

118TH CONGRESS
1ST SESSION

S. 3113

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

OCTOBER 24, 2023

Mr. BROWN (for himself, Mr. BLUMENTHAL, and Mr. FETTERMAN) 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 First Responders 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 **“SEC. 1899C. MEDICARE BUY-IN OPTION FOR FIRST RE-**
9 **SPONDERS 50 TO 64 YEARS OF AGE WHO ARE**
10 **SEPARATED FROM SERVICE DUE TO RETIRE-**
11 **MENT OR DISABILITY.**

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

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

22 “(c) REQUIREMENTS FOR ELIGIBILITY.—The re-
23 quirements described in this subsection are the following:

24 “(1) The individual is a resident of the United
25 States.

26 “(2) The individual is—

1 “(A) a citizen or national of the United
2 States; or

3 “(B) an alien lawfully admitted for perma-
4 nent residence.

5 “(3) The individual is not otherwise entitled to
6 benefits under part A or eligible to enroll under part
7 A or part B.

8 “(4) The individual has attained 50 years of
9 age but has not attained 65 years of age.

10 “(5) The individual is a qualified first re-
11 sponder (as defined in subsection (d)(2)).

12 “(d) DEFINITIONS.—In this section:

13 “(1) FIRST RESPONDER.—The term ‘first re-
14 sponder’ means—

15 “(A) a qualified law enforcement officer
16 (as defined in section 926B(c) of title 18,
17 United States Code);

18 “(B) an employee described in clause (i) of
19 section 72(t)(10)(B) of the Internal Revenue
20 Code of 1986; or

21 “(C) a Federal firefighter described in sec-
22 tion 8331(21) or 8401(14) of title 5, United
23 States Code.

24 “(2) QUALIFIED FIRST RESPONDER.—The term
25 ‘qualified first responder’ means a first responder

1 who is separated from service due to retirement or
2 disability.

3 “(e) ENROLLMENT AND COVERAGE PERIODS.—

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

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

16 “(3) BEGINNING OF COVERAGE AND SPECIAL
17 ENROLLMENT PERIODS.—The Secretary shall estab-
18 lish such periods so that coverage under this section
19 shall first begin on January 1 of the first year be-
20 ginning at least 1 year after the date of the enact-
21 ment of this section and shall include special enroll-
22 ment periods, in accordance with section 155.420 of
23 title 45 of the Code of Federal Regulations, that are
24 applicable to qualified health plans offered through
25 an Exchange.

1 “(f) PREMIUM.—

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

11 “(2) ANNUAL PREMIUM.—

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

19 “(B) ANNUAL PREMIUM.—The annual pre-
20 mium under this subsection for months in a
21 year is equal to the average, annual per capita
22 amount estimated under subparagraph (A) for
23 the year.

24 “(3) INCREASED PREMIUM FOR CERTAIN PART
25 C AND D PLANS.—Nothing in this section shall pre-

1 clude an individual from choosing a Medicare Advan-
2 tage plan or a prescription drug plan which requires
3 the individual to pay an additional amount (because
4 of supplemental benefits or because it is a more ex-
5 pensive plan). In such case the individual would be
6 responsible for the increased monthly premium.

7 “(g) PAYMENT OF PREMIUMS.—

8 “(1) IN GENERAL.—Premiums for enrollment
9 under this section shall be paid to the Secretary at
10 such times, and in such manner, as the Secretary
11 determines appropriate.

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

19 “(h) NOT ELIGIBLE FOR MEDICARE COST-SHARING
20 ASSISTANCE.—An individual enrolled under this section
21 shall not be treated as enrolled under any part of this title
22 for purposes of obtaining medical assistance for Medicare
23 cost-sharing or otherwise under title XIX.

24 “(i) TREATMENT IN RELATION TO THE AFFORDABLE
25 CARE ACT.—

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

7 “(2) ELIGIBILITY FOR PREMIUM ASSISTANCE.—
8 Coverage provided under this section—

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

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

18 “(3) SECOND LOWEST COST SILVER PLAN.—
19 The Secretary shall determine the applicable second
20 lowest cost silver plan which shall apply to coverage
21 under this section for purposes of section 36B of the
22 Internal Revenue Code of 1986.

