under such section in the proportions required
5 under subsection (d)(2) of such section.

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