

117TH CONGRESS
1ST SESSION

S. 983

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

MARCH 25, 2021

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, 2023, 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

1 subsection (a)(1) and subsection (b) of section
2 1874A of the Social Security Act with respect
3 to title XVIII of such Act.

4 “(B) TRANSFER OF INSURANCE RISK.—
5 Any contract under this paragraph shall not in-
6 volve the transfer of insurance risk from the
7 Secretary to the entity entering into such con-
8 tract with the Secretary.

9 “(3) STATE ADVISORY COUNCIL.—

10 “(A) ESTABLISHMENT.—A State may es-
11 tablish a public or nonprofit entity to serve as
12 the State Advisory Council to provide rec-
13 ommendations to the Secretary on the oper-
14 ations and policies of the public health insur-
15 ance option offered through the Exchange oper-
16 ating in the State.

17 “(B) RECOMMENDATIONS.—A State Advi-
18 sory Council established under subparagraph
19 (A) shall provide recommendations on at least
20 the following:

21 “(i) Policies and procedures to inte-
22 grate quality improvement and cost con-
23 tainment mechanisms into the health care
24 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-

1 vided under section 2701 of the Public Health
2 Service Act.

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

5 “(A) IN GENERAL.—

6 “(i) RATES NEGOTIATED BY THE SEC-
7 RETARY.—Not later than January 1, 2022,
8 and except as provided in clause (ii), the
9 Secretary shall, through a negotiated
10 agreement with health care providers, es-
11 tablish rates for reimbursing health care
12 providers for providing the benefits covered
13 by the public health insurance option.

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

23 “(iii) FOR NEW SERVICES.—The Sec-
24 retary shall modify reimbursement rates
25 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).

1 “(B) PROHIBITION OF STATE IMPOSITION
2 OF TAXES.—Section 1854(g) of the Social Se-
3 curity Act shall apply to receipts and disburse-
4 ments described in subparagraph (A) in the
5 same manner as such section applies to pay-
6 ments or premiums described in such section.

7 “(C) START-UP FUNDING.—

8 “(i) AUTHORIZATION OF FUNDING.—
9 There are authorized to be appropriated
10 such sums as may be necessary to estab-
11 lish the public health insurance option and
12 cover 90 days of claims reserves based on
13 projected enrollment.

14 “(ii) AMORTIZATION OF START-UP
15 FUNDING.—The Secretary shall provide for
16 the repayment of the startup funding pro-
17 vided under clause (i) to the Treasury in
18 an amortized manner over the 10-year pe-
19 riod beginning on January 1, 2023.

20 “(D) ADDITIONAL AUTHORIZATION OF AP-
21 PROPRIATIONS.—To carry out paragraph (2) of
22 subsection (b), there are authorized to be ap-
23 propriated such sums as may be necessary.

24 “(d) HEALTH CARE PROVIDER PARTICIPATION.—

25 “(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, notwithstanding the requirement under
24 paragraph (1)(C) for the plan to be offered by a
25 health insurance issuer.”.

1 (2) LEVEL PLAYING FIELD.—Section 1324(a)
2 of the Patient Protection and Affordable Care Act
3 (42 U.S.C. 18044(a)) is amended by inserting “the
4 public health insurance option under section 1314,”
5 before “or a multi-State qualified health plan”.

○