23 “(4) ELIGIBILITY FOR COST-SHARING SUB-
24 SIDIES.—For purposes of applying section 1402 of

1 the Patient Protection and Affordable Care Act (42
2 U.S.C. 18071)—

3 “(A) coverage provided under this section
4 shall be treated as coverage under a qualified
5 health plan in the silver level of coverage in the
6 individual market offered through an Exchange;
7 and

8 “(B) the Secretary shall be treated as the
9 issuer of such plan.

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

22 “(6) COORDINATION WITH MARKET REFORMS,
23 ETC.—Notwithstanding Treasury Notice 2015–17,
24 no provision of law shall prevent an employer from
25 maintaining an arrangement under which the em-

1 employer pays or reimburses any portion of the pre-
2 miums for coverage under this section for retired
3 employees of the employer, or prevent such payment
4 or reimbursement from being excluded from the
5 gross income of the individual enrolled in such cov-
6 erage for purposes of the Internal Revenue Code of
7 1986.

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

14 “(1) shall be applied by substituting ‘50’ for
15 ‘65’;

16 “(2) if the individual was enrolled under this
17 section and subsequently disenrolls, shall apply each
18 time the individual subsequently reenrolls under this
19 section as if the individual had attained 50 years of
20 age on the date of such reenrollment (and as if the
21 individual had never previously enrolled in a Medi-
22 care supplemental policy); and

23 “(3) shall be applied as if this section had not
24 been enacted (and as if the individual had never pre-

1 viously enrolled in a Medicare supplemental policy)
2 when the individual attains 65 years of age.

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

15 “(l) OUTREACH AND ENROLLMENT.—

16 “(1) IN GENERAL.—During the period that be-
17 gins on January 1, 2024, and ends on December 31,
18 2026, the Secretary shall award grants to eligible
19 entities for the following purposes:

20 “(A) OUTREACH AND ENROLLMENT.—To
21 carry out outreach, public education activities,
22 and enrollment activities to raise awareness of
23 the availability of, and encourage, enrollment
24 under this section.

1 “(B) ASSISTING INDIVIDUALS’ TRANSITION
2 UNDER THIS SECTION.—To provide assistance
3 to individuals to enroll under this section.

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

15 “(2) ELIGIBLE ENTITIES.—

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

18 “(i) a State;

19 “(ii) a nonprofit community-based or-
20 ganization; or

21 “(iii) a nonprofit first responder orga-
22 nization.

23 “(B) ENROLLMENT AGENTS.—Such term
24 includes a licensed independent insurance agent
25 or broker that has an arrangement with a

1 State, nonprofit community-based organization,
2 or nonprofit first responder organization to en-
3 roll eligible individuals under this section.

4 “(C) EXCLUSIONS.—Such term does not
5 include an entity that—

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

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

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

18 “(4) FUNDING.—For purposes of carrying out
19 this subsection, there is appropriated to the Sec-
20 retary, out of any moneys in the Treasury not other-
21 wise appropriated, such sums as are necessary for
22 fiscal year 2024 and for each subsequent fiscal year.

23 “(m) NO EFFECT ON BENEFITS FOR INDIVIDUALS
24 OTHERWISE ELIGIBLE OR ON TRUST FUNDS.—The Sec-

1 retary shall implement the provisions of this section in
2 such a manner to ensure that such provisions—

3 “(1) have no effect on the benefits under this
4 title for individuals who are entitled to, or enrolled
5 for, such benefits other than through this section;
6 and

7 “(2) have no negative impact on the Federal
8 Hospital Insurance Trust Fund or the Federal Sup-
9plementary Medical Insurance Trust Fund (includ-
10ing the Medicare Prescription Drug Account within
11such Trust Fund).

12 “(n) CONSULTATION.—In promulgating regulations
13 to implement this section, the Secretary shall consult with
14 interested parties, including groups representing bene-
15ficiaries, health care providers, employers, insurance com-
16panies, and organizations representing first responders.”.

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